

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

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

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

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

(a) Medical records;

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

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

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

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

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

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

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

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

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

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

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Designated public service worker residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code

other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;

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

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

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

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

(gg) The name, address, contact information, or other personal information of an individual

who is less than eighteen years of age that is included in any record related to a traffic accident involving a school vehicle in which the individual was an occupant at the time of the accident;

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

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

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

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

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

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

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section 3738.08 of the Revised Code;

(mm) Except as otherwise provided in division (A)(1)(oo) of this section, telephone numbers for a victim, as defined in section 2930.01 of the Revised Code or a witness to a crime that are listed on any law enforcement record or report.

(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised Code.

(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.

(pp) Records pertaining to individuals who complete training under section 5502.703 of the Revised Code to be permitted by a school district board of education or governing body of a community school established under Chapter 3314. of the Revised Code, a STEM school established under Chapter 3326. of the Revised Code, or a chartered nonpublic school to convey deadly weapons or dangerous ordnance into a school safety zone;

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

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

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

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

A record that is not a public record under division (A)(1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the Revised Code, or any record that is exempt from release or disclosure under section 149.433 of the Revised Code. If the record is a birth certificate and a biological parent's name redaction request form has been accepted under section 3107.391 of the Revised Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

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

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

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

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

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

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

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

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

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

(7) "Designated public service worker" means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Emergency service telecommunicator" means an individual employed by an emergency service provider as defined under section 128.01 of the Revised Code, whose primary responsibility is to be an operator for the receipt or processing of calls for emergency services made by telephone, radio, or other electronic means.

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

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

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

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

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

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

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

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

(d) Any additional information sought or required about a person under the age of eighteen

for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

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

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

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

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

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

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

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

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

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

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

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

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee,

or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

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

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

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

(i) Protected health information, the identity of a person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter;

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

(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;

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

(m) Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;

(n) A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency;

(o) A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities;

(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer;

(q) Any portion of the interior of a private business that is not open to the public, unless an

adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location.

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

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

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

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

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

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

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

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

(B)(1) Upon request by any person and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction. When the auditor of state receives a request to inspect or to make a copy of a record that was provided to the auditor of state for purposes of an audit, but the original public office has asserted to the auditor of state that the record is not a public record, the auditor of state may handle the requests by directing the requestor to the original public office that provided the record to the auditor of state.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what

public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

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

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

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

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division. The public office or the person responsible for the public record shall permit the requester to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the requester makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

(7)(a) Upon a request made in accordance with division (B) of this section and subject to

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

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

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

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

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

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

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

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

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

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

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

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

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

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

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

(b) Commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(2) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original

jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

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

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

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

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

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

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

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

(ii) If the court makes a determination described in division (C)(3)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial

and not punitive.

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

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

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

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

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

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

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

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

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

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred

before the public record was made available to the relator and the fees described in division (C)(4)(c) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(H)(1) Any portion of a body-worn camera or dashboard camera recording described in

divisions (A)(17)(b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:

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

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

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

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

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

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

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

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

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

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

custodian, or person in loco parentis of the victim.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following:

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

(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates:

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

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

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

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

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

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

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

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

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

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

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

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

(2) The material or performance is patently offensive to prevailing standards in the adult

community as a whole with respect to what is suitable for juveniles.

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

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

(1) Its dominant appeal is to prurient interest;

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

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

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

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

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

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

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

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

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

(L) "Spouse" means a person married to an offender at the time of an alleged offense, except

that such person shall not be considered the spouse when any of the following apply:

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

(2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or legal separation;

(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(M) "Minor" means a person under the age of eighteen.

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

(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

(Q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.

(R) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.

(S) "Licensed medical professional" means any of the following medical professionals:

(1) A physician assistant licensed under Chapter 4730. of the Revised Code;

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

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

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

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

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

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

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

or surgery.

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

(B) Whoever violates this section is guilty of rape, a felony of the first degree. If the offender under division (A)(1)(a) of this section substantially impairs the other person's judgment or control by administering any controlled substance, as defined in section 3719.01 of the Revised Code, to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the offender shall be one of the definite prison terms prescribed for a felony of the first degree in division (A)(1)(b) of section 2929.14 of the Revised Code that is not less than five years, except that if the violation is committed on or after March 22, 2019, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the first degree in division (A)(1)(a) of section 2929.14 of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections 2929.11 to 2929.14 of the Revised Code, an offender under division (A)(1)(b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A)(1)(b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A)(1)(b) of this section previously has been convicted of or pleaded guilty to violating division (A)(1)(b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A)(1)(b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A)(1)(b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, except as otherwise provided in this division, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of section 2971.03 of the Revised Code applies, and the offender automatically is classified a tier III sex offender/child-victim offender, as described in that division. A court shall not impose a term of life without parole on an offender for rape if the offender was under eighteen years of age at the time of the offense.

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

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

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

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

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

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

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

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

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

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

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

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

(6) The other person, or one of the other persons, is in custody of law or a patient in a

hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.

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

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

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

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

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

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

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

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

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

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

(2) If the sexual activity involved is sexual contact, except as otherwise provided in this

division, sexual battery is a felony of the fifth degree. If the other person, or one of the other persons, is less than eighteen years of age, sexual battery is a felony of the fourth degree.

(C) As used in this section:

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

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

(3) "Institution of higher education" means a state institution of higher education defined in section 3345.011 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.

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

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

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

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

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

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

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

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

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

(C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or of section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 2907.12 of the Revised Code, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 2907.12 of the Revised Code, or of

any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in section 2929.24 of the Revised Code, the court may impose on the offender a definite jail term of not more than one year.

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

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

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

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

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

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

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

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

(a) Second or third degree burns;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Disclosure of the information would amount to disclosure by a member of the ordained

clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

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

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

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

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

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

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

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

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

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

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

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

(3) A plea of guilty to, or a conviction of, a misdemeanor involving moral turpitude, or a

court order dismissing such a charge on technical or procedural grounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The violation is a violation of division (A)(1) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or

knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented.

