

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 254

Representatives Boggs, Abrams

Cosponsors: Representatives Boyd, Lightbody, Brent, Galonski, Leland, Smith, K., Gross, Lepore-Hagan, Russo, Smith, M., Young, T., Sobecki, Carruthers, Miranda, Weinstein, Blackshear, Ray, Crossman, Miller, J., White, Crawley

A BILL

To amend sections 121.22, 149.43, 307.99, and 1
4731.22 and to enact sections 307.631, 307.632, 2
307.633, 307.634, 307.635, 307.636, 307.637, 3
307.638, 307.639, and 3701.0410 of the Revised 4
Code to provide for the establishment of 5
domestic violence fatality review boards and to 6
amend the versions of sections 121.22 and 7
4731.22 of the Revised Code that are scheduled 8
to take effect on October 9, 2021, to continue 9
the changes to those sections on and after that 10
date. 11

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

Section 1. That sections 121.22, 149.43, 307.99, and 12
4731.22 be amended and sections 307.631, 307.632, 307.633, 13
307.634, 307.635, 307.636, 307.637, 307.638, 307.639, and 14
3701.0410 of the Revised Code be enacted to read as follows: 15

Sec. 121.22. (A) This section shall be liberally construed 16
to require public officials to take official action and to 17

conduct all deliberations upon official business only in open 18
meetings unless the subject matter is specifically excepted by 19
law. 20

(B) As used in this section: 21

(1) "Public body" means any of the following: 22

(a) Any board, commission, committee, council, or similar 23
decision-making body of a state agency, institution, or 24
authority, and any legislative authority or board, commission, 25
committee, council, agency, authority, or similar decision- 26
making body of any county, township, municipal corporation, 27
school district, or other political subdivision or local public 28
institution; 29

(b) Any committee or subcommittee of a body described in 30
division (B) (1) (a) of this section; 31

(c) A court of jurisdiction of a sanitary district 32
organized wholly for the purpose of providing a water supply for 33
domestic, municipal, and public use when meeting for the purpose 34
of the appointment, removal, or reappointment of a member of the 35
board of directors of such a district pursuant to section 36
6115.10 of the Revised Code, if applicable, or for any other 37
matter related to such a district other than litigation 38
involving the district. As used in division (B) (1) (c) of this 39
section, "court of jurisdiction" has the same meaning as "court" 40
in section 6115.01 of the Revised Code. 41

(2) "Meeting" means any prearranged discussion of the 42
public business of the public body by a majority of its members. 43

(3) "Regulated individual" means either of the following: 44

(a) A student in a state or local public educational 45

institution;	46
(b) A person who is, voluntarily or involuntarily, an	47
inmate, patient, or resident of a state or local institution	48
because of criminal behavior, mental illness, an intellectual	49
disability, disease, disability, age, or other condition	50
requiring custodial care.	51
(4) "Public office" has the same meaning as in section	52
149.011 of the Revised Code.	53
(C) All meetings of any public body are declared to be	54
public meetings open to the public at all times. A member of a	55
public body shall be present in person at a meeting open to the	56
public to be considered present or to vote at the meeting and	57
for purposes of determining whether a quorum is present at the	58
meeting.	59
The minutes of a regular or special meeting of any public	60
body shall be promptly prepared, filed, and maintained and shall	61
be open to public inspection. The minutes need only reflect the	62
general subject matter of discussions in executive sessions	63
authorized under division (G) or (J) of this section.	64
(D) This section does not apply to any of the following:	65
(1) A grand jury;	66
(2) An audit conference conducted by the auditor of state	67
or independent certified public accountants with officials of	68
the public office that is the subject of the audit;	69
(3) The adult parole authority when its hearings are	70
conducted at a correctional institution for the sole purpose of	71
interviewing inmates to determine parole or pardon and the	72
department of rehabilitation and correction when its hearings	73

are conducted at a correctional institution for the sole purpose 74
of making determinations under section 2967.271 of the Revised 75
Code regarding the release or maintained incarceration of an 76
offender to whom that section applies; 77

(4) The organized crime investigations commission 78
established under section 177.01 of the Revised Code; 79

