

As Introduced

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

S. B. No. 99

Senator Rulli

A BILL

To amend sections 4723.28, 4730.25, and 4731.22 and 1
to enact sections 3701.25 and 3701.251 of the 2
Revised Code to establish a Parkinson's disease 3
registry. 4

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

Section 1. That sections 4723.28, 4730.25, and 4731.22 be 5
amended and sections 3701.25 and 3701.251 of the Revised Code be 6
enacted to read as follows: 7

Sec. 3701.25. (A) As used in this section and section 8
3701.251 of the Revised Code: 9

(1) "Certified nurse practitioner" and "clinical nurse 10
specialist" have the same meanings as in section 4723.01 of the 11
Revised Code. 12

(2) "Hospital" has the same meaning as in section 3727.01 13
of the Revised Code. 14

(3) "Parkinson's disease" means a chronic and progressive 15
neurological disorder resulting from a deficiency of the 16
neurotransmitter dopamine as the consequence of specific 17
degenerative changes in the area of the brain called the basal 18

ganglia. Parkinson's disease can be characterized by tremor at 19
rest, slow movements, muscle rigidity, stooped posture, and 20
unsteady or shuffling gait. 21

(4) "Parkinsonism" means a condition related to 22
Parkinson's disease that meets both of the following: 23

(a) It can cause a combination of the movement 24
abnormalities seen in the disease, including tremor at rest, 25
slow movement, muscle rigidity, impaired speech, or muscle 26
stiffness, which often overlaps with and can evolve from what 27
appears to be Parkinson's disease. 28

(b) It is included on the list of Parkinsonisms developed 29
and updated by the Parkinson's disease registry advisory 30
committee as described in section 3701.251 of the Revised Code. 31

(5) "Physician" means an individual authorized under 32
Chapter 4731. of the Revised Code to practice medicine and 33
surgery or osteopathic medicine and surgery. 34

(6) "Physician assistant" means an individual authorized 35
under Chapter 4730. of the Revised Code to practice as a 36
physician assistant. 37

(B) The department of health shall establish and maintain 38
a Parkinson's disease registry for the collection and 39
dissemination of the following: 40

(1) Data on the incidence and prevalence of Parkinson's 41
disease and Parkinsonisms in Ohio; 42

(2) Any other epidemiological data related to the disease. 43

The director of health shall supervise the registry and 44
the collection and dissemination of data included in the 45
registry. 46

(C) (1) Except as provided in division (C) (2) of this section, each individual case of Parkinson's disease or a Parkinsonism shall be reported to the registry by one of the following: 47
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(a) The certified nurse practitioner, clinical nurse specialist, physician, or physician assistant who diagnosed or treated the individual's Parkinson's disease or Parkinsonism; 51
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(b) The group practice or hospital or other health care facility that employs or contracts with the professional described in division (C) (1) (a) of this section. 54
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(2) In the event an individual who is diagnosed with or treated for Parkinson's disease or a Parkinsonism is under the care of one or more of the following at the same time, a single report may be submitted to the registry to meet the requirement of division (C) (1) of this section: a certified nurse practitioner, clinical nurse specialist, physician, or physician assistant. 57
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(3) As soon as practicable after the individual's diagnosis or treatment, the nurse, physician, physician assistant, practice, hospital, or facility also shall inform the individual or individual's representative of both of the following: 64
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(a) That the department of health has established and maintains a Parkinson's disease registry; 69
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(b) That state law requires each diagnosis or treatment of Parkinson's disease or a Parkinsonism to be reported to the registry. 71
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(D) On receipt of a report described in division (C) of this section, the department of health shall notify the 74
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individual who is the subject of the report or the individual's 76
representative about the registry and the department's 77
collection of data related to Parkinson's disease and 78
Parkinsonisms. The notice shall be in writing and shall include 79
all of the following: 80

(1) A description of the registry and the process for 81
collecting additional data about the individual beyond the 82
initial report of the individual's diagnosis or treatment; 83

(2) A statement acknowledging that an individual is not 84
required to participate in the registry; 85

(3) A statement informing the individual that any data or 86
information concerning the individual shall remain confidential; 87

(4) A statement informing the individual that he or she 88
shall have access to his or her data and information maintained 89
in the registry; 90

(5) The name and contact information for a representative 91
designated by the department to answer questions about the 92
registry. 93

An individual who does not wish to participate in the 94
registry and the department's collection of data shall 95
affirmatively opt-out in writing after an opportunity to review 96
the written notice and ask questions of the department's 97
designated representative. No individual shall be required to 98
participate in this registry. In the event an individual opts- 99
out of the registry, no further data or information about the 100
individual beyond a report of a diagnosis or treatment shall be 101
provided to the registry. 102

(E) With respect to each individual who participates in 103
the registry, the department of health, in accordance with 104

division (D) of section 3701.251 of the Revised Code, shall 105
develop a system for collecting and disseminating additional 106
data related to the individual's diagnosis of and treatment for 107
Parkinson's disease and Parkinsonisms. In developing such a 108
system, the department may do the following: 109

(1) Create, review, and revise a list of data points, 110
including the following: 111

(a) Necessary triggering diagnostic conditions, consistent 112
with the most recent international statistical classification of 113
diseases and related health problems; 114

(b) Resulting case data, including diagnosis, treatment, 115
and survival. 116

(2) Require the professionals described in division (B) of 117
this section to report the additional data to the registry, 118
including in a format prescribed by the department; 119

(3) Inform the professionals described in division (B) of 120
this section, through a bulletin or other instruction and 121
without taking regulatory action, about the additional data to 122
be reported. 123

(F) The department of health shall provide notice of the 124
reporting required by this section on the internet web site the 125
department maintains. The department also shall provide notice 126
of the required reporting to all of the following entities: 127

(1) The Ohio board of nursing; 128

(2) The Ohio association of advanced practice nurses; 129

(3) The Ohio association of physician assistants; 130

(4) The Ohio hospital association; 131

<u>(5) The Ohio state medical association;</u>	132
<u>(6) The state medical board of Ohio.</u>	133
<u>(G) The director of health may enter into contracts,</u>	134
<u>grants, or other agreements as necessary to administer the</u>	135
<u>registry and satisfy the requirements of this section, including</u>	136
<u>data sharing contracts with data reporting entities and their</u>	137
<u>associated electronic medical record systems vendors to securely</u>	138
<u>and confidentially receive information related to Parkinson's</u>	139
<u>disease testing, diagnosis, and treatment.</u>	140
<u>(H) The director of health may enter into agreements to</u>	141
<u>furnish data collected in this registry with other states'</u>	142
<u>Parkinson's disease registries, federal Parkinson's disease</u>	143
<u>control agencies, local health officers, or health researchers</u>	144
<u>for the study of Parkinson's disease. Before confidential</u>	145
<u>information is disclosed to those agencies, officers,</u>	146
<u>researchers, or out-of-state registries, the requesting entity</u>	147
<u>shall agree in writing to maintain the confidentiality of the</u>	148
<u>information, and, in the case of researchers, also shall do both</u>	149
<u>of the following:</u>	150
<u>(1) Obtain approval from their respective committees for</u>	151
<u>the protection of human subjects established in accordance with</u>	152
<u>45 C.F.R. 46;</u>	153
<u>(2) Provide documentation to the director of health that</u>	154
<u>demonstrates to the director's satisfaction that the researchers</u>	155
<u>are able to and have established procedures to maintain the</u>	156
<u>confidentiality of the information.</u>	157
<u>(I) Except as otherwise provided in this section, all data</u>	158
<u>and information collected pursuant to this section shall be</u>	159
<u>confidential. For purposes of this section, the data and</u>	160

information shall be referred to as confidential information. To 161
ensure privacy, the department of health shall establish a 162
coding system that removes any identifying information about an 163
individual diagnosed with or treated for Parkinson's disease or 164
a Parkinsonism. 165

Each individual who participates in the registry shall 166
have access to his or her own data and information maintained in 167
the registry. 168

(J) Notwithstanding any conflicting provision of the 169
Revised Code, a disclosure authorized by this section shall 170
include only the data and information necessary for the stated 171
purpose of the requested disclosure, shall be used only for the 172
approved purpose, and shall not be further disclosed. 173

(K) Provided the security of confidentiality has been 174
documented, furnishing confidential information to the 175
department of health or its authorized representative in 176
accordance with this section shall not expose any person, 177
agency, or entity to liability and shall not be considered a 178
waiver of any privilege or a violation of a confidential 179
relationship. 180

(L) The department of health shall maintain an accurate 181
record of all persons who are given access to confidential 182
information under this section. The record shall include: the 183
name of the person authorizing access; the name, title, address, 184
and organizational affiliation of any person given access; the 185
dates of access; and the specific purpose for which information 186
is to be used. The record of access shall be open to public 187
inspection during normal operating hours of the department. 188

(M) Notwithstanding any conflicting provision of the 189

Revised Code, the confidential information shall not be 190
available for subpoena or disclosed, discoverable, or compelled 191
to be produced in any civil, criminal, administrative, or other 192
proceeding. The confidential information shall not be deemed 193
admissible as evidence in any civil, criminal, administrative, 194
or other tribunal or court for any reason. 195

(N) This section does not prevent either of the following: 196

(1) The department of health from publishing reports and 197
statistical compilations that do not in any way identify or tend 198
to identify individual cases or individual sources of 199
information; 200