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

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

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

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

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

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

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

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

(C) "Child-victim oriented offense" means any of the following violations or offenses

committed by a person, regardless of the person's age, when the victim is under eighteen years of age and is not a child of the person who commits the violation:

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

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

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

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

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

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

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

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

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

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

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

(e) A violation of division (A)(3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code;

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

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

(h) Any attempt to commit, conspiracy to commit, or complicity in committing any offense

listed in division (E)(1)(a), (b), (c), (d), (e), (f), or (g) of this section.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F)(2) or (G)(2) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~or (g), or (h)~~ of this section;

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

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

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

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

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

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

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

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

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

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

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

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

(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the

violation was committed with a sexual motivation;

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

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

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

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

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

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

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

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

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

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

(5) A sex offender or child-victim offender who is not in any category of tier III sex offender/child-victim offender set forth in division (G)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or

child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or adjudicated a child-victim predator, unless either of the following applies:

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

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

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

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

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

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

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

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

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

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

(2) The release is any type of release that is not described in division (J)(1) of this section

and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer.

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

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

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

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

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

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

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

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

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

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

(O) "Secure facility" means any facility that is designed and operated to ensure that all of its

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

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

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

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

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

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

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

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

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

(X) "Halfway house" and "community-based correctional facility" have the same meanings

as in section 2929.01 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Documentation of the date of discharge from probation supervision or other supervision,

if applicable;

(3) Evidence that the eligible offender has completed a sex offender treatment program certified by the department of rehabilitation and correction pursuant to section 2950.16 of the Revised Code in the county where the offender was sentenced if the completion of such a program is ordered by the court, or, if completion of such a program is ordered by the court and such a program is not available in the county of sentencing, in another county;

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

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

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

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

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

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

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

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

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

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

(3) Upon the filing of a second or subsequent petition by an eligible offender pursuant to division (H)(2) of this section, the court shall schedule a hearing to review any previous order entered under this section, consider all of the documents previously submitted, and evaluate any new evidence of rehabilitation presented with the petition. The court shall notify the offender and the prosecutor of the county in which the petition is filed of the date, time, and place of the hearing. Upon receipt of the notice, the prosecutor shall notify the victim of the date, time, and place of the hearing. The victim may submit a written statement to the prosecutor regarding any knowledge the victim has of the eligible offender's conduct while subject to the duties imposed by sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At least seven days before the hearing date, the prosecutor may file an objection to the petition with the court and serve a copy of the objection to the petition on the eligible offender or the eligible offender's attorney. In addition to reviewing any previous order, considering the documents previously submitted, and evaluating any new evidence of rehabilitation presented with the petition as described in this division, in determining whether to deny the petition or the type of order to enter in response to the petition, the court shall consider any objections submitted by the prosecutor and any written statement submitted by the victim. After the hearing on the petition, the court may deny the petition or enter either of the following orders:

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

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

Sec. 2971.01. As used in this chapter:

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

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

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

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

(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.

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

(E) "Prosecuting attorney" means the prosecuting attorney who prosecuted the case of the offender in question or the successor in office to that prosecuting attorney.

(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(G) "Sexually violent offense" means any of the following:

(1) A violent sex offense;

(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.

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

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

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

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

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

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

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

(f) Any other relevant evidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of

the petitioner, whichever occurs first.

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

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

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

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

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

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

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

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

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

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

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

(A) "Parental rights" means parental rights and responsibilities, parenting time, or any other

similar right established by the laws of this state with respect to a child. "Parental rights" does not include the parental duty of support for a child.

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

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

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

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

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

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

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

(E) As used in this section:

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

(a) Medicaid;

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

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

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

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

(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;

(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or 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, violating any municipal, state, county, or federal drug law;

(6) 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, an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;

(7) 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, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;

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

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

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

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the United States department of defense or department of veterans affairs for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;

(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;

(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;

(24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:

(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;

(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.

(25) Failure to comply with the terms and conditions of participation in the safe haven program conducted under sections 4723.35 and 4723.351 of the Revised Code;

(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;

(27) In the case of an advanced practice registered nurse:

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;

(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.

(28) In the case of an advanced practice registered nurse other than a certified registered nurse anesthetist, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(29) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

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

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(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:

(a) Sexual contact, as defined in section 2907.01 of the Revised Code;

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(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;

(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;

(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;

(37) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(38) Violation of section 4723.93 of the Revised Code.

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

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

In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant, licensee, or certificate holder does not make a timely request for 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 a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

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

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the registered nurse, licensed practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial finding was based. If the 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 (D)(2) of section 2953.32 or division (F)(1) of section 2953.39 of the Revised Code specifying that if records pertaining to a criminal case are sealed or expunged under that section the proceedings in the case shall be deemed not to have occurred, sealing or expungement 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 or expungement 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 under this chapter to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care.

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

Failure of any individual to submit to a mental or physical examination when directed

constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

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

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

(H) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board. Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of the report or testimony.

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

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

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

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

(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under this section shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with

respect to the board's monitoring activities is not subject to discovery in any civil action and is confidential, except that the board may disclose information to law enforcement officers and government entities for purposes of an investigation of a licensee or certificate holder.

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

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

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

(M) Sanctions shall not be imposed under division (B)(24) of this section against any licensee 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 licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Sign the informed consent form.

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

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

(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which

the supervising physician and physician assistant are practicing;

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

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

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

(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;

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

(7) Willfully betraying a professional confidence;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

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

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

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

(26) 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;

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

(28) 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;

(29) Failure to comply with terms of a consult agreement entered into with a pharmacist

pursuant to section 4729.39 of the Revised Code;

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

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

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

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

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

(1) In enforcing division (B)(4) of this section, the board, upon a showing of a possible violation, shall refer any individual who holds, or has applied for, a license issued under this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered

without the taking of testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in division (B)(4) of this section, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

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

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

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

- (a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

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

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the physician assistant. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by

board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the physician assistant has maintained sobriety.

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

(a) The secretary and supervising member determine that there is clear and convincing evidence that a physician 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.

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

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (G) (1) of this section, 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 serve a written order of suspension in accordance with sections 119.05 and 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.

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

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the individual's license. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing

shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions identified under division (B) of this section.