(5) Meetings of a child fatality review board established 80
under section 307.621 of the Revised Code, meetings related to a 81
review conducted pursuant to guidelines established by the 82
director of health under section 3701.70 of the Revised Code, 83
and meetings conducted pursuant to sections 5153.171 to 5153.173 84
of the Revised Code; 85

(6) The state medical board when determining whether to 86
suspend a license or certificate without a prior hearing 87
pursuant to division (G) of either section 4730.25 or 4731.22 of 88
the Revised Code; 89

(7) The board of nursing when determining whether to 90
suspend a license or certificate without a prior hearing 91
pursuant to division (B) of section 4723.281 of the Revised 92
Code; 93

(8) The state board of pharmacy when determining whether 94
to do either of the following: 95

(a) Suspend a license, certification, or registration 96
without a prior hearing, including during meetings conducted by 97
telephone conference, pursuant to Chapters 3719., 3796., 4729., 98
and 4752. of the Revised Code and rules adopted thereunder; or 99

(b) Restrict a person from obtaining further information 100
from the drug database established in section 4729.75 of the 101
Revised Code without a prior hearing pursuant to division (C) of 102

section 4729.86 of the Revised Code.	103
(9) The state chiropractic board when determining whether	104
to suspend a license without a hearing pursuant to section	105
4734.37 of the Revised Code;	106
(10) The executive committee of the emergency response	107
commission when determining whether to issue an enforcement	108
order or request that a civil action, civil penalty action, or	109
criminal action be brought to enforce Chapter 3750. of the	110
Revised Code;	111
(11) The board of directors of the nonprofit corporation	112
formed under section 187.01 of the Revised Code or any committee	113
thereof, and the board of directors of any subsidiary of that	114
corporation or a committee thereof;	115
(12) An audit conference conducted by the audit staff of	116
the department of job and family services with officials of the	117
public office that is the subject of that audit under section	118
5101.37 of the Revised Code;	119
(13) The occupational therapy section of the occupational	120
therapy, physical therapy, and athletic trainers board when	121
determining whether to suspend a license or limited permit	122
without a hearing pursuant to division (D) of section 4755.11 of	123
the Revised Code;	124
(14) The physical therapy section of the occupational	125
therapy, physical therapy, and athletic trainers board when	126
determining whether to suspend a license without a hearing	127
pursuant to division (E) of section 4755.47 of the Revised Code;	128
(15) The athletic trainers section of the occupational	129
therapy, physical therapy, and athletic trainers board when	130
determining whether to suspend a license without a hearing	131

pursuant to division (D) of section 4755.64 of the Revised Code;	132
(16) Meetings of the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code;	133 134
(17) Meetings of a fetal-infant mortality review board established under section 3707.71 of the Revised Code;	135 136
<u>(18) Meetings of a domestic violence fatality review board established under section 307.631 of the Revised Code.</u>	137 138
(E) The controlling board, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board or authority members present, may close the meeting during consideration of the following information confidentially received by the authority or board from the applicant:	139 140 141 142 143 144 145 146 147
(1) Marketing plans;	148
(2) Specific business strategy;	149
(3) Production techniques and trade secrets;	150
(4) Financial projections;	151
(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.	152 153 154 155
The vote by the authority or board to accept or reject the application, as well as all proceedings of the authority or board not subject to this division, shall be open to the public	156 157 158

and governed by this section. 159

(F) Every public body, by rule, shall establish a 160
reasonable method whereby any person may determine the time and 161
place of all regularly scheduled meetings and the time, place, 162
and purpose of all special meetings. A public body shall not 163
hold a special meeting unless it gives at least twenty-four 164
hours' advance notice to the news media that have requested 165
notification, except in the event of an emergency requiring 166
immediate official action. In the event of an emergency, the 167
member or members calling the meeting shall notify the news 168
media that have requested notification immediately of the time, 169
place, and purpose of the meeting. 170