(2) A professional, hospital, or facility described in 201
division (B) of this section that provides diagnostic or 202
treatment services to individuals with Parkinson's disease from 203
maintaining Parkinson's disease registries. 204

Sec. 3701.251. (A) There is hereby created in the 205
department of health the Parkinson's disease registry advisory 206
committee. The committee shall consist of all of the following 207
members, each appointed by the director of health: 208

(1) One physician who specializes in neurology; 209

(2) One physician who specializes in movement disorders; 210

(3) One physician who specializes in primary care; 211

(4) One physician with experience in clinical informatics; 212

(5) One individual who represents patients diagnosed with 213
Parkinson's disease; 214

(6) One individual who specializes in public health; 215

(7) One individual who is a population health researcher 216

with experience in developing or maintaining one or more disease registries; 217
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(8) One individual with experience conducting Parkinson's disease research; 219
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(9) One individual deemed necessary by the director. 221

(B) Initial appointments to the committee shall be made not later than sixty days after the effective date of this section. Of the initial appointments, four shall be for terms of two years and five shall be for terms of three years. Thereafter, terms shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Vacancies shall be filled in the same manner as appointments. 222
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When the term of any member expires, a successor shall be appointed in the same manner as the initial appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. A member may be reappointed for one additional term only. 230
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(C) Not later than ninety days after the effective date of this section, the committee shall hold its first meeting. Thereafter, the committee shall meet at least twice a year. 240
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The committee shall organize by selecting a chairperson from among its members and may select a new chairperson at any time. The committee may transact official business if at least 243
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five members of the committee are present. Members shall serve 246
without compensation but shall receive payment for their actual 247
and necessary expenses incurred in the performance of their 248
official duties. 249

(D) The committee shall do all of the following: 250

(1) Assist the department of health in developing and 251
implementing the Parkinson's disease registry; 252

(2) Determine the data to be collected and maintained in 253
the registry; 254

(3) Develop and update on a periodic basis a list of the 255
Parkinsonisms to be reported to the registry, including multiple 256
system atrophy, dementia with Lewy Bodies, corticobasal 257
degeneration, and progressive supranuclear palsy; 258

(4) Advise the department of health as necessary. 259

(E) The department of health shall provide meeting space, 260
staff, and other administrative support to the committee in 261
order for the committee to carry out its duties. 262

Sec. 4723.28. (A) The board of nursing, by a vote of a 263
quorum, may impose one or more of the following sanctions if it 264
finds that a person committed fraud in passing an examination 265
required to obtain a license or dialysis technician certificate 266
issued by the board or to have committed fraud, 267
misrepresentation, or deception in applying for or securing any 268
nursing license or dialysis technician certificate issued by the 269
board: deny, revoke, suspend, or place restrictions on any 270
nursing license or dialysis technician certificate issued by the 271
board; reprimand or otherwise discipline a holder of a nursing 272
license or dialysis technician certificate; or impose a fine of 273
not more than five hundred dollars per violation. 274

(B) Except as provided in section 4723.092 of the Revised Code, the board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

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

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

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

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving

gross immorality or moral turpitude;	305
(5) Selling, giving away, or administering drugs or	306
therapeutic devices for other than legal and legitimate	307
therapeutic purposes; or conviction of, a plea of guilty to, a	308
judicial finding of guilt of, a judicial finding of guilt	309
resulting from a plea of no contest to, or a judicial finding of	310
eligibility for a pretrial diversion or similar program or for	311
intervention in lieu of conviction for, violating any municipal,	312
state, county, or federal drug law;	313
(6) Conviction of, a plea of guilty to, a judicial finding	314
of guilt of, a judicial finding of guilt resulting from a plea	315
of no contest to, or a judicial finding of eligibility for a	316
pretrial diversion or similar program or for intervention in	317
lieu of conviction for, an act in another jurisdiction that	318
would constitute a felony or a crime of moral turpitude in Ohio;	319
(7) Conviction of, a plea of guilty to, a judicial finding	320
of guilt of, a judicial finding of guilt resulting from a plea	321
of no contest to, or a judicial finding of eligibility for a	322
pretrial diversion or similar program or for intervention in	323
lieu of conviction for, an act in the course of practice in	324
another jurisdiction that would constitute a misdemeanor in	325
Ohio;	326
(8) Self-administering or otherwise taking into the body	327
any dangerous drug, as defined in section 4729.01 of the Revised	328
Code, in any way that is not in accordance with a legal, valid	329
prescription issued for that individual, or self-administering	330
or otherwise taking into the body any drug that is a schedule I	331
controlled substance;	332
(9) Habitual or excessive use of controlled substances,	333

other habit-forming drugs, or alcohol or other chemical	334
substances to an extent that impairs the individual's ability to	335
provide safe nursing care or safe dialysis care;	336
(10) Impairment of the ability to practice according to	337
acceptable and prevailing standards of safe nursing care or safe	338
dialysis care because of the use of drugs, alcohol, or other	339
chemical substances;	340
(11) Impairment of the ability to practice according to	341
acceptable and prevailing standards of safe nursing care or safe	342
dialysis care because of a physical or mental disability;	343
(12) Assaulting or causing harm to a patient or depriving	344
a patient of the means to summon assistance;	345
(13) Misappropriation or attempted misappropriation of	346
money or anything of value in the course of practice;	347
(14) Adjudication by a probate court of being mentally ill	348
or mentally incompetent. The board may reinstate the person's	349
nursing license or dialysis technician certificate upon	350
adjudication by a probate court of the person's restoration to	351
competency or upon submission to the board of other proof of	352
competency.	353
(15) The suspension or termination of employment by the	354
United States department of defense or department of veterans	355
affairs for any act that violates or would violate this chapter;	356
(16) Violation of this chapter or any rules adopted under	357
it;	358
(17) Violation of any restrictions placed by the board on	359
a nursing license or dialysis technician certificate;	360
(18) Failure to use universal and standard precautions	361

established by rules adopted under section 4723.07 of the Revised Code;	362 363
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	364 365
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	366 367 368
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	369 370 371
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	372 373 374
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	375 376 377
(24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:	378 379 380
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	381 382 383 384 385 386
(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract,	387 388 389

or plan that covers such nursing services, would otherwise be	390
required to pay.	391
(25) Failure to comply with the terms and conditions of	392
participation in the substance use disorder monitoring program	393
established under section 4723.35 of the Revised Code;	394
(26) Failure to comply with the terms and conditions	395
required under the practice intervention and improvement program	396
established under section 4723.282 of the Revised Code;	397
(27) In the case of an advanced practice registered nurse:	398
(a) Engaging in activities that exceed those permitted for	399
the nurse's nursing specialty under section 4723.43 of the	400
Revised Code;	401
(b) Failure to meet the quality assurance standards	402
established under section 4723.07 of the Revised Code.	403
(28) In the case of an advanced practice registered nurse	404
other than a certified registered nurse anesthetist, failure to	405
maintain a standard care arrangement in accordance with section	406
4723.431 of the Revised Code or to practice in accordance with	407
the standard care arrangement;	408
(29) In the case of an advanced practice registered nurse	409
who is designated as a clinical nurse specialist, certified	410
nurse-midwife, or certified nurse practitioner, failure to	411
prescribe drugs and therapeutic devices in accordance with	412
section 4723.481 of the Revised Code;	413
(30) Prescribing any drug or device to perform or induce	414
an abortion, or otherwise performing or inducing an abortion;	415
(31) Failure to establish and maintain professional	416
boundaries with a patient, as specified in rules adopted under	417

section 4723.07 of the Revised Code;	418
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	419 420 421 422
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	423 424
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	425 426 427
(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;	428 429
(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	430 431 432 433
(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	434 435 436 437
(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;	438 439 440 441 442 443
(37) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified	444 445

nurse-midwife, or certified nurse practitioner, failure to 446
comply with the terms of a consult agreement entered into with a 447
pharmacist pursuant to section 4729.39 of the Revised Code; 448

(38) In the case of a certified nurse practitioner or 449
clinical nurse specialist, failure to report a case of 450
Parkinson's disease or a Parkinsonism as required by section 451
3701.25 of the Revised Code. 452

(C) Disciplinary actions taken by the board under 453
divisions (A) and (B) of this section shall be taken pursuant to 454
an adjudication conducted under Chapter 119. of the Revised 455
Code, except that in lieu of a hearing, the board may enter into 456
a consent agreement with an individual to resolve an allegation 457
of a violation of this chapter or any rule adopted under it. A 458
consent agreement, when ratified by a vote of a quorum, shall 459
constitute the findings and order of the board with respect to 460
the matter addressed in the agreement. If the board refuses to 461
ratify a consent agreement, the admissions and findings 462
contained in the agreement shall be of no effect. 463

(D) The hearings of the board shall be conducted in 464
accordance with Chapter 119. of the Revised Code, the board may 465
appoint a hearing examiner, as provided in section 119.09 of the 466
Revised Code, to conduct any hearing the board is authorized to 467
hold under Chapter 119. of the Revised Code. 468

In any instance in which the board is required under 469
Chapter 119. of the Revised Code to give notice of an 470
opportunity for a hearing and the applicant, licensee, or 471
certificate holder does not make a timely request for a hearing 472
in accordance with section 119.07 of the Revised Code, the board 473
is not required to hold a hearing, but may adopt, by a vote of a 474
quorum, a final order that contains the board's findings. In the 475

final order, the board may order any of the sanctions listed in 476
division (A) or (B) of this section. 477

