

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 322

Senator Hackett

A BILL

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

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

Section 1. That sections 149.43, 2105.062, 2305.111, 15
2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 16
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 17
3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 18
4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 19
4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 20

4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 21
4778.14, 4778.18, and 4778.99 be amended and sections 4731.2210, 22
4759.14, and 4778.171 of the Revised Code be enacted to read as 23
follows: 24

Sec. 149.43. (A) As used in this section: 25

(1) "Public record" means records kept by any public 26
office, including, but not limited to, state, county, city, 27
village, township, and school district units, and records 28
pertaining to the delivery of educational services by an 29
alternative school in this state kept by the nonprofit or for- 30
profit entity operating the alternative school pursuant to 31
section 3313.533 of the Revised Code. "Public record" does not 32
mean any of the following: 33

(a) Medical records; 34

(b) Records pertaining to probation and parole 35
proceedings, to proceedings related to the imposition of 36
community control sanctions and post-release control sanctions, 37
or to proceedings related to determinations under section 38
2967.271 of the Revised Code regarding the release or maintained 39
incarceration of an offender to whom that section applies; 40

(c) Records pertaining to actions under section 2151.85 41
and division (C) of section 2919.121 of the Revised Code and to 42
appeals of actions arising under those sections; 43

(d) Records pertaining to adoption proceedings, including 44
the contents of an adoption file maintained by the department of 45
health under sections 3705.12 to 3705.124 of the Revised Code; 46

(e) Information in a record contained in the putative 47
father registry established by section 3107.062 of the Revised 48
Code, regardless of whether the information is held by the 49

department of job and family services or, pursuant to section	50
3111.69 of the Revised Code, the office of child support in the	51
department or a child support enforcement agency;	52
(f) Records specified in division (A) of section 3107.52	53
of the Revised Code;	54
(g) Trial preparation records;	55
(h) Confidential law enforcement investigatory records;	56
(i) Records containing information that is confidential	57
under section 2710.03 or 4112.05 of the Revised Code;	58
(j) DNA records stored in the DNA database pursuant to	59
section 109.573 of the Revised Code;	60
(k) Inmate records released by the department of	61
rehabilitation and correction to the department of youth	62
services or a court of record pursuant to division (E) of	63
section 5120.21 of the Revised Code;	64
(l) Records maintained by the department of youth services	65
pertaining to children in its custody released by the department	66
of youth services to the department of rehabilitation and	67
correction pursuant to section 5139.05 of the Revised Code;	68
(m) Intellectual property records;	69
(n) Donor profile records;	70
(o) Records maintained by the department of job and family	71
services pursuant to section 3121.894 of the Revised Code;	72
(p) Designated public service worker residential and	73
familial information;	74
(q) In the case of a county hospital operated pursuant to	75
Chapter 339. of the Revised Code or a municipal hospital	76

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

federal law;	106
(w) Proprietary information of or relating to any person	107
that is submitted to or compiled by the Ohio venture capital	108
authority created under section 150.01 of the Revised Code;	109
(x) Financial statements and data any person submits for	110
any purpose to the Ohio housing finance agency or the	111
controlling board in connection with applying for, receiving, or	112
accounting for financial assistance from the agency, and	113
information that identifies any individual who benefits directly	114
or indirectly from financial assistance from the agency;	115
(y) Records listed in section 5101.29 of the Revised Code;	116
(z) Discharges recorded with a county recorder under	117
section 317.24 of the Revised Code, as specified in division (B)	118
(2) of that section;	119
(aa) Usage information including names and addresses of	120
specific residential and commercial customers of a municipally	121
owned or operated public utility;	122
(bb) Records described in division (C) of section 187.04	123
of the Revised Code that are not designated to be made available	124
to the public as provided in that division;	125
(cc) Information and records that are made confidential,	126
privileged, and not subject to disclosure under divisions (B)	127
and (C) of section 2949.221 of the Revised Code;	128
(dd) Personal information, as defined in section 149.45 of	129
the Revised Code;	130
(ee) The confidential name, address, and other personally	131
identifiable information of a program participant in the address	132
confidentiality program established under sections 111.41 to	133

111.47 of the Revised Code, including the contents of any 134
application for absent voter's ballots, absent voter's ballot 135
identification envelope statement of voter, or provisional 136
ballot affirmation completed by a program participant who has a 137
confidential voter registration record, and records or portions 138
of records pertaining to that program that identify the number 139
of program participants that reside within a precinct, ward, 140
township, municipal corporation, county, or any other geographic 141
area smaller than the state. As used in this division, 142
"confidential address" and "program participant" have the 143
meaning defined in section 111.41 of the Revised Code. 144

(ff) Orders for active military service of an individual 145
serving or with previous service in the armed forces of the 146
United States, including a reserve component, or the Ohio 147
organized militia, except that, such order becomes a public 148
record on the day that is fifteen years after the published date 149
or effective date of the call to order; 150

(gg) The name, address, contact information, or other 151
personal information of an individual who is less than eighteen 152
years of age that is included in any record related to a traffic 153
accident involving a school vehicle in which the individual was 154
an occupant at the time of the accident; 155

(hh) Protected health information, as defined in 45 C.F.R. 156
160.103, that is in a claim for payment for a health care 157
product, service, or procedure, as well as any other health 158
claims data in another document that reveals the identity of an 159
individual who is the subject of the data or could be used to 160
reveal that individual's identity; 161

(ii) Any depiction by photograph, film, videotape, or 162
printed or digital image under either of the following 163

circumstances:	164
(i) The depiction is that of a victim of an offense the	165
release of which would be, to a reasonable person of ordinary	166
sensibilities, an offensive and objectionable intrusion into the	167
victim's expectation of bodily privacy and integrity.	168
(ii) The depiction captures or depicts the victim of a	169
sexually oriented offense, as defined in section 2950.01 of the	170
Revised Code, at the actual occurrence of that offense.	171
(jj) Restricted portions of a body-worn camera or	172
dashboard camera recording;	173
(kk) In the case of a fetal-infant mortality review board	174
acting under sections 3707.70 to 3707.77 of the Revised Code,	175
records, documents, reports, or other information presented to	176
the board or a person abstracting such materials on the board's	177
behalf, statements made by review board members during board	178
meetings, all work products of the board, and data submitted by	179
the board to the department of health or a national infant death	180
review database, other than the report prepared pursuant to	181
section 3707.77 of the Revised Code.	182
(ll) Records, documents, reports, or other information	183
presented to the pregnancy-associated mortality review board	184
established under section 3738.01 of the Revised Code,	185
statements made by board members during board meetings, all work	186
products of the board, and data submitted by the board to the	187
department of health, other than the biennial reports prepared	188
under section 3738.08 of the Revised Code;	189
(mm) Except as otherwise provided in division (A) (1) (oo)	190
of this section, telephone numbers for a victim, as defined in	191
section 2930.01 of the Revised Code or a witness to a crime that	192

are listed on any law enforcement record or report.	193
(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised Code.	194 195 196 197 198 199 200
(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.	201 202 203 204 205 206 207
<u>(pp) License or certificate application or renewal responses and supporting documentation submitted to the state medical board regarding an applicant's, or a license or certificate holder's, inability to practice according to acceptable and prevailing standards of care by reason of a medical condition.</u>	208 209 210 211 212 213
A record that is not a public record under division (A) (1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the Revised Code, or any	214 215 216 217 218 219 220 221 222

record that is exempt from release or disclosure under section 223
149.433 of the Revised Code. If the record is a birth 224
certificate and a biological parent's name redaction request 225
form has been accepted under section 3107.391 of the Revised 226
Code, the name of that parent shall be redacted from the birth 227
certificate before it is released under this paragraph. If any 228
other section of the Revised Code establishes a time period for 229
disclosure of a record that conflicts with the time period 230
specified in this section, the time period in the other section 231
prevails. 232

(2) "Confidential law enforcement investigatory record" 233
means any record that pertains to a law enforcement matter of a 234
criminal, quasi-criminal, civil, or administrative nature, but 235
only to the extent that the release of the record would create a 236
high probability of disclosure of any of the following: 237

(a) The identity of a suspect who has not been charged 238
with the offense to which the record pertains, or of an 239
information source or witness to whom confidentiality has been 240
reasonably promised; 241

(b) Information provided by an information source or 242
witness to whom confidentiality has been reasonably promised, 243
which information would reasonably tend to disclose the source's 244
or witness's identity; 245

(c) Specific confidential investigatory techniques or 246
procedures or specific investigatory work product; 247

(d) Information that would endanger the life or physical 248
safety of law enforcement personnel, a crime victim, a witness, 249
or a confidential information source. 250

(3) "Medical record" means any document or combination of 251

documents, except births, deaths, and the fact of admission to 252
or discharge from a hospital, that pertains to the medical 253
history, diagnosis, prognosis, or medical condition of a patient 254
and that is generated and maintained in the process of medical 255
treatment. 256

(4) "Trial preparation record" means any record that 257
contains information that is specifically compiled in reasonable 258
anticipation of, or in defense of, a civil or criminal action or 259
proceeding, including the independent thought processes and 260
personal trial preparation of an attorney. 261

(5) "Intellectual property record" means a record, other 262
than a financial or administrative record, that is produced or 263
collected by or for faculty or staff of a state institution of 264
higher learning in the conduct of or as a result of study or 265
research on an educational, commercial, scientific, artistic, 266
technical, or scholarly issue, regardless of whether the study 267
or research was sponsored by the institution alone or in 268
conjunction with a governmental body or private concern, and 269
that has not been publicly released, published, or patented. 270

(6) "Donor profile record" means all records about donors 271
or potential donors to a public institution of higher education 272
except the names and reported addresses of the actual donors and 273
the date, amount, and conditions of the actual donation. 274

(7) "Designated public service worker" means a peace 275
officer, parole officer, probation officer, bailiff, prosecuting 276
attorney, assistant prosecuting attorney, correctional employee, 277
county or multicounty corrections officer, community-based 278
correctional facility employee, designated Ohio national guard 279
member, protective services worker, youth services employee, 280
firefighter, EMT, medical director or member of a cooperating 281

physician advisory board of an emergency medical service 282
organization, state board of pharmacy employee, investigator of 283
the bureau of criminal identification and investigation, 284
emergency service telecommunicator, forensic mental health 285
provider, mental health evaluation provider, regional 286
psychiatric hospital employee, judge, magistrate, or federal law 287
enforcement officer. 288

(8) "Designated public service worker residential and 289
familial information" means any information that discloses any 290
of the following about a designated public service worker: 291

(a) The address of the actual personal residence of a 292
designated public service worker, except for the following 293
information: 294

(i) The address of the actual personal residence of a 295
prosecuting attorney or judge; and 296

(ii) The state or political subdivision in which a 297
designated public service worker resides. 298

(b) Information compiled from referral to or participation 299
in an employee assistance program; 300

(c) The social security number, the residential telephone 301
number, any bank account, debit card, charge card, or credit 302
card number, or the emergency telephone number of, or any 303
medical information pertaining to, a designated public service 304
worker; 305

(d) The name of any beneficiary of employment benefits, 306
including, but not limited to, life insurance benefits, provided 307
to a designated public service worker by the designated public 308
service worker's employer; 309

(e) The identity and amount of any charitable or 310
employment benefit deduction made by the designated public 311
service worker's employer from the designated public service 312
worker's compensation, unless the amount of the deduction is 313
required by state or federal law; 314

(f) The name, the residential address, the name of the 315
employer, the address of the employer, the social security 316
number, the residential telephone number, any bank account, 317
debit card, charge card, or credit card number, or the emergency 318
telephone number of the spouse, a former spouse, or any child of 319
a designated public service worker; 320

(g) A photograph of a peace officer who holds a position 321
or has an assignment that may include undercover or plain 322
clothes positions or assignments as determined by the peace 323
officer's appointing authority. 324

(9) As used in divisions (A) (7) and (15) to (17) of this 325
section: 326

"Peace officer" has the meaning defined in section 109.71 327
of the Revised Code and also includes the superintendent and 328
troopers of the state highway patrol; it does not include the 329
sheriff of a county or a supervisory employee who, in the 330
absence of the sheriff, is authorized to stand in for, exercise 331
the authority of, and perform the duties of the sheriff. 332

"Correctional employee" means any employee of the 333
department of rehabilitation and correction who in the course of 334
performing the employee's job duties has or has had contact with 335
inmates and persons under supervision. 336

"County or multicounty corrections officer" means any 337
corrections officer employed by any county or multicounty 338

correctional facility. 339

"Designated Ohio national guard member" means a member of 340
the Ohio national guard who is participating in duties related 341
to remotely piloted aircraft, including, but not limited to, 342
pilots, sensor operators, and mission intelligence personnel, 343
duties related to special forces operations, or duties related 344
to cybersecurity, and is designated by the adjutant general as a 345
designated public service worker for those purposes. 346

"Protective services worker" means any employee of a 347
county agency who is responsible for child protective services, 348
child support services, or adult protective services. 349

"Youth services employee" means any employee of the 350
department of youth services who in the course of performing the 351
employee's job duties has or has had contact with children 352
committed to the custody of the department of youth services. 353

"Firefighter" means any regular, paid or volunteer, member 354
of a lawfully constituted fire department of a municipal 355
corporation, township, fire district, or village. 356

"EMT" means EMTs-basic, EMTs-I, and paramedics that 357
provide emergency medical services for a public emergency 358
medical service organization. "Emergency medical service 359
organization," "EMT-basic," "EMT-I," and "paramedic" have the 360
meanings defined in section 4765.01 of the Revised Code. 361

"Investigator of the bureau of criminal identification and 362
investigation" has the meaning defined in section 2903.11 of the 363
Revised Code. 364

"Emergency service telecommunicator" has the meaning 365
defined in section 4742.01 of the Revised Code. 366

"Forensic mental health provider" means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

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

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

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

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

(a) The address or telephone number of a person under the

age of eighteen or the address or telephone number of that	396
person's parent, guardian, custodian, or emergency contact	397
person;	398
(b) The social security number, birth date, or	399
photographic image of a person under the age of eighteen;	400
(c) Any medical record, history, or information pertaining	401
to a person under the age of eighteen;	402
(d) Any additional information sought or required about a	403
person under the age of eighteen for the purpose of allowing	404
that person to participate in any recreational activity	405
conducted or sponsored by a public office or to use or obtain	406
admission privileges to any recreational facility owned or	407
operated by a public office.	408
(11) "Community control sanction" has the meaning defined	409
in section 2929.01 of the Revised Code.	410
(12) "Post-release control sanction" has the meaning	411
defined in section 2967.01 of the Revised Code.	412
(13) "Redaction" means obscuring or deleting any	413
information that is exempt from the duty to permit public	414
inspection or copying from an item that otherwise meets the	415
definition of a "record" in section 149.011 of the Revised Code.	416
(14) "Designee," "elected official," and "future official"	417
have the meanings defined in section 109.43 of the Revised Code.	418
(15) "Body-worn camera" means a visual and audio recording	419
device worn on the person of a peace officer while the peace	420
officer is engaged in the performance of the peace officer's	421
duties.	422
(16) "Dashboard camera" means a visual and audio recording	423

device mounted on a peace officer's vehicle or vessel that is 424
used while the peace officer is engaged in the performance of 425
the peace officer's duties. 426

(17) "Restricted portions of a body-worn camera or 427
dashboard camera recording" means any visual or audio portion of 428
a body-worn camera or dashboard camera recording that shows, 429
communicates, or discloses any of the following: 430

(a) The image or identity of a child or information that 431
could lead to the identification of a child who is a primary 432
subject of the recording when the law enforcement agency knows 433
or has reason to know the person is a child based on the law 434
enforcement agency's records or the content of the recording; 435

(b) The death of a person or a deceased person's body, 436
unless the death was caused by a peace officer or, subject to 437
division (H) (1) of this section, the consent of the decedent's 438
executor or administrator has been obtained; 439

(c) The death of a peace officer, firefighter, paramedic, 440
or other first responder, occurring while the decedent was 441
engaged in the performance of official duties, unless, subject 442
to division (H) (1) of this section, the consent of the 443
decedent's executor or administrator has been obtained; 444

(d) Grievous bodily harm, unless the injury was effected 445
by a peace officer or, subject to division (H) (1) of this 446
section, the consent of the injured person or the injured 447
person's guardian has been obtained; 448

(e) An act of severe violence against a person that 449
results in serious physical harm to the person, unless the act 450
and injury was effected by a peace officer or, subject to 451
division (H) (1) of this section, the consent of the injured 452

person or the injured person's guardian has been obtained; 453

(f) Grievous bodily harm to a peace officer, firefighter, 454
paramedic, or other first responder, occurring while the injured 455
person was engaged in the performance of official duties, 456
unless, subject to division (H)(1) of this section, the consent 457
of the injured person or the injured person's guardian has been 458
obtained; 459

(g) An act of severe violence resulting in serious 460
physical harm against a peace officer, firefighter, paramedic, 461
or other first responder, occurring while the injured person was 462
engaged in the performance of official duties, unless, subject 463
to division (H)(1) of this section, the consent of the injured 464
person or the injured person's guardian has been obtained; 465

(h) A person's nude body, unless, subject to division (H) 466
(1) of this section, the person's consent has been obtained; 467

(i) Protected health information, the identity of a person 468
in a health care facility who is not the subject of a law 469
enforcement encounter, or any other information in a health care 470
facility that could identify a person who is not the subject of 471
a law enforcement encounter; 472

(j) Information that could identify the alleged victim of 473
a sex offense, menacing by stalking, or domestic violence; 474

(k) Information, that does not constitute a confidential 475
law enforcement investigatory record, that could identify a 476
person who provides sensitive or confidential information to a 477
law enforcement agency when the disclosure of the person's 478
identity or the information provided could reasonably be 479
expected to threaten or endanger the safety or property of the 480
person or another person; 481

(l) Personal information of a person who is not arrested,	482
cited, charged, or issued a written warning by a peace officer;	483
(m) Proprietary police contingency plans or tactics that	484
are intended to prevent crime and maintain public order and	485
safety;	486
(n) A personal conversation unrelated to work between	487
peace officers or between a peace officer and an employee of a	488
law enforcement agency;	489
(o) A conversation between a peace officer and a member of	490
the public that does not concern law enforcement activities;	491
(p) The interior of a residence, unless the interior of a	492
residence is the location of an adversarial encounter with, or a	493
use of force by, a peace officer;	494
(q) Any portion of the interior of a private business that	495
is not open to the public, unless an adversarial encounter with,	496
or a use of force by, a peace officer occurs in that location.	497
As used in division (A) (17) of this section:	498
"Grievous bodily harm" has the same meaning as in section	499
5924.120 of the Revised Code.	500
"Health care facility" has the same meaning as in section	501
1337.11 of the Revised Code.	502
"Protected health information" has the same meaning as in	503
45 C.F.R. 160.103.	504
"Law enforcement agency" has the same meaning as in	505
section 2925.61 of the Revised Code.	506
"Personal information" means any government-issued	507
identification number, date of birth, address, financial	508

information, or criminal justice information from the law 509
enforcement automated data system or similar databases. 510

"Sex offense" has the same meaning as in section 2907.10 511
of the Revised Code. 512

"Firefighter," "paramedic," and "first responder" have the 513
same meanings as in section 4765.01 of the Revised Code. 514

(B) (1) Upon request by any person and subject to division 515
(B) (8) of this section, all public records responsive to the 516
request shall be promptly prepared and made available for 517
inspection to the requester at all reasonable times during 518
regular business hours. Subject to division (B) (8) of this 519
section, upon request by any person, a public office or person 520
responsible for public records shall make copies of the 521
requested public record available to the requester at cost and 522
within a reasonable period of time. If a public record contains 523
information that is exempt from the duty to permit public 524
inspection or to copy the public record, the public office or 525
the person responsible for the public record shall make 526
available all of the information within the public record that 527
is not exempt. When making that public record available for 528
public inspection or copying that public record, the public 529
office or the person responsible for the public record shall 530
notify the requester of any redaction or make the redaction 531
plainly visible. A redaction shall be deemed a denial of a 532
request to inspect or copy the redacted information, except if 533
federal or state law authorizes or requires a public office to 534
make the redaction. 535

(2) To facilitate broader access to public records, a 536
public office or the person responsible for public records shall 537
organize and maintain public records in a manner that they can 538

be made available for inspection or copying in accordance with 539
division (B) of this section. A public office also shall have 540
available a copy of its current records retention schedule at a 541
location readily available to the public. If a requester makes 542
an ambiguous or overly broad request or has difficulty in making 543
a request for copies or inspection of public records under this 544
section such that the public office or the person responsible 545
for the requested public record cannot reasonably identify what 546
public records are being requested, the public office or the 547
person responsible for the requested public record may deny the 548
request but shall provide the requester with an opportunity to 549
revise the request by informing the requester of the manner in 550
which records are maintained by the public office and accessed 551
in the ordinary course of the public office's or person's 552
duties. 553

(3) If a request is ultimately denied, in part or in 554
whole, the public office or the person responsible for the 555
requested public record shall provide the requester with an 556
explanation, including legal authority, setting forth why the 557
request was denied. If the initial request was provided in 558
writing, the explanation also shall be provided to the requester 559
in writing. The explanation shall not preclude the public office 560
or the person responsible for the requested public record from 561
relying upon additional reasons or legal authority in defending 562
an action commenced under division (C) of this section. 563

(4) Unless specifically required or authorized by state or 564
federal law or in accordance with division (B) of this section, 565
no public office or person responsible for public records may 566
limit or condition the availability of public records by 567
requiring disclosure of the requester's identity or the intended 568
use of the requested public record. Any requirement that the 569

requester disclose the requester's identity or the intended use 570
of the requested public record constitutes a denial of the 571
request. 572

(5) A public office or person responsible for public 573
records may ask a requester to make the request in writing, may 574
ask for the requester's identity, and may inquire about the 575
intended use of the information requested, but may do so only 576
after disclosing to the requester that a written request is not 577
mandatory, that the requester may decline to reveal the 578
requester's identity or the intended use, and when a written 579
request or disclosure of the identity or intended use would 580
benefit the requester by enhancing the ability of the public 581
office or person responsible for public records to identify, 582
locate, or deliver the public records sought by the requester. 583

(6) If any person requests a copy of a public record in 584
accordance with division (B) of this section, the public office 585
or person responsible for the public record may require the 586
requester to pay in advance the cost involved in providing the 587
copy of the public record in accordance with the choice made by 588
the requester under this division. The public office or the 589
person responsible for the public record shall permit the 590
requester to choose to have the public record duplicated upon 591
paper, upon the same medium upon which the public office or 592
person responsible for the public record keeps it, or upon any 593
other medium upon which the public office or person responsible 594
for the public record determines that it reasonably can be 595
duplicated as an integral part of the normal operations of the 596
public office or person responsible for the public record. When 597
the requester makes a choice under this division, the public 598
office or person responsible for the public record shall provide 599
a copy of it in accordance with the choice made by the 600

requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

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

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

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

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per

month, unless the person certifies to the office in writing that 631
the person does not intend to use or forward the requested 632
records, or the information contained in them, for commercial 633
purposes; 634

(ii) A public office that chooses to provide some or all 635
of its public records on a web site that is fully accessible to 636
and searchable by members of the public at all times, other than 637
during acts of God outside the public office's control or 638
maintenance, and that charges no fee to search, access, 639
download, or otherwise receive records provided on the web site, 640
may limit to ten per month the number of records requested by a 641
person that the office will deliver in a digital format, unless 642
the requested records are not provided on the web site and 643
unless the person certifies to the office in writing that the 644
person does not intend to use or forward the requested records, 645
or the information contained in them, for commercial purposes. 646

(iii) For purposes of division (B) (7) of this section, 647
"commercial" shall be narrowly construed and does not include 648
reporting or gathering news, reporting or gathering information 649
to assist citizen oversight or understanding of the operation or 650
activities of government, or nonprofit educational research. 651

(8) A public office or person responsible for public 652
records is not required to permit a person who is incarcerated 653
pursuant to a criminal conviction or a juvenile adjudication to 654
inspect or to obtain a copy of any public record concerning a 655
criminal investigation or prosecution or concerning what would 656
be a criminal investigation or prosecution if the subject of the 657
investigation or prosecution were an adult, unless the request 658
to inspect or to obtain a copy of the record is for the purpose 659
of acquiring information that is subject to release as a public 660

record under this section and the judge who imposed the sentence 661
or made the adjudication with respect to the person, or the 662
judge's successor in office, finds that the information sought 663
in the public record is necessary to support what appears to be 664
a justiciable claim of the person. 665

(9) (a) Upon written request made and signed by a 666
journalist, a public office, or person responsible for public 667
records, having custody of the records of the agency employing a 668
specified designated public service worker shall disclose to the 669
journalist the address of the actual personal residence of the 670
designated public service worker and, if the designated public 671
service worker's spouse, former spouse, or child is employed by 672
a public office, the name and address of the employer of the 673
designated public service worker's spouse, former spouse, or 674
child. The request shall include the journalist's name and title 675
and the name and address of the journalist's employer and shall 676
state that disclosure of the information sought would be in the 677
public interest. 678

(b) Division (B) (9) (a) of this section also applies to 679
journalist requests for: 680

(i) Customer information maintained by a municipally owned 681
or operated public utility, other than social security numbers 682
and any private financial information such as credit reports, 683
payment methods, credit card numbers, and bank account 684
information; 685

(ii) Information about minors involved in a school vehicle 686
accident as provided in division (A) (1) (gg) of this section, 687
other than personal information as defined in section 149.45 of 688
the Revised Code. 689

(c) As used in division (B) (9) of this section, 690
"journalist" means a person engaged in, connected with, or 691
employed by any news medium, including a newspaper, magazine, 692
press association, news agency, or wire service, a radio or 693
television station, or a similar medium, for the purpose of 694
gathering, processing, transmitting, compiling, editing, or 695
disseminating information for the general public. 696

(10) Upon a request made by a victim, victim's attorney, 697
or victim's representative, as that term is used in section 698
2930.02 of the Revised Code, a public office or person 699
responsible for public records shall transmit a copy of a 700
depiction of the victim as described in division (A) (1) (ii) of 701
this section to the victim, victim's attorney, or victim's 702
representative. 703

(C) (1) If a person allegedly is aggrieved by the failure 704
of a public office or the person responsible for public records 705
to promptly prepare a public record and to make it available to 706
the person for inspection in accordance with division (B) of 707
this section or by any other failure of a public office or the 708
person responsible for public records to comply with an 709
obligation in accordance with division (B) of this section, the 710
person allegedly aggrieved may do only one of the following, and 711
not both: 712

(a) File a complaint with the clerk of the court of claims 713
or the clerk of the court of common pleas under section 2743.75 714
of the Revised Code; 715

(b) Commence a mandamus action to obtain a judgment that 716
orders the public office or the person responsible for the 717
public record to comply with division (B) of this section, that 718
awards court costs and reasonable attorney's fees to the person 719

that instituted the mandamus action, and, if applicable, that 720
includes an order fixing statutory damages under division (C) (2) 721
of this section. The mandamus action may be commenced in the 722
court of common pleas of the county in which division (B) of 723
this section allegedly was not complied with, in the supreme 724
court pursuant to its original jurisdiction under Section 2 of 725
Article IV, Ohio Constitution, or in the court of appeals for 726
the appellate district in which division (B) of this section 727
allegedly was not complied with pursuant to its original 728
jurisdiction under Section 3 of Article IV, Ohio Constitution. 729

(2) If a requester transmits a written request by hand 730
delivery, electronic submission, or certified mail to inspect or 731
receive copies of any public record in a manner that fairly 732
describes the public record or class of public records to the 733
public office or person responsible for the requested public 734
records, except as otherwise provided in this section, the 735
requester shall be entitled to recover the amount of statutory 736
damages set forth in this division if a court determines that 737
the public office or the person responsible for public records 738
failed to comply with an obligation in accordance with division 739
(B) of this section. 740

The amount of statutory damages shall be fixed at one 741
hundred dollars for each business day during which the public 742
office or person responsible for the requested public records 743
failed to comply with an obligation in accordance with division 744
(B) of this section, beginning with the day on which the 745
requester files a mandamus action to recover statutory damages, 746
up to a maximum of one thousand dollars. The award of statutory 747
damages shall not be construed as a penalty, but as compensation 748
for injury arising from lost use of the requested information. 749
The existence of this injury shall be conclusively presumed. The 750

award of statutory damages shall be in addition to all other 751
remedies authorized by this section. 752

The court may reduce an award of statutory damages or not 753
award statutory damages if the court determines both of the 754
following: 755

(a) That, based on the ordinary application of statutory 756
law and case law as it existed at the time of the conduct or 757
threatened conduct of the public office or person responsible 758
for the requested public records that allegedly constitutes a 759
failure to comply with an obligation in accordance with division 760
(B) of this section and that was the basis of the mandamus 761
action, a well-informed public office or person responsible for 762
the requested public records reasonably would believe that the 763
conduct or threatened conduct of the public office or person 764
responsible for the requested public records did not constitute 765
a failure to comply with an obligation in accordance with 766
division (B) of this section; 767

(b) That a well-informed public office or person 768
responsible for the requested public records reasonably would 769
believe that the conduct or threatened conduct of the public 770
office or person responsible for the requested public records 771
would serve the public policy that underlies the authority that 772
is asserted as permitting that conduct or threatened conduct. 773

(3) In a mandamus action filed under division (C) (1) of 774
this section, the following apply: 775

(a) (i) If the court orders the public office or the person 776
responsible for the public record to comply with division (B) of 777
this section, the court shall determine and award to the relator 778
all court costs, which shall be construed as remedial and not 779

punitive. 780

(ii) If the court makes a determination described in 781
division (C) (3) (b) (iii) of this section, the court shall 782
determine and award to the relator all court costs, which shall 783
be construed as remedial and not punitive. 784

(b) If the court renders a judgment that orders the public 785
office or the person responsible for the public record to comply 786
with division (B) of this section or if the court determines any 787
of the following, the court may award reasonable attorney's fees 788
to the relator, subject to division (C) (4) of this section: 789

(i) The public office or the person responsible for the 790
public records failed to respond affirmatively or negatively to 791
the public records request in accordance with the time allowed 792
under division (B) of this section. 793

(ii) The public office or the person responsible for the 794
public records promised to permit the relator to inspect or 795
receive copies of the public records requested within a 796
specified period of time but failed to fulfill that promise 797
within that specified period of time. 798

(iii) The public office or the person responsible for the 799
public records acted in bad faith when the office or person 800
voluntarily made the public records available to the relator for 801
the first time after the relator commenced the mandamus action, 802
but before the court issued any order concluding whether or not 803
the public office or person was required to comply with division 804
(B) of this section. No discovery may be conducted on the issue 805
of the alleged bad faith of the public office or person 806
responsible for the public records. This division shall not be 807
construed as creating a presumption that the public office or 808

the person responsible for the public records acted in bad faith 809
when the office or person voluntarily made the public records 810
available to the relator for the first time after the relator 811
commenced the mandamus action, but before the court issued any 812
order described in this division. 813

(c) The court shall not award attorney's fees to the 814
relator if the court determines both of the following: 815

(i) That, based on the ordinary application of statutory 816
law and case law as it existed at the time of the conduct or 817
threatened conduct of the public office or person responsible 818
for the requested public records that allegedly constitutes a 819
failure to comply with an obligation in accordance with division 820
(B) of this section and that was the basis of the mandamus 821
action, a well-informed public office or person responsible for 822
the requested public records reasonably would believe that the 823
conduct or threatened conduct of the public office or person 824
responsible for the requested public records did not constitute 825
a failure to comply with an obligation in accordance with 826
division (B) of this section; 827

(ii) That a well-informed public office or person 828
responsible for the requested public records reasonably would 829
believe that the conduct or threatened conduct of the public 830
office or person responsible for the requested public records 831
would serve the public policy that underlies the authority that 832
is asserted as permitting that conduct or threatened conduct. 833

(4) All of the following apply to any award of reasonable 834
attorney's fees awarded under division (C) (3) (b) of this 835
section: 836

(a) The fees shall be construed as remedial and not 837

punitive. 838

(b) The fees awarded shall not exceed the total of the 839
reasonable attorney's fees incurred before the public record was 840
made available to the relator and the fees described in division 841
(C) (4) (c) of this section. 842

(c) Reasonable attorney's fees shall include reasonable 843
fees incurred to produce proof of the reasonableness and amount 844
of the fees and to otherwise litigate entitlement to the fees. 845

(d) The court may reduce the amount of fees awarded if the 846
court determines that, given the factual circumstances involved 847
with the specific public records request, an alternative means 848
should have been pursued to more effectively and efficiently 849
resolve the dispute that was subject to the mandamus action 850
filed under division (C) (1) of this section. 851

(5) If the court does not issue a writ of mandamus under 852
division (C) of this section and the court determines at that 853
time that the bringing of the mandamus action was frivolous 854
conduct as defined in division (A) of section 2323.51 of the 855
Revised Code, the court may award to the public office all court 856
costs, expenses, and reasonable attorney's fees, as determined 857
by the court. 858

(D) Chapter 1347. of the Revised Code does not limit the 859
provisions of this section. 860

(E) (1) To ensure that all employees of public offices are 861
appropriately educated about a public office's obligations under 862
division (B) of this section, all elected officials or their 863
appropriate designees shall attend training approved by the 864
attorney general as provided in section 109.43 of the Revised 865
Code. A future official may satisfy the requirements of this 866

division by attending the training before taking office, 867
provided that the future official may not send a designee in the 868
future official's place. 869

(2) All public offices shall adopt a public records policy 870
in compliance with this section for responding to public records 871
requests. In adopting a public records policy under this 872
division, a public office may obtain guidance from the model 873
public records policy developed and provided to the public 874
office by the attorney general under section 109.43 of the 875
Revised Code. Except as otherwise provided in this section, the 876
policy may not limit the number of public records that the 877
public office will make available to a single person, may not 878
limit the number of public records that it will make available 879
during a fixed period of time, and may not establish a fixed 880
period of time before it will respond to a request for 881
inspection or copying of public records, unless that period is 882
less than eight hours. 883

The public office shall distribute the public records 884
policy adopted by the public office under this division to the 885
employee of the public office who is the records custodian or 886
records manager or otherwise has custody of the records of that 887
office. The public office shall require that employee to 888
acknowledge receipt of the copy of the public records policy. 889
The public office shall create a poster that describes its 890
public records policy and shall post the poster in a conspicuous 891
place in the public office and in all locations where the public 892
office has branch offices. The public office may post its public 893
records policy on the internet web site of the public office if 894
the public office maintains an internet web site. A public 895
office that has established a manual or handbook of its general 896
policies and procedures for all employees of the public office 897

shall include the public records policy of the public office in 898
the manual or handbook. 899

(F) (1) The bureau of motor vehicles may adopt rules 900
pursuant to Chapter 119. of the Revised Code to reasonably limit 901
the number of bulk commercial special extraction requests made 902
by a person for the same records or for updated records during a 903
calendar year. The rules may include provisions for charges to 904
be made for bulk commercial special extraction requests for the 905
actual cost of the bureau, plus special extraction costs, plus 906
ten per cent. The bureau may charge for expenses for redacting 907
information, the release of which is prohibited by law. 908

(2) As used in division (F) (1) of this section: 909

(a) "Actual cost" means the cost of depleted supplies, 910
records storage media costs, actual mailing and alternative 911
delivery costs, or other transmitting costs, and any direct 912
equipment operating and maintenance costs, including actual 913
costs paid to private contractors for copying services. 914

(b) "Bulk commercial special extraction request" means a 915
request for copies of a record for information in a format other 916
than the format already available, or information that cannot be 917
extracted without examination of all items in a records series, 918
class of records, or database by a person who intends to use or 919
forward the copies for surveys, marketing, solicitation, or 920
resale for commercial purposes. "Bulk commercial special 921
extraction request" does not include a request by a person who 922
gives assurance to the bureau that the person making the request 923
does not intend to use or forward the requested copies for 924
surveys, marketing, solicitation, or resale for commercial 925
purposes. 926

(c) "Commercial" means profit-seeking production, buying, 927
or selling of any good, service, or other product. 928

(d) "Special extraction costs" means the cost of the time 929
spent by the lowest paid employee competent to perform the task, 930
the actual amount paid to outside private contractors employed 931
by the bureau, or the actual cost incurred to create computer 932
programs to make the special extraction. "Special extraction 933
costs" include any charges paid to a public agency for computer 934
or records services. 935

(3) For purposes of divisions (F) (1) and (2) of this 936
section, "surveys, marketing, solicitation, or resale for 937
commercial purposes" shall be narrowly construed and does not 938
include reporting or gathering news, reporting or gathering 939
information to assist citizen oversight or understanding of the 940
operation or activities of government, or nonprofit educational 941
research. 942

(G) A request by a defendant, counsel of a defendant, or 943
any agent of a defendant in a criminal action that public 944
records related to that action be made available under this 945
section shall be considered a demand for discovery pursuant to 946
the Criminal Rules, except to the extent that the Criminal Rules 947
plainly indicate a contrary intent. The defendant, counsel of 948
the defendant, or agent of the defendant making a request under 949
this division shall serve a copy of the request on the 950
prosecuting attorney, director of law, or other chief legal 951
officer responsible for prosecuting the action. 952

(H) (1) Any portion of a body-worn camera or dashboard 953
camera recording described in divisions (A) (17) (b) to (h) of 954
this section may be released by consent of the subject of the 955
recording or a representative of that person, as specified in 956

those divisions, only if either of the following applies: 957

(a) The recording will not be used in connection with any 958
probable or pending criminal proceedings; 959

(b) The recording has been used in connection with a 960
criminal proceeding that was dismissed or for which a judgment 961
has been entered pursuant to Rule 32 of the Rules of Criminal 962
Procedure, and will not be used again in connection with any 963
probable or pending criminal proceedings. 964

(2) If a public office denies a request to release a 965
restricted portion of a body-worn camera or dashboard camera 966
recording, as defined in division (A)(17) of this section, any 967
person may file a mandamus action pursuant to this section or a 968
complaint with the clerk of the court of claims pursuant to 969
section 2743.75 of the Revised Code, requesting the court to 970
order the release of all or portions of the recording. If the 971
court considering the request determines that the filing 972
articulates by clear and convincing evidence that the public 973
interest in the recording substantially outweighs privacy 974
interests and other interests asserted to deny release, the 975
court shall order the public office to release the recording. 976

Sec. 2105.062. As used in this section, "relative" 977
includes a parent, grandparent, great-grandparent, stepparent, 978
child, grandchild, aunt, uncle, cousin, sibling, and half 979
sibling. 980

The parent, or a relative of the parent, of a child who 981
was conceived as the result of the parent's violation of section 982
2907.02 of the Revised Code, or violation of section 2907.03 of 983
the Revised Code if the sexual activity involved is sexual 984
conduct, shall not inherit the real property, personal property, 985

or inheritance of the child or the child's lineal descendants as 986
provided under section 2105.06 of the Revised Code. 987

Sec. 2305.111. (A) As used in this section: 988

(1) "Childhood sexual abuse" means any conduct that 989
constitutes any of the violations identified in division (A)(1) 990
(a) or (b) of this section and would constitute a criminal 991
offense under the specified section ~~or division~~ of the Revised 992
Code, if the victim of the violation is at the time of the 993
violation a child under eighteen years of age or a child with a 994
developmental disability or physical impairment under twenty-one 995
years of age. The court need not find that any person has been 996
convicted of or pleaded guilty to the offense under the 997
specified section ~~or division~~ of the Revised Code in order for 998
the conduct that is the violation constituting the offense to be 999
childhood sexual abuse for purposes of this division. This 1000
division applies to any of the following violations committed in 1001
the following specified circumstances: 1002

(a) A violation of section 2907.02 or ~~of division (A)(1),~~ 1003
~~(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03~~ 1004
of the Revised Code; 1005

(b) A violation of section 2907.05 or 2907.06 of the 1006
Revised Code if, at the time of the violation, any of the 1007
following apply: 1008

(i) The actor is the victim's natural parent, adoptive 1009
parent, or stepparent or the guardian, custodian, or person in 1010
loco parentis of the victim. 1011

(ii) The victim is in custody of law or a patient in a 1012
hospital or other institution, and the actor has supervisory or 1013
disciplinary authority over the victim. 1014

(iii) The actor is a teacher, administrator, coach, or 1015
other person in authority employed by or serving in a school for 1016
which the state board of education prescribes minimum standards 1017
pursuant to division (D) of section 3301.07 of the Revised Code, 1018
the victim is enrolled in or attends that school, and the actor 1019
is not enrolled in and does not attend that school. 1020

(iv) The actor is a teacher, administrator, coach, or 1021
other person in authority employed by or serving in an 1022
institution of higher education, and the victim is enrolled in 1023
or attends that institution. 1024

(v) The actor is the victim's athletic or other type of 1025
coach, is the victim's instructor, is the leader of a scouting 1026
troop of which the victim is a member, or is a person with 1027
temporary or occasional disciplinary control over the victim. 1028

(vi) The actor is a mental health professional, the victim 1029
is a mental health client or patient of the actor, and the actor 1030
induces the victim to submit by falsely representing to the 1031
victim that the sexual contact involved in the violation is 1032
necessary for mental health treatment purposes. 1033

(vii) The actor is a licensed medical professional, the 1034
victim is a patient of the actor, and the sexual contact occurs 1035
in the course of medical treatment. 1036

(viii) The victim is confined in a detention facility, and 1037
the actor is an employee of that detention facility. 1038

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 1039
member of, or attends, the church or congregation served by the 1040
cleric. 1041

(2) "Cleric" has the same meaning as in section 2317.02 of 1042
the Revised Code. 1043

(3) <u>"Licensed medical professional" has the same meaning</u>	1044
<u>as in section 2907.01 of the Revised Code.</u>	1045
(4) <u>"Mental health client or patient" has the same meaning</u>	1046
<u>as in section 2305.51 of the Revised Code.</u>	1047
(4) -(5) <u>"Mental health professional" has the same meaning</u>	1048
<u>as in section 2305.115 of the Revised Code.</u>	1049
(5) -(6) <u>"Sexual contact" has the same meaning as in</u>	1050
<u>section 2907.01 of the Revised Code.</u>	1051
(6) -(7) <u>"Victim" means, except as provided in division (B)</u>	1052
<u>of this section, a victim of childhood sexual abuse.</u>	1053
(B) Except as provided in section 2305.115 of the Revised	1054
Code and subject to division (C) of this section, an action for	1055
assault or battery shall be brought within one year after the	1056
cause of the action accrues. For purposes of this section, a	1057
cause of action for assault or battery accrues upon the later of	1058
the following:	1059
(1) The date on which the alleged assault or battery	1060
occurred;	1061
(2) If the plaintiff did not know the identity of the	1062
person who allegedly committed the assault or battery on the	1063
date on which it allegedly occurred, the earlier of the	1064
following dates:	1065
(a) The date on which the plaintiff learns the identity of	1066
that person;	1067
(b) The date on which, by the exercise of reasonable	1068
diligence, the plaintiff should have learned the identity of	1069
that person.	1070

(C) An action for assault or battery brought by a victim 1071
of childhood sexual abuse based on childhood sexual abuse, or an 1072
action brought by a victim of childhood sexual abuse asserting 1073
any claim resulting from childhood sexual abuse, shall be 1074
brought within twelve years after the cause of action accrues. 1075
For purposes of this section, a cause of action for assault or 1076
battery based on childhood sexual abuse, or a cause of action 1077
for a claim resulting from childhood sexual abuse, accrues upon 1078
the date on which the victim reaches the age of majority. If the 1079
defendant in an action brought by a victim of childhood sexual 1080
abuse asserting a claim resulting from childhood sexual abuse 1081
that occurs on or after August 3, 2006, has fraudulently 1082
concealed from the plaintiff facts that form the basis of the 1083
claim, the running of the limitations period with regard to that 1084
claim is tolled until the time when the plaintiff discovers or 1085
in the exercise of due diligence should have discovered those 1086
facts. 1087

Sec. 2305.252. ~~(A) Proceedings~~ (A) (1) Except as required 1088
to comply with a subpoena issued by the state medical board for 1089
the production of information, documents, or records related to 1090
an allegation of sexual misconduct or criminal conduct, 1091
proceedings and records within the scope of a peer review 1092
committee of a health care entity shall be held in confidence 1093
and shall not be subject to discovery or introduction in 1094
evidence in any civil action against a health care entity or 1095
health care provider, including both individuals who provide 1096
health care and entities that provide health care, arising out 1097
of matters that are the subject of evaluation and review by the 1098
peer review committee. No individual who attends a meeting of a 1099
peer review committee, serves as a member of a peer review 1100
committee, works for or on behalf of a peer review committee, or 1101

provides information to a peer review committee shall be 1102
permitted or required to testify in any civil action as to any 1103
evidence or other matters produced or presented during the 1104
proceedings of the peer review committee or as to any finding, 1105
recommendation, evaluation, opinion, or other action of the 1106
committee or a member thereof. 1107

Information, documents, or records otherwise available 1108
from original sources are not to be construed as being 1109
unavailable for discovery or for use in any civil action merely 1110
because they were produced or presented during proceedings of a 1111
peer review committee, but the information, documents, or 1112
records are available only from the original sources and cannot 1113
be obtained from the peer review committee's proceedings or 1114
records. 1115

The release of any information, documents, or records that 1116
were produced or presented during proceedings of a peer review 1117
committee or created to document the proceedings does not affect 1118
the confidentiality of any other information, documents, or 1119
records produced or presented during those proceedings or 1120
created to document them. Only the information, documents, or 1121
records actually released cease to be privileged under this 1122
section. 1123

Nothing in this section precludes health care entities 1124
from sharing information, documents, or records that were 1125
produced or presented during proceedings of a peer review 1126
committee or created to document them as long as the 1127
information, documents, or records are used only for peer review 1128
purposes. Health care entities shall provide information, 1129
documents, or records related to allegations of sexual 1130
misconduct or criminal conduct of individuals licensed by the 1131

state medical board that were produced or presented during the 1132
proceedings of a peer review committee or were created to 1133
document the proceedings, to the state medical board pursuant to 1134
a subpoena issued by the board. 1135

An individual who testifies before a peer review 1136
committee, serves as a representative of a peer review 1137
committee, serves as a member of a peer review committee, works 1138
for or on behalf of a peer review committee, or provides 1139
information to a peer review committee shall not be prevented 1140
from testifying as to matters within the individual's knowledge, 1141
but the individual cannot be asked about the individual's 1142
testimony before the peer review committee, information the 1143
individual provided to the peer review committee, or any opinion 1144
the individual formed as a result of the peer review committee's 1145
activities. 1146

An order by a court to produce for discovery or for use at 1147
trial the proceedings or records described in this section is a 1148
final order. 1149

(2) As used in division (A) (1) of this section: 1150

(a) "Criminal conduct" means any conduct that would 1151
constitute a felony, a misdemeanor committed in the course of 1152
medical practice, an offense of violence, or a sexually oriented 1153
offense, as defined in section 2950.01 of the Revised Code, 1154
regardless of whether a criminal charge has been filed or the 1155
location in this state where the conduct occurred. 1156

(b) "Sexual misconduct" means conduct that exploits the 1157
licensee-patient relationship in a sexual way, whether verbal or 1158
physical, and may include the expression of thoughts, feelings, 1159
or gestures that are sexual or that reasonably may be construed 1160

by the patient as sexual. "Sexual misconduct" includes sexual 1161
impropriety, sexual contact, and sexual interaction as defined 1162
by the state medical board in rules adopted in accordance with 1163
Chapter 119. of the Revised Code. 1164