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

The board shall notify the individual subject to the suspension in accordance with sections 119.05 and 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 forever thereafter ineligible to hold the license and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

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

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

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

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

(N) 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.

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

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

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

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

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

(D) In investigating a possible violation of this chapter or a rule adopted under it, the board

may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board. Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or a rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

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

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

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

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

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

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

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

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

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

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

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

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) Whether witnesses were interviewed;
- (5) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (6) The disposition of the case.

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

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

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

(B)(1) Within sixty-thirty days after the imposition of any formal disciplinary action taken by a health care facility against any individual holding a valid license to practice as a physician assistant issued under this chapter, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be

provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

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

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

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

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

(2) A physician assistant, professional association or society of physician assistants, physician, or professional association or society of physicians that believes that a violation of division (B)(4) or (5) of section 4730.25 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

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

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

(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under

division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed.

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

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

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

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

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

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

~~The board may disclose the summaries and reports it receives under this section only to~~

~~health care facility committees within or outside this state that are involved in credentialing or recredentialing a physician assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board~~confidential pursuant to division (F) of section 4730.26 of the Revised Code.

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

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

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

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

~~(B) Except as provided in division (C) of this section, a physician assistant or student enrolled in a program or course of study described in division (B) of section 4730.11 of the Revised Code shall not perform, or authorize another individual to perform, an intimate examination on an anesthetized or unconscious patient.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Sign the informed consent form.

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

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

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

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

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to

practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board.

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

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

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

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

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections 307.621 to 307.629 of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports under sections 307.631 to 307.6410 of the Revised Code to a drug overdose fatality review committee, a suicide fatality review committee, or hybrid drug overdose fatality and suicide fatality review committee; does not include providing any information, documents, or reports under sections 307.651 to 307.659 of the Revised Code to a domestic violence fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; does not include making a report as described in division (F) of section 2921.22 and section 4731.224 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or

advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any license or certificate to practice issued by the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of

ethics of the various national professional organizations. The individual whose license or certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

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

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

In enforcing this division, the board, upon a showing of a possible violation, shall refer any individual who is authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or certificate. For the purpose of this division, any individual who applies for or receives a license or certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except as provided in division (F)(1)(b) of section 4731.282 of the Revised Code or when civil penalties are imposed under section 4731.225 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting

in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

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

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

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

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

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

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

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

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so

by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is approved under section 4731.251 of the Revised Code.

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

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

- (a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

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

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

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

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

(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 the individual's services, otherwise would 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 individual;

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

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

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

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

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

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

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

(35) 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;

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

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

(38) 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;

(39) 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;

(40) 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;

(41) 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;

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

(43) 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;

(44) 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;

(45) 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;

(46) 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;

(47) 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;

(48) 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;

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

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

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

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

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

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

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

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.

(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.

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

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted

under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

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

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

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

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

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

(d) A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each

witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

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

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

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

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

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

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

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;

(d) Whether witnesses were interviewed;

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

(f) The disposition of the case.

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

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

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

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

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

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

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

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (G)(1) of this section, 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 or certificate 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 serve a written order of suspension in accordance with sections 119.05 and 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 individual subject to the summary suspension 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 individual requests the hearing, unless otherwise agreed to by both the board and the individual.

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

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

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

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

(1) If the automatic suspension under this division is 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 board shall enter an order suspending the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's license or certificate to practice.

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

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

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

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

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

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

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

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

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

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

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

(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.

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

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

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

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

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

The board shall notify the individual subject to the automatic suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual subject to an automatic suspension under this division fails to make a timely request for an adjudication under Chapter 119. 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.

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

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

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

(B)(1) Within ~~sixty~~-thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any individual holding a valid license or certificate to practice issued pursuant to this chapter, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility. As used in this division, "formal disciplinary action" means any action resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence or medical malpractice. "Formal disciplinary action" includes a summary action, an action that takes effect notwithstanding any appeal rights that may exist, and an action that results in an individual surrendering clinical privileges while under investigation and during proceedings regarding the action being taken or in return for not being investigated or having proceedings held. "Formal disciplinary action" does not include any action taken for the sole reason of failure to maintain records on a timely basis or failure to attend staff or section meetings.

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

In the absence of fraud or bad faith, no individual or entity that provides patient records to

the board shall be liable in damages to any person as a result of providing the records.

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

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

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B)(19) or (26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

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

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

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

(C)-(D) Any professional association or society composed primarily of doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery,

or practitioners of limited branches of medicine that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within ~~sixty~~thirty days after a final decision shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

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

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

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

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

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

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing the individual or in reviewing the individual's clinical privileges. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board confidential

pursuant to division (F)(5) of section 4731.22 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Except as provided in division (D) of this section, the state medical board may require a practitioner that is subject to a probationary order of the board that is made on or after the effective date of this section, and that involves a circumstance described in division (C) of this section, to provide to each patient, or to the patient's guardian or a key third party, a written disclosure signed by the practitioner that includes all of the following:

(1) The practitioner's probation status;

(2) The total length of the probation;

(3) The probation end date;

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

(5) The board's telephone number;

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

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

(C) The written disclosure described in division (B) of this section applies in both of the following circumstances:

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

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

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

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

(d) Inappropriate prescribing directly resulting in patient harm.

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

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

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign it.

and a guardian or a key third party is unavailable to comprehend and sign it;

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

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

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

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

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

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

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

Sec. 4731.77. (A) As used in this section, "intimate examination" means a pelvic, prostate, or rectal examination.

(B) Except as provided in division (C) of this section, a physician, student enrolled in a medical school or osteopathic medical school, or participant in a program of graduate medical education shall not perform, or authorize another individual to perform, an intimate examination on an anesthetized or unconscious patient.

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

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

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

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

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

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

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

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

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

(d) Informs the patient or the patient's legal representative that a student may be present if the patient or the patient's legal representative authorizes a student to perform the intimate

examination or observe the intimate examination in person or through electronic means:

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

(f) Permits a patient or the patient's legal representative who consents to an intimate examination to consent to or refuse a student to perform or observe the intimate examination in person or through electronic means.

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

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

(4) Sign the informed consent form.