(E) If a criminal action is brought against a registered 478
nurse, licensed practical nurse, or dialysis technician for an 479
act or crime described in divisions (B)(3) to (7) of this 480
section and the action is dismissed by the trial court other 481
than on the merits, the board shall conduct an adjudication to 482
determine whether the registered nurse, licensed practical 483
nurse, or dialysis technician committed the act on which the 484
action was based. If the board determines on the basis of the 485
adjudication that the registered nurse, licensed practical 486
nurse, or dialysis technician committed the act, or if the 487
registered nurse, licensed practical nurse, or dialysis 488
technician fails to participate in the adjudication, the board 489
may take action as though the registered nurse, licensed 490
practical nurse, or dialysis technician had been convicted of 491
the act. 492

If the board takes action on the basis of a conviction, 493
plea, or a judicial finding as described in divisions (B)(3) to 494
(7) of this section that is overturned on appeal, the registered 495
nurse, licensed practical nurse, or dialysis technician may, on 496
exhaustion of the appeal process, petition the board for 497
reconsideration of its action. On receipt of the petition and 498
supporting court documents, the board shall temporarily rescind 499
its action. If the board determines that the decision on appeal 500
was a decision on the merits, it shall permanently rescind its 501
action. If the board determines that the decision on appeal was 502
not a decision on the merits, it shall conduct an adjudication 503
to determine whether the registered nurse, licensed practical 504
nurse, or dialysis technician committed the act on which the 505
original conviction, plea, or judicial finding was based. If the 506

board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C) (2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction.

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

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

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

licensed practical nurse, or dialysis technician or applicant 537
under this chapter to submit to a mental or physical 538
examination, or both, as required by the board and at the 539
expense of the individual, if the board finds reason to believe 540
that the individual under investigation may have a physical or 541
mental impairment that may affect the individual's ability to 542
provide safe nursing care. Failure of any individual to submit 543
to a mental or physical examination when directed constitutes an 544
admission of the allegations, unless the failure is due to 545
circumstances beyond the individual's control, and a default and 546
final order may be entered without the taking of testimony or 547
presentation of evidence. 548

If the board finds that an individual is impaired, the 549
board shall require the individual to submit to care, 550
counseling, or treatment approved or designated by the board, as 551
a condition for initial, continued, reinstated, or renewed 552
authority to practice. The individual shall be afforded an 553
opportunity to demonstrate to the board that the individual can 554
begin or resume the individual's occupation in compliance with 555
acceptable and prevailing standards of care under the provisions 556
of the individual's authority to practice. 557

For purposes of this division, any registered nurse, 558
licensed practical nurse, or dialysis technician or applicant 559
under this chapter shall be deemed to have given consent to 560
submit to a mental or physical examination when directed to do 561
so in writing by the board, and to have waived all objections to 562
the admissibility of testimony or examination reports that 563
constitute a privileged communication. 564

(H) The board shall investigate evidence that appears to 565
show that any person has violated any provision of this chapter 566

or any rule of the board. Any person may report to the board any 567
information the person may have that appears to show a violation 568
of any provision of this chapter or rule of the board. In the 569
absence of bad faith, any person who reports such information or 570
who testifies before the board in any adjudication conducted 571
under Chapter 119. of the Revised Code shall not be liable for 572
civil damages as a result of the report or testimony. 573

(I) All of the following apply under this chapter with 574
respect to the confidentiality of information: 575

(1) Information received by the board pursuant to a 576
complaint or an investigation is confidential and not subject to 577
discovery in any civil action, except that the board may 578
disclose information to law enforcement officers and government 579
entities for purposes of an investigation of either a licensed 580
health care professional, including a registered nurse, licensed 581
practical nurse, or dialysis technician, or a person who may 582
have engaged in the unauthorized practice of nursing or dialysis 583
care. No law enforcement officer or government entity with 584
knowledge of any information disclosed by the board pursuant to 585
this division shall divulge the information to any other person 586
or government entity except for the purpose of a government 587
investigation, a prosecution, or an adjudication by a court or 588
government entity. 589

(2) If an investigation requires a review of patient 590
records, the investigation and proceeding shall be conducted in 591
such a manner as to protect patient confidentiality. 592

(3) All adjudications and investigations of the board 593
shall be considered civil actions for the purposes of section 594
2305.252 of the Revised Code. 595

(4) Any board activity that involves continued monitoring 596
of an individual as part of or following any disciplinary action 597
taken under this section shall be conducted in a manner that 598
maintains the individual's confidentiality. Information received 599
or maintained by the board with respect to the board's 600
monitoring activities is not subject to discovery in any civil 601
action and is confidential, except that the board may disclose 602
information to law enforcement officers and government entities 603
for purposes of an investigation of a licensee or certificate 604
holder. 605

(J) Any action taken by the board under this section 606
resulting in a suspension from practice shall be accompanied by 607
a written statement of the conditions under which the person may 608
be reinstated to practice. 609

(K) When the board refuses to grant a license or 610
certificate to an applicant, revokes a license or certificate, 611
or refuses to reinstate a license or certificate, the board may 612
specify that its action is permanent. An individual subject to 613
permanent action taken by the board is forever ineligible to 614
hold a license or certificate of the type that was refused or 615
revoked and the board shall not accept from the individual an 616
application for reinstatement of the license or certificate or 617
for a new license or certificate. 618

(L) No unilateral surrender of a nursing license or 619
dialysis technician certificate issued under this chapter shall 620
be effective unless accepted by majority vote of the board. No 621
application for a nursing license or dialysis technician 622
certificate issued under this chapter may be withdrawn without a 623
majority vote of the board. The board's jurisdiction to take 624
disciplinary action under this section is not removed or limited 625

when an individual has a license or certificate classified as 626
inactive or fails to renew a license or certificate. 627

(M) Sanctions shall not be imposed under division (B) (24) 628
of this section against any licensee who waives deductibles and 629
copayments as follows: 630

(1) In compliance with the health benefit plan that 631
expressly allows such a practice. Waiver of the deductibles or 632
copayments shall be made only with the full knowledge and 633
consent of the plan purchaser, payer, and third-party 634
administrator. Documentation of the consent shall be made 635
available to the board upon request. 636

(2) For professional services rendered to any other person 637
licensed pursuant to this chapter to the extent allowed by this 638
chapter and the rules of the board. 639

Sec. 4730.25. (A) The state medical board, by an 640
affirmative vote of not fewer than six members, may revoke or 641
may refuse to grant a license to practice as a physician 642
assistant to a person found by the board to have committed 643
fraud, misrepresentation, or deception in applying for or 644
securing the license. 645

(B) Except as provided in division (N) of this section, 646
the board, by an affirmative vote of not fewer than six members, 647
shall, to the extent permitted by law, limit, revoke, or suspend 648
an individual's license to practice as a physician assistant or 649
prescriber number, refuse to issue a license to an applicant, 650
refuse to renew a license, refuse to reinstate a license, or 651
reprimand or place on probation the holder of a license for any 652
of the following reasons: 653

(1) Failure to practice in accordance with the supervising 654

physician's supervision agreement with the physician assistant, 655
including, if applicable, the policies of the health care 656
facility in which the supervising physician and physician 657
assistant are practicing; 658

(2) Failure to comply with the requirements of this 659
chapter, Chapter 4731. of the Revised Code, or any rules adopted 660
by the board; 661

(3) Violating or attempting to violate, directly or 662
indirectly, or assisting in or abetting the violation of, or 663
conspiring to violate, any provision of this chapter, Chapter 664
4731. of the Revised Code, or the rules adopted by the board; 665

(4) Inability to practice according to acceptable and 666
prevailing standards of care by reason of mental illness or 667
physical illness, including physical deterioration that 668
adversely affects cognitive, motor, or perceptive skills; 669

(5) Impairment of ability to practice according to 670
acceptable and prevailing standards of care because of habitual 671
or excessive use or abuse of drugs, alcohol, or other substances 672
that impair ability to practice; 673

(6) Administering drugs for purposes other than those 674
authorized under this chapter; 675

(7) Willfully betraying a professional confidence; 676

(8) Making a false, fraudulent, deceptive, or misleading 677
statement in soliciting or advertising for employment as a 678
physician assistant; in connection with any solicitation or 679
advertisement for patients; in relation to the practice of 680
medicine as it pertains to physician assistants; or in securing 681
or attempting to secure a license to practice as a physician 682
assistant. 683

As used in this division, "false, fraudulent, deceptive, 684
or misleading statement" means a statement that includes a 685
misrepresentation of fact, is likely to mislead or deceive 686
because of a failure to disclose material facts, is intended or 687
is likely to create false or unjustified expectations of 688
favorable results, or includes representations or implications 689
that in reasonable probability will cause an ordinarily prudent 690
person to misunderstand or be deceived. 691

(9) Representing, with the purpose of obtaining 692
compensation or other advantage personally or for any other 693
person, that an incurable disease or injury, or other incurable 694
condition, can be permanently cured; 695

(10) The obtaining of, or attempting to obtain, money or 696
anything of value by fraudulent misrepresentations in the course 697
of practice; 698