The rule shall provide that any person, upon request and 171
payment of a reasonable fee, may obtain reasonable advance 172
notification of all meetings at which any specific type of 173
public business is to be discussed. Provisions for advance 174
notification may include, but are not limited to, mailing the 175
agenda of meetings to all subscribers on a mailing list or 176
mailing notices in self-addressed, stamped envelopes provided by 177
the person. 178

(G) Except as provided in divisions (G)(8) and (J) of this 179
section, the members of a public body may hold an executive 180
session only after a majority of a quorum of the public body 181
determines, by a roll call vote, to hold an executive session 182
and only at a regular or special meeting for the sole purpose of 183
the consideration of any of the following matters: 184

(1) To consider the appointment, employment, dismissal, 185
discipline, promotion, demotion, or compensation of a public 186
employee or official, or the investigation of charges or 187
complaints against a public employee, official, licensee, or 188

regulated individual, unless the public employee, official, 189
licensee, or regulated individual requests a public hearing. 190
Except as otherwise provided by law, no public body shall hold 191
an executive session for the discipline of an elected official 192
for conduct related to the performance of the elected official's 193
official duties or for the elected official's removal from 194
office. If a public body holds an executive session pursuant to 195
division (G) (1) of this section, the motion and vote to hold 196
that executive session shall state which one or more of the 197
approved purposes listed in division (G) (1) of this section are 198
the purposes for which the executive session is to be held, but 199
need not include the name of any person to be considered at the 200
meeting. 201

(2) To consider the purchase of property for public 202
purposes, the sale of property at competitive bidding, or the 203
sale or other disposition of unneeded, obsolete, or unfit-for- 204
use property in accordance with section 505.10 of the Revised 205
Code, if premature disclosure of information would give an 206
unfair competitive or bargaining advantage to a person whose 207
personal, private interest is adverse to the general public 208
interest. No member of a public body shall use division (G) (2) 209
of this section as a subterfuge for providing covert information 210
to prospective buyers or sellers. A purchase or sale of public 211
property is void if the seller or buyer of the public property 212
has received covert information from a member of a public body 213
that has not been disclosed to the general public in sufficient 214
time for other prospective buyers and sellers to prepare and 215
submit offers. 216

If the minutes of the public body show that all meetings 217
and deliberations of the public body have been conducted in 218
compliance with this section, any instrument executed by the 219

public body purporting to convey, lease, or otherwise dispose of 220
any right, title, or interest in any public property shall be 221
conclusively presumed to have been executed in compliance with 222
this section insofar as title or other interest of any bona fide 223
purchasers, lessees, or transferees of the property is 224
concerned. 225

(3) Conferences with an attorney for the public body 226
concerning disputes involving the public body that are the 227
subject of pending or imminent court action; 228

(4) Preparing for, conducting, or reviewing negotiations 229
or bargaining sessions with public employees concerning their 230
compensation or other terms and conditions of their employment; 231

(5) Matters required to be kept confidential by federal 232
law or regulations or state statutes; 233

(6) Details relative to the security arrangements and 234
emergency response protocols for a public body or a public 235
office, if disclosure of the matters discussed could reasonably 236
be expected to jeopardize the security of the public body or 237
public office; 238

(7) In the case of a county hospital operated pursuant to 239
Chapter 339. of the Revised Code, a joint township hospital 240
operated pursuant to Chapter 513. of the Revised Code, or a 241
municipal hospital operated pursuant to Chapter 749. of the 242
Revised Code, to consider trade secrets, as defined in section 243
1333.61 of the Revised Code; 244

(8) To consider confidential information related to the 245
marketing plans, specific business strategy, production 246
techniques, trade secrets, or personal financial statements of 247
an applicant for economic development assistance, or to 248

negotiations with other political subdivisions respecting 249
requests for economic development assistance, provided that both 250
of the following conditions apply: 251

(a) The information is directly related to a request for 252
economic development assistance that is to be provided or 253
administered under any provision of Chapter 715., 725., 1724., 254
or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 255
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 256
5709.81 of the Revised Code, or that involves public 257
infrastructure improvements or the extension of utility services 258
that are directly related to an economic development project. 259

(b) A unanimous quorum of the public body determines, by a 260
roll call vote, that the executive session is necessary to 261
protect the interests of the applicant or the possible 262
investment or expenditure of public funds to be made in 263
connection with the economic development project. 264