(B) Division (A) of this section applies to a peer review 1165
committee of the bureau of workers' compensation that is 1166
responsible for reviewing the professional qualifications and 1167
the performance of providers certified by the bureau to 1168
participate in the health partnership program created under 1169
sections 4121.44 and 4121.441 of the Revised Code, except that 1170
the proceedings and records within the scope of the peer review 1171
committee are subject to discovery or court subpoena and may be 1172
admitted into evidence in any criminal action or administrative 1173
or civil action initiated, prosecuted, or adjudicated by the 1174
bureau involving an alleged violation of applicable statutes or 1175
administrative rules. The bureau may share proceedings and 1176
records within the scope of the peer review committee, including 1177
claimant records and claim file information, with law 1178
enforcement agencies, licensing boards, and other governmental 1179
agencies that are prosecuting, adjudicating, or investigating 1180
alleged violations of applicable statutes or administrative 1181
rules. If the bureau shares proceedings or records with a law 1182
enforcement agency, licensing board, or another governmental 1183
agency pursuant to this division, that sharing does not affect 1184
the confidentiality of the record. Recipients of claimant 1185
records and claim file information provided by the bureau 1186
pursuant to this division shall take appropriate measures to 1187
maintain the confidentiality of the information. 1188

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 1189
2917.211 of the Revised Code: 1190

(A) "Sexual conduct" means vaginal intercourse between a 1191
male and female; anal intercourse, fellatio, and cunnilingus 1192
between persons regardless of sex; and, without privilege to do 1193
so, the insertion, however slight, of any part of the body or 1194
any instrument, apparatus, or other object into the vaginal or 1195
anal opening of another. Penetration, however slight, is 1196
sufficient to complete vaginal or anal intercourse. 1197

(B) "Sexual contact" means any touching of an erogenous 1198
zone of another, including without limitation the thigh, 1199
genitals, buttock, pubic region, or, if the person is a female, 1200
a breast, for the purpose of sexually arousing or gratifying 1201
either person. 1202

(C) "Sexual activity" means sexual conduct or sexual 1203
contact, or both. 1204

(D) "Prostitute" means a male or female who promiscuously 1205
engages in sexual activity for hire, regardless of whether the 1206
hire is paid to the prostitute or to another. 1207

(E) "Harmful to juveniles" means that quality of any 1208
material or performance describing or representing nudity, 1209
sexual conduct, sexual excitement, or sado-masochistic abuse in 1210
any form to which all of the following apply: 1211

(1) The material or performance, when considered as a 1212
whole, appeals to the prurient interest of juveniles in sex. 1213

(2) The material or performance is patently offensive to 1214
prevailing standards in the adult community as a whole with 1215
respect to what is suitable for juveniles. 1216

(3) The material or performance, when considered as a 1217
whole, lacks serious literary, artistic, political, and 1218
scientific value for juveniles. 1219

(F) When considered as a whole, and judged with reference 1220
to ordinary adults or, if it is designed for sexual deviates or 1221
other specially susceptible group, judged with reference to that 1222
group, any material or performance is "obscene" if any of the 1223
following apply: 1224

(1) Its dominant appeal is to prurient interest; 1225

(2) Its dominant tendency is to arouse lust by displaying 1226
or depicting sexual activity, masturbation, sexual excitement, 1227
or nudity in a way that tends to represent human beings as mere 1228
objects of sexual appetite; 1229

(3) Its dominant tendency is to arouse lust by displaying 1230
or depicting bestiality or extreme or bizarre violence, cruelty, 1231
or brutality; 1232

(4) Its dominant tendency is to appeal to scatological 1233
interest by displaying or depicting human bodily functions of 1234
elimination in a way that inspires disgust or revulsion in 1235
persons with ordinary sensibilities, without serving any genuine 1236
scientific, educational, sociological, moral, or artistic 1237
purpose; 1238

(5) It contains a series of displays or descriptions of 1239
sexual activity, masturbation, sexual excitement, nudity, 1240
bestiality, extreme or bizarre violence, cruelty, or brutality, 1241
or human bodily functions of elimination, the cumulative effect 1242
of which is a dominant tendency to appeal to prurient or 1243
scatological interest, when the appeal to such an interest is 1244
primarily for its own sake or for commercial exploitation, 1245
rather than primarily for a genuine scientific, educational, 1246
sociological, moral, or artistic purpose. 1247

(G) "Sexual excitement" means the condition of human male 1248

or female genitals when in a state of sexual stimulation or 1249
arousal. 1250

(H) "Nudity" means the showing, representation, or 1251
depiction of human male or female genitals, pubic area, or 1252
buttocks with less than a full, opaque covering, or of a female 1253
breast with less than a full, opaque covering of any portion 1254
thereof below the top of the nipple, or of covered male genitals 1255
in a discernibly turgid state. 1256

(I) "Juvenile" means an unmarried person under the age of 1257
eighteen. 1258

(J) "Material" means any book, magazine, newspaper, 1259
pamphlet, poster, print, picture, figure, image, description, 1260
motion picture film, phonographic record, or tape, or other 1261
tangible thing capable of arousing interest through sight, 1262
sound, or touch and includes an image or text appearing on a 1263
computer monitor, television screen, liquid crystal display, or 1264
similar display device or an image or text recorded on a 1265
computer hard disk, computer floppy disk, compact disk, magnetic 1266
tape, or similar data storage device. 1267

(K) "Performance" means any motion picture, preview, 1268
trailer, play, show, skit, dance, or other exhibition performed 1269
before an audience. 1270

(L) "Spouse" means a person married to an offender at the 1271
time of an alleged offense, except that such person shall not be 1272
considered the spouse when any of the following apply: 1273

(1) When the parties have entered into a written 1274
separation agreement authorized by section 3103.06 of the 1275
Revised Code; 1276

(2) During the pendency of an action between the parties 1277

for annulment, divorce, dissolution of marriage, or legal separation;	1278 1279
(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.	1280 1281
(M) "Minor" means a person under the age of eighteen.	1282
(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	1283 1284
(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	1285 1286
(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.	1287 1288 1289
<u>(Q) "Licensed medical professional" means any of the following medical professionals:</u>	1290 1291
<u>(1) A physician assistant licensed under Chapter 4730. of the Revised Code;</u>	1292 1293
<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>	1294 1295 1296
<u>(3) A massage therapist licensed under Chapter 4731. of the Revised Code.</u>	1297 1298
Sec. 2907.02. (A) (1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:	1299 1300 1301 1302
(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by	1303 1304

administering any drug, intoxicant, or controlled substance to 1305
the other person surreptitiously or by force, threat of force, 1306
or deception. 1307

(b) The other person is less than thirteen years of age, 1308
whether or not the offender knows the age of the other person. 1309

(c) The other person's ability to resist or consent is 1310
substantially impaired because of a mental or physical condition 1311
or because of advanced age, and the offender knows or has 1312
reasonable cause to believe that the other person's ability to 1313
resist or consent is substantially impaired because of a mental 1314
or physical condition or because of advanced age. 1315

(d) The offender knows that the judgment or control of the 1316
other person is substantially impaired as a result of the 1317
influence of any drug or intoxicant administered to the other 1318
person with the other person's consent for the purpose of any 1319
kind of medical or dental examination, treatment, or surgery. 1320

(2) No person shall engage in sexual conduct with another 1321
when the offender purposely compels the other person to submit 1322
by force or threat of force. 1323

(B) Whoever violates this section is guilty of rape, a 1324
felony of the first degree. If the offender under division (A) 1325
(1) (a) of this section substantially impairs the other person's 1326
judgment or control by administering any controlled substance, 1327
as defined in section 3719.01 of the Revised Code, to the other 1328
person surreptitiously or by force, threat of force, or 1329
deception, the prison term imposed upon the offender shall be 1330
one of the definite prison terms prescribed for a felony of the 1331
first degree in division (A) (1) (b) of section 2929.14 of the 1332
Revised Code that is not less than five years, except that if 1333

the violation is committed on or after March 22, 2019, the court 1334
shall impose as the minimum prison term for the offense a 1335
mandatory prison term that is one of the minimum terms 1336
prescribed for a felony of the first degree in division (A) (1) 1337
(a) of section 2929.14 of the Revised Code that is not less than 1338
five years. Except as otherwise provided in this division, 1339
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 1340
an offender under division (A) (1) (b) of this section shall be 1341
sentenced to a prison term or term of life imprisonment pursuant 1342
to section 2971.03 of the Revised Code. If an offender is 1343
convicted of or pleads guilty to a violation of division (A) (1) 1344
(b) of this section, if the offender was less than sixteen years 1345
of age at the time the offender committed the violation of that 1346
division, and if the offender during or immediately after the 1347
commission of the offense did not cause serious physical harm to 1348
the victim, the victim was ten years of age or older at the time 1349
of the commission of the violation, and the offender has not 1350
previously been convicted of or pleaded guilty to a violation of 1351
this section or a substantially similar existing or former law 1352
of this state, another state, or the United States, the court 1353
shall not sentence the offender to a prison term or term of life 1354
imprisonment pursuant to section 2971.03 of the Revised Code, 1355
and instead the court shall sentence the offender as otherwise 1356
provided in this division. If an offender under division (A) (1) 1357
(b) of this section previously has been convicted of or pleaded 1358
guilty to violating division (A) (1) (b) of this section or to 1359
violating an existing or former law of this state, another 1360
state, or the United States that is substantially similar to 1361
division (A) (1) (b) of this section, if the offender during or 1362
immediately after the commission of the offense caused serious 1363
physical harm to the victim, or if the victim under division (A) 1364
(1) (b) of this section is less than ten years of age, in lieu of 1365

sentencing the offender to a prison term or term of life 1366
imprisonment pursuant to section 2971.03 of the Revised Code, 1367
except as otherwise provided in this division, the court may 1368
impose upon the offender a term of life without parole. If the 1369
court imposes a term of life without parole pursuant to this 1370
division, division (F) of section 2971.03 of the Revised Code 1371
applies, and the offender automatically is classified a tier III 1372
sex offender/child-victim offender, as described in that 1373
division. A court shall not impose a term of life without parole 1374
on an offender for rape if the offender was under eighteen years 1375
of age at the time of the offense. 1376

(C) A victim need not prove physical resistance to the 1377
offender in prosecutions under this section. 1378

(D) Evidence of specific instances of the victim's sexual 1379
activity, opinion evidence of the victim's sexual activity, and 1380
reputation evidence of the victim's sexual activity shall not be 1381
admitted under this section unless it involves evidence of the 1382
origin of semen, pregnancy, or disease, or the victim's past 1383
sexual activity with the offender, and only to the extent that 1384
the court finds that the evidence is material to a fact at issue 1385
in the case and that its inflammatory or prejudicial nature does 1386
not outweigh its probative value. 1387

Evidence of specific instances of the defendant's sexual 1388
activity, opinion evidence of the defendant's sexual activity, 1389
and reputation evidence of the defendant's sexual activity shall 1390
not be admitted under this section unless it involves evidence 1391
of the origin of semen, pregnancy, or disease, the defendant's 1392
past sexual activity with the victim, or is admissible against 1393
the defendant under section 2945.59 of the Revised Code, and 1394
only to the extent that the court finds that the evidence is 1395

material to a fact at issue in the case and that its 1396
inflammatory or prejudicial nature does not outweigh its 1397
probative value. 1398

(E) Prior to taking testimony or receiving evidence of any 1399
sexual activity of the victim or the defendant in a proceeding 1400
under this section, the court shall resolve the admissibility of 1401
the proposed evidence in a hearing in chambers, which shall be 1402
held at or before preliminary hearing and not less than three 1403
days before trial, or for good cause shown during the trial. 1404

(F) Upon approval by the court, the victim may be 1405
represented by counsel in any hearing in chambers or other 1406
proceeding to resolve the admissibility of evidence. If the 1407
victim is indigent or otherwise is unable to obtain the services 1408
of counsel, the court, upon request, may appoint counsel to 1409
represent the victim without cost to the victim. 1410

(G) It is not a defense to a charge under division (A) (2) 1411
of this section that the offender and the victim were married or 1412
were cohabiting at the time of the commission of the offense. 1413

Sec. 2907.03. (A) No person shall engage in sexual ~~conduct~~ 1414
activity with another, not the spouse of the offender; ~~cause~~ 1415
another, not the spouse of the offender, to engage in sexual 1416
activity with the offender; or cause two or more other persons 1417
to engage in sexual activity when any of the following apply: 1418

(1) The offender knowingly coerces the other person, or 1419
one of the other persons, to submit by any means that would 1420
prevent resistance by a person of ordinary resolution. 1421

(2) The offender knows that the other person's, or one of 1422
the other person's, ability to appraise the nature of or control 1423
the other person's own conduct is substantially impaired. 1424

(3) The offender knows that the other person, or one of 1425
the other persons, submits because the other person is unaware 1426
that the act is being committed. 1427

(4) The offender knows that the other person, or one of 1428
the other persons, submits because the other person mistakenly 1429
identifies the offender as the other person's spouse. 1430

(5) The offender is the other person's, or one of the 1431
other person's, natural or adoptive parent, or a stepparent, or 1432
guardian, custodian, or person in loco parentis of the other 1433
person. 1434

(6) The other person, or one of the other persons, is in 1435
custody of law or a patient in a hospital or other institution, 1436
and the offender has supervisory or disciplinary authority over 1437
the other person. 1438

(7) The offender is a teacher, administrator, coach, or 1439
other person in authority employed by or serving in a school for 1440
which the state board of education prescribes minimum standards 1441
pursuant to division (D) of section 3301.07 of the Revised Code, 1442
the other person, or one of the other persons, is enrolled in or 1443
attends that school, and the offender is not enrolled in and 1444
does not attend that school. 1445

(8) The other person, or one of the other persons, is a 1446
minor, the offender is a teacher, administrator, coach, or other 1447
person in authority employed by or serving in an institution of 1448
higher education, and the other person is enrolled in or attends 1449
that institution. 1450

(9) The other person, or one of the other persons, is a 1451
minor, and the offender is the other person's athletic or other 1452
type of coach, is the other person's instructor, is the leader 1453

of a scouting troop of which the other person is a member, or is 1454
a person with temporary or occasional disciplinary control over 1455
the other person. 1456

(10) The offender is a mental health professional, the 1457
other person, or one of the other persons, is a mental health 1458
client or patient of the offender, and the offender induces the 1459
other person to submit by falsely representing to the other 1460
person that the sexual conduct is necessary for mental health 1461
treatment purposes. 1462

(11) The offender is a licensed medical professional, the 1463
other person, or one of the other persons, is a patient of the 1464
offender, and the sexual activity occurs in the course of 1465
medical treatment. 1466

(12) The other person, or one of the other persons, is 1467
confined in a detention facility, and the offender is an 1468
employee of that detention facility. 1469

~~(12)~~ (13) The other person, or one of the other persons, 1470
is a minor, the offender is a cleric, and the other person is a 1471
member of, or attends, the church or congregation served by the 1472
cleric. 1473

~~(13)~~ (14) The other person, or one of the other persons, 1474
is a minor, the offender is a peace officer, and the offender is 1475
more than two years older than the other person. 1476

(B) Whoever violates this section is guilty of sexual 1477
battery. 1478

~~Except~~ (1) If the sexual activity involved is sexual 1479
conduct, except as otherwise provided in this division, sexual 1480
battery is a felony of the third degree. If the other person, or 1481
one of the other persons, is less than thirteen years of age or 1482

over and less than eighteen years of age, sexual battery is a 1483
felony of the second degree, and the court shall impose upon the 1484
offender a mandatory prison term equal to one of the definite 1485
prison terms prescribed in division (A) (2) (b) of section 2929.14 1486
of the Revised Code for a felony of the second degree, except 1487
that if the violation is committed on or after ~~the effective~~ 1488
~~date of this amendment~~ March 22, 2019, the court shall impose as 1489
the minimum prison term for the offense a mandatory prison term 1490
that is one of the minimum terms prescribed in division (A) (2) 1491
(a) of that section for a felony of the second degree. 1492

(2) If the sexual activity involved is sexual contact, 1493
except as otherwise provided in this division, sexual battery is 1494
a felony of the fifth degree. If the other person, or one of the 1495
other persons, is less than eighteen years of age, sexual 1496
battery is a felony of the fourth degree. 1497

(C) As used in this section: 1498

(1) "Cleric" has the same meaning as in section 2317.02 of 1499
the Revised Code. 1500

(2) "Detention facility" has the same meaning as in 1501
section 2921.01 of the Revised Code. 1502

(3) "Institution of higher education" means a state 1503
institution of higher education defined in section 3345.011 of 1504
the Revised Code, a private nonprofit college or university 1505
located in this state that possesses a certificate of 1506
authorization issued by the Ohio board of regents pursuant to 1507
Chapter 1713. of the Revised Code, or a school certified under 1508
Chapter 3332. of the Revised Code. 1509

(4) "Peace officer" has the same meaning as in section 1510
2935.01 of the Revised Code. 1511

(5) "Medical treatment" means in-person examination, 1512
consultation, health care, treatment, procedure, surgery, or 1513
other in-person services provided by a licensed medical 1514
professional under the legal authority conferred by a license or 1515
certificate. 1516

Sec. 2907.06. (A) No person shall have sexual contact with 1517
another, not the spouse of the offender; cause another, not the 1518
spouse of the offender, to have sexual contact with the 1519
offender; or cause two or more other persons to have sexual 1520
contact when ~~any of the following applies:~~ 1521

~~(1) The the offender knows that the sexual contact is~~ 1522
~~offensive to the other person, or one of the other persons, or~~ 1523
~~is reckless in that regard.~~ 1524

~~(2) The offender knows that the other person's, or one of~~ 1525
~~the other person's, ability to appraise the nature of or control~~ 1526
~~the offender's or touching person's conduct is substantially~~ 1527
~~impaired.~~ 1528

~~(3) The offender knows that the other person, or one of~~ 1529
~~the other persons, submits because of being unaware of the~~ 1530
~~sexual contact.~~ 1531

~~(4) The other person, or one of the other persons, is~~ 1532
~~thirteen years of age or older but less than sixteen years of~~ 1533
~~age, whether or not the offender knows the age of such person,~~ 1534
~~and the offender is at least eighteen years of age and four or~~ 1535
~~more years older than such other person.~~ 1536

~~(5) The offender is a mental health professional, the~~ 1537
~~other person or one of the other persons is a mental health~~ 1538
~~client or patient of the offender, and the offender induces the~~ 1539
~~other person who is the client or patient to submit by falsely~~ 1540

~~representing to the other person who is the client or patient~~ 1541
~~that the sexual contact is necessary for mental health treatment~~ 1542
~~purposes.~~ 1543

(B) No person shall be convicted of a violation of this 1544
section solely upon the victim's testimony unsupported by other 1545
evidence. 1546

(C) Whoever violates this section is guilty of sexual 1547
imposition, a misdemeanor of the third degree. If the offender 1548
previously has been convicted of or pleaded guilty to a 1549
violation of this section or of section 2907.02, 2907.03, 1550
2907.04, or 2907.05, or former section 2907.12 of the Revised 1551
Code, a violation of this section is a misdemeanor of the first 1552
degree. If the offender previously has been convicted of or 1553
pleaded guilty to three or more violations of this section or 1554
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 1555
2907.12 of the Revised Code, or of any combination of those 1556
sections, a violation of this section is a misdemeanor of the 1557
first degree and, notwithstanding the range of jail terms 1558
prescribed in section 2929.24 of the Revised Code, the court may 1559
impose on the offender a definite jail term of not more than one 1560
year. 1561

Sec. 2907.17. If a mental health professional or a 1562
licensed medical professional is indicted or charged and bound 1563
over to the court of common pleas for trial for an alleged 1564
violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1565
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1566
whichever is applicable, the prosecuting attorney handling the 1567
case shall send written notice of the indictment or the charge 1568
and bind over to the regulatory or licensing board or agency, if 1569
any, that has the administrative authority to suspend or revoke 1570

the mental health professional's or licensed medical 1571
professional's professional license, certification, 1572
registration, or authorization. 1573

Sec. 2907.18. If a mental health professional or a 1574
licensed medical professional is convicted of or pleads guilty 1575
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1576
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1577
whichever is applicable, the court shall transmit a certified 1578
copy of the judgment entry of conviction to the regulatory or 1579
licensing board or agency, if any, that has the administrative 1580
authority to suspend or revoke the mental health professional's 1581
or licensed medical professional's professional license, 1582
certification, registration, or authorization. 1583

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1584
of this section, no person, knowing that a felony has been or is 1585
being committed, shall knowingly fail to report such information 1586
to law enforcement authorities. 1587

(2) No person, knowing that a violation of division (B) of 1588
section 2913.04 of the Revised Code has been, or is being 1589
committed or that the person has received information derived 1590
from such a violation, shall knowingly fail to report the 1591
violation to law enforcement authorities. 1592

(B) Except for conditions that are within the scope of 1593
division (E) of this section, no person giving aid to a sick or 1594
injured person shall negligently fail to report to law 1595
enforcement authorities any gunshot or stab wound treated or 1596
observed by the person, or any serious physical harm to persons 1597
that the person knows or has reasonable cause to believe 1598
resulted from an offense of violence. 1599

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

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

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

(a) Second or third degree burns;

(b) Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;

(c) Any burn injury or wound that may result in death;

(d) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by section 3743.01 of the Revised Code.

(2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other

medical facility, attends or treats a person who has sustained a 1629
burn injury that is inflicted by an explosion or other 1630
incendiary device or that shows evidence of having been 1631
inflicted in a violent, malicious, or criminal manner shall fail 1632
to report the burn injury immediately to the local arson, or 1633
fire and explosion investigation, bureau, if there is a bureau 1634
of this type in the jurisdiction in which the person is attended 1635
or treated, or otherwise to local law enforcement authorities. 1636

(3) No manager, superintendent, or other person in charge 1637
of a hospital, sanitarium, or other medical facility in which a 1638
person is attended or treated for any burn injury that is 1639
inflicted by an explosion or other incendiary device or that 1640
shows evidence of having been inflicted in a violent, malicious, 1641
or criminal manner shall fail to report the burn injury 1642
immediately to the local arson, or fire and explosion 1643
investigation, bureau, if there is a bureau of this type in the 1644
jurisdiction in which the person is attended or treated, or 1645
otherwise to local law enforcement authorities. 1646

(4) No person who is required to report any burn injury 1647
under division (E) (2) or (3) of this section shall fail to file, 1648
within three working days after attending or treating the 1649
victim, a written report of the burn injury with the office of 1650
the state fire marshal. The report shall comply with the uniform 1651
standard developed by the state fire marshal pursuant to 1652
division (A) (15) of section 3737.22 of the Revised Code. 1653

(5) Anyone participating in the making of reports under 1654
division (E) of this section or anyone participating in a 1655
judicial proceeding resulting from the reports is immune from 1656
any civil or criminal liability that otherwise might be incurred 1657
or imposed as a result of such actions. Notwithstanding section 1658

4731.22 of the Revised Code, the physician-patient relationship 1659
or advanced practice registered nurse-patient relationship is 1660
not a ground for excluding evidence regarding a person's burn 1661
injury or the cause of the burn injury in any judicial 1662
proceeding resulting from a report submitted under division (E) 1663
of this section. 1664

(F) (1) No person who knows, or has reasonable cause to 1665
suspect based on facts that would cause a reasonable person in a 1666
similar position to suspect, that a licensed medical 1667
professional has committed an offense under Chapter 2907. of the 1668
Revised Code, a violation of a municipal ordinance that is 1669
substantially equivalent to such offense, or a substantially 1670
equivalent criminal offense in another jurisdiction, against a 1671
patient of the licensed medical professional shall fail to 1672
report such knowledge or reasonable cause to suspect to law 1673
enforcement authorities within thirty days of obtaining the 1674
knowledge or reasonable cause to suspect. 1675

(2) Except for a self-report or participation in the 1676
offense or violation being reported, any person who makes a 1677
report within the thirty-day period provided in division (F) (1) 1678
of this section or any person who participates in a judicial 1679
proceeding that results from such report is immune from civil or 1680
criminal liability that otherwise might be incurred or imposed 1681
as a result of making that report or participating in that 1682
proceeding so long as the person is acting in good faith without 1683
fraud or malice. 1684

(3) The physician-patient relationship or physician 1685
assistant-patient relationship is not a ground for excluding 1686
evidence regarding the person's knowledge of, or reasonable 1687
cause to suspect, a licensed medical professional's commission 1688

of an offense or violation reported under division (F) (1) of 1689
this section, against that licensed medical professional in any 1690
judicial proceeding resulting from a report made under that 1691
division. 1692

(4) As used in division (F) of this section, "licensed 1693
medical professional" has the same meaning as in section 2907.01 1694
of the Revised Code. 1695

(G) Any doctor of medicine or osteopathic medicine, 1696
hospital intern or resident, nurse, psychologist, social worker, 1697
independent social worker, social work assistant, licensed 1698
professional clinical counselor, licensed professional 1699
counselor, independent marriage and family therapist, or 1700
marriage and family therapist who knows or has reasonable cause 1701
to believe that a patient or client has been the victim of 1702
domestic violence, as defined in section 3113.31 of the Revised 1703
Code, shall note that knowledge or belief and the basis for it 1704
in the patient's or client's records. 1705

(2) Notwithstanding section 4731.22 of the Revised Code, 1706
the physician-patient privilege or advanced practice registered 1707
nurse-patient privilege shall not be a ground for excluding any 1708
information regarding the report containing the knowledge or 1709
belief noted under division ~~(F) (1)~~ (G) (1) of this section, and 1710
the information may be admitted as evidence in accordance with 1711
the Rules of Evidence. 1712

~~(G)~~ (H) Divisions (A) and (D) of this section do not 1713
require disclosure of information, when any of the following 1714
applies: 1715

(1) The information is privileged by reason of the 1716
relationship between attorney and client; physician and patient; 1717

advanced practice registered nurse and patient; licensed 1718
psychologist or licensed school psychologist and client; 1719
licensed professional clinical counselor, licensed professional 1720
counselor, independent social worker, social worker, independent 1721
marriage and family therapist, or marriage and family therapist 1722
and client; member of the clergy, rabbi, minister, or priest and 1723
any person communicating information confidentially to the 1724
member of the clergy, rabbi, minister, or priest for a religious 1725
counseling purpose of a professional character; husband and 1726
wife; or a communications assistant and those who are a party to 1727
a telecommunications relay service call. 1728

(2) The information would tend to incriminate a member of 1729
the actor's immediate family. 1730

(3) Disclosure of the information would amount to 1731
revealing a news source, privileged under section 2739.04 or 1732
2739.12 of the Revised Code. 1733

(4) Disclosure of the information would amount to 1734
disclosure by a member of the ordained clergy of an organized 1735
religious body of a confidential communication made to that 1736
member of the clergy in that member's capacity as a member of 1737
the clergy by a person seeking the aid or counsel of that member 1738
of the clergy. 1739

(5) Disclosure would amount to revealing information 1740
acquired by the actor in the course of the actor's duties in 1741
connection with a bona fide program of treatment or services for 1742
drug dependent persons or persons in danger of drug dependence, 1743
which program is maintained or conducted by a hospital, clinic, 1744
person, agency, or community addiction services provider whose 1745
alcohol and drug addiction services are certified pursuant to 1746
section 5119.36 of the Revised Code. 1747

(6) Disclosure would amount to revealing information 1748
acquired by the actor in the course of the actor's duties in 1749
connection with a bona fide program for providing counseling 1750
services to victims of crimes that are violations of section 1751
2907.02 or 2907.05 of the Revised Code or to victims of 1752
felonious sexual penetration in violation of former section 1753
2907.12 of the Revised Code. As used in this division, 1754
"counseling services" include services provided in an informal 1755
setting by a person who, by education or experience, is 1756
competent to provide those services. 1757

~~(H)~~ (I) No disclosure of information pursuant to this 1758
section gives rise to any liability or recrimination for a 1759
breach of privilege or confidence. 1760

~~(I)~~ (J) Whoever violates division (A) ~~or, (B), or (F) (1)~~ 1761
of this section is guilty of failure to report a crime. 1762
Violation of division (A) (1) or (F) (1) of this section is a 1763
misdemeanor of the fourth degree. Violation of division (A) (2) 1764
or (B) of this section is a misdemeanor of the second degree. 1765

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1766
section is guilty of failure to report knowledge of a death, a 1767
misdemeanor of the fourth degree. 1768

~~(K) (1)~~ (L) (1) Whoever negligently violates division (E) of 1769
this section is guilty of a minor misdemeanor. 1770

(2) Whoever knowingly violates division (E) of this 1771
section is guilty of a misdemeanor of the second degree. 1772

~~(I)~~ (M) As used in this section, "nurse" includes an 1773
advanced practice registered nurse, registered nurse, and 1774
licensed practical nurse. 1775

Sec. 2929.42. (A) The prosecutor in any case against any 1776

person licensed, certified, registered, or otherwise authorized 1777
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1778
4731., 4734., ~~or~~ 4741., 4759., 4760., 4761., 4762., 4774., or 1779
4778. of the Revised Code shall notify the appropriate licensing 1780
board, on forms provided by the board, of any of the following 1781
regarding the person: 1782

(1) A plea of guilty to, or a conviction of, a felony, or 1783
a court order dismissing a felony charge on technical or 1784
procedural grounds; 1785

(2) A plea of guilty to, or a conviction of, a misdemeanor 1786
committed in the course of practice or in the course of 1787
business, or a court order dismissing such a misdemeanor charge 1788
on technical or procedural grounds; 1789

(3) A plea of guilty to, or a conviction of, a misdemeanor 1790
involving moral turpitude, or a court order dismissing such a 1791
charge on technical or procedural grounds. 1792

(B) The report required by division (A) of this section 1793
shall include the name and address of the person, the nature of 1794
the offense, and certified copies of court entries in the 1795
action. 1796

Sec. 2950.01. As used in this chapter, unless the context 1797
clearly requires otherwise: 1798

(A) "Sexually oriented offense" means any of the following 1799
violations or offenses committed by a person, regardless of the 1800
person's age: 1801

(1) A violation of section 2907.02, 2907.03, 2907.05, 1802
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1803
2907.322, or 2907.323 of the Revised Code; 1804

(2) A violation of section 2907.04 of the Revised Code 1805
when the offender is less than four years older than the other 1806
person with whom the offender engaged in sexual conduct, the 1807
other person did not consent to the sexual conduct, and the 1808
offender previously has not been convicted of or pleaded guilty 1809
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1810
Revised Code or a violation of former section 2907.12 of the 1811
Revised Code; 1812

(3) A violation of section 2907.04 of the Revised Code 1813
when the offender is at least four years older than the other 1814
person with whom the offender engaged in sexual conduct or when 1815
the offender is less than four years older than the other person 1816
with whom the offender engaged in sexual conduct and the 1817
offender previously has been convicted of or pleaded guilty to a 1818
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1819
Code or a violation of former section 2907.12 of the Revised 1820
Code; 1821

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1822
the Revised Code when the violation was committed with a sexual 1823
motivation; 1824

(5) A violation of division (A) of section 2903.04 of the 1825
Revised Code when the offender committed or attempted to commit 1826
the felony that is the basis of the violation with a sexual 1827
motivation; 1828

(6) A violation of division (A)(3) of section 2903.211 of 1829
the Revised Code; 1830

(7) A violation of division (A)(1), (2), (3), or (5) of 1831
section 2905.01 of the Revised Code when the offense is 1832
committed with a sexual motivation; 1833

(8) A violation of division (A) (4) of section 2905.01 of the Revised Code; 1834
1835

(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; 1836
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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; 1840
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(11) A violation of section 2905.32 of the Revised Code when either of the following applies: 1844
1845

(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. 1846
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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 1856
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reasonable cause to believe is a person with a developmental 1863
disability for any purpose listed in divisions (A) (2) (a) to (c) 1864
of that section. 1865

(12) A violation of division (B) (4) of section 2907.09 of 1866
the Revised Code if the sentencing court classifies the offender 1867
as a tier I sex offender/child-victim offender relative to that 1868
offense pursuant to division (D) of that section; 1869

(13) A violation of any former law of this state, any 1870
existing or former municipal ordinance or law of another state 1871
or the United States, any existing or former law applicable in a 1872
military court or in an Indian tribal court, or any existing or 1873
former law of any nation other than the United States that is or 1874
was substantially equivalent to any offense listed in division 1875
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1876
(12) of this section; 1877

(14) Any attempt to commit, conspiracy to commit, or 1878
complicity in committing any offense listed in division (A) (1), 1879
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1880
(13) of this section. 1881

(B) (1) "Sex offender" means, subject to division (B) (2) of 1882
this section, a person who is convicted of, pleads guilty to, 1883
has been convicted of, has pleaded guilty to, is adjudicated a 1884
delinquent child for committing, or has been adjudicated a 1885
delinquent child for committing any sexually oriented offense. 1886

(2) "Sex offender" does not include a person who is 1887
convicted of, pleads guilty to, has been convicted of, has 1888
pleaded guilty to, is adjudicated a delinquent child for 1889
committing, or has been adjudicated a delinquent child for 1890
committing a sexually oriented offense if the offense involves 1891

consensual sexual conduct or consensual sexual contact and 1892
either of the following applies: 1893

(a) The victim of the sexually oriented offense was 1894
eighteen years of age or older and at the time of the sexually 1895
oriented offense was not under the custodial authority of the 1896
person who is convicted of, pleads guilty to, has been convicted 1897
of, has pleaded guilty to, is adjudicated a delinquent child for 1898
committing, or has been adjudicated a delinquent child for 1899
committing the sexually oriented offense. 1900

(b) The victim of the offense was thirteen years of age or 1901
older, and the person who is convicted of, pleads guilty to, has 1902
been convicted of, has pleaded guilty to, is adjudicated a 1903
delinquent child for committing, or has been adjudicated a 1904
delinquent child for committing the sexually oriented offense is 1905
not more than four years older than the victim. 1906

(c) "Child-victim oriented offense" means any of the 1907
following violations or offenses committed by a person, 1908
regardless of the person's age, when the victim is under 1909
eighteen years of age and is not a child of the person who 1910
commits the violation: 1911

(1) A violation of division (A)(1), (2), (3), or (5) of 1912
section 2905.01 of the Revised Code when the violation is not 1913
included in division (A)(7) of this section; 1914

(2) A violation of division (A) of section 2905.02, 1915
division (A) of section 2905.03, or division (A) of section 1916
2905.05 of the Revised Code; 1917

(3) A violation of any former law of this state, any 1918
existing or former municipal ordinance or law of another state 1919
or the United States, any existing or former law applicable in a 1920

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 (C) (1) or (2) of this section;

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

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

(E) "Tier I 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 2907.06, 2907.07, 2907.08, 2907.22, or 2907.32 of the Revised Code;

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

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

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code; 1950
1951

(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; 1952
1953
1954

(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; 1955
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1957
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(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; 1959
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(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. 1966
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(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. 1969
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(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- 1974
1975
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victim offender relative to the offense. 1979

(4) A child-victim offender who is adjudicated a 1980
delinquent child for committing or has been adjudicated a 1981
delinquent child for committing any child-victim oriented 1982
offense and who a juvenile court, pursuant to section 2152.82, 1983
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 1984
tier I sex offender/child-victim offender relative to the 1985
offense. 1986

(F) "Tier II sex offender/child-victim offender" means any 1987
of the following: 1988

(1) A sex offender who is convicted of, pleads guilty to, 1989
has been convicted of, or has pleaded guilty to any of the 1990
following sexually oriented offenses: 1991

(a) A violation of section 2907.21, 2907.321, or 2907.322 1992
of the Revised Code; 1993

(b) A violation of section 2907.04 of the Revised Code 1994
when the offender is at least four years older than the other 1995
person with whom the offender engaged in sexual conduct, or when 1996
the offender is less than four years older than the other person 1997
with whom the offender engaged in sexual conduct and the 1998
offender previously has been convicted of or pleaded guilty to a 1999
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 2000
Code or former section 2907.12 of the Revised Code; 2001

(c) A violation of section 2907.03 of the Revised Code if 2002
the sexual activity involved is sexual contact; 2003

(d) A violation of division (A) (4) of section 2907.05 or 2004
of division (A) (1) or (2) of section 2907.323 of the Revised 2005
Code; 2006

(d) <u>(e)</u> A violation of division (A) (1), (2), (3), or (5)	2007
of section 2905.01 of the Revised Code when the offense is	2008
committed with a sexual motivation;	2009
(e) <u>(f)</u> A violation of division (A) (4) of section 2905.01	2010
of the Revised Code when the victim of the offense is eighteen	2011
years of age or older;	2012
(f) <u>(g)</u> A violation of division (B) of section 2905.02 or	2013
of division (B) (5) of section 2919.22 of the Revised Code;	2014
(g) <u>(h)</u> A violation of section 2905.32 of the Revised Code	2015
that is described in division (A) (11) (a) or (b) of this section;	2016
(h) <u>(i)</u> A violation of any former law of this state, any	2017
existing or former municipal ordinance or law of another state	2018
or the United States, any existing or former law applicable in a	2019
military court or in an Indian tribal court, or any existing or	2020
former law of any nation other than the United States that is or	2021
was substantially equivalent to any offense listed in division	2022
(F) (1) (a), (b), (c), (d), (e), (f), or (g) , <u>or (h)</u> of this	2023
section;	2024
(i) <u>(j)</u> Any attempt to commit, conspiracy to commit, or	2025
complicity in committing any offense listed in division (F) (1)	2026
(a), (b), (c), (d), (e), (f), (g), or (h) , <u>or (i)</u> of this	2027
section;	2028
(j) <u>(k)</u> Any sexually oriented offense that is committed	2029
after the sex offender previously has been convicted of, pleaded	2030
guilty to, or has been adjudicated a delinquent child for	2031
committing any sexually oriented offense or child-victim	2032
oriented offense for which the offender was classified a tier I	2033
sex offender/child-victim offender.	2034
(2) A child-victim offender who is convicted of, pleads	2035

guilty to, has been convicted of, or has pleaded guilty to any 2036
child-victim oriented offense when the child-victim oriented 2037
offense is committed after the child-victim offender previously 2038
has been convicted of, pleaded guilty to, or been adjudicated a 2039
delinquent child for committing any sexually oriented offense or 2040
child-victim oriented offense for which the offender was 2041
classified a tier I sex offender/child-victim offender. 2042

(3) A sex offender who is adjudicated a delinquent child 2043
for committing or has been adjudicated a delinquent child for 2044
committing any sexually oriented offense and who a juvenile 2045
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2046
of the Revised Code, classifies a tier II sex offender/child- 2047
victim offender relative to the offense. 2048

(4) A child-victim offender who is adjudicated a 2049
delinquent child for committing or has been adjudicated a 2050
delinquent child for committing any child-victim oriented 2051
offense and whom a juvenile court, pursuant to section 2152.82, 2052
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2053
tier II sex offender/child-victim offender relative to the 2054
current offense. 2055

(5) A sex offender or child-victim offender who is not in 2056
any category of tier II sex offender/child-victim offender set 2057
forth in division (F)(1), (2), (3), or (4) of this section, who 2058
prior to January 1, 2008, was adjudicated a delinquent child for 2059
committing a sexually oriented offense or child-victim oriented 2060
offense, and who prior to that date was determined to be a 2061
habitual sex offender or determined to be a habitual child- 2062
victim offender, unless either of the following applies: 2063

(a) The sex offender or child-victim offender is 2064
reclassified pursuant to section 2950.031 or 2950.032 of the 2065

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 2094
years of age and the offender is not a parent of the victim of 2095
the offense; 2096

(g) A violation of division (B) of section 2903.03 of the 2097
Revised Code; 2098

(h) A violation of any former law of this state, any 2099
existing or former municipal ordinance or law of another state 2100
or the United States, any existing or former law applicable in a 2101
military court or in an Indian tribal court, or any existing or 2102
former law of any nation other than the United States that is or 2103
was substantially equivalent to any offense listed in division 2104
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 2105

(i) Any attempt to commit, conspiracy to commit, or 2106
complicity in committing any offense listed in division (G) (1) 2107
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 2108

(j) Any sexually oriented offense that is committed after 2109
the sex offender previously has been convicted of, pleaded 2110
guilty to, or been adjudicated a delinquent child for committing 2111
any sexually oriented offense or child-victim oriented offense 2112
for which the offender was classified a tier II sex 2113
offender/child-victim offender or a tier III sex offender/child- 2114
victim offender. 2115

(2) A child-victim offender who is convicted of, pleads 2116
guilty to, has been convicted of, or has pleaded guilty to any 2117
child-victim oriented offense when the child-victim oriented 2118
offense is committed after the child-victim offender previously 2119
has been convicted of, pleaded guilty to, or been adjudicated a 2120
delinquent child for committing any sexually oriented offense or 2121
child-victim oriented offense for which the offender was 2122

classified a tier II sex offender/child-victim offender or a 2123
tier III sex offender/child-victim offender. 2124

(3) A sex offender who is adjudicated a delinquent child 2125
for committing or has been adjudicated a delinquent child for 2126
committing any sexually oriented offense and who a juvenile 2127
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2128
of the Revised Code, classifies a tier III sex offender/child- 2129
victim offender relative to the offense. 2130

(4) A child-victim offender who is adjudicated a 2131
delinquent child for committing or has been adjudicated a 2132
delinquent child for committing any child-victim oriented 2133
offense and whom a juvenile court, pursuant to section 2152.82, 2134
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2135
tier III sex offender/child-victim offender relative to the 2136
current offense. 2137

(5) A sex offender or child-victim offender who is not in 2138
any category of tier III sex offender/child-victim offender set 2139
forth in division (G) (1), (2), (3), or (4) of this section, who 2140
prior to January 1, 2008, was convicted of or pleaded guilty to 2141
a sexually oriented offense or child-victim oriented offense or 2142
was adjudicated a delinquent child for committing a sexually 2143
oriented offense or child-victim oriented offense and classified 2144
a juvenile offender registrant, and who prior to that date was 2145
adjudicated a sexual predator or adjudicated a child-victim 2146
predator, unless either of the following applies: 2147

(a) The sex offender or child-victim offender is 2148
reclassified pursuant to section 2950.031 or 2950.032 of the 2149
Revised Code as a tier I sex offender/child-victim offender or a 2150
tier II sex offender/child-victim offender relative to the 2151
offense. 2152

(b) The sex offender or child-victim offender is a 2153
delinquent child, and a juvenile court, pursuant to section 2154
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2155
classifies the child a tier I sex offender/child-victim offender 2156
or a tier II sex offender/child-victim offender relative to the 2157
offense. 2158

(6) A sex offender who is convicted of, pleads guilty to, 2159
was convicted of, or pleaded guilty to a sexually oriented 2160
offense, if the sexually oriented offense and the circumstances 2161
in which it was committed are such that division (F) of section 2162
2971.03 of the Revised Code automatically classifies the 2163
offender as a tier III sex offender/child-victim offender; 2164

(7) A sex offender or child-victim offender who is 2165
convicted of, pleads guilty to, was convicted of, pleaded guilty 2166
to, is adjudicated a delinquent child for committing, or was 2167
adjudicated a delinquent child for committing a sexually 2168
oriented offense or child-victim offense in another state, in a 2169
federal court, military court, or Indian tribal court, or in a 2170
court in any nation other than the United States if both of the 2171
following apply: 2172

(a) Under the law of the jurisdiction in which the 2173
offender was convicted or pleaded guilty or the delinquent child 2174
was adjudicated, the offender or delinquent child is in a 2175
category substantially equivalent to a category of tier III sex 2176
offender/child-victim offender described in division (G) (1), 2177
(2), (3), (4), (5), or (6) of this section. 2178

(b) Subsequent to the conviction, plea of guilty, or 2179
adjudication in the other jurisdiction, the offender or 2180
delinquent child resides, has temporary domicile, attends school 2181
or an institution of higher education, is employed, or intends 2182

to reside in this state in any manner and for any period of time 2183
that subjects the offender or delinquent child to a duty to 2184
register or provide notice of intent to reside under section 2185
2950.04 or 2950.041 of the Revised Code. 2186

(H) "Confinement" includes, but is not limited to, a 2187
community residential sanction imposed pursuant to section 2188
2929.16 or 2929.26 of the Revised Code. 2189

(I) "Prosecutor" has the same meaning as in section 2190
2935.01 of the Revised Code. 2191

(J) "Supervised release" means a release of an offender 2192
from a prison term, a term of imprisonment, or another type of 2193
confinement that satisfies either of the following conditions: 2194

(1) The release is on parole, a conditional pardon, under 2195
a community control sanction, under transitional control, or 2196
under a post-release control sanction, and it requires the 2197
person to report to or be supervised by a parole officer, 2198
probation officer, field officer, or another type of supervising 2199
officer. 2200

(2) The release is any type of release that is not 2201
described in division (J)(1) of this section and that requires 2202
the person to report to or be supervised by a probation officer, 2203
a parole officer, a field officer, or another type of 2204
supervising officer. 2205

(K) "Sexually violent predator specification," "sexually 2206
violent predator," "sexually violent offense," "sexual 2207
motivation specification," "designated homicide, assault, or 2208
kidnapping offense," and "violent sex offense" have the same 2209
meanings as in section 2971.01 of the Revised Code. 2210

(L) "Post-release control sanction" and "transitional 2211

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 2242
the Revised Code that was committed with a purpose to gratify 2243
the sexual needs or desires of the child; 2244

(c) A violation of division (B) of section 2903.03 of the 2245
Revised Code. 2246

(2) The person was fourteen, fifteen, sixteen, or 2247
seventeen years of age at the time of committing the act. 2248

(3) A juvenile court judge, pursuant to an order issued 2249
under section 2152.86 of the Revised Code, classifies the person 2250
a juvenile offender registrant, specifies the person has a duty 2251
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2252
Revised Code, and classifies the person a public registry- 2253
qualified juvenile offender registrant, and the classification 2254
of the person as a public registry-qualified juvenile offender 2255
registrant has not been terminated pursuant to division (D) of 2256
section 2152.86 of the Revised Code. 2257

(O) "Secure facility" means any facility that is designed 2258
and operated to ensure that all of its entrances and exits are 2259
locked and under the exclusive control of its staff and to 2260
ensure that, because of that exclusive control, no person who is 2261
institutionalized or confined in the facility may leave the 2262
facility without permission or supervision. 2263

(P) "Out-of-state juvenile offender registrant" means a 2264
person who is adjudicated a delinquent child in a court in 2265
another state, in a federal court, military court, or Indian 2266
tribal court, or in a court in any nation other than the United 2267
States for committing a sexually oriented offense or a child- 2268
victim oriented offense, who on or after January 1, 2002, moves 2269
to and resides in this state or temporarily is domiciled in this 2270

state for more than five days, and who has a duty under section 2271
2950.04 or 2950.041 of the Revised Code to register in this 2272
state and the duty to otherwise comply with that applicable 2273
section and sections 2950.05 and 2950.06 of the Revised Code. 2274
"Out-of-state juvenile offender registrant" includes a person 2275
who prior to January 1, 2008, was an "out-of-state juvenile 2276
offender registrant" under the definition of the term in 2277
existence prior to January 1, 2008, and a person who prior to 2278
July 31, 2003, was an "out-of-state juvenile sex offender 2279
registrant" under the former definition of that former term. 2280

(Q) "Juvenile court judge" includes a magistrate to whom 2281
the juvenile court judge confers duties pursuant to division (A) 2282
(15) of section 2151.23 of the Revised Code. 2283

(R) "Adjudicated a delinquent child for committing a 2284
sexually oriented offense" includes a child who receives a 2285
serious youthful offender dispositional sentence under section 2286
2152.13 of the Revised Code for committing a sexually oriented 2287
offense. 2288

(S) "School" and "school premises" have the same meanings 2289
as in section 2925.01 of the Revised Code. 2290

(T) "Residential premises" means the building in which a 2291
residential unit is located and the grounds upon which that 2292
building stands, extending to the perimeter of the property. 2293
"Residential premises" includes any type of structure in which a 2294
residential unit is located, including, but not limited to, 2295
multi-unit buildings and mobile and manufactured homes. 2296

(U) "Residential unit" means a dwelling unit for 2297
residential use and occupancy, and includes the structure or 2298
part of a structure that is used as a home, residence, or 2299

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.