Sec. 4731.99. (A) Whoever violates section 4731.41, 4731.43, or 4731.60 of the Revised Code is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(C) Whoever violates section 4731.46 or 4731.47 of the Revised Code is guilty of a felony of the fifth degree.

(D) Whoever violates section 4731.48 of the Revised Code is guilty of a misdemeanor of the fourth degree.

~~(E)~~(E)(1) Whoever violates division ~~(A)~~, ~~(B)~~(B)(1), ~~(C)~~(C)(1), ~~or (C)(2)~~, (D), or (E) of section 4731.224 of the Revised Code is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4731.224 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(F) Whoever violates section 4731.481 of the Revised Code is guilty of a misdemeanor of the first degree.

(G) Whoever violates division (F)(5) of section 4731.22 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4759.05. (A) Except as provided in division (E) of this section, the state medical board shall adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:

(1) Selection and approval of a dietitian licensure examination offered by the commission on

dietetic registration or any other examination;

(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration;

(4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;

(5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.

(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;

(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics;

(8) Formulation of an application form for licensure or license renewal;

(9) Procedures for license renewal;

(10) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

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

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4759.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The

authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may issue subpoenas, question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board.

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

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

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or limited permit issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

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

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

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants

unless proper consent is given.

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

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

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

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of license, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) Whether witnesses were interviewed;
- (e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (f) The disposition of the case.

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

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

- (C) The board shall keep records as are necessary to carry out the provisions of this chapter.
- (D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.

(E) The board shall issue a license or limited permit to practice dietetics in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following apply:

(1) The applicant holds a license or permit in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a dietitian in a state that does not issue that license.

Sec. 4759.07. (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:

(1) Except when civil penalties are imposed under section 4759.071 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the rules adopted by the board;

(2) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of dietetics; or in securing or attempting to secure any license or permit issued by the board under this chapter.

As used in division (A)(2) of this section, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(3) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;

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

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

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

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

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

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

(10) A record of engaging in incompetent or negligent conduct in the practice of dietetics;

(11) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is

established;

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

(13) Violation of the conditions of limitation placed by the board on a license or permit;

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

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

(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;

(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A)(11), (12), or (14) of this section;

(18) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;

(19) Failure to cooperate in an investigation conducted by the board under division (B) of section 4759.05 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

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

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

(C) Any action taken by the board under division (A) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or permit may be reinstated. The board shall adopt rules governing conditions to

be imposed for reinstatement. Reinstatement of a license or permit suspended pursuant to division (A) of this section requires an affirmative vote of not fewer than six members of the board.

(D) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.

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

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(F) In enforcing division (A)(14) of this section, the board, upon a showing of a possible violation, shall refer any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in division (A)(14) of this section, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or permit. For the purpose of division (A)(14) of this section, any individual who applies for or receives a license or permit under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed

to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(G) For the purposes of division (A)(18) of this section, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or permit under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for a license or permit suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is approved under section 4731.251 of the Revised Code.

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

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

- (1) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (2) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

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

When the impaired practitioner resumes practice, the board shall require continued

monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

~~(H)~~ (H)(1) If either of the following circumstances occur, the secretary and supervising member ~~determine both of the following,~~ they may recommend that the board suspend an individual's license or permit without a prior hearing:

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

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

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

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

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H) (1) of this section, 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 or permit 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 serve a written order of suspension in accordance with sections 119.05 and 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 individual subject to the summary suspension 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 individual requests the hearing, unless otherwise agreed to by both the board and the individual.

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

(I) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that

contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) of this section.

(J) For purposes of divisions (A)(5), (7), and (9) 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.

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

(L) If the board takes action under division (A)(4), (6), or (8) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (A) of this section.

(M) The license or permit issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a license or permit.

The board shall serve the individual subject to the suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If an individual whose license or permit is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119.

of the Revised Code, the board shall enter a final order permanently revoking the individual's license or permit.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

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

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

(3) Failure by an individual to renew a license or permit in accordance with this chapter does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4759.064 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

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

Sec. 4759.14. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

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

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

(3) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle

while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed.

Sec. 4759.99. Whoever violates section 4759.02 of the Revised Code is guilty of a minor misdemeanor. If the offender has been previously convicted once of a violation of the section, then the violation is a misdemeanor of the fourth degree. If the offender has been previously convicted more than once of a violation of the section, then the violation is a misdemeanor of the first degree.

Whoever violates division (B)(1) or (2) of section 4759.14 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

Whoever violates division (B) of section 4759.05 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4760.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as an anesthesiologist assistant to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as an anesthesiologist assistant, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

- (1) Permitting the holder's name or license to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
- (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
- (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as an anesthesiologist assistant.

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

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

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

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

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

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

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

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

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

(17) Any of the following actions taken by the state agency responsible for regulating the practice of anesthesiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a license to practice;

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

(20) Failure to cooperate in an investigation conducted by the board under section 4760.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either

quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to comply with any code of ethics established by the national commission for the certification of anesthesiologist assistants;

(22) Failure to notify the state medical board of the revocation or failure to maintain certification from the national commission for certification of anesthesiologist assistants.

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

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

(E) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

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

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

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, shall refer any individual who holds, or has applied for, a license issued under this chapter to the monitoring organization that conducts the confidential monitoring program established under

section 4731.25 of the Revised Code. The board also may compel the individual to this chapter to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an anesthesiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the anesthesiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice issued under this chapter or any applicant for a license to practice suffers such impairment, the board shall report the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and approved under section 4731.251 of the Revised Code.

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

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

- (a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing

standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

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

When the impaired anesthesiologist assistant resumes practice, the board shall require continued monitoring of the anesthesiologist assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the anesthesiologist assistant has maintained sobriety.

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

(a) The secretary and supervising member determine that there is clear and convincing evidence that an anesthesiologist assistant has violated division (B) of this section and that the individual's continued practice 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.

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

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

The board, on review of the 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 serve a written order of suspension in accordance with sections 119.05 and 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 anesthesiologist 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 anesthesiologist assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

(3) A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within 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.