If a public body holds an executive session to consider 265
any of the matters listed in divisions (G) (2) to (8) of this 266
section, the motion and vote to hold that executive session 267
shall state which one or more of the approved matters listed in 268
those divisions are to be considered at the executive session. 269

A public body specified in division (B) (1) (c) of this 270
section shall not hold an executive session when meeting for the 271
purposes specified in that division. 272

(H) A resolution, rule, or formal action of any kind is 273
invalid unless adopted in an open meeting of the public body. A 274
resolution, rule, or formal action adopted in an open meeting 275
that results from deliberations in a meeting not open to the 276
public is invalid unless the deliberations were for a purpose 277

specifically authorized in division (G) or (J) of this section 278
and conducted at an executive session held in compliance with 279
this section. A resolution, rule, or formal action adopted in an 280
open meeting is invalid if the public body that adopted the 281
resolution, rule, or formal action violated division (F) of this 282
section. 283

(I) (1) Any person may bring an action to enforce this 284
section. An action under division (I) (1) of this section shall 285
be brought within two years after the date of the alleged 286
violation or threatened violation. Upon proof of a violation or 287
threatened violation of this section in an action brought by any 288
person, the court of common pleas shall issue an injunction to 289
compel the members of the public body to comply with its 290
provisions. 291

(2) (a) If the court of common pleas issues an injunction 292
pursuant to division (I) (1) of this section, the court shall 293
order the public body that it enjoins to pay a civil forfeiture 294
of five hundred dollars to the party that sought the injunction 295
and shall award to that party all court costs and, subject to 296
reduction as described in division (I) (2) of this section, 297
reasonable attorney's fees. The court, in its discretion, may 298
reduce an award of attorney's fees to the party that sought the 299
injunction or not award attorney's fees to that party if the 300
court determines both of the following: 301

(i) That, based on the ordinary application of statutory 302
law and case law as it existed at the time of violation or 303
threatened violation that was the basis of the injunction, a 304
well-informed public body reasonably would believe that the 305
public body was not violating or threatening to violate this 306
section; 307

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the

Revised Code;	337
(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.	338 339 340
(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.	341 342 343 344 345 346 347 348
(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.	349 350 351 352 353 354 355 356
Sec. 149.43. (A) As used in this section:	357
(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:	358 359 360 361 362 363 364 365

(a) Medical records;	366
(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;	367 368 369 370 371 372
(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;	373 374 375
(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;	376 377 378
(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;	379 380 381 382 383 384
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	385 386
(g) Trial preparation records;	387
(h) Confidential law enforcement investigatory records;	388
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	389 390
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	391 392

(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;	393 394 395 396
(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;	397 398 399 400
(m) Intellectual property records;	401
(n) Donor profile records;	402
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	403 404
(p) Designated public service worker residential and familial information;	405 406
(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;	407 408 409 410 411
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	412 413
(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	414 415 416 417 418 419 420

the board or director, and in the case of a child fatality 421
review board, child fatality review data submitted by the board 422
to the department of health or a national child death review 423
database, other than the report prepared pursuant to division 424
(A) of section 307.626 of the Revised Code; 425

(t) Records provided to and statements made by the 426
executive director of a public children services agency or a 427
prosecuting attorney acting pursuant to section 5153.171 of the 428
Revised Code other than the information released under that 429
section; 430

(u) Test materials, examinations, or evaluation tools used 431
in an examination for licensure as a nursing home administrator 432
that the board of executives of long-term services and supports 433
administers under section 4751.15 of the Revised Code or 434
contracts under that section with a private or government entity 435
to administer; 436

(v) Records the release of which is prohibited by state or 437
federal law; 438

(w) Proprietary information of or relating to any person 439
that is submitted to or compiled by the Ohio venture capital 440
authority created under section 150.01 of the Revised Code; 441

(x) Financial statements and data any person submits for 442
any purpose to the Ohio housing finance agency or the 443
controlling board in connection with applying for, receiving, or 444
accounting for financial assistance from the agency, and 445
information that identifies any individual who benefits directly 446
or indirectly from financial assistance from the agency; 447