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

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

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

(b) The sentencing court imposed a community control 2329
sanction or combination of community control sanctions instead 2330
of a prison term and the offender has fulfilled every condition 2331
of every community control sanction imposed by the sentencing 2332
court; 2333

(c) The offender was under twenty-one years of age at the 2334
time of committing the offense; 2335

(d) The offender has not otherwise been convicted of or 2336
pleaded guilty to another violation of section 2907.04 of the 2337
Revised Code or any sexually oriented offense or child-victim 2338
oriented offense other than the violation of section 2907.04 of 2339
the Revised Code; 2340

(e) The minor with whom the offender engaged in sexual 2341
conduct was at least fourteen years of age at the time of the 2342
offense and consented to the sexual conduct, with no evidence of 2343
coercion, force, or threat of force; 2344

(f) The offender was not in a position of authority, 2345
including a position of a type described in divisions ~~(A) (5) to~~ 2346
~~(13)~~ (A) (5) to (14) of section 2907.03 of the Revised Code, over 2347
the minor with whom the offender engaged in sexual conduct. 2348

(2) An offender who was convicted of or pleaded guilty to 2349
a violation of any former law of this state, any existing or 2350
former municipal ordinance or law of another state or the United 2351
States, any existing or former law applicable in a military 2352
court or in an Indian trial court, or any existing or former law 2353
of any nation other than the United States that is or was 2354
substantially equivalent to a violation of section 2907.04 of 2355
the Revised Code and to whom all of the factors described in 2356
divisions (A) (1) (a) to (f) of this section apply. For purposes 2357

of this division: 2358

(a) The reference in division (A) (1) (b) of this section to 2359
a community control sanction shall be construed as including ~~non-~~ 2360
~~prison~~ nonprison sanctions under the law of the jurisdiction in 2361
which the offender was convicted of or pleaded guilty to the 2362
violation that is or was substantially equivalent to a violation 2363
of section 2907.04 of the Revised Code; 2364

(b) The reference in division (A) (1) (d) of this section to 2365
the violations specified in that division shall be construed as 2366
including substantially equivalent violations under the law of 2367
the jurisdiction in which the offender was convicted of or 2368
pleaded guilty to the violation that is or was substantially 2369
equivalent to a violation of section 2907.04 of the Revised 2370
Code. 2371

(B) Upon completion of all community control sanctions 2372
imposed by the sentencing court for the violation of section 2373
2907.04 of the Revised Code or the violation of the 2374
substantially equivalent law or ordinance, whichever is 2375
applicable, an eligible offender may petition the appropriate 2376
court specified in division (C) of this section to review the 2377
effectiveness of the offender's participation in community 2378
control sanctions and to determine whether to terminate the 2379
offender's duty to comply with sections 2950.04, 2950.05, and 2380
2950.06 of the Revised Code, reclassify the offender as a tier I 2381
sex offender/child-victim offender, or continue the offender's 2382
current classification. 2383

(C) Except as otherwise provided in this division, the 2384
eligible offender shall file the petition described in division 2385
(B) of this section in the court in which the eligible offender 2386
was convicted of or pleaded guilty to the offense. If the 2387

eligible offender was convicted of or pleaded guilty to the 2388
offense in a jurisdiction other than this state, the eligible 2389
offender shall file the petition in whichever of the following 2390
courts is applicable: 2391

(1) If the eligible offender is a resident of this state, 2392
in the court of common pleas of the county in which the offender 2393
resides; 2394

(2) If the eligible offender is not a resident of this 2395
state, in the court of common pleas of the county in which the 2396
offender has registered pursuant to section 2950.04 of the 2397
Revised Code. If the offender has registered addresses of that 2398
nature in more than one county, the offender may file a petition 2399
in the court of only one of those counties. 2400

(D) An eligible offender who files a petition under 2401
division (B) of this section shall include all of the following 2402
with the petition: 2403

(1) A certified copy of the judgment entry and any other 2404
documentation of the sentence given for the offense for which 2405
the eligible offender was convicted or pleaded guilty; 2406

(2) Documentation of the date of discharge from probation 2407
supervision or other supervision, if applicable; 2408

(3) Evidence that the eligible offender has completed a 2409
sex offender treatment program certified by the department of 2410
rehabilitation and correction pursuant to section 2950.16 of the 2411
Revised Code; 2412

(4) Any other evidence necessary to show that the offender 2413
meets the qualifications listed in division (A) of this section; 2414

(5) Evidence that the eligible offender has been 2415

rehabilitated to a satisfactory degree by successful completion 2416
of community control sanctions. 2417

(E) An eligible offender may obtain, at the offender's 2418
expense, a risk assessment or professional opinion, recommending 2419
relief under this section, from a licensed clinical 2420
psychologist, social worker, or other professional certified in 2421
sex offender treatment. The professional opinion or risk 2422
assessment may be submitted with the petition as additional 2423
evidence of rehabilitation. 2424

(F) Upon the filing of a petition under division (B) of 2425
this section, the court shall schedule a hearing to review the 2426
eligible offender's petition and all evidence of rehabilitation 2427
accompanying the petition. The court shall notify the offender 2428
and the prosecutor of the county in which the petition is filed 2429
of the date, time, and place of the hearing. Upon receipt of the 2430
notice, the prosecutor shall notify the victim of the date, 2431
time, and place of the hearing. The victim may submit a written 2432
statement to the prosecutor regarding any knowledge the victim 2433
has of the eligible offender's conduct while subject to the 2434
duties imposed by sections 2950.04, 2950.05, and 2950.06 of the 2435
Revised Code. At least seven days before the hearing date, the 2436
prosecutor may file an objection to the petition with the court 2437
and serve a copy of the objection to the petition on the 2438
eligible offender or the eligible offender's attorney. In 2439
addition to considering the evidence and information included 2440
with the petition as described in division (D) of this section 2441
and any risk assessment or professional opinion submitted as 2442
described in division (E) of this section, in determining the 2443
type of order to enter in response to the petition, the court 2444
shall consider any objections submitted by the prosecutor and 2445
any written statement submitted by the victim. After the 2446

hearing, the court shall enter one of the following orders: 2447

(1) An order to terminate the offender's duty to comply 2448
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2449

(2) If the offender is classified a tier II sex 2450
offender/child-victim offender, an order to reclassify the 2451
offender from a tier II sex offender/child-victim offender 2452
classification to a tier I sex offender/child-victim offender 2453
classification; 2454

(3) If the offender is classified a tier I sex 2455
offender/child-victim offender or a tier II sex offender/child- 2456
victim offender, an order to continue the offender's 2457
classification as a tier I sex offender/child-victim offender or 2458
tier II sex offender/child-victim offender, whichever is 2459
applicable, required to comply with sections 2950.04, 2950.05, 2460
and 2950.06 of the Revised Code. 2461

(G) After issuing an order pursuant to division (F) of 2462
this section, the court shall provide a copy of the order to the 2463
eligible offender and the bureau of criminal identification and 2464
investigation. The bureau, upon receipt of the copy, shall 2465
promptly notify the sheriff with whom the offender most recently 2466
registered under section 2950.04 or 2950.05 of the Revised Code 2467
of the court's order. 2468

(H) (1) An order issued under division (F) (2) or (3) of 2469
this section shall remain in effect for the duration of the 2470
eligible offender's duty to comply with sections 2950.04, 2471
2950.05, and 2950.06 of the Revised Code under the 2472
reclassification or continuation, whichever is applicable, as 2473
specified in section 2950.07 of the Revised Code, except that an 2474
eligible offender may refile a petition under this section at 2475

the time prescribed under division (H) (2) of this section. An 2476
order issued under division (F) (2) or (3) of this section shall 2477
not increase the duration of the offender's duty to comply with 2478
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2479

(2) After the eligible offender's initial petition filed 2480
under this section, if the court entered an order continuing the 2481
offender's classification or reclassifying the offender, the 2482
offender may file a second petition not earlier than three years 2483
after the court entered the first order. After the second 2484
petition, the offender may file one subsequent petition not 2485
earlier than five years after the most recent order continuing 2486
the offender's classification or reclassifying the offender. A 2487
petition filed under this division shall comply with the 2488
requirements described in divisions (C), (D), and (E) of this 2489
section. 2490

(3) Upon the filing of a second or subsequent petition by 2491
an eligible offender pursuant to division (H) (2) of this 2492
section, the court shall schedule a hearing to review any 2493
previous order entered under this section, consider all of the 2494
documents previously submitted, and evaluate any new evidence of 2495
rehabilitation presented with the petition. The court shall 2496
notify the offender and the prosecutor of the county in which 2497
the petition is filed of the date, time, and place of the 2498
hearing. Upon receipt of the notice, the prosecutor shall notify 2499
the victim of the date, time, and place of the hearing. The 2500
victim may submit a written statement to the prosecutor 2501
regarding any knowledge the victim has of the eligible 2502
offender's conduct while subject to the duties imposed by 2503
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2504
least seven days before the hearing date, the prosecutor may 2505
file an objection to the petition with the court and serve a 2506

copy of the objection to the petition on the eligible offender 2507
or the eligible offender's attorney. In addition to reviewing 2508
any previous order, considering the documents previously 2509
submitted, and evaluating any new evidence of rehabilitation 2510
presented with the petition as described in this division, in 2511
determining whether to deny the petition or the type of order to 2512
enter in response to the petition, the court shall consider any 2513
objections submitted by the prosecutor and any written statement 2514
submitted by the victim. After the hearing on the petition, the 2515
court may deny the petition or enter either of the following 2516
orders: 2517

(a) If the previous order continued the offender's 2518
classification as a tier II sex offender/child-victim offender, 2519
an order to reclassify the offender as a tier I sex 2520
offender/child-victim offender or terminate the offender's duty 2521
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2522
Revised Code; 2523

(b) If the previous order reclassified the offender as a 2524
tier I sex offender/child-victim offender or continued the 2525
offender's classification as a tier I sex offender/child-victim 2526
offender, an order to terminate the offender's duty to comply 2527
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2528

Sec. 2971.01. As used in this chapter: 2529

(A) "Mandatory prison term" has the same meaning as in 2530
section 2929.01 of the Revised Code. 2531

(B) "Designated homicide, assault, or kidnapping offense" 2532
means any of the following: 2533

(1) A violation of section 2903.01, 2903.02, 2903.11, or 2534
2905.01 of the Revised Code or a violation of division (A) of 2535

section 2903.04 of the Revised Code;	2536
(2) An attempt to commit or complicity in committing a violation listed in division (B)(1) of this section, if the attempt or complicity is a felony.	2537 2538 2539
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2540 2541
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2542 2543
(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.	2544 2545 2546
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2547 2548 2549
(G) "Sexually violent offense" means any of the following:	2550
(1) A violent sex offense;	2551
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2552 2553
(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.	2554 2555 2556 2557
(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:	2558 2559 2560 2561
(a) The person has been convicted two or more times, in	2562

separate criminal actions, of a sexually oriented offense or a 2563
child-victim oriented offense. For purposes of this division, 2564
convictions that result from or are connected with the same act 2565
or result from offenses committed at the same time are one 2566
conviction, and a conviction set aside pursuant to law is not a 2567
conviction. 2568

(b) The person has a documented history from childhood, 2569
into the juvenile developmental years, that exhibits sexually 2570
deviant behavior. 2571

(c) Available information or evidence suggests that the 2572
person chronically commits offenses with a sexual motivation. 2573

(d) The person has committed one or more offenses in which 2574
the person has tortured or engaged in ritualistic acts with one 2575
or more victims. 2576

(e) The person has committed one or more offenses in which 2577
one or more victims were physically harmed to the degree that 2578
the particular victim's life was in jeopardy. 2579

(f) Any other relevant evidence. 2580

(I) "Sexually violent predator specification" means a 2581
specification, as described in section 2941.148 of the Revised 2582
Code, that charges that a person charged with a violent sex 2583
offense, or a person charged with a designated homicide, 2584
assault, or kidnapping offense and a sexual motivation 2585
specification, is a sexually violent predator. 2586

(J) "Sexual motivation" means a purpose to gratify the 2587
sexual needs or desires of the offender. 2588

(K) "Sexual motivation specification" means a 2589
specification, as described in section 2941.147 of the Revised 2590

Code, that charges that a person charged with a designated 2591
homicide, assault, or kidnapping offense committed the offense 2592
with a sexual motivation. 2593

(L) "Violent sex offense" means any of the following: 2594

(1) A violation of section 2907.02, 2907.03 if the sexual 2595
activity involved is sexual conduct, or 2907.12 or of division 2596
(A) (4) or (B) of section 2907.05 of the Revised Code; 2597

(2) A felony violation of a former law of this state that 2598
is substantially equivalent to a violation listed in division 2599
(L) (1) of this section or of an existing or former law of the 2600
United States or of another state that is substantially 2601
equivalent to a violation listed in division (L) (1) of this 2602
section; 2603

(3) An attempt to commit or complicity in committing a 2604
violation listed in division (L) (1) or (2) of this section if 2605
the attempt or complicity is a felony. 2606

Sec. 3107.07. Consent to adoption is not required of any 2607
of the following: 2608

(A) A parent of a minor, when it is alleged in the 2609
adoption petition and the court, after proper service of notice 2610
and hearing, finds by clear and convincing evidence that the 2611
parent has failed without justifiable cause to provide more than 2612
de minimis contact with the minor or to provide for the 2613
maintenance and support of the minor as required by law or 2614
judicial decree for a period of at least one year immediately 2615
preceding either the filing of the adoption petition or the 2616
placement of the minor in the home of the petitioner. 2617

(B) The putative father of a minor if either of the 2618
following applies: 2619

(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 fifteen days after the minor's birth;

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

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

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

(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.

(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;

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

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

(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 2648
battery" means a violation of section 2907.03 of the Revised 2649
Code if the sexual activity involved is sexual conduct, or a 2650
similar law of another state. 2651

(G) A legal guardian or guardian ad litem of a parent 2652
judicially declared incompetent in a separate court proceeding 2653
who has failed to respond in writing to a request for consent, 2654
for a period of thirty days, or who, after examination of the 2655
written reasons for withholding consent, is found by the court 2656
to be withholding consent unreasonably; 2657

(H) Any legal guardian or lawful custodian of the person 2658
to be adopted, other than a parent, who has failed to respond in 2659
writing to a request for consent, for a period of thirty days, 2660
or who, after examination of the written reasons for withholding 2661
consent, is found by the court to be withholding consent 2662
unreasonably; 2663

(I) The spouse of the person to be adopted, if the failure 2664
of the spouse to consent to the adoption is found by the court 2665
to be by reason of prolonged unexplained absence, 2666
unavailability, incapacity, or circumstances that make it 2667
impossible or unreasonably difficult to obtain the consent or 2668
refusal of the spouse; 2669

(J) Any parent, legal guardian, or other lawful custodian 2670
in a foreign country, if the person to be adopted has been 2671
released for adoption pursuant to the laws of the country in 2672
which the person resides and the release of such person is in a 2673
form that satisfies the requirements of the immigration and 2674
naturalization service of the United States department of 2675
justice for purposes of immigration to the United States 2676
pursuant to section 101(b)(1)(F) of the "Immigration and 2677

Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2678
as amended or reenacted. 2679

(K) Except as provided in divisions (G) and (H) of this 2680
section, a juvenile court, agency, or person given notice of the 2681
petition pursuant to division (A)(1) of section 3107.11 of the 2682
Revised Code that fails to file an objection to the petition 2683
within fourteen days after proof is filed pursuant to division 2684
(B) of that section that the notice was given; 2685

(L) Any guardian, custodian, or other party who has 2686
temporary custody of the child. 2687

Sec. 3109.50. As used in sections 3109.501 to 3109.507 of 2688
the Revised Code: 2689

(A) "Parental rights" means parental rights and 2690
responsibilities, parenting time, or any other similar right 2691
established by the laws of this state with respect to a child. 2692
"Parental rights" does not include the parental duty of support 2693
for a child. 2694

(B) "Rape" means a violation of section 2907.02 of the 2695
Revised Code or similar law of another state. 2696

(C) "Sexual battery" means a violation of section 2907.03 2697
of the Revised Code if the sexual activity involved is sexual 2698
conduct, or similar law of another state. 2699

Sec. 3111.04. (A)(1) Except as provided in division (A)(2) 2700
of this section, an action to determine the existence or 2701
nonexistence of the father and child relationship may be brought 2702
by the child or the child's personal representative, the child's 2703
mother or her personal representative, a man alleged or alleging 2704
himself to be the child's father, the child support enforcement 2705
agency of the county in which the child resides if the child's 2706

mother, father, or alleged father is a recipient of public 2707
assistance or of services under Title IV-D of the "Social 2708
Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as 2709
amended, or the alleged father's personal representative. 2710

(2) A man alleged or alleging himself to be the child's 2711
father is not eligible to file an action under division (A) (1) 2712
of this section if the man was convicted of or pleaded guilty to 2713
rape or sexual battery, the victim of the rape or sexual battery 2714
was the child's mother, and the child was conceived as a result 2715
of the rape or sexual battery. 2716

(B) An agreement does not bar an action under this 2717
section. 2718

(C) If an action under this section is brought before the 2719
birth of the child and if the action is contested, all 2720
proceedings, except service of process and the taking of 2721
depositions to perpetuate testimony, may be stayed until after 2722
the birth. 2723

(D) A recipient of public assistance or of services under 2724
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2725
42 U.S.C.A. 651, as amended, shall cooperate with the child 2726
support enforcement agency of the county in which a child 2727
resides to obtain an administrative determination pursuant to 2728
sections 3111.38 to 3111.54 of the Revised Code, or, if 2729
necessary, a court determination pursuant to sections 3111.01 to 2730
3111.18 of the Revised Code, of the existence or nonexistence of 2731
a parent and child relationship between the father and the 2732
child. If the recipient fails to cooperate, the agency may 2733
commence an action to determine the existence or nonexistence of 2734
a parent and child relationship between the father and the child 2735
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2736

(E) As used in this section:	2737
(1) "Public assistance" means both of the following:	2738
(a) Medicaid;	2739
(b) Ohio works first under Chapter 5107. of the Revised Code.	2740 2741
(2) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state.	2742 2743
(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.	2744 2745 2746
Sec. 4730.25. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a physician assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.	2747 2748 2749 2750 2751 2752
(B) Except as provided in division (N) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a physician assistant or prescriber number, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:	2753 2754 2755 2756 2757 2758 2759 2760
(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which the supervising physician and physician	2761 2762 2763 2764

assistant are practicing;	2765
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	2766 2767 2768
(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;	2769 2770 2771 2772
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	2773 2774 2775 2776
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	2777 2778 2779 2780
(6) Administering drugs for purposes other than those authorized under this chapter;	2781 2782
(7) Willfully betraying a professional confidence;	2783
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.	2784 2785 2786 2787 2788 2789 2790
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a	2791 2792

misrepresentation of fact, is likely to mislead or deceive 2793
because of a failure to disclose material facts, is intended or 2794
is likely to create false or unjustified expectations of 2795
favorable results, or includes representations or implications 2796
that in reasonable probability will cause an ordinarily prudent 2797
person to misunderstand or be deceived. 2798

(9) Representing, with the purpose of obtaining 2799
compensation or other advantage personally or for any other 2800
person, that an incurable disease or injury, or other incurable 2801
condition, can be permanently cured; 2802

(10) The obtaining of, or attempting to obtain, money or 2803
anything of value by fraudulent misrepresentations in the course 2804
of practice; 2805

(11) A plea of guilty to, a judicial finding of guilt of, 2806
or a judicial finding of eligibility for intervention in lieu of 2807
conviction for, a felony; 2808

(12) Commission of an act that constitutes a felony in 2809
this state, regardless of the jurisdiction in which the act was 2810
committed; 2811

(13) A plea of guilty to, a judicial finding of guilt of, 2812
or a judicial finding of eligibility for intervention in lieu of 2813
conviction for, a misdemeanor committed in the course of 2814
practice; 2815

(14) A plea of guilty to, a judicial finding of guilt of, 2816
or a judicial finding of eligibility for intervention in lieu of 2817
conviction for, a misdemeanor involving moral turpitude; 2818

(15) Commission of an act in the course of practice that 2819
constitutes a misdemeanor in this state, regardless of the 2820
jurisdiction in which the act was committed; 2821

(16) Commission of an act involving moral turpitude that 2822
constitutes a misdemeanor in this state, regardless of the 2823
jurisdiction in which the act was committed; 2824

(17) A plea of guilty to, a judicial finding of guilt of, 2825
or a judicial finding of eligibility for intervention in lieu of 2826
conviction for violating any state or federal law regulating the 2827
possession, distribution, or use of any drug, including 2828
trafficking in drugs; 2829

(18) Any of the following actions taken by the state 2830
agency responsible for regulating the practice of physician 2831
assistants in another state, for any reason other than the 2832
nonpayment of fees: the limitation, revocation, or suspension of 2833
an individual's license to practice; acceptance of an 2834
individual's license surrender; denial of a license; refusal to 2835
renew or reinstate a license; imposition of probation; or 2836
issuance of an order of censure or other reprimand; 2837

(19) A departure from, or failure to conform to, minimal 2838
standards of care of similar physician assistants under the same 2839
or similar circumstances, regardless of whether actual injury to 2840
a patient is established; 2841

(20) Violation of the conditions placed by the board on a 2842
license to practice as a physician assistant; 2843

(21) Failure to use universal blood and body fluid 2844
precautions established by rules adopted under section 4731.051 2845
of the Revised Code; 2846

(22) Failure to cooperate in an investigation conducted by 2847
the board under section 4730.26 of the Revised Code, including 2848
failure to comply with a subpoena or order issued by the board 2849
or failure to answer truthfully a question presented by the 2850

board at a deposition or in written interrogatories, except that 2851
failure to cooperate with an investigation shall not constitute 2852
grounds for discipline under this section if a court of 2853
competent jurisdiction has issued an order that either quashes a 2854
subpoena or permits the individual to withhold the testimony or 2855
evidence in issue; 2856

(23) Assisting suicide, as defined in section 3795.01 of 2857
the Revised Code; 2858

(24) Prescribing any drug or device to perform or induce 2859
an abortion, or otherwise performing or inducing an abortion; 2860

(25) Failure to comply with section 4730.53 of the Revised 2861
Code, unless the board no longer maintains a drug database 2862
pursuant to section 4729.75 of the Revised Code; 2863

(26) Failure to comply with the requirements in section 2864
3719.061 of the Revised Code before issuing for a minor a 2865
prescription for an opioid analgesic, as defined in section 2866
3719.01 of the Revised Code; 2867

(27) Having certification by the national commission on 2868
certification of physician assistants or a successor 2869
organization expire, lapse, or be suspended or revoked; 2870

(28) The revocation, suspension, restriction, reduction, 2871
or termination of clinical privileges by the United States 2872
department of defense or department of veterans affairs or the 2873
termination or suspension of a certificate of registration to 2874
prescribe drugs by the drug enforcement administration of the 2875
United States department of justice; 2876

(29) Failure to comply with terms of a consult agreement 2877
entered into with a pharmacist pursuant to section 4729.39 of 2878
the Revised Code. 2879

(C) Disciplinary actions taken by the board under 2880
divisions (A) and (B) of this section shall be taken pursuant to 2881
an adjudication under Chapter 119. of the Revised Code, except 2882
that in lieu of an adjudication, the board may enter into a 2883
consent agreement with a physician assistant or applicant to 2884
resolve an allegation of a violation of this chapter or any rule 2885
adopted under it. A consent agreement, when ratified by an 2886
affirmative vote of not fewer than six members of the board, 2887
shall constitute the findings and order of the board with 2888
respect to the matter addressed in the agreement. If the board 2889
refuses to ratify a consent agreement, the admissions and 2890
findings contained in the consent agreement shall be of no force 2891
or effect. 2892

(D) For purposes of divisions (B) (12), (15), and (16) of 2893
this section, the commission of the act may be established by a 2894
finding by the board, pursuant to an adjudication under Chapter 2895
119. of the Revised Code, that the applicant or license holder 2896
committed the act in question. The board shall have no 2897
jurisdiction under these divisions in cases where the trial 2898
court renders a final judgment in the license holder's favor and 2899
that judgment is based upon an adjudication on the merits. The 2900
board shall have jurisdiction under these divisions in cases 2901
where the trial court issues an order of dismissal upon 2902
technical or procedural grounds. 2903

(E) The sealing of conviction records by any court shall 2904
have no effect upon a prior board order entered under the 2905
provisions of this section or upon the board's jurisdiction to 2906
take action under the provisions of this section if, based upon 2907
a plea of guilty, a judicial finding of guilt, or a judicial 2908
finding of eligibility for intervention in lieu of conviction, 2909
the board issued a notice of opportunity for a hearing prior to 2910

the court's order to seal the records. The board shall not be 2911
required to seal, destroy, redact, or otherwise modify its 2912
records to reflect the court's sealing of conviction records. 2913

(F) For purposes of this division, any individual who 2914
holds a license issued under this chapter, or applies for a 2915
license issued under this chapter, shall be deemed to have given 2916
consent to submit to a mental or physical examination when 2917
directed to do so in writing by the board and to have waived all 2918
objections to the admissibility of testimony or examination 2919
reports that constitute a privileged communication. 2920

(1) In enforcing division (B)(4) of this section, the 2921
board, upon a showing of a possible violation, may compel any 2922
individual who holds a license issued under this chapter or who 2923
has applied for a license pursuant to this chapter to submit to 2924
a mental examination, physical examination, including an HIV 2925
test, or both a mental and physical examination. The expense of 2926
the examination is the responsibility of the individual 2927
compelled to be examined. Failure to submit to a mental or 2928
physical examination or consent to an HIV test ordered by the 2929
board constitutes an admission of the allegations against the 2930
individual unless the failure is due to circumstances beyond the 2931
individual's control, and a default and final order may be 2932
entered without the taking of testimony or presentation of 2933
evidence. If the board finds a physician assistant unable to 2934
practice because of the reasons set forth in division (B)(4) of 2935
this section, the board shall require the physician assistant to 2936
submit to care, counseling, or treatment by physicians approved 2937
or designated by the board, as a condition for an initial, 2938
continued, reinstated, or renewed license. An individual 2939
affected under this division shall be afforded an opportunity to 2940
demonstrate to the board the ability to resume practicing in 2941

compliance with acceptable and prevailing standards of care. 2942

(2) For purposes of division (B)(5) of this section, if 2943
the board has reason to believe that any individual who holds a 2944
license issued under this chapter or any applicant for a license 2945
suffers such impairment, the board may compel the individual to 2946
submit to a mental or physical examination, or both. The expense 2947
of the examination is the responsibility of the individual 2948
compelled to be examined. Any mental or physical examination 2949
required under this division shall be undertaken by a treatment 2950
provider or physician qualified to conduct such examination and 2951
chosen by the board. 2952

Failure to submit to a mental or physical examination 2953
ordered by the board constitutes an admission of the allegations 2954
against the individual unless the failure is due to 2955
circumstances beyond the individual's control, and a default and 2956
final order may be entered without the taking of testimony or 2957
presentation of evidence. If the board determines that the 2958
individual's ability to practice is impaired, the board shall 2959
suspend the individual's license or deny the individual's 2960
application and shall require the individual, as a condition for 2961
initial, continued, reinstated, or renewed licensure, to submit 2962
to treatment. 2963

Before being eligible to apply for reinstatement of a 2964
license suspended under this division, the physician assistant 2965
shall demonstrate to the board the ability to resume practice or 2966
prescribing in compliance with acceptable and prevailing 2967
standards of care. The demonstration shall include the 2968
following: 2969

(a) Certification from a treatment provider approved under 2970
section 4731.25 of the Revised Code that the individual has 2971

successfully completed any required inpatient treatment; 2972

(b) Evidence of continuing full compliance with an 2973
aftercare contract or consent agreement; 2974

(c) Two written reports indicating that the individual's 2975
ability to practice has been assessed and that the individual 2976
has been found capable of practicing according to acceptable and 2977
prevailing standards of care. The reports shall be made by 2978
individuals or providers approved by the board for making such 2979
assessments and shall describe the basis for their 2980
determination. 2981

The board may reinstate a license suspended under this 2982
division after such demonstration and after the individual has 2983
entered into a written consent agreement. 2984

When the impaired physician assistant resumes practice or 2985
prescribing, the board shall require continued monitoring of the 2986
physician assistant. The monitoring shall include compliance 2987
with the written consent agreement entered into before 2988
reinstatement or with conditions imposed by board order after a 2989
hearing, and, upon termination of the consent agreement, 2990
submission to the board for at least two years of annual written 2991
progress reports made under penalty of falsification stating 2992
whether the physician assistant has maintained sobriety. 2993

(G)(1) If either of the following circumstances occur, the 2994
secretary and supervising member may recommend that the board 2995
suspend the individual's license without a prior hearing: 2996

(a) The secretary and supervising member determine that 2997
there is clear and convincing evidence that a physician 2998
assistant has violated division (B) of this section and that the 2999
individual's continued practice or prescribing presents a danger 3000

of immediate and serious harm to the public, ~~they may recommend~~ 3001
~~that the board suspend the individual's license without a prior~~ 3002
~~hearing;~~ 3003

(b) The board receives verifiable information that a 3004
licensee has been charged in any state or federal court with a 3005
crime classified as a felony under the charging court's law and 3006
the conduct charged constitutes a violation of division (B) of 3007
this section. ~~Written~~ 3008

(2) If a recommendation is made to suspend without a prior 3009
hearing pursuant to division (G) (1) of this section, written 3010
allegations shall be prepared for consideration by the board. 3011

The board, upon review of those allegations and by an 3012
affirmative vote of not fewer than six of its members, excluding 3013
the secretary and supervising member, may suspend a license 3014
without a prior hearing. A telephone conference call may be 3015
utilized for reviewing the allegations and taking the vote on 3016
the summary suspension. 3017

The board shall issue a written order of suspension by 3018
certified mail or in person in accordance with section 119.07 of 3019
the Revised Code. The order shall not be subject to suspension 3020
by the court during pendency of any appeal filed under section 3021
119.12 of the Revised Code. If the physician assistant requests 3022
an adjudicatory hearing by the board, the date set for the 3023
hearing shall be within fifteen days, but not earlier than seven 3024
days, after the physician assistant requests the hearing, unless 3025
otherwise agreed to by both the board and the license holder. 3026

(3) A summary suspension imposed under this division shall 3027
remain in effect, unless reversed on appeal, until a final 3028
adjudicative order issued by the board pursuant to this section 3029

and Chapter 119. of the Revised Code becomes effective. The 3030
board shall issue its final adjudicative order within sixty days 3031
after completion of its hearing. Failure to issue the order 3032
within sixty days shall result in dissolution of the summary 3033
suspension order, but shall not invalidate any subsequent, final 3034
adjudicative order. 3035

(H) If the board takes action under division (B) (11), 3036
(13), or (14) of this section, and the judicial finding of 3037
guilt, guilty plea, or judicial finding of eligibility for 3038
intervention in lieu of conviction is overturned on appeal, upon 3039
exhaustion of the criminal appeal, a petition for 3040
reconsideration of the order may be filed with the board along 3041
with appropriate court documents. Upon receipt of a petition and 3042
supporting court documents, the board shall reinstate the 3043
individual's license. The board may then hold an adjudication 3044
under Chapter 119. of the Revised Code to determine whether the 3045
individual committed the act in question. Notice of opportunity 3046
for hearing shall be given in accordance with Chapter 119. of 3047
the Revised Code. If the board finds, pursuant to an 3048
adjudication held under this division, that the individual 3049
committed the act, or if no hearing is requested, it may order 3050
any of the sanctions identified under division (B) of this 3051
section. 3052

(I) The license to practice issued to a physician 3053
assistant and the physician assistant's practice in this state 3054
are automatically suspended as of the date the physician 3055
assistant pleads guilty to, is found by a judge or jury to be 3056
guilty of, or is subject to a judicial finding of eligibility 3057
for intervention in lieu of conviction in this state or 3058
treatment or intervention in lieu of conviction in another state 3059
for any of the following criminal offenses in this state or a 3060

substantially equivalent criminal offense in another 3061
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3062
felonious assault, trafficking in persons, kidnapping, rape, 3063
sexual battery, gross sexual imposition, aggravated arson, 3064
aggravated robbery, or aggravated burglary. Continued practice 3065
after the suspension shall be considered practicing without a 3066
license. 3067

The board shall notify the individual subject to the 3068
suspension by certified mail or in person in accordance with 3069
section 119.07 of the Revised Code. If an individual whose 3070
license is suspended under this division fails to make a timely 3071
request for an adjudication under Chapter 119. of the Revised 3072
Code, the board shall enter a final order permanently revoking 3073
the individual's license to practice. 3074

(J) In any instance in which the board is required by 3075
Chapter 119. of the Revised Code to give notice of opportunity 3076
for hearing and the individual subject to the notice does not 3077
timely request a hearing in accordance with section 119.07 of 3078
the Revised Code, the board is not required to hold a hearing, 3079
but may adopt, by an affirmative vote of not fewer than six of 3080
its members, a final order that contains the board's findings. 3081
In that final order, the board may order any of the sanctions 3082
identified under division (A) or (B) of this section. 3083

(K) Any action taken by the board under division (B) of 3084
this section resulting in a suspension shall be accompanied by a 3085
written statement of the conditions under which the physician 3086
assistant's license may be reinstated. The board shall adopt 3087
rules in accordance with Chapter 119. of the Revised Code 3088
governing conditions to be imposed for reinstatement. 3089
Reinstatement of a license suspended pursuant to division (B) of 3090

this section requires an affirmative vote of not fewer than six 3091
members of the board. 3092

(L) When the board refuses to grant or issue to an 3093
applicant a license to practice as a physician assistant, 3094
revokes an individual's license, refuses to renew an 3095
individual's license, or refuses to reinstate an individual's 3096
license, the board may specify that its action is permanent. An 3097
individual subject to a permanent action taken by the board is 3098
forever thereafter ineligible to hold the license and the board 3099
shall not accept an application for reinstatement of the license 3100
or for issuance of a new license. 3101

(M) Notwithstanding any other provision of the Revised 3102
Code, all of the following apply: 3103

(1) The surrender of a license issued under this chapter 3104
is not effective unless or until accepted by the board. 3105
Reinstatement of a license surrendered to the board requires an 3106
affirmative vote of not fewer than six members of the board. 3107

(2) An application made under this chapter for a license 3108
may not be withdrawn without approval of the board. 3109

(3) Failure by an individual to renew a license in 3110
accordance with section 4730.14 of the Revised Code shall not 3111
remove or limit the board's jurisdiction to take disciplinary 3112
action under this section against the individual. 3113

(N) The board shall not refuse to issue a license to an 3114
applicant because of a conviction, plea of guilty, judicial 3115
finding of guilt, judicial finding of eligibility for 3116
intervention in lieu of conviction, or the commission of an act 3117
that constitutes a criminal offense, unless the refusal is in 3118
accordance with section 9.79 of the Revised Code. 3119

Sec. 4730.26. (A) The state medical board shall 3120
investigate evidence that appears to show that any person has 3121
violated this chapter or a rule adopted under it. In an 3122
investigation involving the practice or supervision of a 3123
physician assistant pursuant to the policies of a health care 3124
facility, the board may require that the health care facility 3125
provide any information the board considers necessary to 3126
identify either or both of the following: 3127

(1) The facility's policies for the practice of physician 3128
assistants within the facility; 3129

(2) The services that the facility has authorized a 3130
particular physician assistant to provide for the facility. 3131

(B) Any person may report to the board in a signed writing 3132
any information the person has that appears to show a violation 3133
of any provision of this chapter or rule adopted under it. In 3134
the absence of bad faith, a person who reports such information 3135
or testifies before the board in an adjudication conducted under 3136
Chapter 119. of the Revised Code shall not be liable for civil 3137
damages as a result of reporting the information or providing 3138
testimony. Each complaint or allegation of a violation received 3139
by the board shall be assigned a case number and be recorded by 3140
the board. 3141

(C) Investigations of alleged violations of this chapter 3142
or rules adopted under it shall be supervised by the supervising 3143
member elected by the board in accordance with section 4731.02 3144
of the Revised Code and by the secretary as provided in section 3145
4730.33 of the Revised Code. The president may designate another 3146
member of the board to supervise the investigation in place of 3147
the supervising member. Upon a vote of the majority of the board 3148
to authorize the addition of a consumer member in the 3149

supervision of any part of any investigation, the president 3150
shall designate a consumer member for supervision of 3151
investigations as determined by the president. The authorization 3152
of consumer member participation in investigation supervision 3153
may be rescinded by a majority vote of the board. A member of 3154
the board who supervises the investigation of a case shall not 3155
participate in further adjudication of the case. 3156

(D) In investigating a possible violation of this chapter 3157
or a rule adopted under it, the board may administer oaths, 3158
order the taking of depositions, issue subpoenas, and compel the 3159
attendance of witnesses and production of books, accounts, 3160
papers, records, documents, and testimony, except that a 3161
subpoena for patient record information or information, 3162
documents, and records from a peer review committee of a health 3163
care entity related to sexual misconduct or criminal conduct 3164
shall not be issued without consultation with the attorney 3165
general's office and approval of the secretary and supervising 3166
member of the board. Before issuance of a subpoena for patient 3167
record information or information, documents, and records from a 3168
peer review committee of a health care entity related to sexual 3169
misconduct or criminal conduct, the secretary and supervising 3170
member shall determine whether there is probable cause to 3171
believe that the complaint filed alleges a violation of this 3172
chapter or a rule adopted under it and that the records sought 3173
are relevant to the alleged violation and material to the 3174
investigation. The subpoena may apply only to records that cover 3175
a reasonable period of time surrounding the alleged violation. 3176

On failure to comply with any subpoena issued by the board 3177
and after reasonable notice to the person being subpoenaed, the 3178
board may move for an order compelling the production of persons 3179
or records pursuant to the Rules of Civil Procedure. 3180

A subpoena issued by the board may be served by a sheriff, 3181
the sheriff's deputy, or a board employee designated by the 3182
board. Service of a subpoena issued by the board may be made by 3183
delivering a copy of the subpoena to the person named therein, 3184
reading it to the person, or leaving it at the person's usual 3185
place of residence. When the person being served is a physician 3186
assistant, service of the subpoena may be made by certified 3187
mail, restricted delivery, return receipt requested, and the 3188
subpoena shall be deemed served on the date delivery is made or 3189
the date the person refuses to accept delivery. 3190

A sheriff's deputy who serves a subpoena shall receive the 3191
same fees as a sheriff. Each witness who appears before the 3192
board in obedience to a subpoena shall receive the fees and 3193
mileage provided for under section 119.094 of the Revised Code. 3194

(E) All ~~For purposes of section 2305.252 of the Revised~~ 3195
Code, all hearings and investigations of the board shall be 3196
~~considered civil actions for the purposes of section 2305.252 of~~ 3197
~~the Revised Code, except those involving allegations of sexual~~ 3198
misconduct or criminal conduct, as defined in that section. 3199

(F) Information received by the board pursuant to an 3200
investigation is confidential and not subject to discovery in 3201
any civil action. 3202

The board shall conduct all investigations and proceedings 3203
in a manner that protects the confidentiality of patients and 3204
persons who file complaints with the board. The board shall not 3205
make public the names or any other identifying information about 3206
patients or complainants unless proper consent is given or, in 3207
the case of a patient, a waiver of the patient privilege exists 3208
under division (B) of section 2317.02 of the Revised Code, 3209
except that consent or a waiver is not required if the board 3210

possesses reliable and substantial evidence that no bona fide 3211
physician-patient relationship exists. 3212

The board may share any information it receives pursuant 3213
to an investigation, including patient records and patient 3214
record information, with law enforcement agencies, other 3215
licensing boards, and other governmental agencies that are 3216
prosecuting, adjudicating, or investigating alleged violations 3217
of statutes or administrative rules. An agency or board that 3218
receives the information shall comply with the same requirements 3219
regarding confidentiality as those with which the state medical 3220
board must comply, notwithstanding any conflicting provision of 3221
the Revised Code or procedure of the agency or board that 3222
applies when it is dealing with other information in its 3223
possession. In a judicial proceeding, the information may be 3224
admitted into evidence only in accordance with the Rules of 3225
Evidence, but the court shall require that appropriate measures 3226
are taken to ensure that confidentiality is maintained with 3227
respect to any part of the information that contains names or 3228
other identifying information about patients or complainants 3229
whose confidentiality was protected by the state medical board 3230
when the information was in the board's possession. Measures to 3231
ensure confidentiality that may be taken by the court include 3232
sealing its records or deleting specific information from its 3233
records. 3234

No person shall knowingly access, use, or disclose 3235
confidential investigatory information in a manner prohibited by 3236
law. 3237

(G) The state medical board shall develop requirements for 3238
and provide appropriate initial and continuing training for 3239
investigators employed by the board to carry out its duties 3240

under this chapter. The training and continuing education may 3241
include enrollment in courses operated or approved by the Ohio 3242
peace officer training commission that the board considers 3243
appropriate under conditions set forth in section 109.79 of the 3244
Revised Code. 3245

(H) On a quarterly basis, the board shall prepare a report 3246
that documents the disposition of all cases during the preceding 3247
three months. The report shall contain the following information 3248
for each case with which the board has completed its activities: 3249

(1) The case number assigned to the complaint or alleged 3250
violation; 3251

(2) The type of license, if any, held by the individual 3252
against whom the complaint is directed; 3253

(3) A description of the allegations contained in the 3254
complaint; 3255

(4) Whether witnesses were interviewed; 3256

(5) Whether the individual against whom the complaint is 3257
directed is the subject of any pending complaints; 3258

(6) The disposition of the case. 3259

The report shall state how many cases are still pending, 3260
and shall be prepared in a manner that protects the identity of 3261
each person involved in each case. The report shall be submitted 3262
to the physician assistant policy committee of the board and is 3263
a public record for purposes of section 149.43 of the Revised 3264
Code. 3265

(I) The board may provide a status update regarding an 3266
investigation to a complainant on request if the board verifies 3267
the complainant's identity. 3268

Sec. 4730.32. (A) As used in this section, "criminal 3269
conduct" and "sexual misconduct" have the same meanings as in 3270
section 4731.224 of the Revised Code. 3271

(B)(1) Within ~~sixty~~-thirty days after the imposition of 3272
any formal disciplinary action taken by a health care facility 3273
against any individual holding a valid license to practice as a 3274
physician assistant issued under this chapter, the chief 3275
administrator or executive officer of the facility shall report 3276
to the state medical board the name of the individual, the 3277
action taken by the facility, and a summary of the underlying 3278
facts leading to the action taken. Upon request, the board shall 3279
be provided certified copies of the patient records that were 3280
the basis for the facility's action. Prior to release to the 3281
board, the summary shall be approved by the peer review 3282
committee that reviewed the case or by the governing board of 3283
the facility. 3284

The filing of a report with the board or decision not to 3285
file a report, investigation by the board, or any disciplinary 3286
action taken by the board, does not preclude a health care 3287
facility from taking disciplinary action against a physician 3288
assistant. 3289

In the absence of fraud or bad faith, no individual or 3290
entity that provides patient records to the board shall be 3291
liable in damages to any person as a result of providing the 3292
records. 3293

(2) Within thirty days after commencing an investigation 3294
regarding criminal conduct or sexual misconduct against any 3295
individual holding a valid license to practice issued pursuant 3296
to this chapter, a health care facility, including a hospital, 3297
health care facility operated by a health insuring corporation, 3298

ambulatory surgical center, or similar facility, shall report to 3299
the board the name of the individual and a summary of the 3300
underlying facts related to the investigation being commenced. 3301

~~(B)(1)~~ ~~(C)(1)~~ Except as provided in division ~~(B)(2)~~ ~~(C)(2)~~ 3302
of this section and subject to division (C)(3) of this section, 3303
a physician assistant, professional association or society of 3304
physician assistants, physician, or professional association or 3305
society of physicians that believes a violation of any provision 3306
of this chapter, Chapter 4731. of the Revised Code, or rule of 3307
the board has occurred shall report to the board the information 3308
upon which the belief is based. 3309

(2) A physician assistant, professional association or 3310
society of physician assistants, physician, or professional 3311
association or society of physicians that believes that a 3312
violation of division (B)(5) of section 4730.25 of the Revised 3313
Code has occurred shall report the information upon which the 3314
belief is based to the monitoring organization conducting the 3315
program established by the board under section 4731.251 of the 3316
Revised Code. If any such report is made to the board, it shall 3317
be referred to the monitoring organization unless the board is 3318
aware that the individual who is the subject of the report does 3319
not meet the program eligibility requirements of section 3320
4731.252 of the Revised Code. 3321

(3) If any individual authorized to practice under this 3322
chapter or any professional association or society of such 3323
individuals knows or has reasonable cause to suspect based on 3324
facts that would cause a reasonable person in a similar position 3325
to suspect that an individual authorized to practice under this 3326
chapter has committed or participated in criminal conduct or 3327
sexual misconduct the information upon which the belief is based 3328

shall be reported to the board within thirty days. 3329

(4) In addition to the self-reporting of criminal offenses 3330
that is required for license renewal, an individual authorized 3331
to practice under this chapter shall report to the board 3332
criminal charges regarding criminal conduct, sexual misconduct, 3333
or any conduct involving the use of a motor vehicle while under 3334
the influence of alcohol or drugs, including offenses that are 3335
equivalent offenses under division (A) of section 4511.181 of 3336
the Revised Code, violations of division (D) of section 4511.194 3337
of the Revised Code, and violations of division (C) of section 3338
4511.79 of the Revised Code. Reports under this division shall 3339
be made within thirty days of the criminal charge being filed. 3340

~~(C)~~ (D) Any professional association or society composed 3341
primarily of physician assistants that suspends or revokes an 3342
individual's membership for violations of professional ethics, 3343
or for reasons of professional incompetence or professional 3344
malpractice, within ~~sixty~~ thirty days after a final decision, 3345
shall report to the board, on forms prescribed and provided by 3346
the board, the name of the individual, the action taken by the 3347
professional organization, and a summary of the underlying facts 3348
leading to the action taken. 3349

The filing or nonfiling of a report with the board, 3350
investigation by the board, or any disciplinary action taken by 3351
the board, shall not preclude a professional organization from 3352
taking disciplinary action against a physician assistant. 3353

~~(D)~~ (E) Any insurer providing professional liability 3354
insurance to any person holding a valid license to practice as a 3355
physician assistant issued under this chapter or any other 3356
entity that seeks to indemnify the professional liability of a 3357
physician assistant shall notify the board within thirty days 3358

after the final disposition of any written claim for damages 3359
where such disposition results in a payment exceeding twenty- 3360
five thousand dollars. The notice shall contain the following 3361
information: 3362