(11) A plea of guilty to, a judicial finding of guilt of, 699
or a judicial finding of eligibility for intervention in lieu of 700
conviction for, a felony; 701

(12) Commission of an act that constitutes a felony in 702
this state, regardless of the jurisdiction in which the act was 703
committed; 704

(13) A plea of guilty to, a judicial finding of guilt of, 705
or a judicial finding of eligibility for intervention in lieu of 706
conviction for, a misdemeanor committed in the course of 707
practice; 708

(14) A plea of guilty to, a judicial finding of guilt of, 709
or a judicial finding of eligibility for intervention in lieu of 710
conviction for, a misdemeanor involving moral turpitude; 711

(15) Commission of an act in the course of practice that 712

constitutes a misdemeanor in this state, regardless of the	713
jurisdiction in which the act was committed;	714
(16) Commission of an act involving moral turpitude that	715
constitutes a misdemeanor in this state, regardless of the	716
jurisdiction in which the act was committed;	717
(17) A plea of guilty to, a judicial finding of guilt of,	718
or a judicial finding of eligibility for intervention in lieu of	719
conviction for violating any state or federal law regulating the	720
possession, distribution, or use of any drug, including	721
trafficking in drugs;	722
(18) Any of the following actions taken by the state	723
agency responsible for regulating the practice of physician	724
assistants in another state, for any reason other than the	725
nonpayment of fees: the limitation, revocation, or suspension of	726
an individual's license to practice; acceptance of an	727
individual's license surrender; denial of a license; refusal to	728
renew or reinstate a license; imposition of probation; or	729
issuance of an order of censure or other reprimand;	730
(19) A departure from, or failure to conform to, minimal	731
standards of care of similar physician assistants under the same	732
or similar circumstances, regardless of whether actual injury to	733
a patient is established;	734
(20) Violation of the conditions placed by the board on a	735
license to practice as a physician assistant;	736
(21) Failure to use universal blood and body fluid	737
precautions established by rules adopted under section 4731.051	738
of the Revised Code;	739
(22) Failure to cooperate in an investigation conducted by	740
the board under section 4730.26 of the Revised Code, including	741

failure to comply with a subpoena or order issued by the board 742
or failure to answer truthfully a question presented by the 743
board at a deposition or in written interrogatories, except that 744
failure to cooperate with an investigation shall not constitute 745
grounds for discipline under this section if a court of 746
competent jurisdiction has issued an order that either quashes a 747
subpoena or permits the individual to withhold the testimony or 748
evidence in issue; 749

(23) Assisting suicide, as defined in section 3795.01 of 750
the Revised Code; 751

(24) Prescribing any drug or device to perform or induce 752
an abortion, or otherwise performing or inducing an abortion; 753

(25) Failure to comply with section 4730.53 of the Revised 754
Code, unless the board no longer maintains a drug database 755
pursuant to section 4729.75 of the Revised Code; 756

(26) Failure to comply with the requirements in section 757
3719.061 of the Revised Code before issuing for a minor a 758
prescription for an opioid analgesic, as defined in section 759
3719.01 of the Revised Code; 760

(27) Having certification by the national commission on 761
certification of physician assistants or a successor 762
organization expire, lapse, or be suspended or revoked; 763

(28) The revocation, suspension, restriction, reduction, 764
or termination of clinical privileges by the United States 765
department of defense or department of veterans affairs or the 766
termination or suspension of a certificate of registration to 767
prescribe drugs by the drug enforcement administration of the 768
United States department of justice; 769

(29) Failure to comply with terms of a consult agreement 770

entered into with a pharmacist pursuant to section 4729.39 of 771
the Revised Code; 772

(30) Failure to report a case of Parkinson's disease or a 773
Parkinsonism as required by section 3701.25 of the Revised Code. 774

(C) Disciplinary actions taken by the board under 775
divisions (A) and (B) of this section shall be taken pursuant to 776
an adjudication under Chapter 119. of the Revised Code, except 777
that in lieu of an adjudication, the board may enter into a 778
consent agreement with a physician assistant or applicant to 779
resolve an allegation of a violation of this chapter or any rule 780
adopted under it. A consent agreement, when ratified by an 781
affirmative vote of not fewer than six members of the board, 782
shall constitute the findings and order of the board with 783
respect to the matter addressed in the agreement. If the board 784
refuses to ratify a consent agreement, the admissions and 785
findings contained in the consent agreement shall be of no force 786
or effect. 787

(D) For purposes of divisions (B) (12), (15), and (16) of 788
this section, the commission of the act may be established by a 789
finding by the board, pursuant to an adjudication under Chapter 790
119. of the Revised Code, that the applicant or license holder 791
committed the act in question. The board shall have no 792
jurisdiction under these divisions in cases where the trial 793
court renders a final judgment in the license holder's favor and 794
that judgment is based upon an adjudication on the merits. The 795
board shall have jurisdiction under these divisions in cases 796
where the trial court issues an order of dismissal upon 797
technical or procedural grounds. 798

(E) The sealing of conviction records by any court shall 799
have no effect upon a prior board order entered under the 800

provisions of this section or upon the board's jurisdiction to 801
take action under the provisions of this section if, based upon 802
a plea of guilty, a judicial finding of guilt, or a judicial 803
finding of eligibility for intervention in lieu of conviction, 804
the board issued a notice of opportunity for a hearing prior to 805
the court's order to seal the records. The board shall not be 806
required to seal, destroy, redact, or otherwise modify its 807
records to reflect the court's sealing of conviction records. 808

(F) For purposes of this division, any individual who 809
holds a license issued under this chapter, or applies for a 810
license issued under this chapter, shall be deemed to have given 811
consent to submit to a mental or physical examination when 812
directed to do so in writing by the board and to have waived all 813
objections to the admissibility of testimony or examination 814
reports that constitute a privileged communication. 815

(1) In enforcing division (B)(4) of this section, the 816
board, upon a showing of a possible violation, may compel any 817
individual who holds a license issued under this chapter or who 818
has applied for a license pursuant to this chapter to submit to 819
a mental examination, physical examination, including an HIV 820
test, or both a mental and physical examination. The expense of 821
the examination is the responsibility of the individual 822
compelled to be examined. Failure to submit to a mental or 823
physical examination or consent to an HIV test ordered by the 824
board constitutes an admission of the allegations against the 825
individual unless the failure is due to circumstances beyond the 826
individual's control, and a default and final order may be 827
entered without the taking of testimony or presentation of 828
evidence. If the board finds a physician assistant unable to 829
practice because of the reasons set forth in division (B)(4) of 830
this section, the board shall require the physician assistant to 831

submit to care, counseling, or treatment by physicians approved 832
or designated by the board, as a condition for an initial, 833
continued, reinstated, or renewed license. An individual 834
affected under this division shall be afforded an opportunity to 835
demonstrate to the board the ability to resume practicing in 836
compliance with acceptable and prevailing standards of care. 837

(2) For purposes of division (B)(5) of this section, if 838
the board has reason to believe that any individual who holds a 839
license issued under this chapter or any applicant for a license 840
suffers such impairment, the board may compel the individual to 841
submit to a mental or physical examination, or both. The expense 842
of the examination is the responsibility of the individual 843
compelled to be examined. Any mental or physical examination 844
required under this division shall be undertaken by a treatment 845
provider or physician qualified to conduct such examination and 846
chosen by the board. 847

Failure to submit to a mental or physical examination 848
ordered by the board constitutes an admission of the allegations 849
against the individual unless the failure is due to 850
circumstances beyond the individual's control, and a default and 851
final order may be entered without the taking of testimony or 852
presentation of evidence. If the board determines that the 853
individual's ability to practice is impaired, the board shall 854
suspend the individual's license or deny the individual's 855
application and shall require the individual, as a condition for 856
initial, continued, reinstated, or renewed licensure, to submit 857
to treatment. 858

Before being eligible to apply for reinstatement of a 859
license suspended under this division, the physician assistant 860
shall demonstrate to the board the ability to resume practice or 861

prescribing in compliance with acceptable and prevailing 862
standards of care. The demonstration shall include the 863
following: 864

(a) Certification from a treatment provider approved under 865
section 4731.25 of the Revised Code that the individual has 866
successfully completed any required inpatient treatment; 867

(b) Evidence of continuing full compliance with an 868
aftercare contract or consent agreement; 869

(c) Two written reports indicating that the individual's 870
ability to practice has been assessed and that the individual 871
has been found capable of practicing according to acceptable and 872
prevailing standards of care. The reports shall be made by 873
individuals or providers approved by the board for making such 874
assessments and shall describe the basis for their 875
determination. 876

The board may reinstate a license suspended under this 877
division after such demonstration and after the individual has 878
entered into a written consent agreement. 879

When the impaired physician assistant resumes practice or 880
prescribing, the board shall require continued monitoring of the 881
physician assistant. The monitoring shall include compliance 882
with the written consent agreement entered into before 883
reinstatement or with conditions imposed by board order after a 884
hearing, and, upon termination of the consent agreement, 885
submission to the board for at least two years of annual written 886
progress reports made under penalty of falsification stating 887
whether the physician assistant has maintained sobriety. 888

(G) If the secretary and supervising member determine that 889
there is clear and convincing evidence that a physician 890

assistant has violated division (B) of this section and that the individual's continued practice or prescribing presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's license without a prior hearing. Written allegations shall be prepared for consideration by the board.