(I) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(J) The license to practice of an anesthesiologist assistant and the assistant's practice in this state are automatically suspended as of the date the anesthesiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment ~~of~~ or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

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

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

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the anesthesiologist 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.

(M) When the board refuses to grant or issue a license to practice as an anesthesiologist assistant to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An

individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as an anesthesiologist assistant and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

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

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

(3) Failure by an individual to renew a license to practice in accordance with section 4760.06 of the Revised Code does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4760.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4760.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4760.15 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without

consultation with the attorney general's office and approval of the secretary of the board. Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

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

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

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

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

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

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

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

state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) Whether witnesses were interviewed;
- (5) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (6) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

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

Sec. 4760.16. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within ~~sixty~~-thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid license to practice as an anesthesiologist assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

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

board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an anesthesiologist assistant.

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

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

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

(2) An anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes that a violation of division (B)(5) or (6) of section 4760.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

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

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

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

(C)-(D) Any professional association or society composed primarily of anesthesiologist

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

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an anesthesiologist assistant.

~~(D)~~(E) Any insurer providing professional liability insurance to any person holding a valid license to practice as an anesthesiologist assistant or any other entity that seeks to indemnify the professional liability of an anesthesiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

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

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

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an anesthesiologist assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions

~~as when maintained by the board~~confidential pursuant to division (E) of section 4760.14 of the Revised Code.

~~(G)~~(H) Except for reports filed by an individual pursuant to division ~~(B)~~(B)(2) or (C) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the anesthesiologist assistant. The anesthesiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

~~(H)~~(I) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.25 of the Revised Code, or refers an impaired anesthesiologist assistant to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

~~(I)~~(J) In the absence of fraud or bad faith, a professional association or society of anesthesiologist assistants that sponsors a committee or program to provide peer assistance to an anesthesiologist assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.25 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an anesthesiologist assistant to a treatment provider approved under section 4731.251 of the Revised Code for examination or treatment.

Sec. 4760.99. (A) Whoever violates section 4760.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

~~(B)~~(B)(1) Whoever violates division ~~(A)~~, ~~(B)~~(B)(1), ~~(C)~~(C)(1), ~~or (C)(2)~~, (D), or (E) of section 4760.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4760.16 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4760.14 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4761.03. (A) The state medical board shall regulate the practice of respiratory care in this state and the persons to whom the board issues licenses and limited permits under this chapter. Rules adopted under this chapter that deal with the provision of respiratory care in a hospital, other than rules regulating the issuance of licenses or limited permits, shall be consistent with the conditions for participation under medicare, Title XVIII of the "Social Security Act," 79 Stat. 286

(1965), 42 U.S.C.A. 1395, as amended, and with the respiratory care accreditation standards of the joint commission or the American osteopathic association.

(B) The board shall adopt, and may rescind or amend, rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter, including rules prescribing the following:

(1) The form and manner for filing applications under sections 4761.05 and 4761.06 of the Revised Code;

(2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;

(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;

(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country;

(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;

(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code;

(7) Standards of ethical conduct for the practice of respiratory care;

(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code;

(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit.

(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code.

(E)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be

assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4761.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under it, the board may issue subpoenas, administer oaths, question witnesses, conduct interviews, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board.

Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or limited permit issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions

for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of license or limited permit, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) Whether witnesses were interviewed;
- (e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (f) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

(F) The board shall keep records of its proceedings and do other things as are necessary and proper to carry out and enforce the provisions of this chapter.

(G) The board shall maintain and publish on its internet web site all of the following:

(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;

(2) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care.

Sec. 4761.09. (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:

(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(2) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(4) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(6) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(7) Except when civil penalties are imposed under section 4761.091 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the rules adopted by the board;

(8) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of respiratory care; or in securing or attempting to secure any license or permit issued by the board under this chapter.

As used in division (A)(8) of this section, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(9) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;

(10) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;

(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(13) Violation of the conditions of limitation placed by the board upon a license or permit;

(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;

(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A)(10), (12), or (14) of this section;

(18) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;

(19) Failure to cooperate in an investigation conducted by the board under division (E) of section 4761.03 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing in a manner that conflicts with section 4761.17 of the Revised Code;

(21) Employing, directing, or supervising a person who is not authorized to practice

respiratory care under this chapter in the performance of respiratory care procedures;

(22) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care;

(23) Assisting suicide as defined in section 3795.01 of the Revised Code;

(24) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured.

Disciplinary actions taken by the board under division (A) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(B) The board shall not refuse to issue a license or limited permit to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(C) Any action taken by the board under division (A) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or permit may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or permit suspended pursuant to division (A) of this section requires an affirmative vote of not fewer than six members of the board.

(D) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.

(E) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified

under division (A) of this section.

(F) In enforcing division (A)(14) of this section, the board, upon a showing of a possible violation, shall refer any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in division (A)(14) of this section, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or permit. For the purpose of division (A)(14) of this section, any individual who applies for or receives a license or permit to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(G) For the purposes of division (A)(18) of this section, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or permit under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for a license or permit suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is approved under section 4731.251 of the Revised Code.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond

the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or permit or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license or permit, to submit to treatment.

Before being eligible to apply for reinstatement of a license or permit suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's license or permit. The demonstration shall include, but shall not be limited to, the following:

- (1) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (2) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license or permit suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

~~(H)~~(H)(1) If either of the following circumstances occur, the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or permit without a prior hearing:

- ~~(1)~~(a) The secretary and supervising member determine both of the following:
- (i) That there is clear and convincing evidence that an individual has violated division (A) of this section;
  - ~~(2)~~(ii) That the individual's continued practice presents a danger of immediate and serious harm to the public.

~~Written~~(b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (A) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H) (1) of this section, 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 or permit 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 serve a written order of suspension in accordance with sections 119.05 and 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 individual subject to the summary suspension 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 individual requests the hearing, unless otherwise agreed to by both the board and the individual.

(3) Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(I) For purposes of divisions (A)(2), (4), and (6) 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.

(J) The sealing or expungement of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(K) If the board takes action under division (A)(1), (3), or (5) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no

hearing is requested, the board may order any of the sanctions identified under division (A) of this section.