(1) The name and address of the person submitting the 3363
notification; 3364

(2) The name and address of the insured who is the subject 3365
of the claim; 3366

(3) The name of the person filing the written claim; 3367

(4) The date of final disposition; 3368

(5) If applicable, the identity of the court in which the 3369
final disposition of the claim took place. 3370

~~(E)~~ (F) The board may investigate possible violations of 3371
this chapter or the rules adopted under it that are brought to 3372
its attention as a result of the reporting requirements of this 3373
section, except that the board shall conduct an investigation if 3374
a possible violation involves repeated malpractice. As used in 3375
this division, "repeated malpractice" means three or more claims 3376
for malpractice within the previous five-year period, each 3377
resulting in a judgment or settlement in excess of twenty-five 3378
thousand dollars in favor of the claimant, and each involving 3379
negligent conduct by the physician assistant. 3380

~~(F)~~ (G) All summaries, reports, and records received and 3381
maintained by the board pursuant to this section shall be held 3382
~~in confidence and shall not be subject to discovery or~~ 3383
~~introduction in evidence in any federal or state civil action~~ 3384
~~involving a physician assistant, supervising physician, or~~ 3385
~~health care facility arising out of matters that are the subject~~ 3386
~~of the reporting required by this section. The board may use the~~ 3387

~~information obtained only as the basis for an investigation, as 3388
evidence in a disciplinary hearing against a physician assistant 3389
or supervising physician, or in any subsequent trial or appeal 3390
of a board action or order. 3391~~

~~The board may disclose the summaries and reports it 3392
receives under this section only to health care facility 3393
committees within or outside this state that are involved in 3394
credentialing or recredentialing a physician assistant or 3395
supervising physician or reviewing their privilege to practice 3396
within a particular facility. The board shall indicate whether 3397
or not the information has been verified. Information 3398
transmitted by the board shall be subject to the same 3399
confidentiality provisions as when maintained by the 3400
board confidential pursuant to division (F) of section 4730.26 of 3401
the Revised Code. 3402~~

~~(G) (H) Except for reports filed by an individual pursuant to 3403
to division (B) (2) or (C) of this section, the board shall send 3404
a copy of any reports or summaries it receives pursuant to this 3405
section to the physician assistant. The physician assistant 3406
shall have the right to file a statement with the board 3407
concerning the correctness or relevance of the information. The 3408
statement shall at all times accompany that part of the record 3409
in contention. 3410~~

~~(H) (I) An individual or entity that reports to the board, 3411
reports to the monitoring organization described in section 3412
4731.251 of the Revised Code, or refers an impaired physician 3413
assistant to a treatment provider approved by the board under 3414
section 4731.25 of the Revised Code shall not be subject to suit 3415
for civil damages as a result of the report, referral, or 3416
provision of the information. 3417~~

~~(I)~~ (J) In the absence of fraud or bad faith, a 3418
professional association or society of physician assistants that 3419
sponsors a committee or program to provide peer assistance to a 3420
physician assistant with substance abuse problems, a 3421
representative or agent of such a committee or program, a 3422
representative or agent of the monitoring organization described 3423
in section 4731.251 of the Revised Code, and a member of the 3424
state medical board shall not be held liable in damages to any 3425
person by reason of actions taken to refer a physician assistant 3426
to a treatment provider approved under section 4731.25 of the 3427
Revised Code for examination or treatment. 3428

Sec. 4730.99. (A) Whoever violates section 4730.02 of the 3429
Revised Code is guilty of a misdemeanor of the first degree on a 3430
first offense; on each subsequent offense, the person is guilty 3431
of a felony of the fourth degree. 3432

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 3433
(1), ~~or (C) (2)~~, (D), or (E) of section 4730.32 of the Revised 3434
Code is guilty of a minor misdemeanor on a first offense; on 3435
each subsequent offense the person is guilty of a misdemeanor of 3436
the fourth degree, except that an individual guilty of a 3437
subsequent offense shall not be subject to imprisonment, but to 3438
a fine alone of up to one thousand dollars for each offense. 3439

(2) Whoever violates division (B) (2) or (C) (3) of section 3440
4730.32 of the Revised Code is guilty of failure to report 3441
criminal conduct or sexual misconduct, a misdemeanor of the 3442
fourth degree. If the offender has previously been convicted of 3443
a violation of this division, the failure to report is a 3444
misdemeanor of the first degree. 3445

(C) Whoever violates division (F) of section 4730.26 of 3446
the Revised Code is guilty of disclosing confidential 3447

investigatory information, a misdemeanor of the first degree. 3448

Sec. 4731.22. (A) The state medical board, by an 3449
affirmative vote of not fewer than six of its members, may 3450
limit, revoke, or suspend a license or certificate to practice 3451
or certificate to recommend, refuse to grant a license or 3452
certificate, refuse to renew a license or certificate, refuse to 3453
reinstate a license or certificate, or reprimand or place on 3454
probation the holder of a license or certificate if the 3455
individual applying for or holding the license or certificate is 3456
found by the board to have committed fraud during the 3457
administration of the examination for a license or certificate 3458
to practice or to have committed fraud, misrepresentation, or 3459
deception in applying for, renewing, or securing any license or 3460
certificate to practice or certificate to recommend issued by 3461
the board. 3462

(B) Except as provided in division (P) of this section, 3463
the board, by an affirmative vote of not fewer than six members, 3464
shall, to the extent permitted by law, limit, revoke, or suspend 3465
a license or certificate to practice or certificate to 3466
recommend, refuse to issue a license or certificate, refuse to 3467
renew a license or certificate, refuse to reinstate a license or 3468
certificate, or reprimand or place on probation the holder of a 3469
license or certificate for one or more of the following reasons: 3470

(1) Permitting one's name or one's license or certificate 3471
to practice to be used by a person, group, or corporation when 3472
the individual concerned is not actually directing the treatment 3473
given; 3474

(2) Failure to maintain minimal standards applicable to 3475
the selection or administration of drugs, or failure to employ 3476
acceptable scientific methods in the selection of drugs or other 3477

modalities for treatment of disease; 3478

(3) Except as provided in section 4731.97 of the Revised 3479
Code, selling, giving away, personally furnishing, prescribing, 3480
or administering drugs for other than legal and legitimate 3481
therapeutic purposes or a plea of guilty to, a judicial finding 3482
of guilt of, or a judicial finding of eligibility for 3483
intervention in lieu of conviction of, a violation of any 3484
federal or state law regulating the possession, distribution, or 3485
use of any drug; 3486

(4) Willfully betraying a professional confidence. 3487

For purposes of this division, "willfully betraying a 3488
professional confidence" does not include providing any 3489
information, documents, or reports under sections 307.621 to 3490
307.629 of the Revised Code to a child fatality review board; 3491
does not include providing any information, documents, or 3492
reports under sections 307.631 to 307.6410 of the Revised Code 3493
to a drug overdose fatality review committee, a suicide fatality 3494
review committee, or hybrid drug overdose fatality and suicide 3495
fatality review committee; does not include providing any 3496
information, documents, or reports to the director of health 3497
pursuant to guidelines established under section 3701.70 of the 3498
Revised Code; does not include written notice to a mental health 3499
professional under section 4731.62 of the Revised Code; does not 3500
include making a report as described in division (F) of section 3501
2921.22 and section 4731.224 of the Revised Code; and does not 3502
include the making of a report of an employee's use of a drug of 3503
abuse, or a report of a condition of an employee other than one 3504
involving the use of a drug of abuse, to the employer of the 3505
employee as described in division (B) of section 2305.33 of the 3506
Revised Code. Nothing in this division affects the immunity from 3507

civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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.

(6) A departure from, or the 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;

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

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

(9) 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;

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

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

(12) 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;

(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;

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

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

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

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of

patients, or the receiving of a thing of value in return for a 3565
specific referral of a patient to utilize a particular service 3566
or business; 3567

(18) Subject to section 4731.226 of the Revised Code, 3568
violation of any provision of a code of ethics of the American 3569
medical association, the American osteopathic association, the 3570
American podiatric medical association, or any other national 3571
professional organizations that the board specifies by rule. The 3572
state medical board shall obtain and keep on file current copies 3573
of the codes of ethics of the various national professional 3574
organizations. The individual whose license or certificate is 3575
being suspended or revoked shall not be found to have violated 3576
any provision of a code of ethics of an organization not 3577
appropriate to the individual's profession. 3578

For purposes of this division, a "provision of a code of 3579
ethics of a national professional organization" does not include 3580
any provision that would preclude the making of a report by a 3581
physician of an employee's use of a drug of abuse, or of a 3582
condition of an employee other than one involving the use of a 3583
drug of abuse, to the employer of the employee as described in 3584
division (B) of section 2305.33 of the Revised Code. Nothing in 3585
this division affects the immunity from civil liability 3586
conferred by that section upon a physician who makes either type 3587
of report in accordance with division (B) of that section. As 3588
used in this division, "employee," "employer," and "physician" 3589
have the same meanings as in section 2305.33 of the Revised 3590
Code. 3591

(19) Inability to practice according to acceptable and 3592
prevailing standards of care by reason of mental illness or 3593
physical illness, including, but not limited to, physical 3594

deterioration that adversely affects cognitive, motor, or 3595
perceptive skills. 3596

In enforcing this division, the board, upon a showing of a 3597
possible violation, may compel any individual authorized to 3598
practice by this chapter or who has submitted an application 3599
pursuant to this chapter to submit to a mental examination, 3600
physical examination, including an HIV test, or both a mental 3601
and a physical examination. The expense of the examination is 3602
the responsibility of the individual compelled to be examined. 3603
Failure to submit to a mental or physical examination or consent 3604
to an HIV test ordered by the board constitutes an admission of 3605
the allegations against the individual unless the failure is due 3606
to circumstances beyond the individual's control, and a default 3607
and final order may be entered without the taking of testimony 3608
or presentation of evidence. If the board finds an individual 3609
unable to practice because of the reasons set forth in this 3610
division, the board shall require the individual to submit to 3611
care, counseling, or treatment by physicians approved or 3612
designated by the board, as a condition for initial, continued, 3613
reinstated, or renewed authority to practice. An individual 3614
affected under this division shall be afforded an opportunity to 3615
demonstrate to the board the ability to resume practice in 3616
compliance with acceptable and prevailing standards under the 3617
provisions of the individual's license or certificate. For the 3618
purpose of this division, any individual who applies for or 3619
receives a license or certificate to practice under this chapter 3620
accepts the privilege of practicing in this state and, by so 3621
doing, shall be deemed to have given consent to submit to a 3622
mental or physical examination when directed to do so in writing 3623
by the board, and to have waived all objections to the 3624
admissibility of testimony or examination reports that 3625

constitute a privileged communication. 3626

(20) Except as provided in division (F) (1) (b) of section 3627
4731.282 of the Revised Code or when civil penalties are imposed 3628
under section 4731.225 of the Revised Code, and subject to 3629
section 4731.226 of the Revised Code, violating or attempting to 3630
violate, directly or indirectly, or assisting in or abetting the 3631
violation of, or conspiring to violate, any provisions of this 3632
chapter or any rule promulgated by the board. 3633

This division does not apply to a violation or attempted 3634
violation of, assisting in or abetting the violation of, or a 3635
conspiracy to violate, any provision of this chapter or any rule 3636
adopted by the board that would preclude the making of a report 3637
by a physician of an employee's use of a drug of abuse, or of a 3638
condition of an employee other than one involving the use of a 3639
drug of abuse, to the employer of the employee as described in 3640
division (B) of section 2305.33 of the Revised Code. Nothing in 3641
this division affects the immunity from civil liability 3642
conferred by that section upon a physician who makes either type 3643
of report in accordance with division (B) of that section. As 3644
used in this division, "employee," "employer," and "physician" 3645
have the same meanings as in section 2305.33 of the Revised 3646
Code. 3647

(21) The violation of section 3701.79 of the Revised Code 3648
or of any abortion rule adopted by the director of health 3649
pursuant to section 3701.341 of the Revised Code; 3650

(22) Any of the following actions taken by an agency 3651
responsible for authorizing, certifying, or regulating an 3652
individual to practice a health care occupation or provide 3653
health care services in this state or another jurisdiction, for 3654
any reason other than the nonpayment of fees: the limitation, 3655

revocation, or suspension of an individual's license to 3656
practice; acceptance of an individual's license surrender; 3657
denial of a license; refusal to renew or reinstate a license; 3658
imposition of probation; or issuance of an order of censure or 3659
other reprimand; 3660

(23) The violation of section 2919.12 of the Revised Code 3661
or the performance or inducement of an abortion upon a pregnant 3662
woman with actual knowledge that the conditions specified in 3663
division (B) of section 2317.56 of the Revised Code have not 3664
been satisfied or with a heedless indifference as to whether 3665
those conditions have been satisfied, unless an affirmative 3666
defense as specified in division (H) (2) of that section would 3667
apply in a civil action authorized by division (H) (1) of that 3668
section; 3669

(24) The revocation, suspension, restriction, reduction, 3670
or termination of clinical privileges by the United States 3671
department of defense or department of veterans affairs or the 3672
termination or suspension of a certificate of registration to 3673
prescribe drugs by the drug enforcement administration of the 3674
United States department of justice; 3675

(25) Termination or suspension from participation in the 3676
medicare or medicaid programs by the department of health and 3677
human services or other responsible agency; 3678

(26) Impairment of ability to practice according to 3679
acceptable and prevailing standards of care because of habitual 3680
or excessive use or abuse of drugs, alcohol, or other substances 3681
that impair ability to practice. 3682

For the purposes of this division, any individual 3683
authorized to practice by this chapter accepts the privilege of 3684

practicing in this state subject to supervision by the board. By 3685
filing an application for or holding a license or certificate to 3686
practice under this chapter, an individual shall be deemed to 3687
have given consent to submit to a mental or physical examination 3688
when ordered to do so by the board in writing, and to have 3689
waived all objections to the admissibility of testimony or 3690
examination reports that constitute privileged communications. 3691

If it has reason to believe that any individual authorized 3692
to practice by this chapter or any applicant for licensure or 3693
certification to practice suffers such impairment, the board may 3694
compel the individual to submit to a mental or physical 3695
examination, or both. The expense of the examination is the 3696
responsibility of the individual compelled to be examined. Any 3697
mental or physical examination required under this division 3698
shall be undertaken by a treatment provider or physician who is 3699
qualified to conduct the examination and who is chosen by the 3700
board. 3701

Failure to submit to a mental or physical examination 3702
ordered by the board constitutes an admission of the allegations 3703
against the individual unless the failure is due to 3704
circumstances beyond the individual's control, and a default and 3705
final order may be entered without the taking of testimony or 3706
presentation of evidence. If the board determines that the 3707
individual's ability to practice is impaired, the board shall 3708
suspend the individual's license or certificate or deny the 3709
individual's application and shall require the individual, as a 3710
condition for initial, continued, reinstated, or renewed 3711
licensure or certification to practice, to submit to treatment. 3712

Before being eligible to apply for reinstatement of a 3713
license or certificate suspended under this division, the 3714

impaired practitioner shall demonstrate to the board the ability 3715
to resume practice in compliance with acceptable and prevailing 3716
standards of care under the provisions of the practitioner's 3717
license or certificate. The demonstration shall include, but 3718
shall not be limited to, the following: 3719

(a) Certification from a treatment provider approved under 3720
section 4731.25 of the Revised Code that the individual has 3721
successfully completed any required inpatient treatment; 3722

(b) Evidence of continuing full compliance with an 3723
aftercare contract or consent agreement; 3724

(c) Two written reports indicating that the individual's 3725
ability to practice has been assessed and that the individual 3726
has been found capable of practicing according to acceptable and 3727
prevailing standards of care. The reports shall be made by 3728
individuals or providers approved by the board for making the 3729
assessments and shall describe the basis for their 3730
determination. 3731

The board may reinstate a license or certificate suspended 3732
under this division after that demonstration and after the 3733
individual has entered into a written consent agreement. 3734

When the impaired practitioner resumes practice, the board 3735
shall require continued monitoring of the individual. The 3736
monitoring shall include, but not be limited to, compliance with 3737
the written consent agreement entered into before reinstatement 3738
or with conditions imposed by board order after a hearing, and, 3739
upon termination of the consent agreement, submission to the 3740
board for at least two years of annual written progress reports 3741
made under penalty of perjury stating whether the individual has 3742
maintained sobriety. 3743

(27) A second or subsequent violation of section 4731.66	3744
or 4731.69 of the Revised Code;	3745
(28) Except as provided in division (N) of this section:	3746
(a) Waiving the payment of all or any part of a deductible	3747
or copayment that a patient, pursuant to a health insurance or	3748
health care policy, contract, or plan that covers the	3749
individual's services, otherwise would be required to pay if the	3750
waiver is used as an enticement to a patient or group of	3751
patients to receive health care services from that individual;	3752
(b) Advertising that the individual will waive the payment	3753
of all or any part of a deductible or copayment that a patient,	3754
pursuant to a health insurance or health care policy, contract,	3755
or plan that covers the individual's services, otherwise would	3756
be required to pay.	3757
(29) Failure to use universal blood and body fluid	3758
precautions established by rules adopted under section 4731.051	3759
of the Revised Code;	3760
(30) Failure to provide notice to, and receive	3761
acknowledgment of the notice from, a patient when required by	3762
section 4731.143 of the Revised Code prior to providing	3763
nonemergency professional services, or failure to maintain that	3764
notice in the patient's medical record;	3765
(31) Failure of a physician supervising a physician	3766
assistant to maintain supervision in accordance with the	3767
requirements of Chapter 4730. of the Revised Code and the rules	3768
adopted under that chapter;	3769
(32) Failure of a physician or podiatrist to enter into a	3770
standard care arrangement with a clinical nurse specialist,	3771
certified nurse-midwife, or certified nurse practitioner with	3772

whom the physician or podiatrist is in collaboration pursuant to 3773
section 4731.27 of the Revised Code or failure to fulfill the 3774
responsibilities of collaboration after entering into a standard 3775
care arrangement; 3776

(33) Failure to comply with the terms of a consult 3777
agreement entered into with a pharmacist pursuant to section 3778
4729.39 of the Revised Code; 3779

(34) Failure to cooperate in an investigation conducted by 3780
the board under division (F) of this section, including failure 3781
to comply with a subpoena or order issued by the board or 3782
failure to answer truthfully a question presented by the board 3783
in an investigative interview, an investigative office 3784
conference, at a deposition, or in written interrogatories, 3785
except that failure to cooperate with an investigation shall not 3786
constitute grounds for discipline under this section if a court 3787
of competent jurisdiction has issued an order that either 3788
quashes a subpoena or permits the individual to withhold the 3789
testimony or evidence in issue; 3790

(35) Failure to supervise an acupuncturist in accordance 3791
with Chapter 4762. of the Revised Code and the board's rules for 3792
providing that supervision; 3793

(36) Failure to supervise an anesthesiologist assistant in 3794
accordance with Chapter 4760. of the Revised Code and the 3795
board's rules for supervision of an anesthesiologist assistant; 3796

(37) Assisting suicide, as defined in section 3795.01 of 3797
the Revised Code; 3798

(38) Failure to comply with the requirements of section 3799
2317.561 of the Revised Code; 3800

(39) Failure to supervise a radiologist assistant in 3801

accordance with Chapter 4774. of the Revised Code and the 3802
board's rules for supervision of radiologist assistants; 3803

(40) Performing or inducing an abortion at an office or 3804
facility with knowledge that the office or facility fails to 3805
post the notice required under section 3701.791 of the Revised 3806
Code; 3807

(41) Failure to comply with the standards and procedures 3808
established in rules under section 4731.054 of the Revised Code 3809
for the operation of or the provision of care at a pain 3810
management clinic; 3811

(42) Failure to comply with the standards and procedures 3812
established in rules under section 4731.054 of the Revised Code 3813
for providing supervision, direction, and control of individuals 3814
at a pain management clinic; 3815

(43) Failure to comply with the requirements of section 3816
4729.79 or 4731.055 of the Revised Code, unless the state board 3817
of pharmacy no longer maintains a drug database pursuant to 3818
section 4729.75 of the Revised Code; 3819

(44) Failure to comply with the requirements of section 3820
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 3821
to submit to the department of health in accordance with a court 3822
order a complete report as described in section 2919.171 or 3823
2919.202 of the Revised Code; 3824

(45) Practicing at a facility that is subject to licensure 3825
as a category III terminal distributor of dangerous drugs with a 3826
pain management clinic classification unless the person 3827
operating the facility has obtained and maintains the license 3828
with the classification; 3829

(46) Owning a facility that is subject to licensure as a 3830

category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

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

(48) 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;

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

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

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

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

(53) Failure to fulfill the responsibilities of a

collaboration agreement entered into with an athletic trainer as 3860
described in section 4755.621 of the Revised Code. 3861

(C) Disciplinary actions taken by the board under 3862
divisions (A) and (B) of this section shall be taken pursuant to 3863
an adjudication under Chapter 119. of the Revised Code, except 3864
that in lieu of an adjudication, the board may enter into a 3865
consent agreement with an individual to resolve an allegation of 3866
a violation of this chapter or any rule adopted under it. A 3867
consent agreement, when ratified by an affirmative vote of not 3868
fewer than six members of the board, shall constitute the 3869
findings and order of the board with respect to the matter 3870
addressed in the agreement. If the board refuses to ratify a 3871
consent agreement, the admissions and findings contained in the 3872
consent agreement shall be of no force or effect. 3873

A telephone conference call may be utilized for 3874
ratification of a consent agreement that revokes or suspends an 3875
individual's license or certificate to practice or certificate 3876
to recommend. The telephone conference call shall be considered 3877
a special meeting under division (F) of section 121.22 of the 3878
Revised Code. 3879

If the board takes disciplinary action against an 3880
individual under division (B) of this section for a second or 3881
subsequent plea of guilty to, or judicial finding of guilt of, a 3882
violation of section 2919.123 or 2919.124 of the Revised Code, 3883
the disciplinary action shall consist of a suspension of the 3884
individual's license or certificate to practice for a period of 3885
at least one year or, if determined appropriate by the board, a 3886
more serious sanction involving the individual's license or 3887
certificate to practice. Any consent agreement entered into 3888
under this division with an individual that pertains to a second 3889

or subsequent plea of guilty to, or judicial finding of guilt 3890
of, a violation of that section shall provide for a suspension 3891
of the individual's license or certificate to practice for a 3892
period of at least one year or, if determined appropriate by the 3893
board, a more serious sanction involving the individual's 3894
license or certificate to practice. 3895

(D) For purposes of divisions (B) (10), (12), and (14) of 3896
this section, the commission of the act may be established by a 3897
finding by the board, pursuant to an adjudication under Chapter 3898
119. of the Revised Code, that the individual committed the act. 3899
The board does not have jurisdiction under those divisions if 3900
the trial court renders a final judgment in the individual's 3901
favor and that judgment is based upon an adjudication on the 3902
merits. The board has jurisdiction under those divisions if the 3903
trial court issues an order of dismissal upon technical or 3904
procedural grounds. 3905

(E) The sealing of conviction records by any court shall 3906
have no effect upon a prior board order entered under this 3907
section or upon the board's jurisdiction to take action under 3908
this section if, based upon a plea of guilty, a judicial finding 3909
of guilt, or a judicial finding of eligibility for intervention 3910
in lieu of conviction, the board issued a notice of opportunity 3911
for a hearing prior to the court's order to seal the records. 3912
The board shall not be required to seal, destroy, redact, or 3913
otherwise modify its records to reflect the court's sealing of 3914
conviction records. 3915

(F) (1) The board shall investigate evidence that appears 3916
to show that a person has violated any provision of this chapter 3917
or any rule adopted under it. Any person may report to the board 3918
in a signed writing any information that the person may have 3919

that appears to show a violation of any provision of this 3920
chapter or any rule adopted under it. In the absence of bad 3921
faith, any person who reports information of that nature or who 3922
testifies before the board in any adjudication conducted under 3923
Chapter 119. of the Revised Code shall not be liable in damages 3924
in a civil action as a result of the report or testimony. Each 3925
complaint or allegation of a violation received by the board 3926
shall be assigned a case number and shall be recorded by the 3927
board. 3928

(2) Investigations of alleged violations of this chapter 3929
or any rule adopted under it shall be supervised by the 3930
supervising member elected by the board in accordance with 3931
section 4731.02 of the Revised Code and by the secretary as 3932
provided in section 4731.39 of the Revised Code. The president 3933
may designate another member of the board to supervise the 3934
investigation in place of the supervising member. Upon a vote of 3935
the majority of the board to authorize the addition of a 3936
consumer member in the supervision of any part of any 3937
investigation, the president shall designate a consumer member 3938
for supervision of investigations as determined by the 3939
president. The authorization of consumer member participation in 3940
investigation supervision may be rescinded by a majority vote of 3941
the board. No member of the board who supervises the 3942
investigation of a case shall participate in further 3943
adjudication of the case. 3944

(3) In investigating a possible violation of this chapter 3945
or any rule adopted under this chapter, or in conducting an 3946
inspection under division (E) of section 4731.054 of the Revised 3947
Code, the board may question witnesses, conduct interviews, 3948
administer oaths, order the taking of depositions, inspect and 3949
copy any books, accounts, papers, records, or documents, issue 3950

subpoenas, and compel the attendance of witnesses and production 3951
of books, accounts, papers, records, documents, and testimony, 3952
except that a subpoena for patient record information or 3953
information, documents, and records from a peer review committee 3954
of a health care entity related to sexual misconduct or criminal 3955
conduct shall not be issued without consultation with the 3956
attorney general's office and approval of the secretary and 3957
supervising member of the board. 3958

(a) Before issuance of a subpoena for patient record 3959
information or information, documents, and records from a peer 3960
review committee of a health care entity related to sexual 3961
misconduct or criminal conduct, the secretary and supervising 3962
member shall determine whether there is probable cause to 3963
believe that the complaint filed alleges a violation of this 3964
chapter or any rule adopted under it and that the records sought 3965
are relevant to the alleged violation and material to the 3966
investigation. The subpoena may apply only to records that cover 3967
a reasonable period of time surrounding the alleged violation. 3968

(b) On failure to comply with any subpoena issued by the 3969
board and after reasonable notice to the person being 3970
subpoenaed, the board may move for an order compelling the 3971
production of persons or records pursuant to the Rules of Civil 3972
Procedure. 3973

(c) A subpoena issued by the board may be served by a 3974
sheriff, the sheriff's deputy, or a board employee or agent 3975
designated by the board. Service of a subpoena issued by the 3976
board may be made by delivering a copy of the subpoena to the 3977
person named therein, reading it to the person, or leaving it at 3978
the person's usual place of residence, usual place of business, 3979
or address on file with the board. When serving a subpoena to an 3980

applicant for or the holder of a license or certificate issued 3981
under this chapter, service of the subpoena may be made by 3982
certified mail, return receipt requested, and the subpoena shall 3983
be deemed served on the date delivery is made or the date the 3984
person refuses to accept delivery. If the person being served 3985
refuses to accept the subpoena or is not located, service may be 3986
made to an attorney who notifies the board that the attorney is 3987
representing the person. 3988

(d) A sheriff's deputy who serves a subpoena shall receive 3989
the same fees as a sheriff. Each witness who appears before the 3990
board in obedience to a subpoena shall receive the fees and 3991
mileage provided for under section 119.094 of the Revised Code. 3992

(4) All ~~For purposes of section 2305.252 of the Revised~~ 3993
Code, all hearings, investigations, and inspections of the board 3994
shall be considered civil actions ~~for the purposes of section~~ 3995
2305.252 of the Revised Code, except those involving allegations 3996
of sexual misconduct or criminal conduct, as defined in that 3997
section. 3998

(5) A report required to be submitted to the board under 3999
this chapter, a complaint, or information received by the board 4000
pursuant to an investigation or pursuant to an inspection under 4001
division (E) of section 4731.054 of the Revised Code is 4002
confidential and not subject to discovery in any civil action. 4003

The board shall conduct all investigations or inspections 4004
and proceedings in a manner that protects the confidentiality of 4005
patients and persons who file complaints with the board. The 4006
board shall not make public the names or any other identifying 4007
information about patients or complainants unless proper consent 4008
is given or, in the case of a patient, a waiver of the patient 4009
privilege exists under division (B) of section 2317.02 of the 4010

Revised Code, except that consent or a waiver of that nature is 4011
not required if the board possesses reliable and substantial 4012
evidence that no bona fide physician-patient relationship 4013
exists. 4014

The board may share any information it receives pursuant 4015
to an investigation or inspection, including patient records and 4016
patient record information, with law enforcement agencies, other 4017
licensing boards, and other governmental agencies that are 4018
prosecuting, adjudicating, or investigating alleged violations 4019
of statutes or administrative rules. An agency or board that 4020
receives the information shall comply with the same requirements 4021
regarding confidentiality as those with which the state medical 4022
board must comply, notwithstanding any conflicting provision of 4023
the Revised Code or procedure of the agency or board that 4024
applies when it is dealing with other information in its 4025
possession. In a judicial proceeding, the information may be 4026
admitted into evidence only in accordance with the Rules of 4027
Evidence, but the court shall require that appropriate measures 4028
are taken to ensure that confidentiality is maintained with 4029
respect to any part of the information that contains names or 4030
other identifying information about patients or complainants 4031
whose confidentiality was protected by the state medical board 4032
when the information was in the board's possession. Measures to 4033
ensure confidentiality that may be taken by the court include 4034
sealing its records or deleting specific information from its 4035
records. 4036

No person shall knowingly access, use, or disclose 4037
confidential investigatory information in a manner prohibited by 4038
law. 4039

(6) On a quarterly basis, the board shall prepare a report 4040

that documents the disposition of all cases during the preceding 4041
three months. The report shall contain the following information 4042
for each case with which the board has completed its activities: 4043

(a) The case number assigned to the complaint or alleged 4044
violation; 4045

(b) The type of license or certificate to practice, if 4046
any, held by the individual against whom the complaint is 4047
directed; 4048

(c) A description of the allegations contained in the 4049
complaint; 4050

(d) Whether witnesses were interviewed; 4051

(e) Whether the individual against whom the complaint is 4052
directed is the subject of any pending complaints; 4053

(f) The disposition of the case. 4054

The report shall state how many cases are still pending 4055
and shall be prepared in a manner that protects the identity of 4056
each person involved in each case. The report shall be a public 4057
record under section 149.43 of the Revised Code. 4058

(7) The board may provide a status update regarding an 4059
investigation to a complainant on request if the board verifies 4060
the complainant's identity. 4061

~~(G)~~(G) (1) If either of the following circumstances occur, 4062
the secretary and supervising member ~~determine both of the~~ 4063
~~following,~~ they may recommend that the board suspend an 4064
individual's license or certificate to practice or certificate 4065
to recommend without a prior hearing: 4066

~~(1)~~(a) The secretary and supervising member determine 4067

both of the following: 4068

(i) That there is clear and convincing evidence that an 4069
individual has violated division (B) of this section; 4070

~~(2)~~ (ii) That the individual's continued practice presents 4071
a danger of immediate and serious harm to the public. 4072

(b) The board receives verifiable information that a 4073
licensee has been charged in any state or federal court with a 4074
crime classified as a felony under the charging court's law and 4075
the conduct charged constitutes a violation of division (B) of 4076
this section. 4077

~~Written~~ (2) If a recommendation is made to suspend without 4078
a prior hearing pursuant to division (G)(1) of this section, 4079
written allegations shall be prepared for consideration by the 4080
board. The board, upon review of those allegations and by an 4081
affirmative vote of not fewer than six of its members, excluding 4082
the secretary and supervising member, may suspend a license or 4083
certificate without a prior hearing. A telephone conference call 4084
may be utilized for reviewing the allegations and taking the 4085
vote on the summary suspension. 4086

The board shall issue a written order of suspension by 4087
certified mail or in person in accordance with section 119.07 of 4088
the Revised Code. The order shall not be subject to suspension 4089
by the court during pendency of any appeal filed under section 4090
119.12 of the Revised Code. If the individual subject to the 4091
summary suspension requests an adjudicatory hearing by the 4092
board, the date set for the hearing shall be within fifteen 4093
days, but not earlier than seven days, after the individual 4094
requests the hearing, unless otherwise agreed to by both the 4095
board and the individual. 4096

(3) Any summary suspension imposed under this division 4097
shall remain in effect, unless reversed on appeal, until a final 4098
adjudicative order issued by the board pursuant to this section 4099
and Chapter 119. of the Revised Code becomes effective. The 4100
board shall issue its final adjudicative order within seventy- 4101
five days after completion of its hearing. A failure to issue 4102
the order within seventy-five days shall result in dissolution 4103
of the summary suspension order but shall not invalidate any 4104
subsequent, final adjudicative order. 4105

(H) If the board takes action under division (B) (9), (11), 4106
or (13) of this section and the judicial finding of guilt, 4107
guilty plea, or judicial finding of eligibility for intervention 4108
in lieu of conviction is overturned on appeal, upon exhaustion 4109
of the criminal appeal, a petition for reconsideration of the 4110
order may be filed with the board along with appropriate court 4111
documents. Upon receipt of a petition of that nature and 4112
supporting court documents, the board shall reinstate the 4113
individual's license or certificate to practice. The board may 4114
then hold an adjudication under Chapter 119. of the Revised Code 4115
to determine whether the individual committed the act in 4116
question. Notice of an opportunity for a hearing shall be given 4117
in accordance with Chapter 119. of the Revised Code. If the 4118
board finds, pursuant to an adjudication held under this 4119
division, that the individual committed the act or if no hearing 4120
is requested, the board may order any of the sanctions 4121
identified under division (B) of this section. 4122

(I) The license or certificate to practice issued to an 4123
individual under this chapter and the individual's practice in 4124
this state are automatically suspended as of the date of the 4125
individual's second or subsequent plea of guilty to, or judicial 4126
finding of guilt of, a violation of section 2919.123 or 2919.124 4127

of the Revised Code. In addition, the license or certificate to 4128
practice or certificate to recommend issued to an individual 4129
under this chapter and the individual's practice in this state 4130
are automatically suspended as of the date the individual pleads 4131
guilty to, is found by a judge or jury to be guilty of, or is 4132
subject to a judicial finding of eligibility for intervention in 4133
lieu of conviction in this state or treatment or intervention in 4134
lieu of conviction in another jurisdiction for any of the 4135
following criminal offenses in this state or a substantially 4136
equivalent criminal offense in another jurisdiction: aggravated 4137
murder, murder, voluntary manslaughter, felonious assault, 4138
trafficking in persons, kidnapping, rape, sexual battery, gross 4139
sexual imposition, aggravated arson, aggravated robbery, or 4140
aggravated burglary. Continued practice after suspension shall 4141
be considered practicing without a license or certificate. 4142

The board shall notify the individual subject to the 4143
suspension by certified mail or in person in accordance with 4144
section 119.07 of the Revised Code. If an individual whose 4145
license or certificate is automatically suspended under this 4146
division fails to make a timely request for an adjudication 4147
under Chapter 119. of the Revised Code, the board shall do 4148
whichever of the following is applicable: 4149

(1) If the automatic suspension under this division is for 4150
a second or subsequent plea of guilty to, or judicial finding of 4151
guilt of, a violation of section 2919.123 or 2919.124 of the 4152
Revised Code, the board shall enter an order suspending the 4153
individual's license or certificate to practice for a period of 4154
at least one year or, if determined appropriate by the board, 4155
imposing a more serious sanction involving the individual's 4156
license or certificate to practice. 4157

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

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

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

(L) When the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, 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 certificate to practice and the board shall not accept an application for

reinstatement of the license or certificate or for issuance of a 4188
new license or certificate. 4189

(M) Notwithstanding any other provision of the Revised 4190
Code, all of the following apply: 4191

(1) The surrender of a license or certificate issued under 4192
this chapter shall not be effective unless or until accepted by 4193
the board. A telephone conference call may be utilized for 4194
acceptance of the surrender of an individual's license or 4195
certificate to practice. The telephone conference call shall be 4196
considered a special meeting under division (F) of section 4197
121.22 of the Revised Code. Reinstatement of a license or 4198
certificate surrendered to the board requires an affirmative 4199
vote of not fewer than six members of the board. 4200

(2) An application for a license or certificate made under 4201
the provisions of this chapter may not be withdrawn without 4202
approval of the board. 4203

(3) Failure by an individual to renew a license or 4204
certificate to practice in accordance with this chapter or a 4205
certificate to recommend in accordance with rules adopted under 4206
section 4731.301 of the Revised Code shall not remove or limit 4207
the board's jurisdiction to take any disciplinary action under 4208
this section against the individual. 4209

(4) At the request of the board, a license or certificate 4210
holder shall immediately surrender to the board a license or 4211
certificate that the board has suspended, revoked, or 4212
permanently revoked. 4213

(N) Sanctions shall not be imposed under division (B) (28) 4214
of this section against any person who waives deductibles and 4215
copayments as follows: 4216

(1) In compliance with the health benefit plan that 4217
expressly allows such a practice. Waiver of the deductibles or 4218
copayments shall be made only with the full knowledge and 4219
consent of the plan purchaser, payer, and third-party 4220
administrator. Documentation of the consent shall be made 4221
available to the board upon request. 4222

(2) For professional services rendered to any other person 4223
authorized to practice pursuant to this chapter, to the extent 4224
allowed by this chapter and rules adopted by the board. 4225

(O) Under the board's investigative duties described in 4226
this section and subject to division (F) of this section, the 4227
board shall develop and implement a quality intervention program 4228
designed to improve through remedial education the clinical and 4229
communication skills of individuals authorized under this 4230
chapter to practice medicine and surgery, osteopathic medicine 4231
and surgery, and podiatric medicine and surgery. In developing 4232
and implementing the quality intervention program, the board may 4233
do all of the following: 4234

(1) Offer in appropriate cases as determined by the board 4235
an educational and assessment program pursuant to an 4236
investigation the board conducts under this section; 4237

(2) Select providers of educational and assessment 4238
services, including a quality intervention program panel of case 4239
reviewers; 4240

(3) Make referrals to educational and assessment service 4241
providers and approve individual educational programs 4242
recommended by those providers. The board shall monitor the 4243
progress of each individual undertaking a recommended individual 4244
educational program. 4245

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

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

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

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

(Q) A license or certificate to practice or certificate to recommend issued to an individual under this chapter and an individual's practice under this chapter in this state are automatically suspended if the individual's license or certificate to practice a health care occupation or provide health care services is suspended, revoked, or surrendered or relinquished in lieu of discipline 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. The automatic suspension shall begin immediately upon entry of the order by the agency and last for ninety days to permit the board to investigate the basis for the action under this chapter. Continued practice during the automatic suspension shall be considered practicing without a

license or certificate. 4276

The board shall notify the individual subject to the 4277
automatic suspension by certified mail or in person in 4278
accordance with section 119.07 of the Revised Code. If an 4279
individual subject to an automatic suspension under this 4280
division fails to make a timely request for an adjudication 4281
under Chapter 119. of the Revised Code, the board is not 4282
required to hold a hearing, but may adopt, by an affirmative 4283
vote of not fewer than six of its members, a final order that 4284
contains the board's findings. In that final order, the board 4285
may order any of the sanctions identified under division (A) or 4286
(B) of this section. 4287

Sec. 4731.224. (A) As used in this section: 4288

(1) "Criminal conduct" means any conduct that would 4289
constitute a felony, a misdemeanor committed in the course of 4290
medical practice, an offense of violence, or a sexually oriented 4291
offense, as defined in section 2950.01 of the Revised Code, 4292
regardless of whether a criminal charge has been filed or the 4293
location in this state where the conduct occurred. 4294

(2) "Sexual misconduct" means conduct that exploits the 4295
licensee-patient relationship in a sexual way, whether verbal or 4296
physical, and may include the expression of thoughts, feelings, 4297
or gestures that are sexual or that reasonably may be construed 4298
by a patient as sexual. Sexual misconduct includes sexual 4299
impropriety, sexual contact, and sexual interaction as defined 4300
by the state medical board in rules adopted in accordance with 4301
Chapter 119. of the Revised Code. 4302

(B) (1) Within ~~sixty~~-thirty days after the imposition of 4303
any formal disciplinary action taken by any health care 4304

facility, including a hospital, health care facility operated by 4305
a health insuring corporation, ambulatory surgical center, or 4306
similar facility, against any individual holding a valid license 4307
or certificate to practice issued pursuant to this chapter, the 4308
chief administrator or executive officer of the facility shall 4309
report to the state medical board the name of the individual, 4310
the action taken by the facility, and a summary of the 4311
underlying facts leading to the action taken. Upon request, the 4312
board shall be provided certified copies of the patient records 4313
that were the basis for the facility's action. Prior to release 4314
to the board, the summary shall be approved by the peer review 4315
committee that reviewed the case or by the governing board of 4316
the facility. As used in this division, "formal disciplinary 4317
action" means any action resulting in the revocation, 4318
restriction, reduction, or termination of clinical privileges 4319
for violations of professional ethics, or for reasons of medical 4320
incompetence or medical malpractice. "Formal disciplinary 4321
action" includes a summary action, an action that takes effect 4322
notwithstanding any appeal rights that may exist, and an action 4323
that results in an individual surrendering clinical privileges 4324
while under investigation and during proceedings regarding the 4325
action being taken or in return for not being investigated or 4326
having proceedings held. "Formal disciplinary action" does not 4327
include any action taken for the sole reason of failure to 4328
maintain records on a timely basis or failure to attend staff or 4329
section meetings. 4330

The filing or nonfiling of a report with the board, 4331
investigation by the board, or any disciplinary action taken by 4332
the board, shall not preclude any action by a health care 4333
facility to suspend, restrict, or revoke the individual's 4334
clinical privileges. 4335

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 or certificate 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, if any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of any provision of this chapter, Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code, or any rule of the board has occurred, the individual, association, or society shall report to the board the information upon which the belief is based.