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

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

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

(H) If the board takes action under division (B) (11), 921
(13), or (14) of this section, and the judicial finding of 922
guilt, guilty plea, or judicial finding of eligibility for 923
intervention in lieu of conviction is overturned on appeal, upon 924
exhaustion of the criminal appeal, a petition for 925
reconsideration of the order may be filed with the board along 926
with appropriate court documents. Upon receipt of a petition and 927
supporting court documents, the board shall reinstate the 928
individual's license. The board may then hold an adjudication 929
under Chapter 119. of the Revised Code to determine whether the 930
individual committed the act in question. Notice of opportunity 931
for hearing shall be given in accordance with Chapter 119. of 932
the Revised Code. If the board finds, pursuant to an 933
adjudication held under this division, that the individual 934
committed the act, or if no hearing is requested, it may order 935
any of the sanctions identified under division (B) of this 936
section. 937

(I) The license to practice issued to a physician 938
assistant and the physician assistant's practice in this state 939
are automatically suspended as of the date the physician 940
assistant pleads guilty to, is found by a judge or jury to be 941
guilty of, or is subject to a judicial finding of eligibility 942
for intervention in lieu of conviction in this state or 943
treatment or intervention in lieu of conviction in another state 944
for any of the following criminal offenses in this state or a 945
substantially equivalent criminal offense in another 946
jurisdiction: aggravated murder, murder, voluntary manslaughter, 947
felonious assault, kidnapping, rape, sexual battery, gross 948
sexual imposition, aggravated arson, aggravated robbery, or 949
aggravated burglary. Continued practice after the suspension 950
shall be considered practicing without a license. 951

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.

(J) 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 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 shall be accompanied by a written statement of the conditions under which the physician assistant's license 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.

(L) When the board refuses to grant or issue to an applicant a license to practice as a physician assistant, 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 982
forever thereafter ineligible to hold the license and the board 983
shall not accept an application for reinstatement of the license 984
or for issuance of a new license. 985

(M) Notwithstanding any other provision of the Revised 986
Code, all of the following apply: 987

(1) The surrender of a license issued under this chapter 988
is not effective unless or until accepted by the board. 989
Reinstatement of a license surrendered to the board requires an 990
affirmative vote of not fewer than six members of the board. 991

(2) An application made under this chapter for a license 992
may not be withdrawn without approval of the board. 993

(3) Failure by an individual to renew a license in 994
accordance with section 4730.14 of the Revised Code shall not 995
remove or limit the board's jurisdiction to take disciplinary 996
action under this section against the individual. 997

(N) The board shall not refuse to issue a license to an 998
applicant because of a conviction, plea of guilty, judicial 999
finding of guilt, judicial finding of eligibility for 1000
intervention in lieu of conviction, or the commission of an act 1001
that constitutes a criminal offense, unless the refusal is in 1002
accordance with section 9.79 of the Revised Code. 1003

Sec. 4731.22. (A) The state medical board, by an 1004
affirmative vote of not fewer than six of its members, may 1005
limit, revoke, or suspend a license or certificate to practice 1006
or certificate to recommend, refuse to grant a license or 1007
certificate, refuse to renew a license or certificate, refuse to 1008
reinstate a license or certificate, or reprimand or place on 1009
probation the holder of a license or certificate if the 1010

individual applying for or holding the license or certificate is 1011
found by the board to have committed fraud during the 1012
administration of the examination for a license or certificate 1013
to practice or to have committed fraud, misrepresentation, or 1014
deception in applying for, renewing, or securing any license or 1015
certificate to practice or certificate to recommend issued by 1016
the board. 1017

(B) Except as provided in division (P) of this section, 1018
the board, by an affirmative vote of not fewer than six members, 1019
shall, to the extent permitted by law, limit, revoke, or suspend 1020
a license or certificate to practice or certificate to 1021
recommend, refuse to issue a license or certificate, refuse to 1022
renew a license or certificate, refuse to reinstate a license or 1023
certificate, or reprimand or place on probation the holder of a 1024
license or certificate for one or more of the following reasons: 1025

(1) Permitting one's name or one's license or certificate 1026
to practice to be used by a person, group, or corporation when 1027
the individual concerned is not actually directing the treatment 1028
given; 1029

(2) Failure to maintain minimal standards applicable to 1030
the selection or administration of drugs, or failure to employ 1031
acceptable scientific methods in the selection of drugs or other 1032
modalities for treatment of disease; 1033

(3) Except as provided in section 4731.97 of the Revised 1034
Code, selling, giving away, personally furnishing, prescribing, 1035
or administering drugs for other than legal and legitimate 1036
therapeutic purposes or a plea of guilty to, a judicial finding 1037
of guilt of, or a judicial finding of eligibility for 1038
intervention in lieu of conviction of, a violation of any 1039
federal or state law regulating the possession, distribution, or 1040

use of any drug; 1041

(4) Willfully betraying a professional confidence. 1042

For purposes of this division, "willfully betraying a 1043
professional confidence" does not include providing any 1044
information, documents, or reports under sections 307.621 to 1045
307.629 of the Revised Code to a child fatality review board; 1046
does not include providing any information, documents, or 1047
reports to the director of health pursuant to guidelines 1048
established under section 3701.70 of the Revised Code; does not 1049
include written notice to a mental health professional under 1050
section 4731.62 of the Revised Code; and does not include the 1051
making of a report of an employee's use of a drug of abuse, or a 1052
report of a condition of an employee other than one involving 1053
the use of a drug of abuse, to the employer of the employee as 1054
described in division (B) of section 2305.33 of the Revised 1055
Code. Nothing in this division affects the immunity from civil 1056
liability conferred by section 2305.33 or 4731.62 of the Revised 1057
Code upon a physician who makes a report in accordance with 1058
section 2305.33 or notifies a mental health professional in 1059
accordance with section 4731.62 of the Revised Code. As used in 1060
this division, "employee," "employer," and "physician" have the 1061
same meanings as in section 2305.33 of the Revised Code. 1062

(5) Making a false, fraudulent, deceptive, or misleading 1063
statement in the solicitation of or advertising for patients; in 1064
relation to the practice of medicine and surgery, osteopathic 1065
medicine and surgery, podiatric medicine and surgery, or a 1066
limited branch of medicine; or in securing or attempting to 1067
secure any license or certificate to practice issued by the 1068
board. 1069

As used in this division, "false, fraudulent, deceptive, 1070

or misleading statement" means a statement that includes a 1071
misrepresentation of fact, is likely to mislead or deceive 1072
because of a failure to disclose material facts, is intended or 1073
is likely to create false or unjustified expectations of 1074
favorable results, or includes representations or implications 1075
that in reasonable probability will cause an ordinarily prudent 1076
person to misunderstand or be deceived. 1077

(6) A departure from, or the failure to conform to, 1078
minimal standards of care of similar practitioners under the 1079
same or similar circumstances, whether or not actual injury to a 1080
patient is established; 1081

(7) Representing, with the purpose of obtaining 1082
compensation or other advantage as personal gain or for any 1083
other person, that an incurable disease or injury, or other 1084
incurable condition, can be permanently cured; 1085

(8) The obtaining of, or attempting to obtain, money or 1086
anything of value by fraudulent misrepresentations in the course 1087
of practice; 1088

(9) A plea of guilty to, a judicial finding of guilt of, 1089
or a judicial finding of eligibility for intervention in lieu of 1090
conviction for, a felony; 1091

(10) Commission of an act that constitutes a felony in 1092
this state, regardless of the jurisdiction in which the act was 1093
committed; 1094

(11) A plea of guilty to, a judicial finding of guilt of, 1095
or a judicial finding of eligibility for intervention in lieu of 1096
conviction for, a misdemeanor committed in the course of 1097
practice; 1098

(12) Commission of an act in the course of practice that 1099

constitutes a misdemeanor in this state, regardless of the 1100
jurisdiction in which the act was committed; 1101

(13) A plea of guilty to, a judicial finding of guilt of, 1102
or a judicial finding of eligibility for intervention in lieu of 1103
conviction for, a misdemeanor involving moral turpitude; 1104

(14) Commission of an act involving moral turpitude that 1105
constitutes a misdemeanor in this state, regardless of the 1106
jurisdiction in which the act was committed; 1107

(15) Violation of the conditions of limitation placed by 1108
the board upon a license or certificate to practice; 1109

(16) Failure to pay license renewal fees specified in this 1110
chapter; 1111

(17) Except as authorized in section 4731.31 of the 1112
Revised Code, engaging in the division of fees for referral of 1113
patients, or the receiving of a thing of value in return for a 1114
specific referral of a patient to utilize a particular service 1115
or business; 1116

(18) Subject to section 4731.226 of the Revised Code, 1117
violation of any provision of a code of ethics of the American 1118
medical association, the American osteopathic association, the 1119
American podiatric medical association, or any other national 1120
professional organizations that the board specifies by rule. The 1121
state medical board shall obtain and keep on file current copies 1122
of the codes of ethics of the various national professional 1123
organizations. The individual whose license or certificate is 1124
being suspended or revoked shall not be found to have violated 1125
any provision of a code of ethics of an organization not 1126
appropriate to the individual's profession. 1127