(L) The license or permit issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a license or permit.

The board shall serve the individual subject to the suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If an individual whose license or permit is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's license or permit.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or permit issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or permit in accordance with this chapter does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4761.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

(5) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

Sec. 4761.14. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) An employer that disciplines or terminates the employment of a respiratory care professional or individual holding a limited permit issued under this chapter because of conduct that

would be grounds for disciplinary action under section 4761.09 of the Revised Code shall, not later than ~~sixty~~thirty days after the discipline or termination, report the action to the state medical board. The report shall state the name of the respiratory care professional or individual holding the limited permit and the reason the employer took the action. If an employer fails to report to the board, the board may seek an order from the Franklin county court of common pleas, or any other court of competent jurisdiction, compelling submission of the report.

(2) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license or limited permit issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility or employer, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(C) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(D) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed.

Sec. 4761.99. Whoever violates division (A) of section 4761.10 of the Revised Code is guilty of a minor misdemeanor on a first offense. On a second offense, the person is guilty of a misdemeanor of the fourth degree. On each subsequent offense, the person is guilty of a misdemeanor of the first degree.

Whoever violates division (B)(2) or (C) of section 4761.14 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

Whoever violates division (E)(5) of section 4761.03 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4762.13. (A) The state medical board, by an affirmative vote of not fewer than six

members, may refuse to grant a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

- (1) Permitting the holder's name or license to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
- (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
- (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;
- (7) Willfully betraying a professional confidence;
- (8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

- (9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;
- (10) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;
- (11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for

intervention in lieu of conviction for, a felony;

(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(14) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(18) Any of the following actions taken by the state agency responsible for regulating the practice of oriental medicine or acupuncture in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) Violation of the conditions placed by the board on a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist;

(20) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(21) Failure to cooperate in an investigation conducted by the board under section 4762.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(22) Failure to comply with the standards of the national certification commission for acupuncture and oriental medicine regarding professional ethics, commitment to patients, commitment to the profession, and commitment to the public;

(23) Failure to have adequate professional liability insurance coverage in accordance with section 4762.22 of the Revised Code;

(24) Failure to maintain a current and active designation as a diplomate in oriental medicine, diplomate of acupuncture and Chinese herbology, or diplomate in acupuncture, as applicable, from the national certification commission for acupuncture and oriental medicine, including revocation by the commission of the individual's designation, failure by the individual to meet the commission's

requirements for redesignation, or failure to notify the board that the appropriate designation has not been maintained.

(C) The board shall not refuse to issue a certificate to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an oriental medicine practitioner or acupuncturist or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(E) For purposes of divisions (B)(12), (15), and (16) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

(F) The sealing or expungement of conviction records by any court shall have no effect upon a prior board order entered under the provisions of this section or upon the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing or entered into a consent agreement prior to the court's order to seal or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) For purposes of this division, any individual who holds a license to practice issued under this chapter, or applies for a license to practice, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, upon a showing of a possible violation, shall refer any individual who holds, or has applied for, a license under this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be

examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an oriental medicine practitioner or acupuncturist unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice issued under this chapter or any applicant for a license suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and approved under section 4731.251 of the Revised Code.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license, to submit to treatment.

Before being eligible to apply for reinstatement of a license suspended under this division, the oriental medicine practitioner or acupuncturist shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

- (a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a license suspended under this division after such demonstration

and after the individual has entered into a written consent agreement.

When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the individual has maintained sobriety.

~~(H)~~ (H)(1) If either of the following circumstances occur, the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license to practice without a prior hearing:

~~(1)~~ (a) The secretary and supervising member determine both of the following:

(i) That there is clear and convincing evidence that an oriental medicine practitioner or acupuncturist has violated division (B) of this section;

~~(2)~~ (ii) That the individual's continued practice presents a danger of immediate and serious harm to the public.

~~Written (b)~~ The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, written allegations shall be prepared for consideration by the board. The board, upon review of the 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 serve a written order of suspension in accordance with sections 119.05 and 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 oriental medicine practitioner or acupuncturist 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 hearing is requested, unless otherwise agreed to by both the board and the license holder.

(3) A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within 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.

(I) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of

conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the license. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(J) The license to practice of an oriental medicine practitioner or acupuncturist and the practitioner's or acupuncturist's practice in this state are automatically suspended as of the date the practitioner or acupuncturist pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

The board shall serve the individual subject to the suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If an individual whose license 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.

(K) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the license may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(M) When the board refuses to grant or issue a license to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist and the board shall not accept an

application for reinstatement of the license or for issuance of a new license.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a license may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license in accordance with section 4762.06 of the Revised Code does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4762.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4762.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4762.17 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board. Before

issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an oriental medicine practitioner or acupuncturist, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure

confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) Whether witnesses were interviewed;
- (5) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (6) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

Sec. 4762.16. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within ~~sixty~~ thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any individual holding a valid license to practice as an oriental medicine practitioner or valid license to practice as an acupuncturist, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the

board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an oriental medicine practitioner or acupuncturist.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(2) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(B)(1)-(C)(1) Except as provided in division (B)(2)-(C)(2) of this section and subject to division (C)(3) of this section, an oriental medicine practitioner or acupuncturist, professional association or society of oriental medicine practitioners or acupuncturists, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information upon which the belief is based.

(2) An oriental medicine practitioner or acupuncturist, professional association or society of oriental medicine practitioners or acupuncturists, physician, or professional association or society of physicians that believes a violation of division (B)(5) or (6) of section 4762.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(3) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct, the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed.

~~(C)~~(D) Any professional association or society composed primarily of oriental medicine practitioners or acupuncturists that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within ~~sixty~~thirty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an individual.

~~(D)~~(E) Any insurer providing professional liability insurance to any person holding a valid license to practice as an oriental medicine practitioner or valid license to practice as an acupuncturist or any other entity that seeks to indemnify the professional liability of an oriental medicine practitioner or acupuncturist shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

~~(E)~~(F) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the oriental medicine practitioner or acupuncturist.