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B) (26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the

board, it shall be referred to the monitoring organization 4366
unless the board is aware that the individual who is the subject 4367
of the report does not meet the program eligibility requirements 4368
of section 4731.252 of the Revised Code. 4369

(3) If any individual authorized to practice under this 4370
chapter or any professional association or society of such 4371
individuals knows or has reasonable cause to suspect based on 4372
facts that would cause a reasonable person in a similar position 4373
to suspect that an individual authorized to practice under this 4374
chapter has committed or participated in criminal conduct or 4375
sexual misconduct the information upon which the belief is based 4376
shall be reported to the board within thirty days. 4377

(4) In addition to the self-reporting of criminal offenses 4378
that is required for license renewal, an individual authorized 4379
to practice under this chapter shall report to the board 4380
criminal charges regarding criminal conduct, sexual misconduct, 4381
or any conduct involving the use of a motor vehicle while under 4382
the influence of alcohol or drugs, including offenses that are 4383
equivalent offenses under division (A) of section 4511.181 of 4384
the Revised Code, violations of division (D) of section 4511.194 4385
of the Revised Code, and violations of division (C) of section 4386
4511.79 of the Revised Code. Reports under this division shall 4387
be made within thirty days of the criminal charge being filed. 4388

~~(C)~~ (D) Any professional association or society composed 4389
primarily of doctors of medicine and surgery, doctors of 4390
osteopathic medicine and surgery, doctors of podiatric medicine 4391
and surgery, or practitioners of limited branches of medicine 4392
that suspends or revokes an individual's membership for 4393
violations of professional ethics, or for reasons of 4394
professional incompetence or professional malpractice, within 4395

~~sixty~~thirty days after a final decision shall report to the 4396
board, on forms prescribed and provided by the board, the name 4397
of the individual, the action taken by the professional 4398
organization, and a summary of the underlying facts leading to 4399
the action taken. 4400

The filing of a report with the board or decision not to 4401
file a report, investigation by the board, or any disciplinary 4402
action taken by the board, does not preclude a professional 4403
organization from taking disciplinary action against an 4404
individual. 4405

~~(D)~~(E) Any insurer providing professional liability 4406
insurance to an individual authorized to practice under this 4407
chapter, or any other entity that seeks to indemnify the 4408
professional liability of such an individual, shall notify the 4409
board within thirty days after the final disposition of any 4410
written claim for damages where such disposition results in a 4411
payment exceeding twenty-five thousand dollars. The notice shall 4412
contain the following information: 4413

(1) The name and address of the person submitting the 4414
notification; 4415

(2) The name and address of the insured who is the subject 4416
of the claim; 4417

(3) The name of the person filing the written claim; 4418

(4) The date of final disposition; 4419

(5) If applicable, the identity of the court in which the 4420
final disposition of the claim took place. 4421

~~(E)~~(F) The board may investigate possible violations of 4422
this chapter or the rules adopted under it that are brought to 4423

its attention as a result of the reporting requirements of this 4424
section, except that the board shall conduct an investigation if 4425
a possible violation involves repeated malpractice. As used in 4426
this division, "repeated malpractice" means three or more claims 4427
for medical malpractice within the previous five-year period, 4428
each resulting in a judgment or settlement in excess of twenty- 4429
five thousand dollars in favor of the claimant, and each 4430
involving negligent conduct by the practicing individual. 4431

~~(F)-(G) All summaries, reports, and records received and 4432
maintained by the board pursuant to this section shall be held- 4433
in confidence and shall not be subject to discovery or 4434
introduction in evidence in any federal or state civil action- 4435
involving a health care professional or facility arising out of 4436
matters that are the subject of the reporting required by this- 4437
section. The board may use the information obtained only as the 4438
basis for an investigation, as evidence in a disciplinary 4439
hearing against an individual whose practice is regulated under 4440
this chapter, or in any subsequent trial or appeal of a board- 4441
action or order. 4442~~

~~The board may disclose the summaries and reports it 4443
receives under this section only to health care facility 4444
committees within or outside this state that are involved in 4445
credentialing or recredentialing the individual or in reviewing 4446
the individual's clinical privileges. The board shall indicate 4447
whether or not the information has been verified. Information 4448
transmitted by the board shall be subject to the same 4449
confidentiality provisions as when maintained by the 4450
board confidential pursuant to division (F) (5) of section 4731.22 4451
of the Revised Code. 4452~~

~~(G)-(H) Except for reports filed by an individual pursuant 4453~~

to division ~~(B)~~(B) (2) or (C) of this section, the board shall 4454
send a copy of any reports or summaries it receives pursuant to 4455
this section to the individual who is the subject of the reports 4456
or summaries. The individual shall have the right to file a 4457
statement with the board concerning the correctness or relevance 4458
of the information. The statement shall at all times accompany 4459
that part of the record in contention. 4460

~~(H)~~(I) An individual or entity that, pursuant to this 4461
section, reports to the board, reports to the monitoring 4462
organization described in section 4731.251 of the Revised Code, 4463
or refers an impaired practitioner to a treatment provider 4464
approved by the board under section 4731.25 of the Revised Code 4465
shall not be subject to suit for civil damages as a result of 4466
the report, referral, or provision of the information. 4467

~~(I)~~(J) In the absence of fraud or bad faith, no 4468
professional association or society of individuals authorized to 4469
practice under this chapter that sponsors a committee or program 4470
to provide peer assistance to practitioners with substance abuse 4471
problems, no representative or agent of such a committee or 4472
program, no representative or agent of the monitoring 4473
organization described in section 4731.251 of the Revised Code, 4474
and no member of the state medical board shall be held liable in 4475
damages to any person by reason of actions taken to refer a 4476
practitioner to a treatment provider approved under section 4477
4731.25 of the Revised Code for examination or treatment. 4478

Sec. 4731.2210. (A) As used in this section: 4479

(1) "Key third party" means an individual closely involved 4480
in a patient's decision-making regarding health care services, 4481
including a patient's spouse or partner, parents, children, 4482
siblings, or guardians. An individual's status as a key third 4483

party ceases upon termination of a practitioner-patient 4484
relationship or termination of the relationship between a 4485
patient and the individual. 4486

(2) "Practitioner" means any of the following: 4487

(a) An individual authorized under this chapter to 4488
practice medicine and surgery, osteopathic medicine and surgery, 4489
podiatric medicine and surgery, or a limited branch of medicine; 4490

(b) An individual licensed under Chapter 4730. of the 4491
Revised Code to practice as a physician assistant; 4492

(c) An individual authorized under Chapter 4759. of the 4493
Revised Code to practice as a dietitian; 4494

(d) An individual authorized under Chapter 4760. of the 4495
Revised Code to practice as an anesthesiologist assistant; 4496

(e) An individual authorized under Chapter 4761. of the 4497
Revised Code to practice respiratory care; 4498

(f) An individual authorized under Chapter 4762. of the 4499
Revised Code to practice as an acupuncturist or oriental 4500
medicine practitioner; 4501

(g) An individual authorized under Chapter 4774. of the 4502
Revised Code to practice as a radiologist assistant; 4503

(h) An individual licensed under Chapter 4778. of the 4504
Revised Code to practice as a genetic counselor. 4505

(3) "Sexual misconduct" has the same meaning as in section 4506
4731.224 of the Revised Code. 4507

(B) Except as provided in division (D) of this section, 4508
each practitioner that is subject to a probationary order of the 4509
state medical board that is made on or after the effective date 4510

of this section and that involves a circumstance described in 4511
division (C) of this section shall provide to each patient, or 4512
to the patient's guardian or a key third party, a written 4513
disclosure signed by the practitioner that includes all of the 4514
following: 4515

(1) The practitioner's probation status; 4516

(2) The total length of the probation; 4517

(3) The probation end date; 4518

(4) Practice restrictions placed on the practitioner by 4519
the board; 4520

(5) The board's telephone number; 4521

(6) An explanation of how the patient can find additional 4522
information regarding the probation on the practitioner's 4523
profile page on the board's internet web site. 4524

The written disclosure shall be provided before the 4525
patient's first visit following the probationary order of the 4526
board. The practitioner shall obtain a copy of the disclosure 4527
signed by the patient, or the patient's guardian or a key third 4528
party, and maintain the signed copy in the patient's medical 4529
record. The signed copy shall be made available to the board 4530
immediately upon request. 4531

(C) The written disclosure required by division (B) of 4532
this section applies in both of the following circumstances: 4533

(1) Issuance by the board of a final order, final 4534
adjudicative order under Chapter 119. of the Revised Code, or a 4535
consent agreement that is ratified by an affirmative vote of not 4536
fewer than six members of the board establishing any of the 4537
following: 4538

(a) Commission of any act of sexual misconduct with a patient or key third party; 4539
4540

(b) Drug or alcohol abuse directly resulting in patient harm, or that impairs the ability of the practitioner to practice safely; 4541
4542
4543

(c) Criminal conviction directly resulting in harm to patient health; 4544
4545

(d) Inappropriate prescribing directly resulting in patient harm. 4546
4547

(2) A statement of issues alleged that the practitioner committed any of the acts described in divisions (C) (1) (a) through (d) and, notwithstanding a lack of admission of guilt, a consent agreement ratified by an affirmative vote of not fewer than six members of the board includes express acknowledgement that the disclosure requirements of this section would serve to protect the public interest. 4548
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(D) Written disclosure as described in this section is not required in the following circumstances: 4555
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(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign it, and a guardian or a key third party is unavailable to comprehend and sign it; 4557
4558
4559

(2) The direct patient interaction occurs in an emergency department or otherwise occurs as an immediate result of a medical emergency; 4560
4561
4562

(3) The practitioner does not have a direct treatment relationship with the patient and does not have direct contact or direct communication with the patient. 4563
4564
4565

(E) The board shall provide the following information 4566

regarding practitioners on probation and those practicing under 4567
probationary status, in plain view on a practitioner's profile 4568
page on the board's internet web site: 4569

(1) Formal action documents detailing the citation, 4570
reports and recommendations, board order, and consent agreement; 4571

(2) The length of the probation and the end date; 4572

(3) Practice restrictions placed on the practitioner by 4573
the board. 4574

(F) The board shall provide a sample probation disclosure 4575
letter on its internet web site to be used by practitioners to 4576
comply with this section. 4577

Sec. 4731.251. (A) As used in this section and in sections 4578
4731.252 and 4731.253 of the Revised Code: 4579

(1) "Impaired" or "impairment" has the same meaning as in 4580
division (B) (5) of section 4730.25, division (B) (26) of section 4581
4731.22, division (A) (18) of section 4759.07, division (B) (6) of 4582
section 4760.13, division (A) (18) of section 4761.09, division 4583
(B) (6) of section 4762.13, division (B) (6) of section 4774.13, 4584
or division (B) (6) of section 4778.14 of the Revised Code. 4585

(2) "Practitioner" means any of the following: 4586

(a) An individual authorized under this chapter to 4587
practice medicine and surgery, osteopathic medicine and surgery, 4588
podiatric medicine and surgery, or a limited branch of medicine; 4589

(b) An individual licensed under Chapter 4730. of the 4590
Revised Code to practice as a physician assistant; 4591

(c) An individual authorized under Chapter 4759. of the 4592
Revised Code to practice as a dietitian; 4593

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;	4594 4595
(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;	4596 4597
(f) An individual authorized under Chapter 4762. of the Revised Code to practice as an acupuncturist or oriental medicine practitioner;	4598 4599 4600
(g) An individual authorized under Chapter 4774. of the Revised Code to practice as a radiologist assistant;	4601 4602
(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.	4603 4604
(B) The state medical board shall establish a confidential program for treatment of impaired practitioners, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services.	4605 4606 4607 4608 4609
To be qualified to contract with the board under this section, an organization must meet all of the following requirements:	4610 4611 4612
(1) Be sponsored by one or more professional associations or societies of practitioners;	4613 4614
(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;	4615 4616 4617
(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in	4618 4619 4620 4621

addiction medicine; 4622

(4) Contract with or employ one or more of the following 4623
as necessary for the organization's operation: 4624

(a) An individual licensed under Chapter 4758. of the 4625
Revised Code as an independent chemical dependency counselor- 4626
clinical supervisor, independent chemical dependency counselor, 4627
chemical dependency counselor III, or chemical dependency 4628
counselor II; 4629

(b) An individual licensed under Chapter 4757. of the 4630
Revised Code as an independent social worker, social worker, 4631
licensed professional clinical counselor, or licensed 4632
professional counselor; 4633

(c) An individual licensed under Chapter 4732. of the 4634
Revised Code as a psychologist. 4635

(C) The monitoring organization shall do all of the 4636
following pursuant to the contract: 4637

(1) Receive any report of suspected impairment, including 4638
a report made under division ~~(B) (2)~~ (C) (2) of section 4730.32, 4639
division ~~(B) (2)~~ (C) (2) of section 4731.224, section 4759.13, 4640
division ~~(B) (2)~~ (C) (2) of section 4760.16, section 4761.19, 4641
division ~~(B) (2)~~ (C) (2) of section 4762.16, division ~~(B) (2)~~ (C) 4642
(2) of section 4774.16, or section 4778.17 of the Revised Code; 4643

(2) Notify a practitioner who is the subject of a report 4644
received under division (C) (1) of this section that the report 4645
has been made and that the practitioner may be eligible to 4646
participate in the program conducted under this section; 4647

(3) Determine whether a practitioner reported to the 4648
monitoring organization is eligible to participate in the 4649

program and notify the practitioner of the determination; 4650

(4) In the case of a practitioner reported by a treatment 4651
provider, notify the treatment provider of the eligibility 4652
determination; 4653

(5) Report to the board any practitioner who is determined 4654
ineligible to participate in the program; 4655

(6) Refer an eligible practitioner who chooses to 4656
participate in the program for evaluation by a treatment 4657
provider approved by the board under section 4731.25 of the 4658
Revised Code, unless the report received by the monitoring 4659
organization was made by an approved treatment provider and the 4660
practitioner has already been evaluated by the treatment 4661
provider; 4662

(7) Monitor the evaluation of an eligible practitioner; 4663

(8) Refer an eligible practitioner who chooses to 4664
participate in the program to a treatment provider approved by 4665
the board under section 4731.25 of the Revised Code; 4666

(9) Establish, in consultation with the treatment provider 4667
to which a practitioner is referred, the terms and conditions 4668
with which the practitioner must comply for continued 4669
participation in and successful completion of the program; 4670

(10) Report to the board any practitioner who does not 4671
complete evaluation or treatment or does not comply with any of 4672
the terms and conditions established by the monitoring 4673
organization and the treatment provider; 4674

(11) Perform any other activities specified in the 4675
contract with the board or that the monitoring organization 4676
considers necessary to comply with this section and sections 4677

4731.252 and 4731.253 of the Revised Code. 4678

(D) The monitoring organization shall not disclose to the 4679
board the name of a practitioner or any records relating to a 4680
practitioner, unless any of the following occurs: 4681

(1) The practitioner is determined to be ineligible to 4682
participate in the program. 4683

(2) The practitioner requests the disclosure. 4684

(3) The practitioner is unwilling or unable to complete or 4685
comply with any part of the program, including evaluation, 4686
treatment, or monitoring. 4687

(4) The practitioner presents an imminent danger to the 4688
public or to the practitioner, as a result of the practitioner's 4689
impairment. 4690

(5) The practitioner has relapsed or the practitioner's 4691
impairment has not been substantially alleviated by 4692
participation in the program. 4693

(E) (1) The monitoring organization shall develop 4694
procedures governing each of the following: 4695

(a) Receiving reports of practitioner impairment; 4696

(b) Notifying practitioners of reports and eligibility 4697
determinations; 4698

(c) Referring eligible practitioners for evaluation or 4699
treatment; 4700

(d) Establishing individualized treatment plans for 4701
eligible practitioners, as recommended by treatment providers; 4702

(e) Establishing individualized terms and conditions with 4703
which eligible practitioners must comply for continued 4704

participation in and successful completion of the program. 4705

(2) The monitoring organization, in consultation with the 4706
board, shall develop procedures governing each of the following: 4707

(a) Providing reports to the board on a periodic basis on 4708
the total number of practitioners participating in the program, 4709
without disclosing the names or records of any program 4710
participants other than those about whom reports are required by 4711
this section; 4712

(b) Reporting to the board any practitioner who due to 4713
impairment presents an imminent danger to the public or to the 4714
practitioner; 4715

(c) Reporting to the board any practitioner who is 4716
unwilling or unable to complete or comply with any part of the 4717
program, including evaluation, treatment, or monitoring; 4718

(d) Reporting to the board any practitioner whose 4719
impairment was not substantially alleviated by participation in 4720
the program or who has relapsed. 4721

(F) The board may adopt any rules it considers necessary 4722
to implement this section and sections 4731.252 and 4731.253 of 4723
the Revised Code, including rules regarding the monitoring 4724
organization and treatment providers that provide treatment to 4725
practitioners referred by the monitoring organization. Any such 4726
rules shall be adopted in accordance with Chapter 119. of the 4727
Revised Code. 4728

Sec. 4731.99. (A) Whoever violates section 4731.41, 4729
4731.43, or 4731.60 of the Revised Code is guilty of a felony of 4730
the fifth degree on a first offense and a felony of the fourth 4731
degree on each subsequent offense. 4732

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 4733
of the Revised Code is guilty of a misdemeanor of the fourth 4734
degree on a first offense and a misdemeanor of the first degree 4735
on each subsequent offense. 4736

(C) Whoever violates section 4731.46 or 4731.47 of the 4737
Revised Code is guilty of a felony of the fifth degree. 4738

(D) Whoever violates section 4731.48 of the Revised Code 4739
is guilty of a misdemeanor of the fourth degree. 4740

~~(E)~~ (E) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 4741
(1), ~~or (C) (2)~~, (D), or (E) of section 4731.224 of the Revised 4742
Code is guilty of a minor misdemeanor on a first offense and a 4743
misdemeanor of the fourth degree on each subsequent offense, 4744
except that an individual guilty of a subsequent offense shall 4745
not be subject to imprisonment, but to a fine alone of up to one 4746
thousand dollars for each offense. 4747

(2) Whoever violates division (B) (2) or (C) (3) of section 4748
4731.224 of the Revised Code is guilty of failure to report 4749
criminal conduct or sexual misconduct, a misdemeanor of the 4750
fourth degree. If the offender has previously been convicted of 4751
a violation of this division, the failure to report is a 4752
misdemeanor of the first degree. 4753

(F) Whoever violates section 4731.481 of the Revised Code 4754
is guilty of a misdemeanor of the first degree. 4755

(G) Whoever violates division (F) (5) of section 4731.22 of 4756
the Revised Code is guilty of disclosing confidential 4757
investigatory information, a misdemeanor of the first degree. 4758

Sec. 4759.05. (A) The state medical board shall adopt, 4759
amend, or rescind rules pursuant to Chapter 119. of the Revised 4760
Code to carry out the provisions of this chapter, including 4761

rules governing the following:	4762
(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration or any other examination;	4763 4764 4765
(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;	4766 4767 4768
(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration;	4769 4770 4771 4772
(4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;	4773 4774 4775 4776
(5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.	4777 4778 4779 4780 4781 4782 4783 4784
(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;	4785 4786 4787 4788
(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with	4789 4790

those standards of professional responsibility and practice 4791
adopted by the academy of nutrition and dietetics; 4792

(8) Formulation of an application form for licensure or 4793
license renewal; 4794

(9) Procedures for license renewal; 4795

(10) Requirements for criminal records checks of 4796
applicants under section 4776.03 of the Revised Code. 4797

(B) (1) The board shall investigate evidence that appears 4798
to show that a person has violated any provision of this chapter 4799
or any rule adopted under it. Any person may report to the board 4800
in a signed writing any information that the person may have 4801
that appears to show a violation of any provision of this 4802
chapter or any rule adopted under it. In the absence of bad 4803
faith, any person who reports information of that nature or who 4804
testifies before the board in any adjudication conducted under 4805
Chapter 119. of the Revised Code shall not be liable in damages 4806
in a civil action as a result of the report or testimony. Each 4807
complaint or allegation of a violation received by the board 4808
shall be assigned a case number and shall be recorded by the 4809
board. 4810

(2) Investigations of alleged violations of this chapter 4811
or any rule adopted under it shall be supervised by the 4812
supervising member elected by the board in accordance with 4813
section 4731.02 of the Revised Code and by the secretary as 4814
provided in section 4759.012 of the Revised Code. The president 4815
may designate another member of the board to supervise the 4816
investigation in place of the supervising member. Upon a vote of 4817
the majority of the board to authorize the addition of a 4818
consumer member in the supervision of any part of any 4819

investigation, the president shall designate a consumer member 4820
for supervision of investigations as determined by the 4821
president. The authorization of consumer member participation in 4822
investigation supervision may be rescinded by a majority vote of 4823
the board. No member of the board who supervises the 4824
investigation of a case shall participate in further 4825
adjudication of the case. 4826

(3) In investigating a possible violation of this chapter 4827
or any rule adopted under this chapter, the board may issue 4828
subpoenas, question witnesses, conduct interviews, administer 4829
oaths, order the taking of depositions, inspect and copy any 4830
books, accounts, papers, records, or documents, and compel the 4831
attendance of witnesses and the production of books, accounts, 4832
papers, records, documents, and testimony, except that a 4833
subpoena for patient record information or information, 4834
documents, and records from a peer review committee of a health 4835
care entity related to sexual misconduct or criminal conduct 4836
shall not be issued without consultation with the attorney 4837
general's office and approval of the secretary and supervising 4838
member of the board. 4839

Before issuance of a subpoena for patient record 4840
information or information, documents, and records from a peer 4841
review committee of a health care entity related to sexual 4842
misconduct or criminal conduct, the secretary and supervising 4843
member shall determine whether there is probable cause to 4844
believe that the complaint filed alleges a violation of this 4845
chapter or any rule adopted under it and that the records sought 4846
are relevant to the alleged violation and material to the 4847
investigation. The subpoena may apply only to records that cover 4848
a reasonable period of time surrounding the alleged violation. 4849

On failure to comply with any subpoena issued by the board 4850
and after reasonable notice to the person being subpoenaed, the 4851
board may move for an order compelling the production of persons 4852
or records pursuant to the Rules of Civil Procedure. 4853

A subpoena issued by the board may be served by a sheriff, 4854
the sheriff's deputy, or a board employee or agent designated by 4855
the board. Service of a subpoena issued by the board may be made 4856
by delivering a copy of the subpoena to the person named 4857
therein, reading it to the person, or leaving it at the person's 4858
usual place of residence, usual place of business, or address on 4859
file with the board. When serving a subpoena to an applicant for 4860
or the holder of a license or limited permit issued under this 4861
chapter, service of the subpoena may be made by certified mail, 4862
return receipt requested, and the subpoena shall be deemed 4863
served on the date delivery is made or the date the person 4864
refuses to accept delivery. If the person being served refuses 4865
to accept the subpoena or is not located, service may be made to 4866
an attorney who notifies the board that the attorney is 4867
representing the person. 4868

A sheriff's deputy who serves a subpoena shall receive the 4869
same fees as a sheriff. Each witness who appears before the 4870
board in obedience to a subpoena shall receive the fees and 4871
mileage provided for under section 119.094 of the Revised Code. 4872

(4) All For purposes of section 2305.252 of the Revised 4873
Code, all hearings, investigations, and inspections of the board 4874
shall be considered civil actions ~~for the purposes of section~~ 4875
~~2305.252 of the Revised Code, except those involving allegations~~ 4876
of sexual misconduct or criminal conduct, as defined in that 4877
section. 4878

(5) A report required to be submitted to the board under 4879

this chapter, a complaint, or information received by the board 4880
pursuant to an investigation is confidential and not subject to 4881
discovery in any civil action. 4882

The board shall conduct all investigations or inspections 4883
and proceedings in a manner that protects the confidentiality of 4884
patients and persons who file complaints with the board. The 4885
board shall not make public the names or any other identifying 4886
information about patients or complainants unless proper consent 4887
is given. 4888

The board may share any information it receives pursuant 4889
to an investigation or inspection, including patient records and 4890
patient record information, with law enforcement agencies, other 4891
licensing boards, and other governmental agencies that are 4892
prosecuting, adjudicating, or investigating alleged violations 4893
of statutes or administrative rules. An agency or board that 4894
receives the information shall comply with the same requirements 4895
regarding confidentiality as those with which the state medical 4896
board must comply, notwithstanding any conflicting provision of 4897
the Revised Code or procedure of the agency or board that 4898
applies when it is dealing with other information in its 4899
possession. In a judicial proceeding, the information may be 4900
admitted into evidence only in accordance with the Rules of 4901
Evidence, but the court shall require that appropriate measures 4902
are taken to ensure that confidentiality is maintained with 4903
respect to any part of the information that contains names or 4904
other identifying information about patients or complainants 4905
whose confidentiality was protected by the state medical board 4906
when the information was in the board's possession. Measures to 4907
ensure confidentiality that may be taken by the court include 4908
sealing its records or deleting specific information from its 4909
records. 4910

No person shall knowingly access, use, or disclose 4911
confidential investigatory information in a manner prohibited by 4912
law. 4913

(6) On a quarterly basis, the board shall prepare a report 4914
that documents the disposition of all cases during the preceding 4915
three months. The report shall contain the following information 4916
for each case with which the board has completed its activities: 4917

(a) The case number assigned to the complaint or alleged 4918
violation; 4919

(b) The type of license, if any, held by the individual 4920
against whom the complaint is directed; 4921

(c) A description of the allegations contained in the 4922
complaint; 4923

(d) Whether witnesses were interviewed; 4924

(e) Whether the individual against whom the complaint is 4925
directed is the subject of any pending complaints; 4926

(f) The disposition of the case. 4927

The report shall state how many cases are still pending 4928
and shall be prepared in a manner that protects the identity of 4929
each person involved in each case. The report shall be a public 4930
record under section 149.43 of the Revised Code. 4931

(7) The board may provide a status update regarding an 4932
investigation to a complainant on request if the board verifies 4933
the complainant's identity. 4934

(C) The board shall keep records as are necessary to carry 4935
out the provisions of this chapter. 4936

(D) The board shall maintain and publish on its internet 4937

web site the board's rules and requirements for licensure 4938
adopted under division (A) of this section. 4939

Sec. 4759.07. (A) The state medical board, by an 4940
affirmative vote of not fewer than six members, shall, except as 4941
provided in division (B) of this section, and to the extent 4942
permitted by law, limit, revoke, or suspend an individual's 4943
license or limited permit, refuse to issue a license or limited 4944
permit to an individual, refuse to renew a license or limited 4945
permit, refuse to reinstate a license or limited permit, or 4946
reprimand or place on probation the holder of a license or 4947
limited permit for one or more of the following reasons: 4948

(1) Except when civil penalties are imposed under section 4949
4759.071 of the Revised Code, violating or attempting to 4950
violate, directly or indirectly, or assisting in or abetting the 4951
violation of, or conspiring to violate, any provision of this 4952
chapter or the rules adopted by the board; 4953

(2) Making a false, fraudulent, deceptive, or misleading 4954
statement in the solicitation of or advertising for patients; in 4955
relation to the practice of dietetics; or in securing or 4956
attempting to secure any license or permit issued by the board 4957
under this chapter. 4958

As used in division (A) (2) of this section, "false, 4959
fraudulent, deceptive, or misleading statement" means a 4960
statement that includes a misrepresentation of fact, is likely 4961
to mislead or deceive because of a failure to disclose material 4962
facts, is intended or is likely to create false or unjustified 4963
expectations of favorable results, or includes representations 4964
or implications that in reasonable probability will cause an 4965
ordinarily prudent person to misunderstand or be deceived. 4966

- (3) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;
- (4) 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;
- (5) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;
- (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;
- (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;
- (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;
- (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;
- (10) A record of engaging in incompetent or negligent conduct in the practice of dietetics;
- (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;	4995
(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	4996 4997 4998
(13) Violation of the conditions of limitation placed by the board on a license or permit;	4999 5000
(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;	5001 5002 5003 5004
(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;	5005 5006 5007 5008 5009 5010 5011 5012 5013 5014
(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;	5015 5016 5017
(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;	5018 5019 5020 5021 5022
(18) Impairment of ability to practice according to	5023

acceptable and prevailing standards of care because of habitual 5024
or excessive use or abuse of drugs, alcohol, or other substances 5025
that impair ability to practice; 5026

(19) Failure to cooperate in an investigation conducted by 5027
the board under division (B) of section 4759.05 of the Revised 5028
Code, including failure to comply with a subpoena or order 5029
issued by the board or failure to answer truthfully a question 5030
presented by the board in an investigative interview, an 5031
investigative office conference, at a deposition, or in written 5032
interrogatories, except that failure to cooperate with an 5033
investigation shall not constitute grounds for discipline under 5034
this section if a court of competent jurisdiction has issued an 5035
order that either quashes a subpoena or permits the individual 5036
to withhold the testimony or evidence in issue; 5037

(20) Representing with the purpose of obtaining 5038
compensation or other advantage as personal gain or for any 5039
other person, that an incurable disease or injury, or other 5040
incurable condition, can be permanently cured. 5041

(B) The board shall not refuse to issue a license or 5042
limited permit to an applicant because of a plea of guilty to, a 5043
judicial finding of guilt of, or a judicial finding of 5044
eligibility for intervention in lieu of conviction for an 5045
offense unless the refusal is in accordance with section 9.79 of 5046
the Revised Code. 5047

(C) Any action taken by the board under division (A) of 5048
this section resulting in a suspension from practice shall be 5049
accompanied by a written statement of the conditions under which 5050
the individual's license or permit may be reinstated. The board 5051
shall adopt rules governing conditions to be imposed for 5052
reinstatement. Reinstatement of a license or permit suspended 5053

pursuant to division (A) of this section requires an affirmative 5054
vote of not fewer than six members of the board. 5055

(D) When the board refuses to grant or issue a license or 5056
permit to an applicant, revokes an individual's license or 5057
permit, refuses to renew an individual's license or permit, or 5058
refuses to reinstate an individual's license or permit, the 5059
board may specify that its action is permanent. An individual 5060
subject to a permanent action taken by the board is forever 5061
thereafter ineligible to hold a license or permit and the board 5062
shall not accept an application for reinstatement of the license 5063
or permit or for issuance of a new license or permit. 5064

(E) Disciplinary actions taken by the board under division 5065
(A) of this section shall be taken pursuant to an adjudication 5066
under Chapter 119. of the Revised Code, except that in lieu of 5067
an adjudication, the board may enter into a consent agreement 5068
with an individual to resolve an allegation of a violation of 5069
this chapter or any rule adopted under it. A consent agreement, 5070
when ratified by an affirmative vote of not fewer than six 5071
members of the board, shall constitute the findings and order of 5072
the board with respect to the matter addressed in the agreement. 5073
If the board refuses to ratify a consent agreement, the 5074
admissions and findings contained in the consent agreement shall 5075
be of no force or effect. 5076

A telephone conference call may be utilized for 5077
ratification of a consent agreement that revokes or suspends an 5078
individual's license or permit. The telephone conference call 5079
shall be considered a special meeting under division (F) of 5080
section 121.22 of the Revised Code. 5081

(F) In enforcing division (A)(14) of this section, the 5082
board, upon a showing of a possible violation, may compel any 5083

individual authorized to practice by this chapter or who has 5084
submitted an application pursuant to this chapter to submit to a 5085
mental examination, physical examination, including an HIV test, 5086
or both a mental and a physical examination. The expense of the 5087
examination is the responsibility of the individual compelled to 5088
be examined. Failure to submit to a mental or physical 5089
examination or consent to an HIV test ordered by the board 5090
constitutes an admission of the allegations against the 5091
individual unless the failure is due to circumstances beyond the 5092
individual's control, and a default and final order may be 5093
entered without the taking of testimony or presentation of 5094
evidence. If the board finds an individual unable to practice 5095
because of the reasons set forth in division (A)(14) of this 5096
section, the board shall require the individual to submit to 5097
care, counseling, or treatment by physicians approved or 5098
designated by the board, as a condition for initial, continued, 5099
reinstated, or renewed authority to practice. An individual 5100
affected under this division shall be afforded an opportunity to 5101
demonstrate to the board the ability to resume practice in 5102
compliance with acceptable and prevailing standards under the 5103
provisions of the individual's license or permit. For the 5104
purpose of division (A)(14) of this section, any individual who 5105
applies for or receives a license or permit under this chapter 5106
accepts the privilege of practicing in this state and, by so 5107
doing, shall be deemed to have given consent to submit to a 5108
mental or physical examination when directed to do so in writing 5109
by the board, and to have waived all objections to the 5110
admissibility of testimony or examination reports that 5111
constitute a privileged communication. 5112

(G) For the purposes of division (A)(18) of this section, 5113
any individual authorized to practice by this chapter accepts 5114

the privilege of practicing in this state subject to supervision 5115
by the board. By filing an application for or holding a license 5116
or permit under this chapter, an individual shall be deemed to 5117
have given consent to submit to a mental or physical examination 5118
when ordered to do so by the board in writing, and to have 5119
waived all objections to the admissibility of testimony or 5120
examination reports that constitute privileged communications. 5121

If it has reason to believe that any individual authorized 5122
to practice by this chapter or any applicant for a license or 5123
permit suffers such impairment, the board may compel the 5124
individual to submit to a mental or physical examination, or 5125
both. The expense of the examination is the responsibility of 5126
the individual compelled to be examined. Any mental or physical 5127
examination required under this division shall be undertaken by 5128
a treatment provider or physician who is qualified to conduct 5129
the examination and who is chosen by the board. 5130

Failure to submit to a mental or physical examination 5131
ordered by the board constitutes an admission of the allegations 5132
against the individual unless the failure is due to 5133
circumstances beyond the individual's control, and a default and 5134
final order may be entered without the taking of testimony or 5135
presentation of evidence. If the board determines that the 5136
individual's ability to practice is impaired, the board shall 5137
suspend the individual's license or permit or deny the 5138
individual's application and shall require the individual, as a 5139
condition for an initial, continued, reinstated, or renewed 5140
license or permit, to submit to treatment. 5141

Before being eligible to apply for reinstatement of a 5142
license or permit suspended under this division, the impaired 5143
practitioner shall demonstrate to the board the ability to 5144

resume practice in compliance with acceptable and prevailing 5145
standards of care under the provisions of the practitioner's 5146
license or permit. The demonstration shall include, but shall 5147
not be limited to, the following: 5148

(1) Certification from a treatment provider approved under 5149
section 4731.25 of the Revised Code that the individual has 5150
successfully completed any required inpatient treatment; 5151

(2) Evidence of continuing full compliance with an 5152
aftercare contract or consent agreement; 5153

(3) Two written reports indicating that the individual's 5154
ability to practice has been assessed and that the individual 5155
has been found capable of practicing according to acceptable and 5156
prevailing standards of care. The reports shall be made by 5157
individuals or providers approved by the board for making the 5158
assessments and shall describe the basis for their 5159
determination. 5160

The board may reinstate a license or permit suspended 5161
under this division after that demonstration and after the 5162
individual has entered into a written consent agreement. 5163

When the impaired practitioner resumes practice, the board 5164
shall require continued monitoring of the individual. The 5165
monitoring shall include, but not be limited to, compliance with 5166
the written consent agreement entered into before reinstatement 5167
or with conditions imposed by board order after a hearing, and, 5168
upon termination of the consent agreement, submission to the 5169
board for at least two years of annual written progress reports 5170
made under penalty of perjury stating whether the individual has 5171
maintained sobriety. 5172

~~(H)~~ (H) (1) If either of the following circumstances occur, 5173

the secretary and supervising member ~~determine both of the~~ 5174
~~following, they may~~ recommend that the board suspend an 5175
individual's license or permit without a prior hearing: 5176

~~(1)~~ (a) The secretary and supervising member determine 5177
both of the following: 5178

(i) That there is clear and convincing evidence that an 5179
individual has violated division (A) of this section; 5180

~~(2)~~ (ii) That the individual's continued practice presents 5181
a danger of immediate and serious harm to the public. 5182

(b) The board receives verifiable information that a 5183
licensee has been charged in any state or federal court for a 5184
crime classified as a felony under the charging court's law and 5185
the conduct charged constitutes a violation of division (A) of 5186
this section. 5187

~~Written~~ (2) If a recommendation is made to suspend without 5188
a prior hearing pursuant to division (H) (1) of this section, 5189
written allegations shall be prepared for consideration by the 5190
board. The board, upon review of those allegations and by an 5191
affirmative vote of not fewer than six of its members, excluding 5192
the secretary and supervising member, may suspend a license or 5193
permit without a prior hearing. A telephone conference call may 5194
be utilized for reviewing the allegations and taking the vote on 5195
the summary suspension. 5196

The board shall issue a written order of suspension by 5197
certified mail or in person in accordance with section 119.07 of 5198
the Revised Code. The order shall not be subject to suspension 5199
by the court during pendency of any appeal filed under section 5200
119.12 of the Revised Code. If the individual subject to the 5201
summary suspension requests an adjudicatory hearing by the 5202

board, the date set for the hearing shall be within fifteen 5203
days, but not earlier than seven days, after the individual 5204
requests the hearing, unless otherwise agreed to by both the 5205
board and the individual. 5206

(3) Any summary suspension imposed under this division 5207
shall remain in effect, unless reversed on appeal, until a final 5208
adjudicative order issued by the board pursuant to this section 5209
and Chapter 119. of the Revised Code becomes effective. The 5210
board shall issue its final adjudicative order within seventy- 5211
five days after completion of its hearing. A failure to issue 5212
the order within seventy-five days shall result in dissolution 5213
of the summary suspension order but shall not invalidate any 5214
subsequent, final adjudicative order. 5215

(I) If the board is required by Chapter 119. of the 5216
Revised Code to give notice of an opportunity for a hearing and 5217
if the individual subject to the notice does not timely request 5218
a hearing in accordance with section 119.07 of the Revised Code, 5219
the board is not required to hold a hearing, but may adopt, by 5220
an affirmative vote of not fewer than six of its members, a 5221
final order that contains the board's findings. In the final 5222
order, the board may order any of the sanctions identified under 5223
division (A) of this section. 5224

(J) For purposes of divisions (A) (5), (7), and (9) of this 5225
section, the commission of the act may be established by a 5226
finding by the board, pursuant to an adjudication under Chapter 5227
119. of the Revised Code, that the individual committed the act. 5228
The board does not have jurisdiction under those divisions if 5229
the trial court renders a final judgment in the individual's 5230
favor and that judgment is based upon an adjudication on the 5231
merits. The board has jurisdiction under those divisions if the 5232

trial court issues an order of dismissal upon technical or 5233
procedural grounds. 5234

(K) The sealing of conviction records by any court shall 5235
have no effect upon a prior board order entered under this 5236
section or upon the board's jurisdiction to take action under 5237
this section if, based upon a plea of guilty, a judicial finding 5238
of guilt, or a judicial finding of eligibility for intervention 5239
in lieu of conviction, the board issued a notice of opportunity 5240
for a hearing prior to the court's order to seal the records. 5241
The board shall not be required to seal, destroy, redact, or 5242
otherwise modify its records to reflect the court's sealing of 5243
conviction records. 5244

(L) If the board takes action under division (A) (4), (6), 5245
or (8) of this section, and the judicial finding of guilt, 5246
guilty plea, or judicial finding of eligibility for intervention 5247
in lieu of conviction is overturned on appeal, upon exhaustion 5248
of the criminal appeal, a petition for reconsideration of the 5249
order may be filed with the board along with appropriate court 5250
documents. Upon receipt of a petition for reconsideration and 5251
supporting court documents, the board shall reinstate the 5252
individual's license or permit. The board may then hold an 5253
adjudication under Chapter 119. of the Revised Code to determine 5254
whether the individual committed the act in question. Notice of 5255
an opportunity for a hearing shall be given in accordance with 5256
Chapter 119. of the Revised Code. If the board finds, pursuant 5257
to an adjudication held under this division, that the individual 5258
committed the act or if no hearing is requested, the board may 5259
order any of the sanctions identified under division (A) of this 5260
section. 5261

(M) The license or permit issued to an individual under 5262

this chapter and the individual's practice in this state are 5263
automatically suspended as of the date the individual pleads 5264
guilty to, is found by a judge or jury to be guilty of, or is 5265
subject to a judicial finding of eligibility for intervention in 5266
lieu of conviction in this state or treatment or intervention in 5267
lieu of conviction in another jurisdiction for any of the 5268
following criminal offenses in this state or a substantially 5269
equivalent criminal offense in another jurisdiction: aggravated 5270
murder, murder, voluntary manslaughter, felonious assault, 5271
trafficking in persons, kidnapping, rape, sexual battery, gross 5272
sexual imposition, aggravated arson, aggravated robbery, or 5273
aggravated burglary. Continued practice after suspension shall 5274
be considered practicing without a license or permit. 5275

The board shall notify the individual subject to the 5276
suspension by certified mail or in person in accordance with 5277
section 119.07 of the Revised Code. If an individual whose 5278
license or permit is automatically suspended under this division 5279
fails to make a timely request for an adjudication under Chapter 5280
119. of the Revised Code, the board shall enter a final order 5281
permanently revoking the individual's license or permit. 5282

(N) Notwithstanding any other provision of the Revised 5283
Code, all of the following apply: 5284

(1) The surrender of a license or permit issued under this 5285
chapter shall not be effective unless or until accepted by the 5286
board. A telephone conference call may be utilized for 5287
acceptance of the surrender of an individual's license or 5288
permit. The telephone conference call shall be considered a 5289
special meeting under division (F) of section 121.22 of the 5290
Revised Code. Reinstatement of a license or permit surrendered 5291
to the board requires an affirmative vote of not fewer than six 5292

members of the board. 5293

(2) An application for a license or permit made under the 5294
provisions of this chapter may not be withdrawn without approval 5295
of the board. 5296

(3) Failure by an individual to renew a license or permit 5297
in accordance with this chapter shall not remove or limit the 5298
board's jurisdiction to take any disciplinary action under this 5299
section against the individual. 5300

(4) At the request of the board, a license or permit 5301
holder shall immediately surrender to the board a license or 5302
permit that the board has suspended, revoked, or permanently 5303
revoked. 5304

Sec. 4759.14. (A) As used in this section, "criminal 5305
conduct" and "sexual misconduct" have the same meanings as in 5306
section 4731.224 of the Revised Code. 5307

(B) (1) Within thirty days after commencing an 5308
investigation regarding criminal conduct or sexual misconduct 5309
against any individual holding a valid license to practice 5310
issued pursuant to this chapter, a health care facility, 5311
including a hospital, health care facility operated by a health 5312
insuring corporation, ambulatory surgical facility, or similar 5313
facility, shall report to the board the name of the individual 5314
and a summary of the underlying facts related to the 5315
investigation being commenced. 5316

(2) If any individual authorized to practice under this 5317
chapter or any professional association or society of such 5318
individuals knows or has reasonable cause to suspect based on 5319
facts that would cause a reasonable person in a similar position 5320
to suspect that an individual authorized to practice under this 5321

chapter has committed or participated in criminal conduct or 5322
sexual misconduct the information upon which the belief is based 5323
shall be reported to the board within thirty days. 5324

(3) In addition to the self-reporting of criminal offenses 5325
that is required for license renewal, an individual authorized 5326
to practice under this chapter shall report to the board 5327
criminal charges regarding criminal conduct, sexual misconduct, 5328
or any conduct involving the use of a motor vehicle while under 5329
the influence of alcohol or drugs, including offenses that are 5330
equivalent offenses under division (A) of section 4511.181 of 5331
the Revised Code, violations of division (D) of section 4511.194 5332
of the Revised Code, and violations of division (C) of section 5333
4511.79 of the Revised Code. Reports under this division shall 5334
be made within thirty days of the criminal charge being filed. 5335

Sec. 4759.99. Whoever violates section 4759.02 of the 5336
Revised Code is guilty of a minor misdemeanor. If the offender 5337
has been previously convicted once of a violation of the 5338
section, then the violation is a misdemeanor of the fourth 5339
degree. If the offender has been previously convicted more than 5340
once of a violation of the section, then the violation is a 5341
misdemeanor of the first degree. 5342

Whoever violates division (B)(1) or (2) of section 4759.14 5343
of the Revised Code is guilty of failure to report criminal 5344
conduct or sexual misconduct, a misdemeanor of the fourth 5345
degree. If the offender has previously been convicted of a 5346
violation of this division, the failure to report is a 5347
misdemeanor of the first degree. 5348

Whoever violates division (B) of section 4759.05 of the 5349
Revised Code is guilty of disclosing confidential investigatory 5350
information, a misdemeanor of the first degree. 5351

Sec. 4760.13. (A) The state medical board, by an 5352
affirmative vote of not fewer than six members, may revoke or 5353
may refuse to grant a license to practice as an anesthesiologist 5354
assistant to a person found by the board to have committed 5355
fraud, misrepresentation, or deception in applying for or 5356
securing the license. 5357

(B) The board, by an affirmative vote of not fewer than 5358
six members, shall, except as provided in division (C) of this 5359
section, and to the extent permitted by law, limit, revoke, or 5360
suspend an individual's license to practice as an 5361
anesthesiologist assistant, refuse to issue a license to an 5362
applicant, refuse to renew a license, refuse to reinstate a 5363
license, or reprimand or place on probation the holder of a 5364
license for any of the following reasons: 5365

(1) Permitting the holder's name or license to be used by 5366
another person; 5367

(2) Failure to comply with the requirements of this 5368
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5369
by the board; 5370

(3) Violating or attempting to violate, directly or 5371
indirectly, or assisting in or abetting the violation of, or 5372
conspiring to violate, any provision of this chapter, Chapter 5373
4731. of the Revised Code, or the rules adopted by the board; 5374

(4) A departure from, or failure to conform to, minimal 5375
standards of care of similar practitioners under the same or 5376
similar circumstances whether or not actual injury to the 5377
patient is established; 5378

(5) Inability to practice according to acceptable and 5379
prevailing standards of care by reason of mental illness or 5380

physical illness, including physical deterioration that 5381
adversely affects cognitive, motor, or perceptive skills; 5382

(6) Impairment of ability to practice according to 5383
acceptable and prevailing standards of care because of habitual 5384
or excessive use or abuse of drugs, alcohol, or other substances 5385
that impair ability to practice; 5386

(7) Willfully betraying a professional confidence; 5387

(8) Making a false, fraudulent, deceptive, or misleading 5388
statement in securing or attempting to secure a license to 5389
practice as an anesthesiologist assistant. 5390

As used in this division, "false, fraudulent, deceptive, 5391
or misleading statement" means a statement that includes a 5392
misrepresentation of fact, is likely to mislead or deceive 5393
because of a failure to disclose material facts, is intended or 5394
is likely to create false or unjustified expectations of 5395
favorable results, or includes representations or implications 5396
that in reasonable probability will cause an ordinarily prudent 5397
person to misunderstand or be deceived. 5398

(9) The obtaining of, or attempting to obtain, money or a 5399
thing of value by fraudulent misrepresentations in the course of 5400
practice; 5401

(10) A plea of guilty to, a judicial finding of guilt of, 5402
or a judicial finding of eligibility for intervention in lieu of 5403
conviction for, a felony; 5404

(11) Commission of an act that constitutes a felony in 5405
this state, regardless of the jurisdiction in which the act was 5406
committed; 5407

(12) A plea of guilty to, a judicial finding of guilt of, 5408

or a judicial finding of eligibility for intervention in lieu of 5409
conviction for, a misdemeanor committed in the course of 5410
practice; 5411

(13) A plea of guilty to, a judicial finding of guilt of, 5412
or a judicial finding of eligibility for intervention in lieu of 5413
conviction for, a misdemeanor involving moral turpitude; 5414

(14) Commission of an act in the course of practice that 5415
constitutes a misdemeanor in this state, regardless of the 5416
jurisdiction in which the act was committed; 5417

(15) Commission of an act involving moral turpitude that 5418
constitutes a misdemeanor in this state, regardless of the 5419
jurisdiction in which the act was committed; 5420

(16) A plea of guilty to, a judicial finding of guilt of, 5421
or a judicial finding of eligibility for intervention in lieu of 5422
conviction for violating any state or federal law regulating the 5423
possession, distribution, or use of any drug, including 5424
trafficking in drugs; 5425

(17) Any of the following actions taken by the state 5426
agency responsible for regulating the practice of 5427
anesthesiologist assistants in another jurisdiction, for any 5428
reason other than the nonpayment of fees: the limitation, 5429
revocation, or suspension of an individual's license to 5430
practice; acceptance of an individual's license surrender; 5431
denial of a license; refusal to renew or reinstate a license; 5432
imposition of probation; or issuance of an order of censure or 5433
other reprimand; 5434

(18) Violation of the conditions placed by the board on a 5435
license to practice; 5436

(19) Failure to use universal blood and body fluid 5437

precautions established by rules adopted under section 4731.051 5438
of the Revised Code; 5439

(20) Failure to cooperate in an investigation conducted by 5440
the board under section 4760.14 of the Revised Code, including 5441
failure to comply with a subpoena or order issued by the board 5442
or failure to answer truthfully a question presented by the 5443
board at a deposition or in written interrogatories, except that 5444
failure to cooperate with an investigation shall not constitute 5445
grounds for discipline under this section if a court of 5446
competent jurisdiction has issued an order that either quashes a 5447
subpoena or permits the individual to withhold the testimony or 5448
evidence in issue; 5449

(21) Failure to comply with any code of ethics established 5450
by the national commission for the certification of 5451
anesthesiologist assistants; 5452

(22) Failure to notify the state medical board of the 5453
revocation or failure to maintain certification from the 5454
national commission for certification of anesthesiologist 5455
assistants. 5456

(C) The board shall not refuse to issue a certificate to 5457
an applicant because of a plea of guilty to, a judicial finding 5458
of guilt of, or a judicial finding of eligibility for 5459
intervention in lieu of conviction for an offense unless the 5460
refusal is in accordance with section 9.79 of the Revised Code. 5461

(D) Disciplinary actions taken by the board under 5462
divisions (A) and (B) of this section shall be taken pursuant to 5463
an adjudication under Chapter 119. of the Revised Code, except 5464
that in lieu of an adjudication, the board may enter into a 5465
consent agreement with an anesthesiologist assistant or 5466

applicant to resolve an allegation of a violation of this 5467
chapter or any rule adopted under it. A consent agreement, when 5468
ratified by an affirmative vote of not fewer than six members of 5469
the board, shall constitute the findings and order of the board 5470
with respect to the matter addressed in the agreement. If the 5471
board refuses to ratify a consent agreement, the admissions and 5472
findings contained in the consent agreement shall be of no force 5473
or effect. 5474

(E) For purposes of divisions (B) (11), (14), and (15) of 5475
this section, the commission of the act may be established by a 5476
finding by the board, pursuant to an adjudication under Chapter 5477
119. of the Revised Code, that the applicant or license holder 5478
committed the act in question. The board shall have no 5479
jurisdiction under these divisions in cases where the trial 5480
court renders a final judgment in the license holder's favor and 5481
that judgment is based upon an adjudication on the merits. The 5482
board shall have jurisdiction under these divisions in cases 5483
where the trial court issues an order of dismissal on technical 5484
or procedural grounds. 5485

(F) The sealing of conviction records by any court shall 5486
have no effect on a prior board order entered under the 5487
provisions of this section or on the board's jurisdiction to 5488
take action under the provisions of this section if, based upon 5489
a plea of guilty, a judicial finding of guilt, or a judicial 5490
finding of eligibility for intervention in lieu of conviction, 5491
the board issued a notice of opportunity for a hearing prior to 5492
the court's order to seal the records. The board shall not be 5493
required to seal, destroy, redact, or otherwise modify its 5494
records to reflect the court's sealing of conviction records. 5495

(G) For purposes of this division, any individual who 5496

holds a license to practice issued under this chapter, or 5497
applies for a license to practice, shall be deemed to have given 5498
consent to submit to a mental or physical examination when 5499
directed to do so in writing by the board and to have waived all 5500
objections to the admissibility of testimony or examination 5501
reports that constitute a privileged communication. 5502

(1) In enforcing division (B)(5) of this section, the 5503
board, on a showing of a possible violation, may compel any 5504
individual who holds a license to practice issued under this 5505
chapter or who has applied for a license to practice pursuant to 5506
this chapter to submit to a mental or physical examination, or 5507
both. A physical examination may include an HIV test. The 5508
expense of the examination is the responsibility of the 5509
individual compelled to be examined. Failure to submit to a 5510
mental or physical examination or consent to an HIV test ordered 5511
by the board constitutes an admission of the allegations against 5512
the individual unless the failure is due to circumstances beyond 5513
the individual's control, and a default and final order may be 5514
entered without the taking of testimony or presentation of 5515
evidence. If the board finds an anesthesiologist assistant 5516
unable to practice because of the reasons set forth in division 5517
(B)(5) of this section, the board shall require the 5518
anesthesiologist assistant to submit to care, counseling, or 5519
treatment by physicians approved or designated by the board, as 5520
a condition for an initial, continued, reinstated, or renewed 5521
license to practice. An individual affected by this division 5522
shall be afforded an opportunity to demonstrate to the board the 5523
ability to resume practicing in compliance with acceptable and 5524
prevailing standards of care. 5525