For purposes of this division, a "provision of a code of 1128

ethics of a national professional organization" does not include 1129
any provision that would preclude the making of a report by a 1130
physician of an employee's use of a drug of abuse, or of a 1131
condition of an employee other than one involving the use of a 1132
drug of abuse, to the employer of the employee as described in 1133
division (B) of section 2305.33 of the Revised Code. Nothing in 1134
this division affects the immunity from civil liability 1135
conferred by that section upon a physician who makes either type 1136
of report in accordance with division (B) of that section. As 1137
used in this division, "employee," "employer," and "physician" 1138
have the same meanings as in section 2305.33 of the Revised 1139
Code. 1140

(19) Inability to practice according to acceptable and 1141
prevailing standards of care by reason of mental illness or 1142
physical illness, including, but not limited to, physical 1143
deterioration that adversely affects cognitive, motor, or 1144
perceptive skills. 1145

In enforcing this division, the board, upon a showing of a 1146
possible violation, may compel any individual authorized to 1147
practice by this chapter or who has submitted an application 1148
pursuant to this chapter to submit to a mental examination, 1149
physical examination, including an HIV test, or both a mental 1150
and a physical examination. The expense of the examination is 1151
the responsibility of the individual compelled to be examined. 1152
Failure to submit to a mental or physical examination or consent 1153
to an HIV test ordered by the board constitutes an admission of 1154
the allegations against the individual unless the failure is due 1155
to circumstances beyond the individual's control, and a default 1156
and final order may be entered without the taking of testimony 1157
or presentation of evidence. If the board finds an individual 1158
unable to practice because of the reasons set forth in this 1159

division, the board shall require the individual to submit to 1160
care, counseling, or treatment by physicians approved or 1161
designated by the board, as a condition for initial, continued, 1162
reinstated, or renewed authority to practice. An individual 1163
affected under this division shall be afforded an opportunity to 1164
demonstrate to the board the ability to resume practice in 1165
compliance with acceptable and prevailing standards under the 1166
provisions of the individual's license or certificate. For the 1167
purpose of this division, any individual who applies for or 1168
receives a license or certificate to practice under this chapter 1169
accepts the privilege of practicing in this state and, by so 1170
doing, shall be deemed to have given consent to submit to a 1171
mental or physical examination when directed to do so in writing 1172
by the board, and to have waived all objections to the 1173
admissibility of testimony or examination reports that 1174
constitute a privileged communication. 1175

(20) Except as provided in division (F) (1) (b) of section 1176
4731.282 of the Revised Code or when civil penalties are imposed 1177
under section 4731.225 of the Revised Code, and subject to 1178
section 4731.226 of the Revised Code, violating or attempting to 1179
violate, directly or indirectly, or assisting in or abetting the 1180
violation of, or conspiring to violate, any provisions of this 1181
chapter or any rule promulgated by the board. 1182

This division does not apply to a violation or attempted 1183
violation of, assisting in or abetting the violation of, or a 1184
conspiracy to violate, any provision of this chapter or any rule 1185
adopted by the board that would preclude the making of a report 1186
by a physician of an employee's use of a drug of abuse, or of a 1187
condition of an employee other than one involving the use of a 1188
drug of abuse, to the employer of the employee as described in 1189
division (B) of section 2305.33 of the Revised Code. Nothing in 1190

this division affects the immunity from civil liability 1191
conferred by that section upon a physician who makes either type 1192
of report in accordance with division (B) of that section. As 1193
used in this division, "employee," "employer," and "physician" 1194
have the same meanings as in section 2305.33 of the Revised 1195
Code. 1196

(21) The violation of section 3701.79 of the Revised Code 1197
or of any abortion rule adopted by the director of health 1198
pursuant to section 3701.341 of the Revised Code; 1199

(22) Any of the following actions taken by an agency 1200
responsible for authorizing, certifying, or regulating an 1201
individual to practice a health care occupation or provide 1202
health care services in this state or another jurisdiction, for 1203
any reason other than the nonpayment of fees: the limitation, 1204
revocation, or suspension of an individual's license to 1205
practice; acceptance of an individual's license surrender; 1206
denial of a license; refusal to renew or reinstate a license; 1207
imposition of probation; or issuance of an order of censure or 1208
other reprimand; 1209

(23) The violation of section 2919.12 of the Revised Code 1210
or the performance or inducement of an abortion upon a pregnant 1211
woman with actual knowledge that the conditions specified in 1212
division (B) of section 2317.56 of the Revised Code have not 1213
been satisfied or with a heedless indifference as to whether 1214
those conditions have been satisfied, unless an affirmative 1215
defense as specified in division (H)(2) of that section would 1216
apply in a civil action authorized by division (H)(1) of that 1217
section; 1218

(24) The revocation, suspension, restriction, reduction, 1219
or termination of clinical privileges by the United States 1220

department of defense or department of veterans affairs or the 1221
termination or suspension of a certificate of registration to 1222
prescribe drugs by the drug enforcement administration of the 1223
United States department of justice; 1224

(25) Termination or suspension from participation in the 1225
medicare or medicaid programs by the department of health and 1226
human services or other responsible agency; 1227

(26) Impairment of ability to practice according to 1228
acceptable and prevailing standards of care because of habitual 1229
or excessive use or abuse of drugs, alcohol, or other substances 1230
that impair ability to practice. 1231

For the purposes of this division, any individual 1232
authorized to practice by this chapter accepts the privilege of 1233
practicing in this state subject to supervision by the board. By 1234
filing an application for or holding a license or certificate to 1235
practice under this chapter, an individual shall be deemed to 1236
have given consent to submit to a mental or physical examination 1237
when ordered to do so by the board in writing, and to have 1238
waived all objections to the admissibility of testimony or 1239
examination reports that constitute privileged communications. 1240

If it has reason to believe that any individual authorized 1241
to practice by this chapter or any applicant for licensure or 1242
certification to practice suffers such impairment, the board may 1243
compel the individual to submit to a mental or physical 1244
examination, or both. The expense of the examination is the 1245
responsibility of the individual compelled to be examined. Any 1246
mental or physical examination required under this division 1247
shall be undertaken by a treatment provider or physician who is 1248
qualified to conduct the examination and who is chosen by the 1249
board. 1250

Failure to submit to a mental or physical examination 1251
ordered by the board constitutes an admission of the allegations 1252
against the individual unless the failure is due to 1253
circumstances beyond the individual's control, and a default and 1254
final order may be entered without the taking of testimony or 1255
presentation of evidence. If the board determines that the 1256
individual's ability to practice is impaired, the board shall 1257
suspend the individual's license or certificate or deny the 1258
individual's application and shall require the individual, as a 1259
condition for initial, continued, reinstated, or renewed 1260
licensure or certification to practice, to submit to treatment. 1261

Before being eligible to apply for reinstatement of a 1262
license or certificate suspended under this division, the 1263
impaired practitioner shall demonstrate to the board the ability 1264
to resume practice in compliance with acceptable and prevailing 1265
standards of care under the provisions of the practitioner's 1266
license or certificate. The demonstration shall include, but 1267
shall not be limited to, the following: 1268

(a) Certification from a treatment provider approved under 1269
section 4731.25 of the Revised Code that the individual has 1270
successfully completed any required inpatient treatment; 1271

(b) Evidence of continuing full compliance with an 1272
aftercare contract or consent agreement; 1273

(c) Two written reports indicating that the individual's 1274
ability to practice has been assessed and that the individual 1275
has been found capable of practicing according to acceptable and 1276
prevailing standards of care. The reports shall be made by 1277
individuals or providers approved by the board for making the 1278
assessments and shall describe the basis for their 1279
determination. 1280

The board may reinstate a license or certificate suspended 1281
under this division after that demonstration and after the 1282
individual has entered into a written consent agreement. 1283

When the impaired practitioner resumes practice, the board 1284
shall require continued monitoring of the individual. The 1285
monitoring shall include, but not be limited to, compliance with 1286
the written consent agreement entered into before reinstatement 1287
or with conditions imposed by board order after a hearing, and, 1288
upon termination of the consent agreement, submission to the 1289
board for at least two years of annual written progress reports 1290
made under penalty of perjury stating whether the individual has 1291
maintained sobriety. 1292

(27) A second or subsequent violation of section 4731.66 1293
or 4731.69 of the Revised Code; 1294

(28) Except as provided in division (N) of this section: 1295

(a) Waiving the payment of all or any part of a deductible 1296
or copayment that a patient, pursuant to a health insurance or 1297
health care policy, contract, or plan that covers the 1298
individual's services, otherwise would be required to pay if the 1299
waiver is used as an enticement to a patient or group of 1300
patients to receive health care services from that individual; 1301

(b) Advertising that the individual will waive the payment 1302
of all or any part of a deductible or copayment that a patient, 1303
pursuant to a health insurance or health care policy, contract, 1304
or plan that covers the individual's services, otherwise would 1305
be required to pay. 1306

(29) Failure to use universal blood and body fluid 1307
precautions established by rules adopted under section 4731.051 1308
of the Revised Code; 1309

(30) Failure to provide notice to, and receive 1310
acknowledgment of the notice from, a patient when required by 1311
section 4731.143 of the Revised Code prior to providing 1312
nonemergency professional services, or failure to maintain that 1313
notice in the patient's medical record; 1314

(31) Failure of a physician supervising a physician 1315
assistant to maintain supervision in accordance with the 1316
requirements of Chapter 4730. of the Revised Code and the rules 1317
adopted under that chapter; 1318