(y) Records listed in section 5101.29 of the Revised Code; 448

(z) Discharges recorded with a county recorder under 449

section 317.24 of the Revised Code, as specified in division (B)	450
(2) of that section;	451
(aa) Usage information including names and addresses of	452
specific residential and commercial customers of a municipally	453
owned or operated public utility;	454
(bb) Records described in division (C) of section 187.04	455
of the Revised Code that are not designated to be made available	456
to the public as provided in that division;	457
(cc) Information and records that are made confidential,	458
privileged, and not subject to disclosure under divisions (B)	459
and (C) of section 2949.221 of the Revised Code;	460
(dd) Personal information, as defined in section 149.45 of	461
the Revised Code;	462
(ee) The confidential name, address, and other personally	463
identifiable information of a program participant in the address	464
confidentiality program established under sections 111.41 to	465
111.47 of the Revised Code, including the contents of any	466
application for absent voter's ballots, absent voter's ballot	467
identification envelope statement of voter, or provisional	468
ballot affirmation completed by a program participant who has a	469
confidential voter registration record, and records or portions	470
of records pertaining to that program that identify the number	471
of program participants that reside within a precinct, ward,	472
township, municipal corporation, county, or any other geographic	473
area smaller than the state. As used in this division,	474
"confidential address" and "program participant" have the	475
meaning defined in section 111.41 of the Revised Code.	476
(ff) Orders for active military service of an individual	477
serving or with previous service in the armed forces of the	478

United States, including a reserve component, or the Ohio 479
organized militia, except that, such order becomes a public 480
record on the day that is fifteen years after the published date 481
or effective date of the call to order; 482

(gg) The name, address, contact information, or other 483
personal information of an individual who is less than eighteen 484
years of age that is included in any record related to a traffic 485
accident involving a school vehicle in which the individual was 486
an occupant at the time of the accident; 487

(hh) Protected health information, as defined in 45 C.F.R. 488
160.103, that is in a claim for payment for a health care 489
product, service, or procedure, as well as any other health 490
claims data in another document that reveals the identity of an 491
individual who is the subject of the data or could be used to 492
reveal that individual's identity; 493

(ii) Any depiction by photograph, film, videotape, or 494
printed or digital image under either of the following 495
circumstances: 496

(i) The depiction is that of a victim of an offense the 497
release of which would be, to a reasonable person of ordinary 498
sensibilities, an offensive and objectionable intrusion into the 499
victim's expectation of bodily privacy and integrity. 500

(ii) The depiction captures or depicts the victim of a 501
sexually oriented offense, as defined in section 2950.01 of the 502
Revised Code, at the actual occurrence of that offense. 503

(jj) Restricted portions of a body-worn camera or 504
dashboard camera recording; 505

(kk) In the case of a fetal-infant mortality review board 506
acting under sections 3707.70 to 3707.77 of the Revised Code, 507

records, documents, reports, or other information presented to 508
the board or a person abstracting such materials on the board's 509
behalf, statements made by review board members during board 510
meetings, all work products of the board, and data submitted by 511
the board to the department of health or a national infant death 512
review database, other than the report prepared pursuant to 513
section 3707.77 of the Revised Code. 514

(ll) Records, documents, reports, or other information 515
presented to the pregnancy-associated mortality review board 516
established under section 3738.01 of the Revised Code, 517
statements made by board members during board meetings, all work 518
products of the board, and data submitted by the board to the 519
department of health, other than the biennial reports prepared 520
under section 3738.08 of the Revised Code; 521

(mm) Telephone numbers for a victim, as defined in section 522
2930.01 of the Revised Code, a witness to a crime, or a party to 523
a motor vehicle accident subject to the requirements of section 524
5502.11 of the Revised Code that are listed on any law 525
enforcement record or report, other than when requested by an 526
insurer or insurance agent investigating an insurance claim 527
resulting from a motor vehicle accident; 528