(2) For purposes of division (B)(6) of this section, if 5526
the board has reason to believe that any individual who holds a 5527

license to practice issued under this chapter or any applicant 5528
for a license to practice suffers such impairment, the board may 5529
compel the individual to submit to a mental or physical 5530
examination, or both. The expense of the examination is the 5531
responsibility of the individual compelled to be examined. Any 5532
mental or physical examination required under this division 5533
shall be undertaken by a treatment provider or physician 5534
qualified to conduct such examination and chosen by the board. 5535

Failure to submit to a mental or physical examination 5536
ordered by the board constitutes an admission of the allegations 5537
against the individual unless the failure is due to 5538
circumstances beyond the individual's control, and a default and 5539
final order may be entered without the taking of testimony or 5540
presentation of evidence. If the board determines that the 5541
individual's ability to practice is impaired, the board shall 5542
suspend the individual's license or deny the individual's 5543
application and shall require the individual, as a condition for 5544
an initial, continued, reinstated, or renewed license to 5545
practice, to submit to treatment. 5546

Before being eligible to apply for reinstatement of a 5547
license suspended under this division, the anesthesiologist 5548
assistant shall demonstrate to the board the ability to resume 5549
practice in compliance with acceptable and prevailing standards 5550
of care. The demonstration shall include the following: 5551

(a) Certification from a treatment provider approved under 5552
section 4731.25 of the Revised Code that the individual has 5553
successfully completed any required inpatient treatment; 5554

(b) Evidence of continuing full compliance with an 5555
aftercare contract or consent agreement; 5556

(c) Two written reports indicating that the individual's 5557
ability to practice has been assessed and that the individual 5558
has been found capable of practicing according to acceptable and 5559
prevailing standards of care. The reports shall be made by 5560
individuals or providers approved by the board for making such 5561
assessments and shall describe the basis for their 5562
determination. 5563

The board may reinstate a license suspended under this 5564
division after such demonstration and after the individual has 5565
entered into a written consent agreement. 5566

When the impaired anesthesiologist assistant resumes 5567
practice, the board shall require continued monitoring of the 5568
anesthesiologist assistant. The monitoring shall include 5569
monitoring of compliance with the written consent agreement 5570
entered into before reinstatement or with conditions imposed by 5571
board order after a hearing, and, on termination of the consent 5572
agreement, submission to the board for at least two years of 5573
annual written progress reports made under penalty of 5574
falsification stating whether the anesthesiologist assistant has 5575
maintained sobriety. 5576

~~(H)~~(H) (1) If either of the following circumstances occur, 5577
the secretary and supervising member may recommend that the 5578
board suspend the individual's license without a prior hearing: 5579

(a) The secretary and supervising member determine that 5580
there is clear and convincing evidence that an anesthesiologist 5581
assistant has violated division (B) of this section and that the 5582
individual's continued practice presents a danger of immediate 5583
and serious harm to the public, ~~they may recommend that the~~ 5584
~~board suspend the individual's license without a prior hearing;~~ 5585

(b) The board receives verifiable information that a 5586
licensee has been charged in any state or federal court for a 5587
crime classified as a felony under the charging court's law and 5588
the conduct charged constitutes a violation of division (B) of 5589
this section. ~~Written~~ 5590

(2) If a recommendation is made to suspend without a prior 5591
hearing pursuant to division (H) (1) of this section, written 5592
allegations shall be prepared for consideration by the board. 5593

The board, on review of the allegations and by an 5594
affirmative vote of not fewer than six of its members, excluding 5595
the secretary and supervising member, may suspend a license 5596
without a prior hearing. A telephone conference call may be 5597
utilized for reviewing the allegations and taking the vote on 5598
the summary suspension. 5599

The board shall issue a written order of suspension by 5600
certified mail or in person in accordance with section 119.07 of 5601
the Revised Code. The order shall not be subject to suspension 5602
by the court during pendency of any appeal filed under section 5603
119.12 of the Revised Code. If the anesthesiologist assistant 5604
requests an adjudicatory hearing by the board, the date set for 5605
the hearing shall be within fifteen days, but not earlier than 5606
seven days, after the anesthesiologist assistant requests the 5607
hearing, unless otherwise agreed to by both the board and the 5608
license holder. 5609

(3) A summary suspension imposed under this division shall 5610
remain in effect, unless reversed on appeal, until a final 5611
adjudicative order issued by the board pursuant to this section 5612
and Chapter 119. of the Revised Code becomes effective. The 5613
board shall issue its final adjudicative order within sixty days 5614
after completion of its hearing. Failure to issue the order 5615

within sixty days shall result in dissolution of the summary 5616
suspension order, but shall not invalidate any subsequent, final 5617
adjudicative order. 5618

(I) If the board takes action under division (B) (11), 5619
(13), or (14) of this section, and the judicial finding of 5620
guilt, guilty plea, or judicial finding of eligibility for 5621
intervention in lieu of conviction is overturned on appeal, on 5622
exhaustion of the criminal appeal, a petition for 5623
reconsideration of the order may be filed with the board along 5624
with appropriate court documents. On receipt of a petition and 5625
supporting court documents, the board shall reinstate the 5626
license to practice. The board may then hold an adjudication 5627
under Chapter 119. of the Revised Code to determine whether the 5628
individual committed the act in question. Notice of opportunity 5629
for hearing shall be given in accordance with Chapter 119. of 5630
the Revised Code. If the board finds, pursuant to an 5631
adjudication held under this division, that the individual 5632
committed the act, or if no hearing is requested, it may order 5633
any of the sanctions specified in division (B) of this section. 5634

(J) The license to practice of an anesthesiologist 5635
assistant and the assistant's practice in this state are 5636
automatically suspended as of the date the anesthesiologist 5637
assistant pleads guilty to, is found by a judge or jury to be 5638
guilty of, or is subject to a judicial finding of eligibility 5639
for intervention in lieu of conviction in this state or 5640
treatment of intervention in lieu of conviction in another 5641
jurisdiction for any of the following criminal offenses in this 5642
state or a substantially equivalent criminal offense in another 5643
jurisdiction: aggravated murder, murder, voluntary manslaughter, 5644
felonious assault, trafficking in persons, kidnapping, rape, 5645
sexual battery, gross sexual imposition, aggravated arson, 5646

aggravated robbery, or aggravated burglary. Continued practice 5647
after the suspension shall be considered practicing without a 5648
license. 5649

The board shall notify the individual subject to the 5650
suspension by certified mail or in person in accordance with 5651
section 119.07 of the Revised Code. If an individual whose 5652
license is suspended under this division fails to make a timely 5653
request for an adjudication under Chapter 119. of the Revised 5654
Code, the board shall enter a final order permanently revoking 5655
the individual's license to practice. 5656

(K) In any instance in which the board is required by 5657
Chapter 119. of the Revised Code to give notice of opportunity 5658
for hearing and the individual subject to the notice does not 5659
timely request a hearing in accordance with section 119.07 of 5660
the Revised Code, the board is not required to hold a hearing, 5661
but may adopt, by an affirmative vote of not fewer than six of 5662
its members, a final order that contains the board's findings. 5663
In the final order, the board may order any of the sanctions 5664
identified under division (A) or (B) of this section. 5665

(L) Any action taken by the board under division (B) of 5666
this section resulting in a suspension shall be accompanied by a 5667
written statement of the conditions under which the 5668
anesthesiologist assistant's license may be reinstated. The 5669
board shall adopt rules in accordance with Chapter 119. of the 5670
Revised Code governing conditions to be imposed for 5671
reinstatement. Reinstatement of a license suspended pursuant to 5672
division (B) of this section requires an affirmative vote of not 5673
fewer than six members of the board. 5674

(M) When the board refuses to grant or issue a license to 5675
practice as an anesthesiologist assistant to an applicant, 5676

revokes an individual's license, refuses to renew an 5677
individual's license, or refuses to reinstate an individual's 5678
license, the board may specify that its action is permanent. An 5679
individual subject to a permanent action taken by the board is 5680
forever thereafter ineligible to hold a license to practice as 5681
an anesthesiologist assistant and the board shall not accept an 5682
application for reinstatement of the license or for issuance of 5683
a new license. 5684

(N) Notwithstanding any other provision of the Revised 5685
Code, all of the following apply: 5686

(1) The surrender of a license to practice issued under 5687
this chapter is not effective unless or until accepted by the 5688
board. Reinstatement of a license surrendered to the board 5689
requires an affirmative vote of not fewer than six members of 5690
the board. 5691

(2) An application made under this chapter for a license 5692
to practice may not be withdrawn without approval of the board. 5693

(3) Failure by an individual to renew a license to 5694
practice in accordance with section 4760.06 of the Revised Code 5695
shall not remove or limit the board's jurisdiction to take 5696
disciplinary action under this section against the individual. 5697

Sec. 4760.14. (A) The state medical board shall 5698
investigate evidence that appears to show that any person has 5699
violated this chapter or the rules adopted under it. Any person 5700
may report to the board in a signed writing any information the 5701
person has that appears to show a violation of any provision of 5702
this chapter or the rules adopted under it. In the absence of 5703
bad faith, a person who reports such information or testifies 5704
before the board in an adjudication conducted under Chapter 119. 5705

of the Revised Code shall not be liable for civil damages as a 5706
result of reporting the information or providing testimony. Each 5707
complaint or allegation of a violation received by the board 5708
shall be assigned a case number and be recorded by the board. 5709

(B) Investigations of alleged violations of this chapter 5710
or rules adopted under it shall be supervised by the supervising 5711
member elected by the board in accordance with section 4731.02 5712
of the Revised Code and by the secretary as provided in section 5713
4760.15 of the Revised Code. The board's president may designate 5714
another member of the board to supervise the investigation in 5715
place of the supervising member. Upon a vote of the majority of 5716
the board to authorize the addition of a consumer member in the 5717
supervision of any part of any investigation, the president 5718
shall designate a consumer member for supervision of 5719
investigations as determined by the president. The authorization 5720
of consumer member participation in investigation supervision 5721
may be rescinded by a majority vote of the board. A member of 5722
the board who supervises the investigation of a case shall not 5723
participate in further adjudication of the case. 5724

(C) In investigating a possible violation of this chapter 5725
or the rules adopted under it, the board may administer oaths, 5726
order the taking of depositions, issue subpoenas, and compel the 5727
attendance of witnesses and production of books, accounts, 5728
papers, records, documents, and testimony, except that a 5729
subpoena for patient record information or information, 5730
documents, and records from a peer review committee of a health 5731
care entity related to sexual misconduct or criminal conduct 5732
shall not be issued without consultation with the attorney 5733
general's office and approval of the secretary and supervising 5734
member of the board. Before issuance of a subpoena for patient 5735
record information or information, documents, and records from a 5736

peer review committee of a health care entity related to sexual 5737
misconduct or criminal conduct, the secretary and supervising 5738
member shall determine whether there is probable cause to 5739
believe that the complaint filed alleges a violation of this 5740
chapter or the rules adopted under it and that the records 5741
sought are relevant to the alleged violation and material to the 5742
investigation. The subpoena may apply only to records that cover 5743
a reasonable period of time surrounding the alleged violation. 5744

On failure to comply with any subpoena issued by the board 5745
and after reasonable notice to the person being subpoenaed, the 5746
board may move for an order compelling the production of persons 5747
or records pursuant to the Rules of Civil Procedure. 5748

A subpoena issued by the board may be served by a sheriff, 5749
the sheriff's deputy, or a board employee designated by the 5750
board. Service of a subpoena issued by the board may be made by 5751
delivering a copy of the subpoena to the person named therein, 5752
reading it to the person, or leaving it at the person's usual 5753
place of residence. When the person being served is an 5754
anesthesiologist assistant, service of the subpoena may be made 5755
by certified mail, restricted delivery, return receipt 5756
requested, and the subpoena shall be deemed served on the date 5757
delivery is made or the date the person refuses to accept 5758
delivery. 5759

A sheriff's deputy who serves a subpoena shall receive the 5760
same fees as a sheriff. Each witness who appears before the 5761
board in obedience to a subpoena shall receive the fees and 5762
mileage provided for under section 119.094 of the Revised Code. 5763

(D) All For purposes of section 2305.252 of the Revised 5764
Code, all hearings and investigations of the board shall be 5765
considered civil actions ~~for the purposes of section 2305.252 of~~ 5766

~~the Revised Code, except those involving allegations of sexual~~ 5767
~~misconduct or criminal conduct, as defined in that section.~~ 5768

(E) Information received by the board pursuant to an 5769
investigation is confidential and not subject to discovery in 5770
any civil action. 5771

The board shall conduct all investigations and proceedings 5772
in a manner that protects the confidentiality of patients and 5773
persons who file complaints with the board. The board shall not 5774
make public the names or any other identifying information about 5775
patients or complainants unless proper consent is given. 5776

The board may share any information it receives pursuant 5777
to an investigation, including patient records and patient 5778
record information, with law enforcement agencies, other 5779
licensing boards, and other governmental agencies that are 5780
prosecuting, adjudicating, or investigating alleged violations 5781
of statutes or administrative rules. An agency or board that 5782
receives the information shall comply with the same requirements 5783
regarding confidentiality as those with which the state medical 5784
board must comply, notwithstanding any conflicting provision of 5785
the Revised Code or procedure of the agency or board that 5786
applies when it is dealing with other information in its 5787
possession. In a judicial proceeding, the information may be 5788
admitted into evidence only in accordance with the Rules of 5789
Evidence, but the court shall require that appropriate measures 5790
are taken to ensure that confidentiality is maintained with 5791
respect to any part of the information that contains names or 5792
other identifying information about patients or complainants 5793
whose confidentiality was protected by the state medical board 5794
when the information was in the board's possession. Measures to 5795
ensure confidentiality that may be taken by the court include 5796

sealing its records or deleting specific information from its 5797
records. 5798

No person shall knowingly access, use, or disclose 5799
confidential investigatory information in a manner prohibited by 5800
law. 5801

(F) The state medical board shall develop requirements for 5802
and provide appropriate initial training and continuing 5803
education for investigators employed by the board to carry out 5804
its duties under this chapter. The training and continuing 5805
education may include enrollment in courses operated or approved 5806
by the Ohio peace officer training commission that the board 5807
considers appropriate under conditions set forth in section 5808
109.79 of the Revised Code. 5809

(G) On a quarterly basis, the board shall prepare a report 5810
that documents the disposition of all cases during the preceding 5811
three months. The report shall contain the following information 5812
for each case with which the board has completed its activities: 5813

(1) The case number assigned to the complaint or alleged 5814
violation; 5815

(2) The type of license to practice, if any, held by the 5816
individual against whom the complaint is directed; 5817

(3) A description of the allegations contained in the 5818
complaint; 5819

(4) Whether witnesses were interviewed; 5820

(5) Whether the individual against whom the complaint is 5821
directed is the subject of any pending complaints; 5822

(6) The disposition of the case. 5823

The report shall state how many cases are still pending, 5824
and shall be prepared in a manner that protects the identity of 5825
each person involved in each case. The report is a public record 5826
for purposes of section 149.43 of the Revised Code. 5827

(H) The board may provide a status update regarding an 5828
investigation to a complainant on request if the board verifies 5829
the complainant's identity. 5830

Sec. 4760.16. (A) As used in this section, "criminal 5831
conduct" and "sexual misconduct" have the same meanings as in 5832
section 4731.224 of the Revised Code. 5833

(B) (1) Within ~~sixty~~-thirty days after the imposition of 5834
any formal disciplinary action taken by any health care 5835
facility, including a hospital, health care facility operated by 5836
a health insuring corporation, ambulatory surgical facility, or 5837
similar facility, against any individual holding a valid license 5838
to practice as an anesthesiologist assistant, the chief 5839
administrator or executive officer of the facility shall report 5840
to the state medical board the name of the individual, the 5841
action taken by the facility, and a summary of the underlying 5842
facts leading to the action taken. On request, the board shall 5843
be provided certified copies of the patient records that were 5844
the basis for the facility's action. Prior to release to the 5845
board, the summary shall be approved by the peer review 5846
committee that reviewed the case or by the governing board of 5847
the facility. 5848

The filing of a report with the board or decision not to 5849
file a report, investigation by the board, or any disciplinary 5850
action taken by the board, does not preclude a health care 5851
facility from taking disciplinary action against an 5852
anesthesiologist assistant. 5853

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, an anesthesiologist assistant, professional association or society of anesthesiologist 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) An anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes that a violation of division (B) (6) of section 4760.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 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 5884
eligibility requirements of section 4731.252 of the Revised 5885
Code. 5886

(3) If any individual authorized to practice under this 5887
chapter or any professional association or society of such 5888
individuals knows or has reasonable cause to suspect based on 5889
facts that would cause a reasonable person in a similar position 5890
to suspect that an individual authorized to practice under this 5891
chapter has committed or participated in criminal conduct or 5892
sexual misconduct the information upon which the belief is based 5893
shall be reported to the board within thirty days. 5894

(4) In addition to the self-reporting of criminal offenses 5895
that is required for license renewal, an individual authorized 5896
to practice under this chapter shall report to the board 5897
criminal charges regarding criminal conduct, sexual misconduct, 5898
or any conduct involving the use of a motor vehicle while under 5899
the influence of alcohol or drugs, including offenses that are 5900
equivalent offenses under division (A) of section 4511.181 of 5901
the Revised Code, violations of division (D) of section 4511.194 5902
of the Revised Code, and violations of division (C) of section 5903
4511.79 of the Revised Code. Reports under this division shall 5904
be made within thirty days of the criminal charge being filed. 5905

~~(C)~~ (D) Any professional association or society composed 5906
primarily of anesthesiologist assistants that suspends or 5907
revokes an individual's membership for violations of 5908
professional ethics, or for reasons of professional incompetence 5909
or professional malpractice, within ~~sixty~~ thirty days after a 5910
final decision, shall report to the board, on forms prescribed 5911
and provided by the board, the name of the individual, the 5912
action taken by the professional organization, and a summary of 5913

the underlying facts leading to the action taken. 5914

The filing of a report with the board or decision not to 5915
file a report, investigation by the board, or any disciplinary 5916
action taken by the board, does not preclude a professional 5917
organization from taking disciplinary action against an 5918
anesthesiologist assistant. 5919

~~(D)~~ (E) Any insurer providing professional liability 5920
insurance to any person holding a valid license to practice as 5921
an anesthesiologist assistant or any other entity that seeks to 5922
indemnify the professional liability of an anesthesiologist 5923
assistant shall notify the board within thirty days after the 5924
final disposition of any written claim for damages where such 5925
disposition results in a payment exceeding twenty-five thousand 5926
dollars. The notice shall contain the following information: 5927

(1) The name and address of the person submitting the 5928
notification; 5929

(2) The name and address of the insured who is the subject 5930
of the claim; 5931

(3) The name of the person filing the written claim; 5932

(4) The date of final disposition; 5933

(5) If applicable, the identity of the court in which the 5934
final disposition of the claim took place. 5935

~~(E)~~ (F) The board may investigate possible violations of 5936
this chapter or the rules adopted under it that are brought to 5937
its attention as a result of the reporting requirements of this 5938
section, except that the board shall conduct an investigation if 5939
a possible violation involves repeated malpractice. As used in 5940
this division, "repeated malpractice" means three or more claims 5941

for malpractice within the previous five-year period, each 5942
resulting in a judgment or settlement in excess of twenty-five 5943
thousand dollars in favor of the claimant, and each involving 5944
negligent conduct by the anesthesiologist assistant. 5945

~~(F)-(G) All summaries, reports, and records received and 5946
maintained by the board pursuant to this section shall be held- 5947
in confidence and shall not be subject to discovery or- 5948
introduction in evidence in any federal or state civil action- 5949
involving an anesthesiologist assistant, supervising physician,- 5950
or health care facility arising out of matters that are the- 5951
subject of the reporting required by this section. The board may 5952
use the information obtained only as the basis for an- 5953
investigation, as evidence in a disciplinary hearing against an- 5954
anesthesiologist assistant or supervising physician, or in any- 5955
subsequent trial or appeal of a board action or order.- 5956~~

~~The board may disclose the summaries and reports it 5957
receives under this section only to health care facility 5958
committees within or outside this state that are involved in 5959
credentialing or recredentialing an anesthesiologist assistant- 5960
or supervising physician or reviewing their privilege to 5961
practice within a particular facility. The board shall indicate 5962
whether or not the information has been verified. Information- 5963
transmitted by the board shall be subject to the same 5964
confidentiality provisions as when maintained by the 5965
board confidential pursuant to division (E) of section 4760.14 of 5966
the Revised Code. 5967~~

~~(G)-(H) Except for reports filed by an individual pursuant 5968
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 5969
send a copy of any reports or summaries it receives pursuant to 5970
this section to the anesthesiologist assistant. The 5971~~

anesthesiologist assistant shall have the right to file a 5972
statement with the board concerning the correctness or relevance 5973
of the information. The statement shall at all times accompany 5974
that part of the record in contention. 5975

~~(H)~~ (I) An individual or entity that reports to the board, 5976
reports to the monitoring organization described in section 5977
4731.251 of the Revised Code, or refers an impaired 5978
anesthesiologist assistant to a treatment provider approved by 5979
the board under section 4731.25 of the Revised Code shall not be 5980
subject to suit for civil damages as a result of the report, 5981
referral, or provision of the information. 5982

~~(I)~~ (J) In the absence of fraud or bad faith, a 5983
professional association or society of anesthesiologist 5984
assistants that sponsors a committee or program to provide peer 5985
assistance to an anesthesiologist assistant with substance abuse 5986
problems, a representative or agent of such a committee or 5987
program, a representative or agent of the monitoring 5988
organization described in section 4731.251 of the Revised Code, 5989
and a member of the state medical board shall not be held liable 5990
in damages to any person by reason of actions taken to refer an 5991
anesthesiologist assistant to a treatment provider approved 5992
under section 4731.25 of the Revised Code for examination or 5993
treatment. 5994

Sec. 4760.99. (A) Whoever violates section 4760.02 of the 5995
Revised Code is guilty of a misdemeanor of the first degree on a 5996
first offense; on each subsequent offense, the person is guilty 5997
of a felony of the fourth degree. 5998

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 5999
(1), ~~or (C) (2)~~, (D), or (E) of section 4760.16 of the Revised 6000
Code is guilty of a minor misdemeanor on a first offense; on 6001

each subsequent offense the person is guilty of a misdemeanor of 6002
the fourth degree, except that an individual guilty of a 6003
subsequent offense shall not be subject to imprisonment, but to 6004
a fine alone of up to one thousand dollars for each offense. 6005

(2) Whoever violates division (B) (2) or (C) (3) of section 6006
4760.16 of the Revised Code is guilty of failure to report 6007
criminal conduct or sexual misconduct, a misdemeanor of the 6008
fourth degree. If the offender has previously been convicted of 6009
a violation of this division, the failure to report is a 6010
misdemeanor of the first degree. 6011

(C) Whoever violates division (E) of section 4760.14 of 6012
the Revised Code is guilty of disclosing confidential 6013
investigatory information, a misdemeanor of the first degree. 6014

Sec. 4761.03. (A) The state medical board shall regulate 6015
the practice of respiratory care in this state and the persons 6016
to whom the board issues licenses and limited permits under this 6017
chapter. Rules adopted under this chapter that deal with the 6018
provision of respiratory care in a hospital, other than rules 6019
regulating the issuance of licenses or limited permits, shall be 6020
consistent with the conditions for participation under medicare, 6021
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 6022
42 U.S.C.A. 1395, as amended, and with the respiratory care 6023
accreditation standards of the joint commission or the American 6024
osteopathic association. 6025

(B) The board shall adopt, and may rescind or amend, rules 6026
in accordance with Chapter 119. of the Revised Code to carry out 6027
the purposes of this chapter, including rules prescribing the 6028
following: 6029

(1) The form and manner for filing applications under 6030

sections 4761.05 and 4761.06 of the Revised Code;	6031
(2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;	6032 6033 6034
(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;	6035 6036 6037
(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country;	6038 6039 6040 6041 6042 6043 6044
(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;	6045 6046 6047
(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code;	6048 6049 6050 6051 6052
(7) Standards of ethical conduct for the practice of respiratory care;	6053 6054
(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B) (3) of section 4761.10 of the Revised Code;	6055 6056 6057 6058

(9) Requirements for criminal records checks of applicants 6059
under section 4776.03 of the Revised Code. 6060

(C) The board shall determine the sufficiency of an 6061
applicant's qualifications for admission to the licensing 6062
examination or a reexamination, and for the issuance or renewal 6063
of a license or limited permit. 6064

(D) The board shall determine the respiratory care 6065
educational programs that are acceptable for fulfilling the 6066
requirements of division (A) of section 4761.04 of the Revised 6067
Code. 6068

(E) (1) The board shall investigate evidence that appears 6069
to show that a person has violated any provision of this chapter 6070
or any rule adopted under it. Any person may report to the board 6071
in a signed writing any information that the person may have 6072
that appears to show a violation of any provision of this 6073
chapter or any rule adopted under it. In the absence of bad 6074
faith, any person who reports information of that nature or who 6075
testifies before the board in any adjudication conducted under 6076
Chapter 119. of the Revised Code shall not be liable in damages 6077
in a civil action as a result of the report or testimony. Each 6078
complaint or allegation of a violation received by the board 6079
shall be assigned a case number and shall be recorded by the 6080
board. 6081

(2) Investigations of alleged violations of this chapter 6082
or any rule adopted under it shall be supervised by the 6083
supervising member elected by the board in accordance with 6084
section 4731.02 of the Revised Code and by the secretary as 6085
provided in section 4761.012 of the Revised Code. The president 6086
may designate another member of the board to supervise the 6087
investigation in place of the supervising member. Upon a vote of 6088

the majority of the board to authorize the addition of a 6089
consumer member in the supervision of any part of any 6090
investigation, the president shall designate a consumer member 6091
for supervision of investigations as determined by the 6092
president. The authorization of consumer member participation in 6093
investigation supervision may be rescinded by a majority vote of 6094
the board. No member of the board who supervises the 6095
investigation of a case shall participate in further 6096
adjudication of the case. 6097

(3) In investigating a possible violation of this chapter 6098
or any rule adopted under it, the board may issue subpoenas, 6099
administer oaths, question witnesses, conduct interviews, order 6100
the taking of depositions, inspect and copy any books, accounts, 6101
papers, records, or documents, and compel the attendance of 6102
witnesses and production of books, accounts, papers, records, 6103
documents, and testimony, except that a subpoena for patient 6104
record information or information, documents, and records from a 6105
peer review committee of a health care entity related to sexual 6106
misconduct or criminal conduct shall not be issued without 6107
consultation with the attorney general's office and approval of 6108
the secretary and supervising member of the board. 6109

Before issuance of a subpoena for patient record 6110
information or information, documents, and records from a peer 6111
review committee of a health care entity related to sexual 6112
misconduct or criminal conduct, the secretary and supervising 6113
member shall determine whether there is probable cause to 6114
believe that the complaint filed alleges a violation of this 6115
chapter or any rule adopted under it and that the records sought 6116
are relevant to the alleged violation and material to the 6117
investigation. The subpoena may apply only to records that cover 6118
a reasonable period of time surrounding the alleged violation. 6119

On failure to comply with any subpoena issued by the board 6120
and after reasonable notice to the person being subpoenaed, the 6121
board may move for an order compelling the production of persons 6122
or records pursuant to the Rules of Civil Procedure. 6123

A subpoena issued by the board may be served by a sheriff, 6124
the sheriff's deputy, or a board employee or agent designated by 6125
the board. Service of a subpoena issued by the board may be made 6126
by delivering a copy of the subpoena to the person named 6127
therein, reading it to the person, or leaving it at the person's 6128
usual place of residence, usual place of business, or address on 6129
file with the board. When serving a subpoena to an applicant for 6130
or the holder of a license or limited permit issued under this 6131
chapter, service of the subpoena may be made by certified mail, 6132
return receipt requested, and the subpoena shall be deemed 6133
served on the date delivery is made or the date the person 6134
refuses to accept delivery. If the person being served refuses 6135
to accept the subpoena or is not located, service may be made to 6136
an attorney who notifies the board that the attorney is 6137
representing the person. 6138

A sheriff's deputy who serves a subpoena shall receive the 6139
same fees as a sheriff. Each witness who appears before the 6140
board in obedience to a subpoena shall receive the fees and 6141
mileage provided for under section 119.094 of the Revised Code. 6142

(4) All For purposes of section 2305.252 of the Revised 6143
Code, all hearings, investigations, and inspections of the board 6144
shall be considered civil actions ~~for the purposes of section~~ 6145
~~2305.252 of the Revised Code, except those involving allegations~~ 6146
of sexual misconduct or criminal conduct, as defined in that 6147
section. 6148

(5) A report required to be submitted to the board under 6149

this chapter, a complaint, or information received by the board 6150
pursuant to an investigation is confidential and not subject to 6151
discovery in any civil action. 6152

The board shall conduct all investigations or inspections 6153
and proceedings in a manner that protects the confidentiality of 6154
patients and persons who file complaints with the board. The 6155
board shall not make public the names or any other identifying 6156
information about patients or complainants unless proper consent 6157
is given. 6158

The board may share any information it receives pursuant 6159
to an investigation or inspection, including patient records and 6160
patient record information, with law enforcement agencies, other 6161
licensing boards, and other governmental agencies that are 6162
prosecuting, adjudicating, or investigating alleged violations 6163
of statutes or administrative rules. An agency or board that 6164
receives the information shall comply with the same requirements 6165
regarding confidentiality as those with which the state medical 6166
board must comply, notwithstanding any conflicting provision of 6167
the Revised Code or procedure of the agency or board that 6168
applies when it is dealing with other information in its 6169
possession. In a judicial proceeding, the information may be 6170
admitted into evidence only in accordance with the Rules of 6171
Evidence, but the court shall require that appropriate measures 6172
are taken to ensure that confidentiality is maintained with 6173
respect to any part of the information that contains names or 6174
other identifying information about patients or complainants 6175
whose confidentiality was protected by the state medical board 6176
when the information was in the board's possession. Measures to 6177
ensure confidentiality that may be taken by the court include 6178
sealing its records or deleting specific information from its 6179
records. 6180

No person shall knowingly access, use, or disclose 6181
confidential investigatory information in a manner prohibited by 6182
law. 6183

(6) On a quarterly basis, the board shall prepare a report 6184
that documents the disposition of all cases during the preceding 6185
three months. The report shall contain the following information 6186
for each case with which the board has completed its activities: 6187

(a) The case number assigned to the complaint or alleged 6188
violation; 6189

(b) The type of license or limited permit, if any, held by 6190
the individual against whom the complaint is directed; 6191

(c) A description of the allegations contained in the 6192
complaint; 6193

(d) Whether witnesses were interviewed; 6194

(e) Whether the individual against whom the complaint is 6195
directed is the subject of any pending complaints; 6196

(f) The disposition of the case. 6197

The report shall state how many cases are still pending 6198
and shall be prepared in a manner that protects the identity of 6199
each person involved in each case. The report shall be a public 6200
record under section 149.43 of the Revised Code. 6201

(7) The board may provide a status update regarding an 6202
investigation to a complainant on request if the board verifies 6203
the complainant's identity. 6204

(F) The board shall keep records of its proceedings and do 6205
other things as are necessary and proper to carry out and 6206
enforce the provisions of this chapter. 6207

(G) The board shall maintain and publish on its internet 6208
web site all of the following: 6209

(1) The requirements for the issuance of licenses and 6210
limited permits under this chapter and rules adopted by the 6211
board; 6212

(2) A list of the names and locations of the institutions 6213
that each year granted degrees or certificates of completion in 6214
respiratory care. 6215

Sec. 4761.09. (A) The state medical board, by an 6216
affirmative vote of not fewer than six members, shall, except as 6217
provided in division (B) of this section, and to the extent 6218
permitted by law, limit, revoke, or suspend an individual's 6219
license or limited permit, refuse to issue a license or limited 6220
permit to an individual, refuse to renew a license or limited 6221
permit, refuse to reinstate a license or limited permit, or 6222
reprimand or place on probation the holder of a license or 6223
limited permit for one or more of the following reasons: 6224

(1) A plea of guilty to, a judicial finding of guilt of, 6225
or a judicial finding of eligibility for intervention in lieu of 6226
conviction for, a felony; 6227

(2) Commission of an act that constitutes a felony in this 6228
state, regardless of the jurisdiction in which the act was 6229
committed; 6230

(3) A plea of guilty to, a judicial finding of guilt of, 6231
or a judicial finding of eligibility for intervention in lieu of 6232
conviction for, a misdemeanor committed in the course of 6233
practice; 6234

(4) Commission of an act in the course of practice that 6235
constitutes a misdemeanor in this state, regardless of the 6236

jurisdiction in which the act was committed; 6237

(5) A plea of guilty to, a judicial finding of guilt of, 6238
or a judicial finding of eligibility for intervention in lieu of 6239
conviction for, a misdemeanor involving moral turpitude; 6240

(6) Commission of an act involving moral turpitude that 6241
constitutes a misdemeanor in this state, regardless of the 6242
jurisdiction in which the act was committed; 6243

(7) Except when civil penalties are imposed under section 6244
4761.091 of the Revised Code, violating or attempting to 6245
violate, directly or indirectly, or assisting in or abetting the 6246
violation of, or conspiring to violate, any provision of this 6247
chapter or the rules adopted by the board; 6248

(8) Making a false, fraudulent, deceptive, or misleading 6249
statement in the solicitation of or advertising for patients; in 6250
relation to the practice of respiratory care; or in securing or 6251
attempting to secure any license or permit issued by the board 6252
under this chapter. 6253

As used in division (A)(8) of this section, "false, 6254
fraudulent, deceptive, or misleading statement" means a 6255
statement that includes a misrepresentation of fact, is likely 6256
to mislead or deceive because of a failure to disclose material 6257
facts, is intended or is likely to create false or unjustified 6258
expectations of favorable results, or includes representations 6259
or implications that in reasonable probability will cause an 6260
ordinarily prudent person to misunderstand or be deceived. 6261

(9) Committing fraud during the administration of the 6262
examination for a license to practice or committing fraud, 6263
misrepresentation, or deception in applying for, renewing, or 6264
securing any license or permit issued by the board; 6265

- (10) 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; 6266
6267
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6269
- (11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care; 6270
6271
- (12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 6272
6273
6274
- (13) Violation of the conditions of limitation placed by the board upon a license or permit; 6275
6276
- (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; 6277
6278
6279
6280
- (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; 6281
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- (16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs; 6291
6292
6293
- (17) Termination or suspension from participation in the 6294

medicare or medicaid programs by the department of health and 6295
human services or other responsible agency for any act or acts 6296
that also would constitute a violation of division (A) (10), 6297
(12), or (14) of this section; 6298

(18) Impairment of ability to practice according to 6299
acceptable and prevailing standards of care because of habitual 6300
or excessive use or abuse of drugs, alcohol, or other substances 6301
that impair ability to practice; 6302

(19) Failure to cooperate in an investigation conducted by 6303
the board under division (E) of section 4761.03 of the Revised 6304
Code, including failure to comply with a subpoena or order 6305
issued by the board or failure to answer truthfully a question 6306
presented by the board in an investigative interview, an 6307
investigative office conference, at a deposition, or in written 6308
interrogatories, except that failure to cooperate with an 6309
investigation shall not constitute grounds for discipline under 6310
this section if a court of competent jurisdiction has issued an 6311
order that either quashes a subpoena or permits the individual 6312
to withhold the testimony or evidence in issue; 6313

(20) Practicing in an area of respiratory care for which 6314
the person is clearly untrained or incompetent or practicing in 6315
a manner that conflicts with section 4761.17 of the Revised 6316
Code; 6317

(21) Employing, directing, or supervising a person who is 6318
not authorized to practice respiratory care under this chapter 6319
in the performance of respiratory care procedures; 6320

(22) Misrepresenting educational attainments or authorized 6321
functions for the purpose of obtaining some benefit related to 6322
the practice of respiratory care; 6323

(23) Assisting suicide as defined in section 3795.01 of 6324
the Revised Code; 6325

(24) Representing, with the purpose of obtaining 6326
compensation or other advantage as personal gain or for any 6327
other person, that an incurable disease or injury, or other 6328
incurable condition, can be permanently cured. 6329

Disciplinary actions taken by the board under division (A) 6330
of this section shall be taken pursuant to an adjudication under 6331
Chapter 119. of the Revised Code, except that in lieu of an 6332
adjudication, the board may enter into a consent agreement with 6333
an individual to resolve an allegation of a violation of this 6334
chapter or any rule adopted under it. A consent agreement, when 6335
ratified by an affirmative vote of not fewer than six members of 6336
the board, shall constitute the findings and order of the board 6337
with respect to the matter addressed in the agreement. If the 6338
board refuses to ratify a consent agreement, the admissions and 6339
findings contained in the consent agreement shall be of no 6340
effect. 6341

A telephone conference call may be utilized for 6342
ratification of a consent agreement that revokes or suspends an 6343
individual's license or permit. The telephone conference call 6344
shall be considered a special meeting under division (F) of 6345
section 121.22 of the Revised Code. 6346

(B) The board shall not refuse to issue a license or 6347
limited permit to an applicant because of a plea of guilty to, a 6348
judicial finding of guilt of, or a judicial finding of 6349
eligibility for intervention in lieu of conviction for an 6350
offense unless the refusal is in accordance with section 9.79 of 6351
the Revised Code. 6352

(C) Any action taken by the board under division (A) of 6353
this section resulting in a suspension from practice shall be 6354
accompanied by a written statement of the conditions under which 6355
the individual's license or permit may be reinstated. The board 6356
shall adopt rules governing conditions to be imposed for 6357
reinstatement. Reinstatement of a license or permit suspended 6358
pursuant to division (A) of this section requires an affirmative 6359
vote of not fewer than six members of the board. 6360

(D) When the board refuses to grant or issue a license or 6361
permit to an applicant, revokes an individual's license or 6362
permit, refuses to renew an individual's license or permit, or 6363
refuses to reinstate an individual's license or permit, the 6364
board may specify that its action is permanent. An individual 6365
subject to a permanent action taken by the board is forever 6366
thereafter ineligible to hold a license or permit and the board 6367
shall not accept an application for reinstatement of the license 6368
or permit or for issuance of a new license or permit. 6369

(E) If the board is required by Chapter 119. of the 6370
Revised Code to give notice of an opportunity for a hearing and 6371
if the individual subject to the notice does not timely request 6372
a hearing in accordance with section 119.07 of the Revised Code, 6373
the board is not required to hold a hearing, but may adopt, by 6374
an affirmative vote of not fewer than six of its members, a 6375
final order that contains the board's findings. In the final 6376
order, the board may order any of the sanctions identified under 6377
division (A) of this section. 6378

(F) In enforcing division (A) (14) of this section, the 6379
board, upon a showing of a possible violation, may compel any 6380
individual authorized to practice by this chapter or who has 6381
submitted an application pursuant to this chapter to submit to a 6382

mental examination, physical examination, including an HIV test, 6383
or both a mental and a physical examination. The expense of the 6384
examination is the responsibility of the individual compelled to 6385
be examined. Failure to submit to a mental or physical 6386
examination or consent to an HIV test ordered by the board 6387
constitutes an admission of the allegations against the 6388
individual unless the failure is due to circumstances beyond the 6389
individual's control, and a default and final order may be 6390
entered without the taking of testimony or presentation of 6391
evidence. If the board finds an individual unable to practice 6392
because of the reasons set forth in division (A) (14) of this 6393
section, the board shall require the individual to submit to 6394
care, counseling, or treatment by physicians approved or 6395
designated by the board, as a condition for initial, continued, 6396
reinstated, or renewed authority to practice. An individual 6397
affected under this division shall be afforded an opportunity to 6398
demonstrate to the board the ability to resume practice in 6399
compliance with acceptable and prevailing standards under the 6400
provisions of the individual's license or permit. For the 6401
purpose of division (A) (14) of this section, any individual who 6402
applies for or receives a license or permit to practice under 6403
this chapter accepts the privilege of practicing in this state 6404
and, by so doing, shall be deemed to have given consent to 6405
submit to a mental or physical examination when directed to do 6406
so in writing by the board, and to have waived all objections to 6407
the admissibility of testimony or examination reports that 6408
constitute a privileged communication. 6409

(G) For the purposes of division (A) (18) of this section, 6410
any individual authorized to practice by this chapter accepts 6411
the privilege of practicing in this state subject to supervision 6412
by the board. By filing an application for or holding a license 6413

or permit under this chapter, an individual shall be deemed to 6414
have given consent to submit to a mental or physical examination 6415
when ordered to do so by the board in writing, and to have 6416
waived all objections to the admissibility of testimony or 6417
examination reports that constitute privileged communications. 6418

If it has reason to believe that any individual authorized 6419
to practice by this chapter or any applicant for a license or 6420
permit suffers such impairment, the board may compel the 6421
individual to submit to a mental or physical examination, or 6422
both. The expense of the examination is the responsibility of 6423
the individual compelled to be examined. Any mental or physical 6424
examination required under this division shall be undertaken by 6425
a treatment provider or physician who is qualified to conduct 6426
the examination and who is chosen by the board. 6427

Failure to submit to a mental or physical examination 6428
ordered by the board constitutes an admission of the allegations 6429
against the individual unless the failure is due to 6430
circumstances beyond the individual's control, and a default and 6431
final order may be entered without the taking of testimony or 6432
presentation of evidence. If the board determines that the 6433
individual's ability to practice is impaired, the board shall 6434
suspend the individual's license or permit or deny the 6435
individual's application and shall require the individual, as a 6436
condition for an initial, continued, reinstated, or renewed 6437
license or permit, to submit to treatment. 6438

Before being eligible to apply for reinstatement of a 6439
license or permit suspended under this division, the impaired 6440
practitioner shall demonstrate to the board the ability to 6441
resume practice in compliance with acceptable and prevailing 6442
standards of care under the provisions of the practitioner's 6443

license or permit. The demonstration shall include, but shall 6444
not be limited to, the following: 6445

(1) Certification from a treatment provider approved under 6446
section 4731.25 of the Revised Code that the individual has 6447
successfully completed any required inpatient treatment; 6448

(2) Evidence of continuing full compliance with an 6449
aftercare contract or consent agreement; 6450

(3) Two written reports indicating that the individual's 6451
ability to practice has been assessed and that the individual 6452
has been found capable of practicing according to acceptable and 6453
prevailing standards of care. The reports shall be made by 6454
individuals or providers approved by the board for making the 6455
assessments and shall describe the basis for their 6456
determination. 6457

The board may reinstate a license or permit suspended 6458
under this division after that demonstration and after the 6459
individual has entered into a written consent agreement. 6460

When the impaired practitioner resumes practice, the board 6461
shall require continued monitoring of the individual. The 6462
monitoring shall include, but not be limited to, compliance with 6463
the written consent agreement entered into before reinstatement 6464
or with conditions imposed by board order after a hearing, and, 6465
upon termination of the consent agreement, submission to the 6466
board for at least two years of annual written progress reports 6467
made under penalty of perjury stating whether the individual has 6468
maintained sobriety. 6469

~~(H)~~ (H) (1) If either of the following circumstances occur, 6470
the secretary and supervising member ~~determine both of the~~ 6471
~~following, they may~~ recommend that the board suspend an 6472

individual's license or permit without a prior hearing: 6473

~~(1)~~ (a) The secretary and supervising member determine 6474
both of the following: 6475

(i) That there is clear and convincing evidence that an 6476
individual has violated division (A) of this section; 6477

~~(2)~~ (ii) That the individual's continued practice presents 6478
a danger of immediate and serious harm to the public. 6479

(b) The board receives verifiable information that a 6480
licensee has been charged in any state or federal court for a 6481
crime classified as a felony under the charging court's law and 6482
the conduct charged constitutes a violation of division (A) of 6483
this section. 6484

~~Written~~ (2) If a recommendation is made to suspend without 6485
a prior hearing pursuant to division (H) (1) of this section, 6486
written allegations shall be prepared for consideration by the 6487
board. The board, upon review of those allegations and by an 6488
affirmative vote of not fewer than six of its members, excluding 6489
the secretary and supervising member, may suspend a license or 6490
permit without a prior hearing. A telephone conference call may 6491
be utilized for reviewing the allegations and taking the vote on 6492
the summary suspension. 6493

The board shall issue a written order of suspension by 6494
certified mail or in person in accordance with section 119.07 of 6495
the Revised Code. The order shall not be subject to suspension 6496
by the court during pendency of any appeal filed under section 6497
119.12 of the Revised Code. If the individual subject to the 6498
summary suspension requests an adjudicatory hearing by the 6499
board, the date set for the hearing shall be within fifteen 6500
days, but not earlier than seven days, after the individual 6501

requests the hearing, unless otherwise agreed to by both the 6502
board and the individual. 6503

(3) Any summary suspension imposed under this division 6504
shall remain in effect, unless reversed on appeal, until a final 6505
adjudicative order issued by the board pursuant to this section 6506
and Chapter 119. of the Revised Code becomes effective. The 6507
board shall issue its final adjudicative order within seventy- 6508
five days after completion of its hearing. A failure to issue 6509
the order within seventy-five days shall result in dissolution 6510
of the summary suspension order but shall not invalidate any 6511
subsequent, final adjudicative order. 6512

(I) For purposes of divisions (A) (2), (4), and (6) of this 6513
section, the commission of the act may be established by a 6514
finding by the board, pursuant to an adjudication under Chapter 6515
119. of the Revised Code, that the individual committed the act. 6516
The board does not have jurisdiction under those divisions if 6517
the trial court renders a final judgment in the individual's 6518
favor and that judgment is based upon an adjudication on the 6519
merits. The board has jurisdiction under those divisions if the 6520
trial court issues an order of dismissal upon technical or 6521
procedural grounds. 6522

(J) The sealing of conviction records by any court shall 6523
have no effect upon a prior board order entered under this 6524
section or upon the board's jurisdiction to take action under 6525
this section if, based upon a plea of guilty, a judicial finding 6526
of guilt, or a judicial finding of eligibility for intervention 6527
in lieu of conviction, the board issued a notice of opportunity 6528
for a hearing prior to the court's order to seal the records. 6529
The board shall not be required to seal, destroy, redact, or 6530
otherwise modify its records to reflect the court's sealing of 6531

conviction records. 6532

(K) If the board takes action under division (A) (1), (3), 6533
or (5) of this section, and the judicial finding of guilt, 6534
guilty plea, or judicial finding of eligibility for intervention 6535
in lieu of conviction is overturned on appeal, upon exhaustion 6536
of the criminal appeal, a petition for reconsideration of the 6537
order may be filed with the board along with appropriate court 6538
documents. Upon receipt of a petition for reconsideration and 6539
supporting court documents, the board shall reinstate the 6540
individual's license or permit. The board may then hold an 6541
adjudication under Chapter 119. of the Revised Code to determine 6542
whether the individual committed the act in question. Notice of 6543
an opportunity for a hearing shall be given in accordance with 6544
Chapter 119. of the Revised Code. If the board finds, pursuant 6545
to an adjudication held under this division, that the individual 6546
committed the act or if no hearing is requested, the board may 6547
order any of the sanctions identified under division (A) of this 6548
section. 6549