(32) Failure of a physician or podiatrist to enter into a 1319
standard care arrangement with a clinical nurse specialist, 1320
certified nurse-midwife, or certified nurse practitioner with 1321
whom the physician or podiatrist is in collaboration pursuant to 1322
section 4731.27 of the Revised Code or failure to fulfill the 1323
responsibilities of collaboration after entering into a standard 1324
care arrangement; 1325

(33) Failure to comply with the terms of a consult 1326
agreement entered into with a pharmacist pursuant to section 1327
4729.39 of the Revised Code; 1328

(34) Failure to cooperate in an investigation conducted by 1329
the board under division (F) of this section, including failure 1330
to comply with a subpoena or order issued by the board or 1331
failure to answer truthfully a question presented by the board 1332
in an investigative interview, an investigative office 1333
conference, at a deposition, or in written interrogatories, 1334
except that failure to cooperate with an investigation shall not 1335
constitute grounds for discipline under this section if a court 1336
of competent jurisdiction has issued an order that either 1337
quashes a subpoena or permits the individual to withhold the 1338
testimony or evidence in issue; 1339

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;	1340 1341 1342
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	1343 1344 1345
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	1346 1347
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1348 1349
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	1350 1351 1352
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	1353 1354 1355 1356
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	1357 1358 1359 1360
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	1361 1362 1363 1364
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to	1365 1366 1367

section 4729.75 of the Revised Code;	1368
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	1369 1370 1371 1372 1373
(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	1374 1375 1376 1377 1378
(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;	1379 1380 1381 1382
(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;	1383 1384 1385 1386 1387
(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;	1388 1389 1390 1391
(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;	1392 1393 1394 1395
(50) Practicing at a facility, clinic, or other location	1396

that is subject to licensure as a category III terminal 1397
distributor of dangerous drugs with an office-based opioid 1398
treatment classification unless the person operating that place 1399
has obtained and maintains the license with the classification; 1400

(51) Owning a facility, clinic, or other location that is 1401
subject to licensure as a category III terminal distributor of 1402
dangerous drugs with an office-based opioid treatment 1403
classification unless that place is licensed with the 1404
classification; 1405

(52) A pattern of continuous or repeated violations of 1406
division (E) (2) or (3) of section 3963.02 of the Revised Code; 1407

(53) Failure to report a case of Parkinson's disease or a 1408
Parkinsonism as required by section 3701.25 of the Revised Code. 1409

(C) Disciplinary actions taken by the board under 1410
divisions (A) and (B) of this section shall be taken pursuant to 1411
an adjudication under Chapter 119. of the Revised Code, except 1412
that in lieu of an adjudication, the board may enter into a 1413
consent agreement with an individual to resolve an allegation of 1414
a violation of this chapter or any rule adopted under it. A 1415
consent agreement, when ratified by an affirmative vote of not 1416
fewer than six members of the board, shall constitute the 1417
findings and order of the board with respect to the matter 1418
addressed in the agreement. If the board refuses to ratify a 1419
consent agreement, the admissions and findings contained in the 1420
consent agreement shall be of no force or effect. 1421

A telephone conference call may be utilized for 1422
ratification of a consent agreement that revokes or suspends an 1423
individual's license or certificate to practice or certificate 1424
to recommend. The telephone conference call shall be considered 1425

a special meeting under division (F) of section 121.22 of the Revised Code. 1426
1427

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. 1428
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(D) For purposes of divisions (B) (10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds. 1444
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(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this 1454
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section or upon the board's jurisdiction to take action under 1456
this section if, based upon a plea of guilty, a judicial finding 1457
of guilt, or a judicial finding of eligibility for intervention 1458
in lieu of conviction, the board issued a notice of opportunity 1459
for a hearing prior to the court's order to seal the records. 1460
The board shall not be required to seal, destroy, redact, or 1461
otherwise modify its records to reflect the court's sealing of 1462
conviction records. 1463

(F) (1) The board shall investigate evidence that appears 1464
to show that a person has violated any provision of this chapter 1465
or any rule adopted under it. Any person may report to the board 1466
in a signed writing any information that the person may have 1467
that appears to show a violation of any provision of this 1468
chapter or any rule adopted under it. In the absence of bad 1469
faith, any person who reports information of that nature or who 1470
testifies before the board in any adjudication conducted under 1471
Chapter 119. of the Revised Code shall not be liable in damages 1472
in a civil action as a result of the report or testimony. Each 1473
complaint or allegation of a violation received by the board 1474
shall be assigned a case number and shall be recorded by the 1475
board. 1476

(2) Investigations of alleged violations of this chapter 1477
or any rule adopted under it shall be supervised by the 1478
supervising member elected by the board in accordance with 1479
section 4731.02 of the Revised Code and by the secretary as 1480
provided in section 4731.39 of the Revised Code. The president 1481
may designate another member of the board to supervise the 1482
investigation in place of the supervising member. No member of 1483
the board who supervises the investigation of a case shall 1484
participate in further adjudication of the case. 1485

(3) In investigating a possible violation of this chapter 1486
or any rule adopted under this chapter, or in conducting an 1487
inspection under division (E) of section 4731.054 of the Revised 1488
Code, the board may question witnesses, conduct interviews, 1489
administer oaths, order the taking of depositions, inspect and 1490
copy any books, accounts, papers, records, or documents, issue 1491
subpoenas, and compel the attendance of witnesses and production 1492
of books, accounts, papers, records, documents, and testimony, 1493
except that a subpoena for patient record information shall not 1494
be issued without consultation with the attorney general's 1495
office and approval of the secretary and supervising member of 1496
the board. 1497

(a) Before issuance of a subpoena for patient record 1498
information, the secretary and supervising member shall 1499
determine whether there is probable cause to believe that the 1500
complaint filed alleges a violation of this chapter or any rule 1501
adopted under it and that the records sought are relevant to the 1502
alleged violation and material to the investigation. The 1503
subpoena may apply only to records that cover a reasonable 1504
period of time surrounding the alleged violation. 1505

(b) On failure to comply with any subpoena issued by the 1506
board and after reasonable notice to the person being 1507
subpoenaed, the board may move for an order compelling the 1508
production of persons or records pursuant to the Rules of Civil 1509
Procedure. 1510

(c) A subpoena issued by the board may be served by a 1511
sheriff, the sheriff's deputy, or a board employee or agent 1512
designated by the board. Service of a subpoena issued by the 1513
board may be made by delivering a copy of the subpoena to the 1514
person named therein, reading it to the person, or leaving it at 1515

the person's usual place of residence, usual place of business, 1516
or address on file with the board. When serving a subpoena to an 1517
applicant for or the holder of a license or certificate issued 1518
under this chapter, service of the subpoena may be made by 1519
certified mail, return receipt requested, and the subpoena shall 1520
be deemed served on the date delivery is made or the date the 1521
person refuses to accept delivery. If the person being served 1522
refuses to accept the subpoena or is not located, service may be 1523
made to an attorney who notifies the board that the attorney is 1524
representing the person. 1525

(d) A sheriff's deputy who serves a subpoena shall receive 1526
the same fees as a sheriff. Each witness who appears before the 1527
board in obedience to a subpoena shall receive the fees and 1528
mileage provided for under section 119.094 of the Revised Code. 1529

(4) All hearings, investigations, and inspections of the 1530
board shall be considered civil actions for the purposes of 1531
section 2305.252 of the Revised Code. 1532

(5) A report required to be submitted to the board under 1533
this chapter, a complaint, or information received by the board 1534
pursuant to an investigation or pursuant to an inspection under 1535
division (E) of section 4731.054 of the Revised Code is 1536
confidential and not subject to discovery in any civil action. 1537

The board shall conduct all investigations or inspections 1538
and proceedings in a manner that protects the confidentiality of 1539
patients and persons who file complaints with the board. The 1540
board shall not make public the names or any other identifying 1541
information about patients or complainants unless proper consent 1542
is given or, in the case of a patient, a waiver of the patient 1543
privilege exists under division (B) of section 2317.02 of the 1544
Revised Code, except that consent or a waiver of that nature is 1545

not required if the board possesses reliable and substantial 1546
evidence that no bona fide physician-patient relationship 1547
exists. 1548

The board may share any information it receives pursuant 1549
to an investigation or inspection, including patient records and 1550
patient record information, with law enforcement agencies, other 1551
licensing boards, and other governmental agencies that are 1552
prosecuting, adjudicating, or investigating alleged violations 1553
of statutes or administrative rules. An agency or board that 1554
receives the information shall comply with the same requirements 1555
regarding confidentiality as those with which the state medical 1556
board must comply, notwithstanding any conflicting provision of 1557
the Revised Code or procedure of the agency or board that 1558
applies when it is dealing with other information in its 1559
possession. In a judicial proceeding, the information may be 1560
admitted into evidence only in accordance with the Rules of 1561
Evidence, but the court shall require that appropriate measures 1562
are taken to ensure that confidentiality is maintained with 1563
respect to any part of the information that contains names or 1564
other identifying information about patients or complainants 1565
whose confidentiality was protected by the state medical board 1566
when the information was in the board's possession. Measures to 1567
ensure confidentiality that may be taken by the court include 1568
sealing its records or deleting specific information from its 1569
records. 1570