~~(F)~~(G) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an oriental medicine practitioner, acupuncturist, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an oriental medicine practitioner, acupuncturist, or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or

~~recrediting an oriental medicine practitioner, acupuncturist, or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board~~confidential pursuant to division (E) of section 4762.14 of the Revised Code.

~~(G)-(H)~~ Except for reports filed by an individual pursuant to division ~~(B)-(B)(2) or (C)~~ of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the acupuncturist. The oriental medicine practitioner or acupuncturist shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

~~(H)-(I)~~ An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.25 of the Revised Code, or refers an impaired oriental medicine practitioner or impaired acupuncturist to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

~~(H)-(J)~~ In the absence of fraud or bad faith, a professional association or society of oriental medicine practitioners or acupuncturists that sponsors a committee or program to provide peer assistance to an oriental medicine practitioner or acupuncturist with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.25 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an oriental medicine practitioner or acupuncturist to a treatment provider approved under section 4731.251 of the Revised Code for examination or treatment.

Sec. 4762.99. (A) Whoever violates section 4762.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

~~(B)(B)(1)~~ Whoever violates division ~~(A), (B)(B)(1), (C)(C)(1), or (C)(2), (D), or (E)~~ of section 4762.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4762.16 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4762.14 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4774.13. (A) The state medical board, by an affirmative vote of not fewer than six

members, may refuse to grant a license to practice as a radiologist assistant to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a radiologist assistant, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

- (1) Permitting the holder's name or license to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
- (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
- (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;
- (7) Willfully betraying a professional confidence;
- (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a radiologist assistant.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

- (9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;
- (10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;
- (11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;
- (12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for

intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by the state agency responsible for regulating the practice of radiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a license to practice as a radiologist assistant;

(19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(20) Failure to cooperate in an investigation conducted by the board under section 4774.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to maintain a license as a radiographer under Chapter 4773. of the Revised Code;

(22) Failure to maintain certification as a registered radiologist assistant from the American registry of radiologic technologists, including revocation by the registry of the assistant's certification or failure by the assistant to meet the registry's requirements for annual registration, or failure to notify the board that the certification as a registered radiologist assistant has not been maintained;

(23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American registry of radiologic technologists, as those rules apply to an individual who holds the registry's certification as a registered radiologist assistant.

(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a radiologist assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(E) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(F) The sealing or expungement of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) For purposes of this division, any individual who holds a license to practice as a radiologist assistant issued under this chapter, or applies for a license, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, shall refer any individual who holds, or has applied for, a license to practice as a radiologist assistant issued under this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a radiologist assistant unable to practice because of the reasons set forth in division (B)

(5) of this section, the board shall require the radiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice as a radiologist assistant issued under this chapter or any applicant for a license suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and approved under section 4731.251 of the Revised Code.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a license suspended under this division, the radiologist assistant shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

(a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a license suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired radiologist assistant resumes practice, the board shall require continued monitoring of the radiologist assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether

the radiologist assistant has maintained sobriety.

~~(H)~~(H)(1) If either of the following circumstances occur, the secretary and supervising member determine may recommend that the board suspend the individual's license to practice without a prior hearing:

(a) The secretary and supervising member determine that there is clear and convincing evidence that a radiologist assistant has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's license to practice without a prior hearing.

(b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section. Written

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, written allegations shall be prepared for consideration by the board.

The board, on review of the 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 serve a written order of suspension in accordance with sections 119.05 and 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 radiologist 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 radiologist assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

(3) A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within 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.

(I) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice as a radiologist assistant. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the

act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(J) The license to practice of a radiologist assistant and the assistant's practice in this state are automatically suspended as of the date the radiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment ~~of~~or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

The board shall serve the individual subject to the suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If an individual whose license 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.

(K) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the radiologist 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.

(M) When the board refuses to grant or issue a license to practice as a radiologist assistant to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as a radiologist assistant and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license to practice as a radiologist assistant issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a license to practice may not be withdrawn

without approval of the board.

(3) Failure by an individual to renew a license to practice in accordance with section 4774.06 of the Revised Code does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4774.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4774.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4774.17 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board. Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons

or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a radiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses

operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) Whether witnesses were interviewed;
- (5) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (6) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

Sec. 4774.16. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within sixty-thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid license to practice as a radiologist assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against a radiologist assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(2) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, shall report to the board the name of the

individual and a summary of the underlying facts related to the investigation being commenced.

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ of this section and subject to division (C)(3) of this section, a radiologist assistant, professional association or society of radiologist assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based.

(2) A radiologist assistant, professional association or society of radiologist assistants, physician, or professional association or society of physicians that believes a violation of division (B)(5) or (6) of section 4774.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(3) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct, the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed.

~~(C)-(D)~~ Any professional association or society composed primarily of radiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within ~~sixty-thirty~~ days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against a radiologist assistant.

~~(D)~~(E) Any insurer providing professional liability insurance to any person holding a valid license to practice as a radiologist assistant or any other entity that seeks to indemnify the professional liability of a radiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

~~(E)~~(F) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the radiologist assistant.

~~(F)~~(G) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a radiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a radiologist assistant or supervising radiologist, or in any subsequent trial or appeal of a board action or order.

~~The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a radiologist assistant or supervising radiologist or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.~~confidential pursuant to division (E) of section 4774.14 of the Revised Code.

~~(G)~~(H) Except for reports filed by an individual pursuant to division ~~(B)~~(B)(2) or ~~(C)~~ of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the radiologist assistant. The radiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

~~(H)~~(I) An individual or entity that reports to the board, reports to the monitoring

organization described in section 4731.25 of the Revised Code, or refers an impaired radiologist assistant to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

~~(H)(J)~~ In the absence of fraud or bad faith, a professional association or society of radiologist assistants that sponsors a committee or program to provide peer assistance to a radiologist assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.25 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a radiologist assistant to a treatment provider approved under section 4731.251 of the Revised Code for examination or treatment.