(L) The license or permit issued to an individual under 6550
this chapter and the individual's practice in this state are 6551
automatically suspended as of the date the individual pleads 6552
guilty to, is found by a judge or jury to be guilty of, or is 6553
subject to a judicial finding of eligibility for intervention in 6554
lieu of conviction in this state or treatment or intervention in 6555
lieu of conviction in another jurisdiction for any of the 6556
following criminal offenses in this state or a substantially 6557
equivalent criminal offense in another jurisdiction: aggravated 6558
murder, murder, voluntary manslaughter, felonious assault, 6559
trafficking in persons, kidnapping, rape, sexual battery, gross 6560
sexual imposition, aggravated arson, aggravated robbery, or 6561
aggravated burglary. Continued practice after suspension shall 6562

be considered practicing without a license or permit. 6563

The board shall notify the individual subject to the 6564
suspension by certified mail or in person in accordance with 6565
section 119.07 of the Revised Code. If an individual whose 6566
license or permit is automatically suspended under this division 6567
fails to make a timely request for an adjudication under Chapter 6568
119. of the Revised Code, the board shall enter a final order 6569
permanently revoking the individual's license or permit. 6570

(M) Notwithstanding any other provision of the Revised 6571
Code, all of the following apply: 6572

(1) The surrender of a license or permit issued under this 6573
chapter shall not be effective unless or until accepted by the 6574
board. A telephone conference call may be utilized for 6575
acceptance of the surrender of an individual's license or 6576
permit. The telephone conference call shall be considered a 6577
special meeting under division (F) of section 121.22 of the 6578
Revised Code. Reinstatement of a license or permit surrendered 6579
to the board requires an affirmative vote of not fewer than six 6580
members of the board. 6581

(2) An application for a license or permit made under the 6582
provisions of this chapter may not be withdrawn without approval 6583
of the board. 6584

(3) Failure by an individual to renew a license or permit 6585
in accordance with this chapter shall not remove or limit the 6586
board's jurisdiction to take any disciplinary action under this 6587
section against the individual. 6588

(4) At the request of the board, a license or permit 6589
holder shall immediately surrender to the board a license or 6590
permit that the board has suspended, revoked, or permanently 6591

revoked. 6592

Sec. 4761.14. (A) As used in this section, "criminal 6593
conduct" and "sexual misconduct" have the same meanings as in 6594
section 4731.224 of the Revised Code. 6595

(B) (1) An employer that disciplines or terminates the 6596
employment of a respiratory care professional or individual 6597
holding a limited permit issued under this chapter because of 6598
conduct that would be grounds for disciplinary action under 6599
section 4761.09 of the Revised Code shall, not later than ~~sixty-~~ 6600
~~thirty~~ days after the discipline or termination, report the 6601
action to the state medical board. The report shall state the 6602
name of the respiratory care professional or individual holding 6603
the limited permit and the reason the employer took the action. 6604
If an employer fails to report to the board, the board may seek 6605
an order from the Franklin county court of common pleas, or any 6606
other court of competent jurisdiction, compelling submission of 6607
the report. 6608

(2) Within thirty days after commencing an investigation 6609
regarding criminal conduct or sexual misconduct against any 6610
individual holding a valid license or limited permit issued 6611
pursuant to this chapter, a health care facility, including a 6612
hospital, health care facility operated by a health insuring 6613
corporation, ambulatory surgical center, or similar facility or 6614
employer, shall report to the board the name of the individual 6615
and a summary of the underlying facts related to the 6616
investigation being commenced. 6617

(C) If any individual authorized to practice under this 6618
chapter or any professional association or society of such 6619
individuals knows or has reasonable cause to suspect based on 6620
facts that would cause a reasonable person in a similar position 6621

to suspect that an individual authorized to practice under this 6622
chapter has committed or participated in criminal conduct or 6623
sexual misconduct the information upon which the belief is based 6624
shall be reported to the board within thirty days. 6625

(D) In addition to the self-reporting of criminal offenses 6626
that is required for license renewal, an individual authorized 6627
to practice under this chapter shall report to the board 6628
criminal charges regarding criminal conduct, sexual misconduct, 6629
or any conduct involving the use of a motor vehicle while under 6630
the influence of alcohol or drugs, including offenses that are 6631
equivalent offenses under division (A) of section 4511.181 of 6632
the Revised Code, violations of division (D) of section 4511.194 6633
of the Revised Code, and violations of division (C) of section 6634
4511.79 of the Revised Code. Reports under this division shall 6635
be made within thirty days of the criminal charge being filed. 6636

Sec. 4761.99. Whoever violates division (A) of section 6637
4761.10 of the Revised Code is guilty of a minor misdemeanor on 6638
a first offense. On a second offense, the person is guilty of a 6639
misdemeanor of the fourth degree. On each subsequent offense, 6640
the person is guilty of a misdemeanor of the first degree. 6641

Whoever violates division (B)(2) or (C) of section 4761.14 6642
of the Revised Code is guilty of failure to report criminal 6643
conduct or sexual misconduct, a misdemeanor of the fourth 6644
degree. If the offender has previously been convicted of a 6645
violation of this division, the failure to report is a 6646
misdemeanor of the first degree. 6647

Whoever violates division (E)(5) of section 4761.03 of the 6648
Revised Code is guilty of disclosing confidential investigatory 6649
information, a misdemeanor of the first degree. 6650

Sec. 4762.13. (A) The state medical board, by an 6651
affirmative vote of not fewer than six members, may revoke or 6652
may refuse to grant a license to practice as an oriental 6653
medicine practitioner or license to practice as an acupuncturist 6654
to a person found by the board to have committed fraud, 6655
misrepresentation, or deception in applying for or securing the 6656
license. 6657

(B) The board, by an affirmative vote of not fewer than 6658
six members, shall, except as provided in division (C) of this 6659
section, and to the extent permitted by law, limit, revoke, or 6660
suspend an individual's license to practice, refuse to issue a 6661
license to an applicant, refuse to renew a license, refuse to 6662
reinstate a license, or reprimand or place on probation the 6663
holder of a license for any of the following reasons: 6664

(1) Permitting the holder's name or license to be used by 6665
another person; 6666

(2) Failure to comply with the requirements of this 6667
chapter, Chapter 4731. of the Revised Code, or any rules adopted 6668
by the board; 6669

(3) Violating or attempting to violate, directly or 6670
indirectly, or assisting in or abetting the violation of, or 6671
conspiring to violate, any provision of this chapter, Chapter 6672
4731. of the Revised Code, or the rules adopted by the board; 6673

(4) A departure from, or failure to conform to, minimal 6674
standards of care of similar practitioners under the same or 6675
similar circumstances whether or not actual injury to the 6676
patient is established; 6677

(5) Inability to practice according to acceptable and 6678
prevailing standards of care by reason of mental illness or 6679

physical illness, including physical deterioration that 6680
adversely affects cognitive, motor, or perceptive skills; 6681

(6) Impairment of ability to practice according to 6682
acceptable and prevailing standards of care because of habitual 6683
or excessive use or abuse of drugs, alcohol, or other substances 6684
that impair ability to practice; 6685

(7) Willfully betraying a professional confidence; 6686

(8) Making a false, fraudulent, deceptive, or misleading 6687
statement in soliciting or advertising for patients or in 6688
securing or attempting to secure a license to practice as an 6689
oriental medicine practitioner or license to practice as an 6690
acupuncturist. 6691

As used in this division, "false, fraudulent, deceptive, 6692
or misleading statement" means a statement that includes a 6693
misrepresentation of fact, is likely to mislead or deceive 6694
because of a failure to disclose material facts, is intended or 6695
is likely to create false or unjustified expectations of 6696
favorable results, or includes representations or implications 6697
that in reasonable probability will cause an ordinarily prudent 6698
person to misunderstand or be deceived. 6699

(9) Representing, with the purpose of obtaining 6700
compensation or other advantage personally or for any other 6701
person, that an incurable disease or injury, or other incurable 6702
condition, can be permanently cured; 6703

(10) The obtaining of, or attempting to obtain, money or a 6704
thing of value by fraudulent misrepresentations in the course of 6705
practice; 6706

(11) A plea of guilty to, a judicial finding of guilt of, 6707
or a judicial finding of eligibility for intervention in lieu of 6708

conviction for, a felony; 6709

(12) Commission of an act that constitutes a felony in 6710
this state, regardless of the jurisdiction in which the act was 6711
committed; 6712

(13) A plea of guilty to, a judicial finding of guilt of, 6713
or a judicial finding of eligibility for intervention in lieu of 6714
conviction for, a misdemeanor committed in the course of 6715
practice; 6716

(14) A plea of guilty to, a judicial finding of guilt of, 6717
or a judicial finding of eligibility for intervention in lieu of 6718
conviction for, a misdemeanor involving moral turpitude; 6719

(15) Commission of an act in the course of practice that 6720
constitutes a misdemeanor in this state, regardless of the 6721
jurisdiction in which the act was committed; 6722

(16) Commission of an act involving moral turpitude that 6723
constitutes a misdemeanor in this state, regardless of the 6724
jurisdiction in which the act was committed; 6725

(17) A plea of guilty to, a judicial finding of guilt of, 6726
or a judicial finding of eligibility for intervention in lieu of 6727
conviction for violating any state or federal law regulating the 6728
possession, distribution, or use of any drug, including 6729
trafficking in drugs; 6730

(18) Any of the following actions taken by the state 6731
agency responsible for regulating the practice of oriental 6732
medicine or acupuncture in another jurisdiction, for any reason 6733
other than the nonpayment of fees: the limitation, revocation, 6734
or suspension of an individual's license to practice; acceptance 6735
of an individual's license surrender; denial of a license; 6736
refusal to renew or reinstate a license; imposition of 6737

probation; or issuance of an order of censure or other	6738
reprimand;	6739
(19) Violation of the conditions placed by the board on a	6740
license to practice as an oriental medicine practitioner or	6741
license to practice as an acupuncturist;	6742
(20) Failure to use universal blood and body fluid	6743
precautions established by rules adopted under section 4731.051	6744
of the Revised Code;	6745
(21) Failure to cooperate in an investigation conducted by	6746
the board under section 4762.14 of the Revised Code, including	6747
failure to comply with a subpoena or order issued by the board	6748
or failure to answer truthfully a question presented by the	6749
board at a deposition or in written interrogatories, except that	6750
failure to cooperate with an investigation shall not constitute	6751
grounds for discipline under this section if a court of	6752
competent jurisdiction has issued an order that either quashes a	6753
subpoena or permits the individual to withhold the testimony or	6754
evidence in issue;	6755
(22) Failure to comply with the standards of the national	6756
certification commission for acupuncture and oriental medicine	6757
regarding professional ethics, commitment to patients,	6758
commitment to the profession, and commitment to the public;	6759
(23) Failure to have adequate professional liability	6760
insurance coverage in accordance with section 4762.22 of the	6761
Revised Code;	6762
(24) Failure to maintain a current and active designation	6763
as a diplomate in oriental medicine, diplomate of acupuncture	6764
and Chinese herbology, or diplomate in acupuncture, as	6765
applicable, from the national certification commission for	6766

acupuncture and oriental medicine, including revocation by the 6767
commission of the individual's designation, failure by the 6768
individual to meet the commission's requirements for 6769
redesignation, or failure to notify the board that the 6770
appropriate designation has not been maintained. 6771

(C) The board shall not refuse to issue a certificate to 6772
an applicant because of a plea of guilty to, a judicial finding 6773
of guilt of, or a judicial finding of eligibility for 6774
intervention in lieu of conviction for an offense unless the 6775
refusal is in accordance with section 9.79 of the Revised Code. 6776

(D) Disciplinary actions taken by the board under 6777
divisions (A) and (B) of this section shall be taken pursuant to 6778
an adjudication under Chapter 119. of the Revised Code, except 6779
that in lieu of an adjudication, the board may enter into a 6780
consent agreement with an oriental medicine practitioner or 6781
acupuncturist or applicant to resolve an allegation of a 6782
violation of this chapter or any rule adopted under it. A 6783
consent agreement, when ratified by an affirmative vote of not 6784
fewer than six members of the board, shall constitute the 6785
findings and order of the board with respect to the matter 6786
addressed in the agreement. If the board refuses to ratify a 6787
consent agreement, the admissions and findings contained in the 6788
consent agreement shall be of no force or effect. 6789

(E) For purposes of divisions (B) (12), (15), and (16) of 6790
this section, the commission of the act may be established by a 6791
finding by the board, pursuant to an adjudication under Chapter 6792
119. of the Revised Code, that the applicant or license holder 6793
committed the act in question. The board shall have no 6794
jurisdiction under these divisions in cases where the trial 6795
court renders a final judgment in the license holder's favor and 6796

that judgment is based upon an adjudication on the merits. The 6797
board shall have jurisdiction under these divisions in cases 6798
where the trial court issues an order of dismissal upon 6799
technical or procedural grounds. 6800

(F) The sealing of conviction records by any court shall 6801
have no effect upon a prior board order entered under the 6802
provisions of this section or upon the board's jurisdiction to 6803
take action under the provisions of this section if, based upon 6804
a plea of guilty, a judicial finding of guilt, or a judicial 6805
finding of eligibility for intervention in lieu of conviction, 6806
the board issued a notice of opportunity for a hearing or 6807
entered into a consent agreement prior to the court's order to 6808
seal the records. The board shall not be required to seal, 6809
destroy, redact, or otherwise modify its records to reflect the 6810
court's sealing of conviction records. 6811

(G) For purposes of this division, any individual who 6812
holds a license to practice issued under this chapter, or 6813
applies for a license to practice, shall be deemed to have given 6814
consent to submit to a mental or physical examination when 6815
directed to do so in writing by the board and to have waived all 6816
objections to the admissibility of testimony or examination 6817
reports that constitute a privileged communication. 6818

(1) In enforcing division (B) (5) of this section, the 6819
board, upon a showing of a possible violation, may compel any 6820
individual who holds a license to practice issued under this 6821
chapter or who has applied for a license pursuant to this 6822
chapter to submit to a mental examination, physical examination, 6823
including an HIV test, or both a mental and physical 6824
examination. The expense of the examination is the 6825
responsibility of the individual compelled to be examined. 6826

Failure to submit to a mental or physical examination or consent 6827
to an HIV test ordered by the board constitutes an admission of 6828
the allegations against the individual unless the failure is due 6829
to circumstances beyond the individual's control, and a default 6830
and final order may be entered without the taking of testimony 6831
or presentation of evidence. If the board finds an oriental 6832
medicine practitioner or acupuncturist unable to practice 6833
because of the reasons set forth in division (B) (5) of this 6834
section, the board shall require the individual to submit to 6835
care, counseling, or treatment by physicians approved or 6836
designated by the board, as a condition for an initial, 6837
continued, reinstated, or renewed license to practice. An 6838
individual affected by this division shall be afforded an 6839
opportunity to demonstrate to the board the ability to resume 6840
practicing in compliance with acceptable and prevailing 6841
standards of care. 6842

(2) For purposes of division (B) (6) of this section, if 6843
the board has reason to believe that any individual who holds a 6844
license to practice issued under this chapter or any applicant 6845
for a license suffers such impairment, the board may compel the 6846
individual to submit to a mental or physical examination, or 6847
both. The expense of the examination is the responsibility of 6848
the individual compelled to be examined. Any mental or physical 6849
examination required under this division shall be undertaken by 6850
a treatment provider or physician qualified to conduct such 6851
examination and chosen by the board. 6852

Failure to submit to a mental or physical examination 6853
ordered by the board constitutes an admission of the allegations 6854
against the individual unless the failure is due to 6855
circumstances beyond the individual's control, and a default and 6856
final order may be entered without the taking of testimony or 6857

presentation of evidence. If the board determines that the 6858
individual's ability to practice is impaired, the board shall 6859
suspend the individual's license or deny the individual's 6860
application and shall require the individual, as a condition for 6861
an initial, continued, reinstated, or renewed license, to submit 6862
to treatment. 6863

Before being eligible to apply for reinstatement of a 6864
license suspended under this division, the oriental medicine 6865
practitioner or acupuncturist shall demonstrate to the board the 6866
ability to resume practice in compliance with acceptable and 6867
prevailing standards of care. The demonstration shall include 6868
the following: 6869

(a) Certification from a treatment provider approved under 6870
section 4731.25 of the Revised Code that the individual has 6871
successfully completed any required inpatient treatment; 6872

(b) Evidence of continuing full compliance with an 6873
aftercare contract or consent agreement; 6874

(c) Two written reports indicating that the individual's 6875
ability to practice has been assessed and that the individual 6876
has been found capable of practicing according to acceptable and 6877
prevailing standards of care. The reports shall be made by 6878
individuals or providers approved by the board for making such 6879
assessments and shall describe the basis for their 6880
determination. 6881

The board may reinstate a license suspended under this 6882
division after such demonstration and after the individual has 6883
entered into a written consent agreement. 6884

When the impaired individual resumes practice, the board 6885
shall require continued monitoring of the individual. The 6886

monitoring shall include monitoring of compliance with the 6887
written consent agreement entered into before reinstatement or 6888
with conditions imposed by board order after a hearing, and, 6889
upon termination of the consent agreement, submission to the 6890
board for at least two years of annual written progress reports 6891
made under penalty of falsification stating whether the 6892
individual has maintained sobriety. 6893

~~(H)~~(H) (1) If either of the following circumstances occur, 6894
the secretary and supervising member ~~determine both of the~~ 6895
~~following, they may~~ recommend that the board suspend an 6896
individual's license to practice without a prior hearing: 6897

~~(1)~~(a) The secretary and supervising member determine 6898
both of the following: 6899

(i) That there is clear and convincing evidence that an 6900
oriental medicine practitioner or acupuncturist has violated 6901
division (B) of this section; 6902

~~(2)~~(ii) That the individual's continued practice presents 6903
a danger of immediate and serious harm to the public. 6904

(b) The board receives verifiable information that a 6905
licensee has been charged in any state or federal court for a 6906
crime classified as a felony under the charging court's law and 6907
the conduct charged constitutes a violation of division (B) of 6908
this section. 6909

~~Written~~(2) If a recommendation is made to suspend without 6910
a prior hearing pursuant to division (H) (1) of this section, 6911
written allegations shall be prepared for consideration by the 6912
board. The board, upon review of the allegations and by an 6913
affirmative vote of not fewer than six of its members, excluding 6914
the secretary and supervising member, may suspend a license 6915

without a prior hearing. A telephone conference call may be 6916
utilized for reviewing the allegations and taking the vote on 6917
the summary suspension. 6918

The board shall issue a written order of suspension by 6919
certified mail or in person in accordance with section 119.07 of 6920
the Revised Code. The order shall not be subject to suspension 6921
by the court during pendency of any appeal filed under section 6922
119.12 of the Revised Code. If the oriental medicine 6923
practitioner or acupuncturist requests an adjudicatory hearing 6924
by the board, the date set for the hearing shall be within 6925
fifteen days, but not earlier than seven days, after the hearing 6926
is requested, unless otherwise agreed to by both the board and 6927
the license holder. 6928

(3) A summary suspension imposed under this division shall 6929
remain in effect, unless reversed on appeal, until a final 6930
adjudicative order issued by the board pursuant to this section 6931
and Chapter 119. of the Revised Code becomes effective. The 6932
board shall issue its final adjudicative order within sixty days 6933
after completion of its hearing. Failure to issue the order 6934
within sixty days shall result in dissolution of the summary 6935
suspension order, but shall not invalidate any subsequent, final 6936
adjudicative order. 6937

(I) If the board takes action under division (B) (11), 6938
(13), or (14) of this section, and the judicial finding of 6939
guilt, guilty plea, or judicial finding of eligibility for 6940
intervention in lieu of conviction is overturned on appeal, upon 6941
exhaustion of the criminal appeal, a petition for 6942
reconsideration of the order may be filed with the board along 6943
with appropriate court documents. Upon receipt of a petition and 6944
supporting court documents, the board shall reinstate the 6945

license. The board may then hold an adjudication under Chapter 6946
119. of the Revised Code to determine whether the individual 6947
committed the act in question. Notice of opportunity for hearing 6948
shall be given in accordance with Chapter 119. of the Revised 6949
Code. If the board finds, pursuant to an adjudication held under 6950
this division, that the individual committed the act, or if no 6951
hearing is requested, it may order any of the sanctions 6952
specified in division (B) of this section. 6953

(J) The license to practice of an oriental medicine 6954
practitioner or acupuncturist and the practitioner's or 6955
acupuncturist's practice in this state are automatically 6956
suspended as of the date the practitioner or acupuncturist 6957
pleads guilty to, is found by a judge or jury to be guilty of, 6958
or is subject to a judicial finding of eligibility for 6959
intervention in lieu of conviction in this state or treatment or 6960
intervention in lieu of conviction in another jurisdiction for 6961
any of the following criminal offenses in this state or a 6962
substantially equivalent criminal offense in another 6963
jurisdiction: aggravated murder, murder, voluntary manslaughter, 6964
felonious assault, trafficking in persons, kidnapping, rape, 6965
sexual battery, gross sexual imposition, aggravated arson, 6966
aggravated robbery, or aggravated burglary. Continued practice 6967
after the suspension shall be considered practicing without a 6968
license. 6969

The board shall notify the individual subject to the 6970
suspension by certified mail or in person in accordance with 6971
section 119.07 of the Revised Code. If an individual whose 6972
license is suspended under this division fails to make a timely 6973
request for an adjudication under Chapter 119. of the Revised 6974
Code, the board shall enter a final order permanently revoking 6975
the individual's license. 6976

(K) In any instance in which the board is required by 6977
Chapter 119. of the Revised Code to give notice of opportunity 6978
for hearing and the individual subject to the notice does not 6979
timely request a hearing in accordance with section 119.07 of 6980
the Revised Code, the board is not required to hold a hearing, 6981
but may adopt, by an affirmative vote of not fewer than six of 6982
its members, a final order that contains the board's findings. 6983
In the final order, the board may order any of the sanctions 6984
identified under division (A) or (B) of this section. 6985

(L) Any action taken by the board under division (B) of 6986
this section resulting in a suspension shall be accompanied by a 6987
written statement of the conditions under which the license may 6988
be reinstated. The board shall adopt rules in accordance with 6989
Chapter 119. of the Revised Code governing conditions to be 6990
imposed for reinstatement. Reinstatement of a license suspended 6991
pursuant to division (B) of this section requires an affirmative 6992
vote of not fewer than six members of the board. 6993

(M) When the board refuses to grant or issue a license to 6994
an applicant, revokes an individual's license, refuses to renew 6995
an individual's license, or refuses to reinstate an individual's 6996
license, the board may specify that its action is permanent. An 6997
individual subject to a permanent action taken by the board is 6998
forever thereafter ineligible to hold a license to practice as 6999
an oriental medicine practitioner or license to practice as an 7000
acupuncturist and the board shall not accept an application for 7001
reinstatement of the license or for issuance of a new license. 7002

(N) Notwithstanding any other provision of the Revised 7003
Code, all of the following apply: 7004

(1) The surrender of a license to practice as an oriental 7005
medicine practitioner or license to practice as an acupuncturist 7006

issued under this chapter is not effective unless or until 7007
accepted by the board. Reinstatement of a license surrendered to 7008
the board requires an affirmative vote of not fewer than six 7009
members of the board. 7010

(2) An application made under this chapter for a license 7011
may not be withdrawn without approval of the board. 7012

(3) Failure by an individual to renew a license in 7013
accordance with section 4762.06 of the Revised Code shall not 7014
remove or limit the board's jurisdiction to take disciplinary 7015
action under this section against the individual. 7016

Sec. 4762.14. (A) The state medical board shall 7017
investigate evidence that appears to show that any person has 7018
violated this chapter or the rules adopted under it. Any person 7019
may report to the board in a signed writing any information the 7020
person has that appears to show a violation of any provision of 7021
this chapter or the rules adopted under it. In the absence of 7022
bad faith, a person who reports such information or testifies 7023
before the board in an adjudication conducted under Chapter 119. 7024
of the Revised Code shall not be liable for civil damages as a 7025
result of reporting the information or providing testimony. Each 7026
complaint or allegation of a violation received by the board 7027
shall be assigned a case number and be recorded by the board. 7028

(B) Investigations of alleged violations of this chapter 7029
or rules adopted under it shall be supervised by the supervising 7030
member elected by the board in accordance with section 4731.02 7031
of the Revised Code and by the secretary as provided in section 7032
4762.17 of the Revised Code. The board's president may designate 7033
another member of the board to supervise the investigation in 7034
place of the supervising member. Upon a vote of the majority of 7035
the board to authorize the addition of a consumer member in the 7036

supervision of any part of any investigation, the president 7037
shall designate a consumer member for supervision of 7038
investigations as determined by the president. The authorization 7039
of consumer member participation in investigation supervision 7040
may be rescinded by a majority vote of the board. A member of 7041
the board who supervises the investigation of a case shall not 7042
participate in further adjudication of the case. 7043

(C) In investigating a possible violation of this chapter 7044
or the rules adopted under it, the board may administer oaths, 7045
order the taking of depositions, issue subpoenas, and compel the 7046
attendance of witnesses and production of books, accounts, 7047
papers, records, documents, and testimony, except that a 7048
subpoena for patient record information or information, 7049
documents, and records from a peer review committee of a health 7050
care entity related to sexual misconduct or criminal conduct 7051
shall not be issued without consultation with the attorney 7052
general's office and approval of the secretary and supervising 7053
member of the board. Before issuance of a subpoena for patient 7054
record information or information, documents, and records from a 7055
peer review committee of a health care entity related to sexual 7056
misconduct or criminal conduct, the secretary and supervising 7057
member shall determine whether there is probable cause to 7058
believe that the complaint filed alleges a violation of this 7059
chapter or the rules adopted under it and that the records 7060
sought are relevant to the alleged violation and material to the 7061
investigation. The subpoena may apply only to records that cover 7062
a reasonable period of time surrounding the alleged violation. 7063

On failure to comply with any subpoena issued by the board 7064
and after reasonable notice to the person being subpoenaed, the 7065
board may move for an order compelling the production of persons 7066
or records pursuant to the Rules of Civil Procedure. 7067

A subpoena issued by the board may be served by a sheriff, 7068
the sheriff's deputy, or a board employee designated by the 7069
board. Service of a subpoena issued by the board may be made by 7070
delivering a copy of the subpoena to the person named therein, 7071
reading it to the person, or leaving it at the person's usual 7072
place of residence. When the person being served is an oriental 7073
medicine practitioner or acupuncturist, service of the subpoena 7074
may be made by certified mail, restricted delivery, return 7075
receipt requested, and the subpoena shall be deemed served on 7076
the date delivery is made or the date the person refuses to 7077
accept delivery. 7078

A sheriff's deputy who serves a subpoena shall receive the 7079
same fees as a sheriff. Each witness who appears before the 7080
board in obedience to a subpoena shall receive the fees and 7081
mileage provided for under section 119.094 of the Revised Code. 7082

(D) All For purposes of section 2305.252 of the Revised 7083
Code, all hearings and investigations of the board shall be 7084
considered civil actions for the purposes of section 2305.252 of 7085
the Revised Code, except those involving allegations of sexual 7086
misconduct or criminal conduct, as defined in that section. 7087

(E) Information received by the board pursuant to an 7088
investigation is confidential and not subject to discovery in 7089
any civil action. 7090

The board shall conduct all investigations and proceedings 7091
in a manner that protects the confidentiality of patients and 7092
persons who file complaints with the board. The board shall not 7093
make public the names or any other identifying information about 7094
patients or complainants unless proper consent is given. 7095

The board may share any information it receives pursuant 7096

to an investigation, including patient records and patient 7097
record information, with law enforcement agencies, other 7098
licensing boards, and other governmental agencies that are 7099
prosecuting, adjudicating, or investigating alleged violations 7100
of statutes or administrative rules. An agency or board that 7101
receives the information shall comply with the same requirements 7102
regarding confidentiality as those with which the state medical 7103
board must comply, notwithstanding any conflicting provision of 7104
the Revised Code or procedure of the agency or board that 7105
applies when it is dealing with other information in its 7106
possession. In a judicial proceeding, the information may be 7107
admitted into evidence only in accordance with the Rules of 7108
Evidence, but the court shall require that appropriate measures 7109
are taken to ensure that confidentiality is maintained with 7110
respect to any part of the information that contains names or 7111
other identifying information about patients or complainants 7112
whose confidentiality was protected by the state medical board 7113
when the information was in the board's possession. Measures to 7114
ensure confidentiality that may be taken by the court include 7115
sealing its records or deleting specific information from its 7116
records. 7117

No person shall knowingly access, use, or disclose 7118
confidential investigatory information in a manner prohibited by 7119
law. 7120

(F) The state medical board shall develop requirements for 7121
and provide appropriate initial training and continuing 7122
education for investigators employed by the board to carry out 7123
its duties under this chapter. The training and continuing 7124
education may include enrollment in courses operated or approved 7125
by the Ohio peace officer training commission that the board 7126
considers appropriate under conditions set forth in section 7127

109.79 of the Revised Code. 7128

(G) On a quarterly basis, the board shall prepare a report 7129
that documents the disposition of all cases during the preceding 7130
three months. The report shall contain the following information 7131
for each case with which the board has completed its activities: 7132

(1) The case number assigned to the complaint or alleged 7133
violation; 7134

(2) The type of license, if any, held by the individual 7135
against whom the complaint is directed; 7136

(3) A description of the allegations contained in the 7137
complaint; 7138

(4) Whether witnesses were interviewed; 7139

(5) Whether the individual against whom the complaint is 7140
directed is the subject of any pending complaints; 7141

(6) The disposition of the case. 7142

The report shall state how many cases are still pending, 7143
and shall be prepared in a manner that protects the identity of 7144
each person involved in each case. The report is a public record 7145
for purposes of section 149.43 of the Revised Code. 7146

(H) The board may provide a status update regarding an 7147
investigation to a complainant on request if the board verifies 7148
the complainant's identity. 7149

Sec. 4762.16. (A) As used in this section, "criminal 7150
conduct" and "sexual misconduct" have the same meanings as in 7151
section 4731.224 of the Revised Code. 7152

(B) (1) Within ~~sixty~~ thirty days after the imposition of 7153
any formal disciplinary action taken by any health care 7154

facility, including a hospital, health care facility operated by 7155
a health insuring corporation, ambulatory surgical center, or 7156
similar facility, against any individual holding a valid license 7157
to practice as an oriental medicine practitioner or valid 7158
license to practice as an acupuncturist, the chief administrator 7159
or executive officer of the facility shall report to the state 7160
medical board the name of the individual, the action taken by 7161
the facility, and a summary of the underlying facts leading to 7162
the action taken. Upon request, the board shall be provided 7163
certified copies of the patient records that were the basis for 7164
the facility's action. Prior to release to the board, the 7165
summary shall be approved by the peer review committee that 7166
reviewed the case or by the governing board of the facility. 7167

The filing of a report with the board or decision not to 7168
file a report, investigation by the board, or any disciplinary 7169
action taken by the board, does not preclude a health care 7170
facility from taking disciplinary action against an oriental 7171
medicine practitioner or acupuncturist. 7172

In the absence of fraud or bad faith, no individual or 7173
entity that provides patient records to the board shall be 7174
liable in damages to any person as a result of providing the 7175
records. 7176

(2) Within thirty days after commencing an investigation 7177
regarding criminal conduct or sexual misconduct against any 7178
individual holding a valid license to practice issued pursuant 7179
to this chapter, a health care facility, including a hospital, 7180
health care facility operated by a health insuring corporation, 7181
ambulatory surgical center, or similar facility, shall report to 7182
the board the name of the individual and a summary of the 7183
underlying facts related to the investigation being commenced. 7184

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 7185
of this section and subject to division (C) (3) of this section, 7186
an oriental medicine practitioner or acupuncturist, professional 7187
association or society of oriental medicine practitioners or 7188
acupuncturists, physician, or professional association or 7189
society of physicians that believes a violation of any provision 7190
of this chapter, Chapter 4731. of the Revised Code, or rule of 7191
the board has occurred shall report to the board the information 7192
upon which the belief is based. 7193

(2) An oriental medicine practitioner or acupuncturist, 7194
professional association or society of oriental medicine 7195
practitioners or acupuncturists, physician, or professional 7196
association or society of physicians that believes a violation 7197
of division (B) (6) of section 4762.13 of the Revised Code has 7198
occurred shall report the information upon which the belief is 7199
based to the monitoring organization conducting the program 7200
established by the board under section 4731.251 of the Revised 7201
Code. If any such report is made to the board, it shall be 7202
referred to the monitoring organization unless the board is 7203
aware that the individual who is the subject of the report does 7204
not meet the program eligibility requirements of section 7205
4731.252 of the Revised Code. 7206

(3) If any individual authorized to practice under this 7207
chapter or any professional association or society of such 7208
individuals knows or has reasonable cause to suspect based on 7209
facts that would cause a reasonable person in a similar position 7210
to suspect that an individual authorized to practice under this 7211
chapter has committed or participated in criminal conduct or 7212
sexual misconduct the information upon which the belief is based 7213
shall be reported to the board within thirty days. 7214

(4) In addition to the self-reporting of criminal offenses 7215
that is required for license renewal, an individual authorized 7216
to practice under this chapter shall report to the board 7217
criminal charges regarding criminal conduct, sexual misconduct, 7218
or any conduct involving the use of a motor vehicle while under 7219
the influence of alcohol or drugs, including offenses that are 7220
equivalent offenses under division (A) of section 4511.181 of 7221
the Revised Code, violations of division (D) of section 4511.194 7222
of the Revised Code, and violations of division (C) of section 7223
4511.79 of the Revised Code. Reports under this division shall 7224
be made within thirty days of the criminal charge being filed. 7225

~~(C)~~ (D) Any professional association or society composed 7226
primarily of oriental medicine practitioners or acupuncturists 7227
that suspends or revokes an individual's membership for 7228
violations of professional ethics, or for reasons of 7229
professional incompetence or professional malpractice, within 7230
~~sixty~~ thirty days after a final decision, shall report to the 7231
board, on forms prescribed and provided by the board, the name 7232
of the individual, the action taken by the professional 7233
organization, and a summary of the underlying facts leading to 7234
the action taken. 7235

The filing of a report with the board or decision not to 7236
file a report, investigation by the board, or any disciplinary 7237
action taken by the board, does not preclude a professional 7238
organization from taking disciplinary action against an 7239
individual. 7240

~~(D)~~ (E) Any insurer providing professional liability 7241
insurance to any person holding a valid license to practice as 7242
an oriental medicine practitioner or valid license to practice 7243
as an acupuncturist or any other entity that seeks to indemnify 7244

the professional liability of an oriental medicine practitioner 7245
or acupuncturist shall notify the board within thirty days after 7246
the final disposition of any written claim for damages where 7247
such disposition results in a payment exceeding twenty-five 7248
thousand dollars. The notice shall contain the following 7249
information: 7250

(1) The name and address of the person submitting the 7251
notification; 7252

(2) The name and address of the insured who is the subject 7253
of the claim; 7254

(3) The name of the person filing the written claim; 7255

(4) The date of final disposition; 7256

(5) If applicable, the identity of the court in which the 7257
final disposition of the claim took place. 7258

~~(E)~~ (F) The board may investigate possible violations of 7259
this chapter or the rules adopted under it that are brought to 7260
its attention as a result of the reporting requirements of this 7261
section, except that the board shall conduct an investigation if 7262
a possible violation involves repeated malpractice. As used in 7263
this division, "repeated malpractice" means three or more claims 7264
for malpractice within the previous five-year period, each 7265
resulting in a judgment or settlement in excess of twenty-five 7266
thousand dollars in favor of the claimant, and each involving 7267
negligent conduct by the oriental medicine practitioner or 7268
acupuncturist. 7269

~~(F)~~ (G) All summaries, reports, and records received and 7270
maintained by the board pursuant to this section shall be ~~held~~ 7271
~~in confidence and shall not be subject to discovery or~~ 7272
~~introduction in evidence in any federal or state civil action~~ 7273

~~involving an oriental medicine practitioner, acupuncturist, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an oriental medicine practitioner, acupuncturist, 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 oriental medicine practitioner, acupuncturist, 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 4762.14 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 acupuncturist. The oriental medicine practitioner or acupuncturist 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 4731.251 of the Revised Code, or refers an impaired oriental

medicine practitioner or impaired acupuncturist to a treatment 7304
provider approved by the board under section 4731.25 of the 7305
Revised Code shall not be subject to suit for civil damages as a 7306
result of the report, referral, or provision of the information. 7307

~~(I)~~ (J) In the absence of fraud or bad faith, a 7308
professional association or society of oriental medicine 7309
practitioners or acupuncturists that sponsors a committee or 7310
program to provide peer assistance to an oriental medicine 7311
practitioner or acupuncturist with substance abuse problems, a 7312
representative or agent of such a committee or program, a 7313
representative or agent of the monitoring organization described 7314
in section 4731.251 of the Revised Code, and a member of the 7315
state medical board shall not be held liable in damages to any 7316
person by reason of actions taken to refer an oriental medicine 7317
practitioner or acupuncturist to a treatment provider approved 7318
under section 4731.25 of the Revised Code for examination or 7319
treatment. 7320

Sec. 4762.99. (A) Whoever violates section 4762.02 of the 7321
Revised Code is guilty of a misdemeanor of the first degree on a 7322
first offense; on each subsequent offense, the person is guilty 7323
of a felony of the fourth degree. 7324

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7325
(1), ~~or (C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7326
Code is guilty of a minor misdemeanor on a first offense; on 7327
each subsequent offense the person is guilty of a misdemeanor of 7328
the fourth degree, except that an individual guilty of a 7329
subsequent offense shall not be subject to imprisonment, but to 7330
a fine alone of up to one thousand dollars for each offense. 7331

(2) Whoever violates division (B) (2) or (C) (3) of section 7332
4762.16 of the Revised Code is guilty of failure to report 7333

criminal conduct or sexual misconduct, a misdemeanor of the 7334
fourth degree. If the offender has previously been convicted of 7335
a violation of this division, the failure to report is a 7336
misdemeanor of the first degree. 7337

(C) Whoever violates division (E) of section 4762.14 of 7338
the Revised Code is guilty of disclosing confidential 7339
investigatory information, a misdemeanor of the first degree. 7340

Sec. 4774.13. (A) The state medical board, by an 7341
affirmative vote of not fewer than six members, may revoke or 7342
may refuse to grant a license to practice as a radiologist 7343
assistant to an individual found by the board to have committed 7344
fraud, misrepresentation, or deception in applying for or 7345
securing the license. 7346

(B) The board, by an affirmative vote of not fewer than 7347
six members, shall, except as provided in division (C) of this 7348
section, and to the extent permitted by law, limit, revoke, or 7349
suspend an individual's license to practice as a radiologist 7350
assistant, refuse to issue a license to an applicant, refuse to 7351
renew a license, refuse to reinstate a license, or reprimand or 7352
place on probation the holder of a license for any of the 7353
following reasons: 7354

(1) Permitting the holder's name or license to be used by 7355
another person; 7356

(2) Failure to comply with the requirements of this 7357
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7358
by the board; 7359

(3) Violating or attempting to violate, directly or 7360
indirectly, or assisting in or abetting the violation of, or 7361
conspiring to violate, any provision of this chapter, Chapter 7362

4731. of the Revised Code, or the rules adopted by the board;	7363
(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;	7364 7365 7366 7367
(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;	7368 7369 7370 7371
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	7372 7373 7374 7375
(7) Willfully betraying a professional confidence;	7376
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a radiologist assistant.	7377 7378 7379
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.	7380 7381 7382 7383 7384 7385 7386 7387
(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;	7388 7389 7390

(10) A plea of guilty to, a judicial finding of guilt of, 7391
or a judicial finding of eligibility for intervention in lieu of 7392
conviction for, a felony; 7393

(11) Commission of an act that constitutes a felony in 7394
this state, regardless of the jurisdiction in which the act was 7395
committed; 7396

(12) A plea of guilty to, a judicial finding of guilt of, 7397
or a judicial finding of eligibility for intervention in lieu of 7398
conviction for, a misdemeanor committed in the course of 7399
practice; 7400

(13) A plea of guilty to, a judicial finding of guilt of, 7401
or a judicial finding of eligibility for intervention in lieu of 7402
conviction for, a misdemeanor involving moral turpitude; 7403

(14) Commission of an act in the course of practice that 7404
constitutes a misdemeanor in this state, regardless of the 7405
jurisdiction in which the act was committed; 7406

(15) Commission of an act involving moral turpitude that 7407
constitutes a misdemeanor in this state, regardless of the 7408
jurisdiction in which the act was committed; 7409

(16) A plea of guilty to, a judicial finding of guilt of, 7410
or a judicial finding of eligibility for intervention in lieu of 7411
conviction for violating any state or federal law regulating the 7412
possession, distribution, or use of any drug, including 7413
trafficking in drugs; 7414

(17) Any of the following actions taken by the state 7415
agency responsible for regulating the practice of radiologist 7416
assistants in another jurisdiction, for any reason other than 7417
the nonpayment of fees: the limitation, revocation, or 7418
suspension of an individual's license to practice; acceptance of 7419

an individual's license surrender; denial of a license; refusal 7420
to renew or reinstate a license; imposition of probation; or 7421
issuance of an order of censure or other reprimand; 7422

(18) Violation of the conditions placed by the board on a 7423
license to practice as a radiologist assistant; 7424

(19) Failure to use universal blood and body fluid 7425
precautions established by rules adopted under section 4731.051 7426
of the Revised Code; 7427

(20) Failure to cooperate in an investigation conducted by 7428
the board under section 4774.14 of the Revised Code, including 7429
failure to comply with a subpoena or order issued by the board 7430
or failure to answer truthfully a question presented by the 7431
board at a deposition or in written interrogatories, except that 7432
failure to cooperate with an investigation shall not constitute 7433
grounds for discipline under this section if a court of 7434
competent jurisdiction has issued an order that either quashes a 7435
subpoena or permits the individual to withhold the testimony or 7436
evidence in issue; 7437

(21) Failure to maintain a license as a radiographer under 7438
Chapter 4773. of the Revised Code; 7439

(22) Failure to maintain certification as a registered 7440
radiologist assistant from the American registry of radiologic 7441
technologists, including revocation by the registry of the 7442
assistant's certification or failure by the assistant to meet 7443
the registry's requirements for annual registration, or failure 7444
to notify the board that the certification as a registered 7445
radiologist assistant has not been maintained; 7446

(23) Failure to comply with any of the rules of ethics 7447
included in the standards of ethics established by the American 7448

registry of radiologic technologists, as those rules apply to an 7449
individual who holds the registry's certification as a 7450
registered radiologist assistant. 7451

(C) The board shall not refuse to issue a license to an 7452
applicant because of a plea of guilty to, a judicial finding of 7453
guilt of, or a judicial finding of eligibility for intervention 7454
in lieu of conviction for an offense unless the refusal is in 7455
accordance with section 9.79 of the Revised Code. 7456

(D) Disciplinary actions taken by the board under 7457
divisions (A) and (B) of this section shall be taken pursuant to 7458
an adjudication under Chapter 119. of the Revised Code, except 7459
that in lieu of an adjudication, the board may enter into a 7460
consent agreement with a radiologist assistant or applicant to 7461
resolve an allegation of a violation of this chapter or any rule 7462
adopted under it. A consent agreement, when ratified by an 7463
affirmative vote of not fewer than six members of the board, 7464
shall constitute the findings and order of the board with 7465
respect to the matter addressed in the agreement. If the board 7466
refuses to ratify a consent agreement, the admissions and 7467
findings contained in the consent agreement shall be of no force 7468
or effect. 7469

(E) For purposes of divisions (B) (11), (14), and (15) of 7470
this section, the commission of the act may be established by a 7471
finding by the board, pursuant to an adjudication under Chapter 7472
119. of the Revised Code, that the applicant or license holder 7473
committed the act in question. The board shall have no 7474
jurisdiction under these divisions in cases where the trial 7475
court renders a final judgment in the license holder's favor and 7476
that judgment is based upon an adjudication on the merits. The 7477
board shall have jurisdiction under these divisions in cases 7478

where the trial court issues an order of dismissal on technical 7479
or procedural grounds. 7480

(F) The sealing of conviction records by any court shall 7481
have no effect on a prior board order entered under the 7482
provisions of this section or on the board's jurisdiction to 7483
take action under the provisions of this section if, based upon 7484
a plea of guilty, a judicial finding of guilt, or a judicial 7485
finding of eligibility for intervention in lieu of conviction, 7486
the board issued a notice of opportunity for a hearing prior to 7487
the court's order to seal the records. The board shall not be 7488
required to seal, destroy, redact, or otherwise modify its 7489
records to reflect the court's sealing of conviction records. 7490

(G) For purposes of this division, any individual who 7491
holds a license to practice as a radiologist assistant issued 7492
under this chapter, or applies for a license, shall be deemed to 7493
have given consent to submit to a mental or physical examination 7494
when directed to do so in writing by the board and to have 7495
waived all objections to the admissibility of testimony or 7496
examination reports that constitute a privileged communication. 7497

(1) In enforcing division (B)(5) of this section, the 7498
board, on a showing of a possible violation, may compel any 7499
individual who holds a license to practice as a radiologist 7500
assistant issued under this chapter or who has applied for a 7501
license to submit to a mental or physical examination, or both. 7502
A physical examination may include an HIV test. The expense of 7503
the examination is the responsibility of the individual 7504
compelled to be examined. Failure to submit to a mental or 7505
physical examination or consent to an HIV test ordered by the 7506
board constitutes an admission of the allegations against the 7507
individual unless the failure is due to circumstances beyond the 7508

individual's control, and a default and final order may be 7509
entered without the taking of testimony or presentation of 7510
evidence. If the board finds a radiologist assistant unable to 7511
practice because of the reasons set forth in division (B) (5) of 7512
this section, the board shall require the radiologist assistant 7513
to submit to care, counseling, or treatment by physicians 7514
approved or designated by the board, as a condition for an 7515
initial, continued, reinstated, or renewed license. An 7516
individual affected by this division shall be afforded an 7517
opportunity to demonstrate to the board the ability to resume 7518
practicing in compliance with acceptable and prevailing 7519
standards of care. 7520

(2) For purposes of division (B) (6) of this section, if 7521
the board has reason to believe that any individual who holds a 7522
license to practice as a radiologist assistant issued under this 7523
chapter or any applicant for a license suffers such impairment, 7524
the board may compel the individual to submit to a mental or 7525
physical examination, or both. The expense of the examination is 7526
the responsibility of the individual compelled to be examined. 7527
Any mental or physical examination required under this division 7528
shall be undertaken by a treatment provider or physician 7529
qualified to conduct such examination and chosen by the board. 7530

Failure to submit to a mental or physical examination 7531
ordered by the board constitutes an admission of the allegations 7532
against the individual unless the failure is due to 7533
circumstances beyond the individual's control, and a default and 7534
final order may be entered without the taking of testimony or 7535
presentation of evidence. If the board determines that the 7536
individual's ability to practice is impaired, the board shall 7537
suspend the individual's license or deny the individual's 7538
application and shall require the individual, as a condition for 7539

an initial, continued, reinstated, or renewed license to 7540
practice, to submit to treatment. 7541

Before being eligible to apply for reinstatement of a 7542
license suspended under this division, the radiologist assistant 7543
shall demonstrate to the board the ability to resume practice in 7544
compliance with acceptable and prevailing standards of care. The 7545
demonstration shall include the following: 7546

(a) Certification from a treatment provider approved under 7547
section 4731.25 of the Revised Code that the individual has 7548
successfully completed any required inpatient treatment; 7549

(b) Evidence of continuing full compliance with an 7550
aftercare contract or consent agreement; 7551