(6) On a quarterly basis, the board shall prepare a report 1571
that documents the disposition of all cases during the preceding 1572
three months. The report shall contain the following information 1573
for each case with which the board has completed its activities: 1574

(a) The case number assigned to the complaint or alleged 1575

violation; 1576

(b) The type of license or certificate to practice, if 1577
any, held by the individual against whom the complaint is 1578
directed; 1579

(c) A description of the allegations contained in the 1580
complaint; 1581

(d) The disposition of the case. 1582

The report shall state how many cases are still pending 1583
and shall be prepared in a manner that protects the identity of 1584
each person involved in each case. The report shall be a public 1585
record under section 149.43 of the Revised Code. 1586

(G) If the secretary and supervising member determine both 1587
of the following, they may recommend that the board suspend an 1588
individual's license or certificate to practice or certificate 1589
to recommend without a prior hearing: 1590

(1) That there is clear and convincing evidence that an 1591
individual has violated division (B) of this section; 1592

(2) That the individual's continued practice presents a 1593
danger of immediate and serious harm to the public. 1594

Written allegations shall be prepared for consideration by 1595
the board. The board, upon review of those allegations and by an 1596
affirmative vote of not fewer than six of its members, excluding 1597
the secretary and supervising member, may suspend a license or 1598
certificate without a prior hearing. A telephone conference call 1599
may be utilized for reviewing the allegations and taking the 1600
vote on the summary suspension. 1601

The board shall issue a written order of suspension by 1602
certified mail or in person in accordance with section 119.07 of 1603

the Revised Code. The order shall not be subject to suspension 1604
by the court during pendency of any appeal filed under section 1605
119.12 of the Revised Code. If the individual subject to the 1606
summary suspension requests an adjudicatory hearing by the 1607
board, the date set for the hearing shall be within fifteen 1608
days, but not earlier than seven days, after the individual 1609
requests the hearing, unless otherwise agreed to by both the 1610
board and the individual. 1611

Any summary suspension imposed under this division shall 1612
remain in effect, unless reversed on appeal, until a final 1613
adjudicative order issued by the board pursuant to this section 1614
and Chapter 119. of the Revised Code becomes effective. The 1615
board shall issue its final adjudicative order within seventy- 1616
five days after completion of its hearing. A failure to issue 1617
the order within seventy-five days shall result in dissolution 1618
of the summary suspension order but shall not invalidate any 1619
subsequent, final adjudicative order. 1620

(H) If the board takes action under division (B) (9), (11), 1621
or (13) of this section and the judicial finding of guilt, 1622
guilty plea, or judicial finding of eligibility for intervention 1623
in lieu of conviction is overturned on appeal, upon exhaustion 1624
of the criminal appeal, a petition for reconsideration of the 1625
order may be filed with the board along with appropriate court 1626
documents. Upon receipt of a petition of that nature and 1627
supporting court documents, the board shall reinstate the 1628
individual's license or certificate to practice. The board may 1629
then hold an adjudication under Chapter 119. of the Revised Code 1630
to determine whether the individual committed the act in 1631
question. Notice of an opportunity for a hearing shall be given 1632
in accordance with Chapter 119. of the Revised Code. If the 1633
board finds, pursuant to an adjudication held under this 1634

division, that the individual committed the act or if no hearing 1635
is requested, the board may order any of the sanctions 1636
identified under division (B) of this section. 1637

(I) The license or certificate to practice issued to an 1638
individual under this chapter and the individual's practice in 1639
this state are automatically suspended as of the date of the 1640
individual's second or subsequent plea of guilty to, or judicial 1641
finding of guilt of, a violation of section 2919.123 or 2919.124 1642
of the Revised Code. In addition, the license or certificate to 1643
practice or certificate to recommend issued to an individual 1644
under this chapter and the individual's practice in this state 1645
are automatically suspended as of the date the individual pleads 1646
guilty to, is found by a judge or jury to be guilty of, or is 1647
subject to a judicial finding of eligibility for intervention in 1648
lieu of conviction in this state or treatment or intervention in 1649
lieu of conviction in another jurisdiction for any of the 1650
following criminal offenses in this state or a substantially 1651
equivalent criminal offense in another jurisdiction: aggravated 1652
murder, murder, voluntary manslaughter, felonious assault, 1653
kidnapping, rape, sexual battery, gross sexual imposition, 1654
aggravated arson, aggravated robbery, or aggravated burglary. 1655
Continued practice after suspension shall be considered 1656
practicing without a license or certificate. 1657

The board shall notify the individual subject to the 1658
suspension by certified mail or in person in accordance with 1659
section 119.07 of the Revised Code. If an individual whose 1660
license or certificate is automatically suspended under this 1661
division fails to make a timely request for an adjudication 1662
under Chapter 119. of the Revised Code, the board shall do 1663
whichever of the following is applicable: 1664

(1) If the automatic suspension under this division is for 1665
a second or subsequent plea of guilty to, or judicial finding of 1666
guilt of, a violation of section 2919.123 or 2919.124 of the 1667
Revised Code, the board shall enter an order suspending the 1668
individual's license or certificate to practice for a period of 1669
at least one year or, if determined appropriate by the board, 1670
imposing a more serious sanction involving the individual's 1671
license or certificate to practice. 1672

(2) In all circumstances in which division (I)(1) of this 1673
section does not apply, enter a final order permanently revoking 1674
the individual's license or certificate to practice. 1675

(J) If the board is required by Chapter 119. of the 1676
Revised Code to give notice of an opportunity for a hearing and 1677
if the individual subject to the notice does not timely request 1678
a hearing in accordance with section 119.07 of the Revised Code, 1679
the board is not required to hold a hearing, but may adopt, by 1680
an affirmative vote of not fewer than six of its members, a 1681
final order that contains the board's findings. In that final 1682
order, the board may order any of the sanctions identified under 1683
division (A) or (B) of this section. 1684

(K) Any action taken by the board under division (B) of 1685
this section resulting in a suspension from practice shall be 1686
accompanied by a written statement of the conditions under which 1687
the individual's license or certificate to practice may be 1688
reinstated. The board shall adopt rules governing conditions to 1689
be imposed for reinstatement. Reinstatement of a license or 1690
certificate suspended pursuant to division (B) of this section 1691
requires an affirmative vote of not fewer than six members of 1692
the board. 1693

(L) When the board refuses to grant or issue a license or 1694

certificate to practice to an applicant, revokes an individual's 1695
license or certificate to practice, refuses to renew an 1696
individual's license or certificate to practice, or refuses to 1697
reinstate an individual's license or certificate to practice, 1698
the board may specify that its action is permanent. An 1699
individual subject to a permanent action taken by the board is 1700
forever thereafter ineligible to hold a license or certificate 1701
to practice and the board shall not accept an application for 1702
reinstatement of the license or certificate or for issuance of a 1703
new license or certificate. 1704

(M) Notwithstanding any other provision of the Revised 1705
Code, all of the following apply: 1706

(1) The surrender of a license or certificate issued under 1707
this chapter shall not be effective unless or until accepted by 1708
the board. A telephone conference call may be utilized for 1709
acceptance of the surrender of an individual's license or 1710
certificate to practice. The telephone conference call shall be 1711
considered a special meeting under division (F) of section 1712
121.22 of the Revised Code. Reinstatement of a license or 1713
certificate surrendered to the board requires an affirmative 1714
vote of not fewer than six members of the board. 1715

(2) An application for a license or certificate made under 1716
the provisions of this chapter may not be withdrawn without 1717
approval of the board. 1718

(3) Failure by an individual to renew a license or 1719
certificate to practice in accordance with this chapter or a 1720
certificate to recommend in accordance with rules adopted under 1721
section 4731.301 of the Revised Code shall not remove or limit 1722
the board's jurisdiction to take any disciplinary action under 1723
this section against the individual. 1724

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

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

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

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

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

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

(2) Select providers of educational and assessment

services, including a quality intervention program panel of case reviewers; 1754
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(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program. 1756
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(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; 1761
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(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program. 1765
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An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program. 1768
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(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. 1771
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Section 2. That existing sections 4723.28, 4730.25, and 4731.22 of the Revised Code are hereby repealed. 1777
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Section 3. (A) Except as provided in division (B) of this section, section 3701.25 of the Revised Code, as enacted by this act, shall take effect not later than twelve months after the effective date of this act. 1779
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(B) Division (F) of section 3701.25 of the Revised Code, 1783
as enacted by this act, shall take effect not later than six 1784
months after the effective date of this act. 1785

Section 4. The General Assembly, applying the principle 1786
stated in division (B) of section 1.52 of the Revised Code that 1787
amendments are to be harmonized if reasonably capable of 1788
simultaneous operation, finds that the following sections, 1789
presented in this act as composites of the sections as amended 1790
by the acts indicated, are the resulting versions of the 1791
sections in effect prior to the effective date of the sections 1792
as presented in this act: 1793

Section 4723.28 of the Revised Code as amended by both 1794
H.B. 203 and H.B. 263 of the 133rd General Assembly. 1795

Section 4730.25 of the Revised Code as amended by H.B. 203 1796
and H.B. 263, both of the 133rd General Assembly. 1797

Section 4731.22 of the Revised Code as amended by H.B. 1798
263, H.B. 442, and S.B. 260, all of the 133rd General Assembly. 1799