Sec. 4774.99. (A) Whoever violates division (A)(1) or (2) of section 4774.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

~~(B)(B)(1)~~ Whoever violates division ~~(A)~~, ~~(B)(B)(1)~~, ~~(C)(C)(1)~~, ~~or (C)(2)~~, ~~(D)~~, or (E) of section 4774.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4774.16 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4774.14 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4778.14. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a genetic counselor to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a genetic counselor, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

- (1) Permitting the holder's name or license to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised

Code, or the rules adopted by the board;

(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a genetic counselor.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or in another jurisdiction, for any reason other than the nonpayment of fees: the limitation,

revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a license to practice as a genetic counselor;

(19) Failure to cooperate in an investigation conducted by the board under section 4778.18 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Failure to maintain the individual's status as a certified genetic counselor;

(21) Failure to comply with the code of ethics established by the national society of genetic counselors.

(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a genetic counselor or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(E) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(F) The sealing or expungement of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt,

or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing or took other formal action under Chapter 119. of the Revised Code prior to the court's order to seal or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) For purposes of this division, any individual who holds a license to practice as a genetic counselor, or applies for a license, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, shall refer any individual who holds, or has applied for, a license to practice as a genetic counselor to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a genetic counselor unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the genetic counselor to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice as a genetic counselor or any applicant for a license suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and approved under section 4731.251 of the Revised Code.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony

or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license, to submit to treatment.

Before being eligible to apply for reinstatement of a license suspended under this division, the genetic counselor shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

- (a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a license suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired genetic counselor resumes practice, the board shall require continued monitoring of the genetic counselor. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the genetic counselor has maintained sobriety.

~~(H)~~ ~~(H)(1)~~ If either of the following circumstances occur, the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license to practice without a prior hearing:

- ~~(1)~~ (a) The secretary and supervising member determine both of the following:
  - (i) That there is clear and convincing evidence that a genetic counselor has violated division (B) of this section;
  - (2) ~~(ii)~~ That the individual's continued practice presents a danger of immediate and serious harm to the public.

~~Written (b)~~ The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H) (1) of this section, written allegations shall be prepared for consideration by the board. The board, on review of the 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 serve a written order of suspension in accordance with sections 119.05 and 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 genetic counselor 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 genetic counselor requests the hearing, unless otherwise agreed to by both the board and the genetic counselor.

(3) A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within 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.

(I) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice as a genetic counselor. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(J) The license to practice as a genetic counselor and the counselor's practice in this state are automatically suspended as of the date the genetic counselor pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment ~~of~~ or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

The board shall serve the individual subject to the suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's license to practice.

(K) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request

a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the license of the genetic counselor may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(M) When the board refuses to grant or issue a license to practice as a genetic counselor to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as a genetic counselor and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license to practice as a genetic counselor is not effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a license to practice may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license in accordance with section 4778.06 of the Revised Code does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4778.072 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4778.171. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(3) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed.

Sec. 4778.18. (A) The state medical board shall investigate evidence that appears to show that any individual has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of this chapter or rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the board's secretary, pursuant to section 4778.20 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's

office and approval of the secretary of the board. Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a genetic counselor, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure

confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) Whether witnesses were interviewed;
- (5) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (6) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each individual involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

Sec. 4778.99. Whoever violates section 4778.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and felony of the fifth degree on each subsequent offense.

Whoever violates division (B)(1) or (2) of section 4778.171 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

Whoever violates division (E) of section 4778.18 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

SECTION 2. That existing sections 149.43, 2105.062, 2305.111, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 4723.28, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 4731.99, 4759.05,

4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 4778.18, and 4778.99 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 2305.111 of the Revised Code that is scheduled to take effect October 12, 2028, be amended to read as follows:

Sec. 2305.111. (A) As used in this section:

(1) "Childhood sexual abuse" means any conduct that constitutes any of the violations identified in division (A)(1)(a) or (b) of this section and would constitute a criminal offense under the specified section ~~or division~~ of the Revised Code, if the victim of the violation is at the time of the violation a child under eighteen years of age or a child with a developmental disability or physical impairment under twenty-one years of age. The court need not find that any person has been convicted of or pleaded guilty to the offense under the specified section ~~or division~~ of the Revised Code in order for the conduct that is the violation constituting the offense to be childhood sexual abuse for purposes of this division. This division applies to any of the following violations committed in the following specified circumstances:

(a) A violation of section 2907.02 or ~~of division (A)(1), (5), (6), (7), (8), (9), (10), (11), or (12)~~ of section 2907.03 of the Revised Code;

(b) A violation of section 2907.05 or 2907.06 of the Revised Code if, at the time of the violation, any of the following apply:

(i) The actor is the victim's natural parent, adoptive parent, or stepparent or the guardian, custodian, or person in loco parentis of the victim.

(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim.

(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the director of education and workforce prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor is not enrolled in and does not attend that school.

(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution.

(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim.

(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes.

(vii) The actor is a licensed medical professional, the victim is a patient of the actor, and the sexual contact occurs in the course of medical treatment.

~~(viii)~~ The victim is confined in a detention facility, and the actor is an employee of that detention facility.

~~(viii)-(ix)~~ The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.

(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(3) "Licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code.

(4) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

~~(4)-(5)~~ "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

~~(5)-(6)~~ "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code.

~~(6)-(7)~~ "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse.

(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following:

(1) The date on which the alleged assault or battery occurred;

(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates:

(a) The date on which the plaintiff learns the identity of that person;

(b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person.

(C) An action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, shall be brought within twelve years after the cause of action accrues. For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority. If the defendant in an action brought by a victim of childhood sexual abuse asserting a claim resulting from childhood sexual abuse that occurs on or after August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts.

SECTION 4. That the existing version of section 2305.111 of the Revised Code that is scheduled to take effect October 12, 2028, is hereby repealed.

SECTION 5. Sections 3 and 4 of this act take effect October 12, 2028.

SECTION 6. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

The version of section 2305.111 of the Revised Code effective until October 12, 2028, as amended by both H.B. 33 and H.B. 35 of the 135th General Assembly.

The version of section 2305.111 of the Revised Code that is scheduled to take effect October 12, 2028, as amended by both H.B. 33 and H.B. 35 of the 135th General Assembly.

Section 3107.07 of the Revised Code as amended by both S.B. 207 and S.B. 250 of the 130th General Assembly.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 109

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_