(c) Two written reports indicating that the individual's 7552
ability to practice has been assessed and that the individual 7553
has been found capable of practicing according to acceptable and 7554
prevailing standards of care. The reports shall be made by 7555
individuals or providers approved by the board for making such 7556
assessments and shall describe the basis for their 7557
determination. 7558

The board may reinstate a license suspended under this 7559
division after such demonstration and after the individual has 7560
entered into a written consent agreement. 7561

When the impaired radiologist assistant resumes practice, 7562
the board shall require continued monitoring of the radiologist 7563
assistant. The monitoring shall include monitoring of compliance 7564
with the written consent agreement entered into before 7565
reinstatement or with conditions imposed by board order after a 7566
hearing, and, on termination of the consent agreement, 7567
submission to the board for at least two years of annual written 7568

progress reports made under penalty of falsification stating 7569
whether the radiologist assistant has maintained sobriety. 7570

~~(H)~~(H) (1) If either of the following circumstances occur, 7571
the secretary and supervising member may recommend that the 7572
board suspend the individual's license to practice without a 7573
prior hearing: 7574

(a) The secretary and supervising member determine that 7575
there is clear and convincing evidence that a radiologist 7576
assistant has violated division (B) of this section and that the 7577
individual's continued practice presents a danger of immediate 7578
and serious harm to the public, ~~they may recommend that the~~ 7579
~~board suspend the individual's license to practice without a~~ 7580
~~prior hearing;~~ 7581

(b) The board receives verifiable information that a 7582
licensee has been charged in any state or federal court for a 7583
crime classified as a felony under the charging court's law and 7584
the conduct charged constitutes a violation of division (B) of 7585
this section. ~~Written~~ 7586

(2) If a recommendation is made to suspend without a prior 7587
hearing pursuant to division (H) (1) of this section, written 7588
allegations shall be prepared for consideration by the board. 7589

The board, on review of the allegations and by an 7590
affirmative vote of not fewer than six of its members, excluding 7591
the secretary and supervising member, may suspend a license 7592
without a prior hearing. A telephone conference call may be 7593
utilized for reviewing the allegations and taking the vote on 7594
the summary suspension. 7595

The board shall issue a written order of suspension by 7596
certified mail or in person in accordance with section 119.07 of 7597

the Revised Code. The order shall not be subject to suspension 7598
by the court during pendency of any appeal filed under section 7599
119.12 of the Revised Code. If the radiologist assistant 7600
requests an adjudicatory hearing by the board, the date set for 7601
the hearing shall be within fifteen days, but not earlier than 7602
seven days, after the radiologist assistant requests the 7603
hearing, unless otherwise agreed to by both the board and the 7604
license holder. 7605

(3) A summary suspension imposed under this division shall 7606
remain in effect, unless reversed on appeal, until a final 7607
adjudicative order issued by the board pursuant to this section 7608
and Chapter 119. of the Revised Code becomes effective. The 7609
board shall issue its final adjudicative order within sixty days 7610
after completion of its hearing. Failure to issue the order 7611
within sixty days shall result in dissolution of the summary 7612
suspension order, but shall not invalidate any subsequent, final 7613
adjudicative order. 7614

(I) If the board takes action under division (B) (10), 7615
(12), or (13) of this section, and the judicial finding of 7616
guilt, guilty plea, or judicial finding of eligibility for 7617
intervention in lieu of conviction is overturned on appeal, on 7618
exhaustion of the criminal appeal, a petition for 7619
reconsideration of the order may be filed with the board along 7620
with appropriate court documents. On receipt of a petition and 7621
supporting court documents, the board shall reinstate the 7622
license to practice as a radiologist assistant. The board may 7623
then hold an adjudication under Chapter 119. of the Revised Code 7624
to determine whether the individual committed the act in 7625
question. Notice of opportunity for hearing shall be given in 7626
accordance with Chapter 119. of the Revised Code. If the board 7627
finds, pursuant to an adjudication held under this division, 7628

that the individual committed the act, or if no hearing is 7629
requested, it may order any of the sanctions specified in 7630
division (B) of this section. 7631

(J) The license to practice of a radiologist assistant and 7632
the assistant's practice in this state are automatically 7633
suspended as of the date the radiologist assistant pleads guilty 7634
to, is found by a judge or jury to be guilty of, or is subject 7635
to a judicial finding of eligibility for intervention in lieu of 7636
conviction in this state or treatment of intervention in lieu of 7637
conviction in another jurisdiction for any of the following 7638
criminal offenses in this state or a substantially equivalent 7639
criminal offense in another jurisdiction: aggravated murder, 7640
murder, voluntary manslaughter, felonious assault, trafficking 7641
in persons, kidnapping, rape, sexual battery, gross sexual 7642
imposition, aggravated arson, aggravated robbery, or aggravated 7643
burglary. Continued practice after the suspension shall be 7644
considered practicing without a license. 7645

The board shall notify the individual subject to the 7646
suspension by certified mail or in person in accordance with 7647
section 119.07 of the Revised Code. If an individual whose 7648
license is suspended under this division fails to make a timely 7649
request for an adjudication under Chapter 119. of the Revised 7650
Code, the board shall enter a final order permanently revoking 7651
the individual's license. 7652

(K) In any instance in which the board is required by 7653
Chapter 119. of the Revised Code to give notice of opportunity 7654
for hearing and the individual subject to the notice does not 7655
timely request a hearing in accordance with section 119.07 of 7656
the Revised Code, the board is not required to hold a hearing, 7657
but may adopt, by an affirmative vote of not fewer than six of 7658

its members, a final order that contains the board's findings. 7659
In the final order, the board may order any of the sanctions 7660
identified under division (A) or (B) of this section. 7661

(L) Any action taken by the board under division (B) of 7662
this section resulting in a suspension shall be accompanied by a 7663
written statement of the conditions under which the radiologist 7664
assistant's license may be reinstated. The board shall adopt 7665
rules in accordance with Chapter 119. of the Revised Code 7666
governing conditions to be imposed for reinstatement. 7667
Reinstatement of a license suspended pursuant to division (B) of 7668
this section requires an affirmative vote of not fewer than six 7669
members of the board. 7670

(M) When the board refuses to grant or issue a license to 7671
practice as a radiologist assistant to an applicant, revokes an 7672
individual's license, refuses to renew an individual's license, 7673
or refuses to reinstate an individual's license, the board may 7674
specify that its action is permanent. An individual subject to a 7675
permanent action taken by the board is forever thereafter 7676
ineligible to hold a license to practice as a radiologist 7677
assistant and the board shall not accept an application for 7678
reinstatement of the license or for issuance of a new license. 7679

(N) Notwithstanding any other provision of the Revised 7680
Code, all of the following apply: 7681

(1) The surrender of a license to practice as a 7682
radiologist assistant issued under this chapter is not effective 7683
unless or until accepted by the board. Reinstatement of a 7684
license surrendered to the board requires an affirmative vote of 7685
not fewer than six members of the board. 7686

(2) An application made under this chapter for a license 7687

to practice may not be withdrawn without approval of the board. 7688

(3) Failure by an individual to renew a license to 7689
practice in accordance with section 4774.06 of the Revised Code 7690
shall not remove or limit the board's jurisdiction to take 7691
disciplinary action under this section against the individual. 7692

Sec. 4774.14. (A) The state medical board shall 7693
investigate evidence that appears to show that any person has 7694
violated this chapter or the rules adopted under it. Any person 7695
may report to the board in a signed writing any information the 7696
person has that appears to show a violation of any provision of 7697
this chapter or the rules adopted under it. In the absence of 7698
bad faith, a person who reports such information or testifies 7699
before the board in an adjudication conducted under Chapter 119. 7700
of the Revised Code shall not be liable for civil damages as a 7701
result of reporting the information or providing testimony. Each 7702
complaint or allegation of a violation received by the board 7703
shall be assigned a case number and be recorded by the board. 7704

(B) Investigations of alleged violations of this chapter 7705
or rules adopted under it shall be supervised by the supervising 7706
member elected by the board in accordance with section 4731.02 7707
of the Revised Code and by the secretary as provided in section 7708
4774.17 of the Revised Code. The board's president may designate 7709
another member of the board to supervise the investigation in 7710
place of the supervising member. Upon a vote of the majority of 7711
the board to authorize the addition of a consumer member in the 7712
supervision of any part of any investigation, the president 7713
shall designate a consumer member for supervision of 7714
investigations as determined by the president. The authorization 7715
of consumer member participation in investigation supervision 7716
may be rescinded by a majority vote of the board. A member of 7717

the board who supervises the investigation of a case shall not 7718
participate in further adjudication of the case. 7719

(C) In investigating a possible violation of this chapter 7720
or the rules adopted under it, the board may administer oaths, 7721
order the taking of depositions, issue subpoenas, and compel the 7722
attendance of witnesses and production of books, accounts, 7723
papers, records, documents, and testimony, except that a 7724
subpoena for patient record information or information, 7725
documents, and records from a peer review committee of a health 7726
care entity related to sexual misconduct or criminal conduct 7727
shall not be issued without consultation with the attorney 7728
general's office and approval of the secretary and supervising 7729
member of the board. Before issuance of a subpoena for patient 7730
record information or information, documents, and records from a 7731
peer review committee of a health care entity related to sexual 7732
misconduct or criminal conduct, the secretary and supervising 7733
member shall determine whether there is probable cause to 7734
believe that the complaint filed alleges a violation of this 7735
chapter or the rules adopted under it and that the records 7736
sought are relevant to the alleged violation and material to the 7737
investigation. The subpoena may apply only to records that cover 7738
a reasonable period of time surrounding the alleged violation. 7739

On failure to comply with any subpoena issued by the board 7740
and after reasonable notice to the person being subpoenaed, the 7741
board may move for an order compelling the production of persons 7742
or records pursuant to the Rules of Civil Procedure. 7743

A subpoena issued by the board may be served by a sheriff, 7744
the sheriff's deputy, or a board employee designated by the 7745
board. Service of a subpoena issued by the board may be made by 7746
delivering a copy of the subpoena to the person named therein, 7747

reading it to the person, or leaving it at the person's usual 7748
place of residence. When the person being served is a 7749
radiologist assistant, service of the subpoena may be made by 7750
certified mail, restricted delivery, return receipt requested, 7751
and the subpoena shall be deemed served on the date delivery is 7752
made or the date the person refuses to accept delivery. 7753

A sheriff's deputy who serves a subpoena shall receive the 7754
same fees as a sheriff. Each witness who appears before the 7755
board in obedience to a subpoena shall receive the fees and 7756
mileage provided for witnesses in civil cases in the courts of 7757
common pleas. 7758

(D) All For purposes of section 2305.252 of the Revised 7759
Code, all hearings and investigations of the board shall be 7760
considered civil actions for the purposes of section 2305.252 of 7761
the Revised Code, except those involving allegations of sexual 7762
misconduct or criminal conduct, as defined in that section. 7763

(E) Information received by the board pursuant to an 7764
investigation is confidential and not subject to discovery in 7765
any civil action. 7766

The board shall conduct all investigations and proceedings 7767
in a manner that protects the confidentiality of patients and 7768
persons who file complaints with the board. The board shall not 7769
make public the names or any other identifying information about 7770
patients or complainants unless proper consent is given. 7771

The board may share any information it receives pursuant 7772
to an investigation, including patient records and patient 7773
record information, with law enforcement agencies, other 7774
licensing boards, and other governmental agencies that are 7775
prosecuting, adjudicating, or investigating alleged violations 7776

of statutes or administrative rules. An agency or board that 7777
receives the information shall comply with the same requirements 7778
regarding confidentiality as those with which the state medical 7779
board must comply, notwithstanding any conflicting provision of 7780
the Revised Code or procedure of the agency or board that 7781
applies when it is dealing with other information in its 7782
possession. In a judicial proceeding, the information may be 7783
admitted into evidence only in accordance with the Rules of 7784
Evidence, but the court shall require that appropriate measures 7785
are taken to ensure that confidentiality is maintained with 7786
respect to any part of the information that contains names or 7787
other identifying information about patients or complainants 7788
whose confidentiality was protected by the state medical board 7789
when the information was in the board's possession. Measures to 7790
ensure confidentiality that may be taken by the court include 7791
sealing its records or deleting specific information from its 7792
records. 7793

No person shall knowingly access, use, or disclose 7794
confidential investigatory information in a manner prohibited by 7795
law. 7796

(F) The state medical board shall develop requirements for 7797
and provide appropriate initial training and continuing 7798
education for investigators employed by the board to carry out 7799
its duties under this chapter. The training and continuing 7800
education may include enrollment in courses operated or approved 7801
by the Ohio peace officer training commission that the board 7802
considers appropriate under conditions set forth in section 7803
109.79 of the Revised Code. 7804

(G) On a quarterly basis, the board shall prepare a report 7805
that documents the disposition of all cases during the preceding 7806

three months. The report shall contain the following information 7807
for each case with which the board has completed its activities: 7808

(1) The case number assigned to the complaint or alleged 7809
violation; 7810

(2) The type of license, if any, held by the individual 7811
against whom the complaint is directed; 7812

(3) A description of the allegations contained in the 7813
complaint; 7814

(4) Whether witnesses were interviewed; 7815

(5) Whether the individual against whom the complaint is 7816
directed is the subject of any pending complaints; 7817

(6) The disposition of the case. 7818

The report shall state how many cases are still pending, 7819
and shall be prepared in a manner that protects the identity of 7820
each person involved in each case. The report is a public record 7821
for purposes of section 149.43 of the Revised Code. 7822

(H) The board may provide a status update regarding an 7823
investigation to a complainant on request if the board verifies 7824
the complainant's identity. 7825

Sec. 4774.16. (A) As used in this section, "criminal 7826
conduct" and "sexual misconduct" have the same meanings as in 7827
section 4731.224 of the Revised Code. 7828

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7829
any formal disciplinary action taken by any health care 7830
facility, including a hospital, health care facility operated by 7831
a health insuring corporation, ambulatory surgical facility, or 7832
similar facility, against any individual holding a valid license 7833

to practice as a radiologist assistant, the chief administrator 7834
or executive officer of the facility shall report to the state 7835
medical board the name of the individual, the action taken by 7836
the facility, and a summary of the underlying facts leading to 7837
the action taken. On request, the board shall be provided 7838
certified copies of the patient records that were the basis for 7839
the facility's action. Prior to release to the board, the 7840
summary shall be approved by the peer review committee that 7841
reviewed the case or by the governing board of the facility. 7842

The filing of a report with the board or decision not to 7843
file a report, investigation by the board, or any disciplinary 7844
action taken by the board, does not preclude a health care 7845
facility from taking disciplinary action against a radiologist 7846
assistant. 7847

In the absence of fraud or bad faith, no individual or 7848
entity that provides patient records to the board shall be 7849
liable in damages to any person as a result of providing the 7850
records. 7851

(2) Within thirty days after commencing an investigation 7852
regarding criminal conduct or sexual misconduct against any 7853
individual holding a valid license to practice issued pursuant 7854
to this chapter, a health care facility, including a hospital, 7855
health care facility operated by a health insuring corporation, 7856
ambulatory surgical center, or similar facility, shall report to 7857
the board the name of the individual and a summary of the 7858
underlying facts related to the investigation being commenced. 7859

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 7860
of this section and subject to division (C) (3) of this section, 7861
a radiologist assistant, professional association or society of 7862
radiologist assistants, physician, or professional association 7863

or society of physicians that believes a violation of any 7864
provision of this chapter, Chapter 4731. of the Revised Code, or 7865
rule of the board has occurred shall report to the board the 7866
information on which the belief is based. 7867

(2) A radiologist assistant, professional association or 7868
society of radiologist assistants, physician, or professional 7869
association or society of physicians that believes a violation 7870
of division (B) (6) of section 4774.13 of the Revised Code has 7871
occurred shall report the information upon which the belief is 7872
based to the monitoring organization conducting the program 7873
established by the board under section 4731.251 of the Revised 7874
Code. If any such report is made to the board, it shall be 7875
referred to the monitoring organization unless the board is 7876
aware that the individual who is the subject of the report does 7877
not meet the program eligibility requirements of section 7878
4731.252 of the Revised Code. 7879

(3) If any individual authorized to practice under this 7880
chapter or any professional association or society of such 7881
individuals knows or has reasonable cause to suspect based on 7882
facts that would cause a reasonable person in a similar position 7883
to suspect that an individual authorized to practice under this 7884
chapter has committed or participated in criminal conduct or 7885
sexual misconduct the information upon which the belief is based 7886
shall be reported to the board within thirty days. 7887

(4) In addition to the self-reporting of criminal offenses 7888
that is required for license renewal, an individual authorized 7889
to practice under this chapter shall report to the board 7890
criminal charges regarding criminal conduct, sexual misconduct, 7891
or any conduct involving the use of a motor vehicle while under 7892
the influence of alcohol or drugs, including offenses that are 7893

equivalent offenses under division (A) of section 4511.181 of 7894
the Revised Code, violations of division (D) of section 4511.194 7895
of the Revised Code, and violations of division (C) of section 7896
4511.79 of the Revised Code. Reports under this division shall 7897
be made within thirty days of the criminal charge being filed. 7898

~~(C)~~(D) Any professional association or society composed 7899
primarily of radiologist assistants that suspends or revokes an 7900
individual's membership for violations of professional ethics, 7901
or for reasons of professional incompetence or professional 7902
malpractice, within ~~sixty~~thirty days after a final decision, 7903
shall report to the board, on forms prescribed and provided by 7904
the board, the name of the individual, the action taken by the 7905
professional organization, and a summary of the underlying facts 7906
leading to the action taken. 7907

The filing of a report with the board or decision not to 7908
file a report, investigation by the board, or any disciplinary 7909
action taken by the board, does not preclude a professional 7910
organization from taking disciplinary action against a 7911
radiologist assistant. 7912

~~(D)~~(E) Any insurer providing professional liability 7913
insurance to any person holding a valid license to practice as a 7914
radiologist assistant or any other entity that seeks to 7915
indemnify the professional liability of a radiologist assistant 7916
shall notify the board within thirty days after the final 7917
disposition of any written claim for damages where such 7918
disposition results in a payment exceeding twenty-five thousand 7919
dollars. The notice shall contain the following information: 7920

(1) The name and address of the person submitting the 7921
notification; 7922

(2) The name and address of the insured who is the subject of the claim; 7923
7924

(3) The name of the person filing the written claim; 7925

(4) The date of final disposition; 7926

(5) If applicable, the identity of the court in which the final disposition of the claim took place. 7927
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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 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 radiologist assistant. 7929
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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 radiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a radiologist assistant or supervising radiologist, or in any subsequent trial or appeal of a board action or order. 7939
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~~The board may disclose the summaries and reports it receives under this section only to health care facility~~ 7950
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~~committees within or outside this state that are involved in~~ 7952
~~credentialing or recredentialing a radiologist assistant or~~ 7953
~~supervising radiologist or reviewing their privilege to practice~~ 7954
~~within a particular facility. The board shall indicate whether~~ 7955
~~or not the information has been verified. Information~~ 7956
~~transmitted by the board shall be subject to the same~~ 7957
~~confidentiality provisions as when maintained by the~~ 7958
~~board~~confidential pursuant to division (E) of section 4774.14 of 7959
the Revised Code. 7960

~~(G)~~(H) Except for reports filed by an individual pursuant to 7961
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 7962
send a copy of any reports or summaries it receives pursuant to 7963
this section to the radiologist assistant. The radiologist 7964
assistant shall have the right to file a statement with the 7965
board concerning the correctness or relevance of the 7966
information. The statement shall at all times accompany that 7967
part of the record in contention. 7968

~~(H)~~(I) An individual or entity that reports to the board, 7969
reports to the monitoring organization described in section 7970
4731.251 of the Revised Code, or refers an impaired radiologist 7971
assistant to a treatment provider approved by the board under 7972
section 4731.25 of the Revised Code shall not be subject to suit 7973
for civil damages as a result of the report, referral, or 7974
provision of the information. 7975

~~(I)~~(J) In the absence of fraud or bad faith, a 7976
professional association or society of radiologist assistants 7977
that sponsors a committee or program to provide peer assistance 7978
to a radiologist assistant with substance abuse problems, a 7979
representative or agent of such a committee or program, a 7980
representative or agent of the monitoring organization described 7981

in section 4731.251 of the Revised Code, and a member of the 7982
state medical board shall not be held liable in damages to any 7983
person by reason of actions taken to refer a radiologist 7984
assistant to a treatment provider approved under section 4731.25 7985
of the Revised Code for examination or treatment. 7986

Sec. 4774.99. (A) Whoever violates division (A) (1) or (2) 7987
of section 4774.02 of the Revised Code is guilty of a 7988
misdemeanor of the first degree on a first offense; on each 7989
subsequent offense, the person is guilty of a felony of the 7990
fourth degree. 7991

~~(B) (1)~~ Whoever violates division ~~(A)~~, ~~(B) (1)~~, ~~(C) (C)~~ 7992
~~(1)~~, ~~or (C) (2)~~, (D), or (E) of section 4774.16 of the Revised 7993
Code is guilty of a minor misdemeanor on a first offense; on 7994
each subsequent offense the person is guilty of a misdemeanor of 7995
the fourth degree, except that an individual guilty of a 7996
subsequent offense shall not be subject to imprisonment, but to 7997
a fine alone of up to one thousand dollars for each offense. 7998

(2) Whoever violates division (B) (2) or (C) (3) of section 7999
4774.16 of the Revised Code is guilty of failure to report 8000
criminal conduct or sexual misconduct, a misdemeanor of the 8001
fourth degree. If the offender has previously been convicted of 8002
a violation of this division, the failure to report is a 8003
misdemeanor of the first degree. 8004

(C) Whoever violates division (E) of section 4774.14 of 8005
the Revised Code is guilty of disclosing confidential 8006
investigatory information, a misdemeanor of the first degree. 8007

Sec. 4778.14. (A) The state medical board, by an 8008
affirmative vote of not fewer than six members, may revoke or 8009
may refuse to grant a license to practice as a genetic counselor 8010

to an individual found by the board to have committed fraud, 8011
misrepresentation, or deception in applying for or securing the 8012
license. 8013

(B) The board, by an affirmative vote of not fewer than 8014
six members, shall, except as provided in division (C) of this 8015
section, and to the extent permitted by law, limit, revoke, or 8016
suspend an individual's license to practice as a genetic 8017
counselor, refuse to issue a license to an applicant, refuse to 8018
renew a license, refuse to reinstate a license, or reprimand or 8019
place on probation the holder of a license for any of the 8020
following reasons: 8021

(1) Permitting the holder's name or license to be used by 8022
another person; 8023

(2) Failure to comply with the requirements of this 8024
chapter, Chapter 4731. of the Revised Code, or any rules adopted 8025
by the board; 8026

(3) Violating or attempting to violate, directly or 8027
indirectly, or assisting in or abetting the violation of, or 8028
conspiring to violate, any provision of this chapter, Chapter 8029
4731. of the Revised Code, or the rules adopted by the board; 8030

(4) A departure from, or failure to conform to, minimal 8031
standards of care of similar practitioners under the same or 8032
similar circumstances whether or not actual injury to the 8033
patient is established; 8034

(5) Inability to practice according to acceptable and 8035
prevailing standards of care by reason of mental illness or 8036
physical illness, including physical deterioration that 8037
adversely affects cognitive, motor, or perceptive skills; 8038

(6) Impairment of ability to practice according to 8039

acceptable and prevailing standards of care because of habitual 8040
or excessive use or abuse of drugs, alcohol, or other substances 8041
that impair ability to practice; 8042

(7) Willfully betraying a professional confidence; 8043

(8) Making a false, fraudulent, deceptive, or misleading 8044
statement in securing or attempting to secure a license to 8045
practice as a genetic counselor. 8046

As used in this division, "false, fraudulent, deceptive, 8047
or misleading statement" means a statement that includes a 8048
misrepresentation of fact, is likely to mislead or deceive 8049
because of a failure to disclose material facts, is intended or 8050
is likely to create false or unjustified expectations of 8051
favorable results, or includes representations or implications 8052
that in reasonable probability will cause an ordinarily prudent 8053
person to misunderstand or be deceived. 8054

(9) The obtaining of, or attempting to obtain, money or a 8055
thing of value by fraudulent misrepresentations in the course of 8056
practice; 8057

(10) A plea of guilty to, a judicial finding of guilt of, 8058
or a judicial finding of eligibility for intervention in lieu of 8059
conviction for, a felony; 8060

(11) Commission of an act that constitutes a felony in 8061
this state, regardless of the jurisdiction in which the act was 8062
committed; 8063

(12) A plea of guilty to, a judicial finding of guilt of, 8064
or a judicial finding of eligibility for intervention in lieu of 8065
conviction for, a misdemeanor committed in the course of 8066
practice; 8067

(13) A plea of guilty to, a judicial finding of guilt of, 8068
or a judicial finding of eligibility for intervention in lieu of 8069
conviction for, a misdemeanor involving moral turpitude; 8070

(14) Commission of an act in the course of practice that 8071
constitutes a misdemeanor in this state, regardless of the 8072
jurisdiction in which the act was committed; 8073

(15) Commission of an act involving moral turpitude that 8074
constitutes a misdemeanor in this state, regardless of the 8075
jurisdiction in which the act was committed; 8076

(16) A plea of guilty to, a judicial finding of guilt of, 8077
or a judicial finding of eligibility for intervention in lieu of 8078
conviction for violating any state or federal law regulating the 8079
possession, distribution, or use of any drug, including 8080
trafficking in drugs; 8081

(17) Any of the following actions taken by an agency 8082
responsible for authorizing, certifying, or regulating an 8083
individual to practice a health care occupation or provide 8084
health care services in this state or in another jurisdiction, 8085
for any reason other than the nonpayment of fees: the 8086
limitation, revocation, or suspension of an individual's license 8087
to practice; acceptance of an individual's license surrender; 8088
denial of a license; refusal to renew or reinstate a license; 8089
imposition of probation; or issuance of an order of censure or 8090
other reprimand; 8091

(18) Violation of the conditions placed by the board on a 8092
license to practice as a genetic counselor; 8093

(19) Failure to cooperate in an investigation conducted by 8094
the board under section 4778.18 of the Revised Code, including 8095
failure to comply with a subpoena or order issued by the board 8096

or failure to answer truthfully a question presented by the 8097
board at a deposition or in written interrogatories, except that 8098
failure to cooperate with an investigation shall not constitute 8099
grounds for discipline under this section if a court of 8100
competent jurisdiction has issued an order that either quashes a 8101
subpoena or permits the individual to withhold the testimony or 8102
evidence in issue; 8103

(20) Failure to maintain the individual's status as a 8104
certified genetic counselor; 8105

(21) Failure to comply with the code of ethics established 8106
by the national society of genetic counselors. 8107

(C) The board shall not refuse to issue a license to an 8108
applicant because of a plea of guilty to, a judicial finding of 8109
guilt of, or a judicial finding of eligibility for intervention 8110
in lieu of conviction for an offense unless the refusal is in 8111
accordance with section 9.79 of the Revised Code. 8112

(D) Disciplinary actions taken by the board under 8113
divisions (A) and (B) of this section shall be taken pursuant to 8114
an adjudication under Chapter 119. of the Revised Code, except 8115
that in lieu of an adjudication, the board may enter into a 8116
consent agreement with a genetic counselor or applicant to 8117
resolve an allegation of a violation of this chapter or any rule 8118
adopted under it. A consent agreement, when ratified by an 8119
affirmative vote of not fewer than six members of the board, 8120
shall constitute the findings and order of the board with 8121
respect to the matter addressed in the agreement. If the board 8122
refuses to ratify a consent agreement, the admissions and 8123
findings contained in the consent agreement shall be of no force 8124
or effect. 8125

A telephone conference call may be utilized for 8126
ratification of a consent agreement that revokes or suspends an 8127
individual's license. The telephone conference call shall be 8128
considered a special meeting under division (F) of section 8129
121.22 of the Revised Code. 8130

(E) For purposes of divisions (B) (11), (14), and (15) of 8131
this section, the commission of the act may be established by a 8132
finding by the board, pursuant to an adjudication under Chapter 8133
119. of the Revised Code, that the applicant or license holder 8134
committed the act in question. The board shall have no 8135
jurisdiction under these divisions in cases where the trial 8136
court renders a final judgment in the license holder's favor and 8137
that judgment is based upon an adjudication on the merits. The 8138
board shall have jurisdiction under these divisions in cases 8139
where the trial court issues an order of dismissal on technical 8140
or procedural grounds. 8141

(F) The sealing of conviction records by any court shall 8142
have no effect on a prior board order entered under the 8143
provisions of this section or on the board's jurisdiction to 8144
take action under the provisions of this section if, based upon 8145
a plea of guilty, a judicial finding of guilt, or a judicial 8146
finding of eligibility for intervention in lieu of conviction, 8147
the board issued a notice of opportunity for a hearing or took 8148
other formal action under Chapter 119. of the Revised Code prior 8149
to the court's order to seal the records. The board shall not be 8150
required to seal, destroy, redact, or otherwise modify its 8151
records to reflect the court's sealing of conviction records. 8152

(G) For purposes of this division, any individual who 8153
holds a license to practice as a genetic counselor, or applies 8154
for a license, shall be deemed to have given consent to submit 8155

to a mental or physical examination when directed to do so in 8156
writing by the board and to have waived all objections to the 8157
admissibility of testimony or examination reports that 8158
constitute a privileged communication. 8159

(1) In enforcing division (B)(5) of this section, the 8160
board, on a showing of a possible violation, may compel any 8161
individual who holds a license to practice as a genetic 8162
counselor or who has applied for a license to practice as a 8163
genetic counselor to submit to a mental or physical examination, 8164
or both. A physical examination may include an HIV test. The 8165
expense of the examination is the responsibility of the 8166
individual compelled to be examined. Failure to submit to a 8167
mental or physical examination or consent to an HIV test ordered 8168
by the board constitutes an admission of the allegations against 8169
the individual unless the failure is due to circumstances beyond 8170
the individual's control, and a default and final order may be 8171
entered without the taking of testimony or presentation of 8172
evidence. If the board finds a genetic counselor unable to 8173
practice because of the reasons set forth in division (B)(5) of 8174
this section, the board shall require the genetic counselor to 8175
submit to care, counseling, or treatment by physicians approved 8176
or designated by the board, as a condition for an initial, 8177
continued, reinstated, or renewed license to practice. An 8178
individual affected by this division shall be afforded an 8179
opportunity to demonstrate to the board the ability to resume 8180
practicing in compliance with acceptable and prevailing 8181
standards of care. 8182

(2) For purposes of division (B)(6) of this section, if 8183
the board has reason to believe that any individual who holds a 8184
license to practice as a genetic counselor or any applicant for 8185
a license suffers such impairment, the board may compel the 8186

individual to submit to a mental or physical examination, or 8187
both. The expense of the examination is the responsibility of 8188
the individual compelled to be examined. Any mental or physical 8189
examination required under this division shall be undertaken by 8190
a treatment provider or physician qualified to conduct such 8191
examination and chosen by the board. 8192

Failure to submit to a mental or physical examination 8193
ordered by the board constitutes an admission of the allegations 8194
against the individual unless the failure is due to 8195
circumstances beyond the individual's control, and a default and 8196
final order may be entered without the taking of testimony or 8197
presentation of evidence. If the board determines that the 8198
individual's ability to practice is impaired, the board shall 8199
suspend the individual's license or deny the individual's 8200
application and shall require the individual, as a condition for 8201
an initial, continued, reinstated, or renewed license, to submit 8202
to treatment. 8203

Before being eligible to apply for reinstatement of a 8204
license suspended under this division, the genetic counselor 8205
shall demonstrate to the board the ability to resume practice in 8206
compliance with acceptable and prevailing standards of care. The 8207
demonstration shall include the following: 8208

(a) Certification from a treatment provider approved under 8209
section 4731.25 of the Revised Code that the individual has 8210
successfully completed any required inpatient treatment; 8211

(b) Evidence of continuing full compliance with an 8212
aftercare contract or consent agreement; 8213

(c) Two written reports indicating that the individual's 8214
ability to practice has been assessed and that the individual 8215

has been found capable of practicing according to acceptable and 8216
prevailing standards of care. The reports shall be made by 8217
individuals or providers approved by the board for making such 8218
assessments and shall describe the basis for their 8219
determination. 8220

The board may reinstate a license suspended under this 8221
division after such demonstration and after the individual has 8222
entered into a written consent agreement. 8223

When the impaired genetic counselor resumes practice, the 8224
board shall require continued monitoring of the genetic 8225
counselor. The monitoring shall include monitoring of compliance 8226
with the written consent agreement entered into before 8227
reinstatement or with conditions imposed by board order after a 8228
hearing, and, on termination of the consent agreement, 8229
submission to the board for at least two years of annual written 8230
progress reports made under penalty of falsification stating 8231
whether the genetic counselor has maintained sobriety. 8232

~~(H)~~(H) (1) If either of the following circumstances occur, 8233
the secretary and supervising member ~~determine both of the~~ 8234
~~following, they may~~ recommend that the board suspend an 8235
individual's license to practice without a prior hearing: 8236

~~(1)~~(a) The secretary and supervising member determine 8237
both of the following: 8238

(i) That there is clear and convincing evidence that a 8239
genetic counselor has violated division (B) of this section; 8240

~~(2)~~(ii) That the individual's continued practice presents 8241
a danger of immediate and serious harm to the public. 8242

(b) The board receives verifiable information that a 8243
licensee has been charged in any state or federal court for a 8244

crime classified as a felony under the charging court's law and 8245
the conduct charged constitutes a violation of division (B) of 8246
this section. 8247

~~Written~~ (2) If a recommendation is made to suspend without 8248
a prior hearing pursuant to division (H)(1) of this section, 8249
written allegations shall be prepared for consideration by the 8250
board. The board, on review of the allegations and by an 8251
affirmative vote of not fewer than six of its members, excluding 8252
the secretary and supervising member, may suspend a license 8253
without a prior hearing. A telephone conference call may be 8254
utilized for reviewing the allegations and taking the vote on 8255
the summary suspension. 8256

The board shall issue a written order of suspension by 8257
certified mail or in person in accordance with section 119.07 of 8258
the Revised Code. The order shall not be subject to suspension 8259
by the court during pendency of any appeal filed under section 8260
119.12 of the Revised Code. If the genetic counselor requests an 8261
adjudicatory hearing by the board, the date set for the hearing 8262
shall be within fifteen days, but not earlier than seven days, 8263
after the genetic counselor requests the hearing, unless 8264
otherwise agreed to by both the board and the genetic counselor. 8265

(3) A summary suspension imposed under this division shall 8266
remain in effect, unless reversed on appeal, until a final 8267
adjudicative order issued by the board pursuant to this section 8268
and Chapter 119. of the Revised Code becomes effective. The 8269
board shall issue its final adjudicative order within sixty days 8270
after completion of its hearing. Failure to issue the order 8271
within sixty days shall result in dissolution of the summary 8272
suspension order, but shall not invalidate any subsequent, final 8273
adjudicative order. 8274

(I) If the board takes action under division (B) (10), 8275
(12), or (13) of this section, and the judicial finding of 8276
guilt, guilty plea, or judicial finding of eligibility for 8277
intervention in lieu of conviction is overturned on appeal, on 8278
exhaustion of the criminal appeal, a petition for 8279
reconsideration of the order may be filed with the board along 8280
with appropriate court documents. On receipt of a petition and 8281
supporting court documents, the board shall reinstate the 8282
license to practice as a genetic counselor. The board may then 8283
hold an adjudication under Chapter 119. of the Revised Code to 8284
determine whether the individual committed the act in question. 8285
Notice of opportunity for hearing shall be given in accordance 8286
with Chapter 119. of the Revised Code. If the board finds, 8287
pursuant to an adjudication held under this division, that the 8288
individual committed the act, or if no hearing is requested, it 8289
may order any of the sanctions specified in division (B) of this 8290
section. 8291

(J) The license to practice as a genetic counselor and the 8292
counselor's practice in this state are automatically suspended 8293
as of the date the genetic counselor pleads guilty to, is found 8294
by a judge or jury to be guilty of, or is subject to a judicial 8295
finding of eligibility for intervention in lieu of conviction in 8296
this state or treatment of intervention in lieu of conviction in 8297
another jurisdiction for any of the following criminal offenses 8298
in this state or a substantially equivalent criminal offense in 8299
another jurisdiction: aggravated murder, murder, voluntary 8300
manslaughter, felonious assault, trafficking in persons, 8301
kidnapping, rape, sexual battery, gross sexual imposition, 8302
aggravated arson, aggravated robbery, or aggravated burglary. 8303
Continued practice after the suspension shall be considered 8304
practicing without a license. 8305

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

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

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

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

permanent action taken by the board is forever thereafter 8336
ineligible to hold a license to practice as a genetic counselor 8337
and the board shall not accept an application for reinstatement 8338
of the license or for issuance of a new license. 8339

(N) Notwithstanding any other provision of the Revised 8340
Code, all of the following apply: 8341

(1) The surrender of a license to practice as a genetic 8342
counselor is not effective unless or until accepted by the 8343
board. A telephone conference call may be utilized for 8344
acceptance of the surrender of an individual's license. The 8345
telephone conference call shall be considered a special meeting 8346
under division (F) of section 121.22 of the Revised Code. 8347
Reinstatement of a license surrendered to the board requires an 8348
affirmative vote of not fewer than six members of the board. 8349

(2) An application made under this chapter for a license 8350
to practice may not be withdrawn without approval of the board. 8351

(3) Failure by an individual to renew a license in 8352
accordance with section 4778.06 of the Revised Code shall not 8353
remove or limit the board's jurisdiction to take disciplinary 8354
action under this section against the individual. 8355

Sec. 4778.171. (A) As used in this section, "criminal 8356
conduct" and "sexual misconduct" have the same meanings as in 8357
section 4731.224 of the Revised Code. 8358

(B)(1) Within thirty days after commencing an 8359
investigation regarding criminal conduct or sexual misconduct 8360
against any individual holding a valid license to practice 8361
issued pursuant to this chapter, a health care facility, 8362
including a hospital, health care facility operated by a health 8363
insuring corporation, ambulatory surgical facility, or similar 8364

facility, shall report to the board the name of the individual 8365
and a summary of the underlying facts related to the 8366
investigation being commenced. 8367

(2) If any individual authorized to practice under this 8368
chapter or any professional association or society of such 8369
individuals knows or has reasonable cause to suspect based on 8370
facts that would cause a reasonable person in a similar position 8371
to suspect that an individual authorized to practice under this 8372
chapter has committed or participated in criminal conduct or 8373
sexual misconduct the information upon which the belief is based 8374
shall be reported to the board within thirty days. 8375

(3) In addition to the self-reporting of criminal offenses 8376
that is required for license renewal, an individual authorized 8377
to practice under this chapter shall report to the board 8378
criminal charges regarding criminal conduct, sexual misconduct, 8379
or any conduct involving the use of a motor vehicle while under 8380
the influence of alcohol or drugs, including offenses that are 8381
equivalent offenses under division (A) of section 4511.181 of 8382
the Revised Code, violations of division (D) of section 4511.194 8383
of the Revised Code, and violations of division (C) of section 8384
4511.79 of the Revised Code. Reports under this division shall 8385
be made within thirty days of the criminal charge being filed. 8386

Sec. 4778.18. (A) The state medical board shall 8387
investigate evidence that appears to show that any individual 8388
has violated this chapter or the rules adopted under it. Any 8389
person may report to the board in a signed writing any 8390
information the person has that appears to show a violation of 8391
this chapter or rules adopted under it. In the absence of bad 8392
faith, a person who reports such information or testifies before 8393
the board in an adjudication conducted under Chapter 119. of the 8394

Revised Code shall not be liable for civil damages as a result 8395
of reporting the information or providing testimony. Each 8396
complaint or allegation of a violation received by the board 8397
shall be assigned a case number and be recorded by the board. 8398

(B) Investigations of alleged violations of this chapter 8399
or rules adopted under it shall be supervised by the supervising 8400
member elected by the board in accordance with section 4731.02 8401
of the Revised Code and by the board's secretary, pursuant to 8402
section 4778.20 of the Revised Code. The board's president may 8403
designate another member of the board to supervise the 8404
investigation in place of the supervising member. Upon a vote of 8405
the majority of the board to authorize the addition of a 8406
consumer member in the supervision of any part of any 8407
investigation, the president shall designate a consumer member 8408
for supervision of investigations as determined by the 8409
president. The authorization of consumer member participation in 8410
investigation supervision may be rescinded by a majority vote of 8411
the board. A member of the board who supervises the 8412
investigation of a case shall not participate in further 8413
adjudication of the case. 8414

(C) In investigating a possible violation of this chapter 8415
or the rules adopted under it, the board may administer oaths, 8416
order the taking of depositions, inspect and copy any books, 8417
accounts, papers, records, or documents, issue subpoenas, and 8418
compel the attendance of witnesses and production of books, 8419
accounts, papers, records, documents, and testimony, except that 8420
a subpoena for patient record information or information, 8421
documents, and records from a peer review committee of a health 8422
care entity related to sexual misconduct or criminal conduct 8423
shall not be issued without consultation with the attorney 8424
general's office and approval of the secretary and supervising 8425

member of the board. Before issuance of a subpoena for patient 8426
record information or information, documents, and records from a 8427
peer review committee of a health care entity related to sexual 8428
misconduct or criminal conduct, the secretary and supervising 8429
member shall determine whether there is probable cause to 8430
believe that the complaint filed alleges a violation of this 8431
chapter or the rules adopted under it and that the records 8432
sought are relevant to the alleged violation and material to the 8433
investigation. The subpoena may apply only to records that cover 8434
a reasonable period of time surrounding the alleged violation. 8435

On failure to comply with any subpoena issued by the board 8436
and after reasonable notice to the person being subpoenaed, the 8437
board may move for an order compelling the production of persons 8438
or records pursuant to the Rules of Civil Procedure. 8439

A subpoena issued by the board may be served by a sheriff, 8440
the sheriff's deputy, or a board employee designated by the 8441
board. Service of a subpoena issued by the board may be made by 8442
delivering a copy of the subpoena to the person named therein, 8443
reading it to the person, or leaving it at the person's usual 8444
place of residence. When the person being served is a genetic 8445
counselor, service of the subpoena may be made by certified 8446
mail, restricted delivery, return receipt requested, and the 8447
subpoena shall be deemed served on the date delivery is made or 8448
the date the person refuses to accept delivery. 8449

A sheriff's deputy who serves a subpoena shall receive the 8450
same fees as a sheriff. Each witness who appears before the 8451
board in obedience to a subpoena shall receive the fees and 8452
mileage provided for witnesses in civil cases in the courts of 8453
common pleas. 8454

(D) ~~All~~ For purposes of section 2305.252 of the Revised 8455

Code, all hearings and investigations of the board shall be 8456
considered civil actions~~for the purposes of section 2305.252 of~~ 8457
~~the Revised Code, except those involving allegations of sexual~~ 8458
misconduct or criminal conduct, as defined in that section. 8459

(E) Information received by the board pursuant to an 8460
investigation is confidential and not subject to discovery in 8461
any civil action. 8462

The board shall conduct all investigations and proceedings 8463
in a manner that protects the confidentiality of patients and 8464
persons who file complaints with the board. The board shall not 8465
make public the names or any other identifying information about 8466
patients or complainants unless proper consent is given. 8467

The board may share any information it receives pursuant 8468
to an investigation, including patient records and patient 8469
record information, with law enforcement agencies, other 8470
licensing boards, and other governmental agencies that are 8471
prosecuting, adjudicating, or investigating alleged violations 8472
of statutes or administrative rules. An agency or board that 8473
receives the information shall comply with the same requirements 8474
regarding confidentiality as those with which the state medical 8475
board must comply, notwithstanding any conflicting provision of 8476
the Revised Code or procedure of the agency or board that 8477
applies when it is dealing with other information in its 8478
possession. In a judicial proceeding, the information may be 8479
admitted into evidence only in accordance with the Rules of 8480
Evidence, but the court shall require that appropriate measures 8481
are taken to ensure that confidentiality is maintained with 8482
respect to any part of the information that contains names or 8483
other identifying information about patients or complainants 8484
whose confidentiality was protected by the state medical board 8485

when the information was in the board's possession. Measures to 8486
ensure confidentiality that may be taken by the court include 8487
sealing its records or deleting specific information from its 8488
records. 8489

No person shall knowingly access, use, or disclose 8490
confidential investigatory information in a manner prohibited by 8491
law. 8492

(F) The state medical board shall develop requirements for 8493
and provide appropriate initial training and continuing 8494
education for investigators employed by the board to carry out 8495
its duties under this chapter. The training and continuing 8496
education may include enrollment in courses operated or approved 8497
by the Ohio peace officer training commission that the board 8498
considers appropriate under conditions set forth in section 8499
109.79 of the Revised Code. 8500

(G) On a quarterly basis, the board shall prepare a report 8501
that documents the disposition of all cases during the preceding 8502
three months. The report shall contain the following information 8503
for each case with which the board has completed its activities: 8504

(1) The case number assigned to the complaint or alleged 8505
violation; 8506

(2) The type of license, if any, held by the individual 8507
against whom the complaint is directed; 8508

(3) A description of the allegations contained in the 8509
complaint; 8510

(4) Whether witnesses were interviewed; 8511

(5) Whether the individual against whom the complaint is 8512
directed is the subject of any pending complaints; 8513

(6) The disposition of the case. 8514

The report shall state how many cases are still pending, 8515
and shall be prepared in a manner that protects the identity of 8516
each individual involved in each case. The report is a public 8517
record for purposes of section 149.43 of the Revised Code. 8518

(H) The board may provide a status update regarding an 8519
investigation to a complainant on request if the board verifies 8520
the complainant's identity. 8521

Sec. 4778.99. Whoever violates section 4778.02 of the 8522
Revised Code is guilty of a misdemeanor of the first degree on a 8523
first offense and felony of the fifth degree on each subsequent 8524
offense. 8525

Whoever violates division (B) (1) or (2) of section 8526
4778.171 of the Revised Code is guilty of failure to report 8527
criminal conduct or sexual misconduct, a misdemeanor of the 8528
fourth degree. If the offender has previously been convicted of 8529
a violation of this division, the failure to report is a 8530
misdemeanor of the first degree. 8531

Whoever violates division (E) of section 4778.18 of the 8532
Revised Code is guilty of disclosing confidential investigatory 8533
information, a misdemeanor of the first degree. 8534

Section 2. That existing sections 149.43, 2105.062, 8535
2305.111, 2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 8536
2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 8537
3109.50, 3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 8538
4731.224, 4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 8539
4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 8540
4762.13, 4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 8541
4774.99, 4778.14, 4778.18, and 4778.99 of the Revised Code are 8542

hereby repealed. 8543

Section 3. The General Assembly, applying the principle 8544
stated in division (B) of section 1.52 of the Revised Code that 8545
amendments are to be harmonized if reasonably capable of 8546
simultaneous operation, finds that the following sections, 8547
presented in this act as composites of the sections as amended 8548
by the acts indicated, are the resulting versions of the 8549
sections in effect prior to the effective date of the sections 8550
as presented in this act: 8551

Section 2921.22 of the Revised Code as amended by both 8552
H.B. 216 and S.B. 319 of the 131st General Assembly. 8553

Section 3107.07 of the Revised Code as amended by both 8554
S.B. 207 and S.B. 250 of the 130th General Assembly. 8555

Section 4730.25 of the Revised Code as amended by both 8556
H.B. 203 and H.B. 263 of the 133rd General Assembly. 8557