(nn) Records, documents, reports, or other information 529
presented to a domestic violence fatality review board 530
established under section 307.631 of the Revised Code, 531
statements made by board members during board meetings, all work 532
products of the board, and data submitted by the board to the 533
department of health, other than a report prepared pursuant to 534
section 307.636 of the Revised Code. 535

A record that is not a public record under division (A) (1) 536
of this section and that, under law, is permanently retained 537

becomes a public record on the day that is seventy-five years 538
after the day on which the record was created, except for any 539
record protected by the attorney-client privilege, a trial 540
preparation record as defined in this section, a statement 541
prohibiting the release of identifying information signed under 542
section 3107.083 of the Revised Code, a denial of release form 543
filed pursuant to section 3107.46 of the Revised Code, or any 544
record that is exempt from release or disclosure under section 545
149.433 of the Revised Code. If the record is a birth 546
certificate and a biological parent's name redaction request 547
form has been accepted under section 3107.391 of the Revised 548
Code, the name of that parent shall be redacted from the birth 549
certificate before it is released under this paragraph. If any 550
other section of the Revised Code establishes a time period for 551
disclosure of a record that conflicts with the time period 552
specified in this section, the time period in the other section 553
prevails. 554

(2) "Confidential law enforcement investigatory record" 555
means any record that pertains to a law enforcement matter of a 556
criminal, quasi-criminal, civil, or administrative nature, but 557
only to the extent that the release of the record would create a 558
high probability of disclosure of any of the following: 559

(a) The identity of a suspect who has not been charged 560
with the offense to which the record pertains, or of an 561
information source or witness to whom confidentiality has been 562
reasonably promised; 563

(b) Information provided by an information source or 564
witness to whom confidentiality has been reasonably promised, 565
which information would reasonably tend to disclose the source's 566
or witness's identity; 567

(c) Specific confidential investigatory techniques or	568
procedures or specific investigatory work product;	569
(d) Information that would endanger the life or physical	570
safety of law enforcement personnel, a crime victim, a witness,	571
or a confidential information source.	572
(3) "Medical record" means any document or combination of	573
documents, except births, deaths, and the fact of admission to	574
or discharge from a hospital, that pertains to the medical	575
history, diagnosis, prognosis, or medical condition of a patient	576
and that is generated and maintained in the process of medical	577
treatment.	578
(4) "Trial preparation record" means any record that	579
contains information that is specifically compiled in reasonable	580
anticipation of, or in defense of, a civil or criminal action or	581
proceeding, including the independent thought processes and	582
personal trial preparation of an attorney.	583
(5) "Intellectual property record" means a record, other	584
than a financial or administrative record, that is produced or	585
collected by or for faculty or staff of a state institution of	586
higher learning in the conduct of or as a result of study or	587
research on an educational, commercial, scientific, artistic,	588
technical, or scholarly issue, regardless of whether the study	589
or research was sponsored by the institution alone or in	590
conjunction with a governmental body or private concern, and	591
that has not been publicly released, published, or patented.	592
(6) "Donor profile record" means all records about donors	593
or potential donors to a public institution of higher education	594
except the names and reported addresses of the actual donors and	595
the date, amount, and conditions of the actual donation.	596

(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, 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, 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 626
service worker's employer; 627

(e) The identity and amount of any charitable or 628
employment benefit deduction made by the designated public 629
service worker's employer from the designated public service 630
worker's compensation, unless the amount of the deduction is 631
required by state or federal law; 632

(f) The name, the residential address, the name of the 633
employer, the address of the employer, the social security 634
number, the residential telephone number, any bank account, 635
debit card, charge card, or credit card number, or the emergency 636
telephone number of the spouse, a former spouse, or any child of 637
a designated public service worker; 638

(g) A photograph of a peace officer who holds a position 639
or has an assignment that may include undercover or plain 640
clothes positions or assignments as determined by the peace 641
officer's appointing authority. 642

(9) As used in divisions (A) (7) and (15) to (17) of this 643
section: 644

"Peace officer" has the meaning defined in section 109.71 645
of the Revised Code and also includes the superintendent and 646
troopers of the state highway patrol; it does not include the 647
sheriff of a county or a supervisory employee who, in the 648
absence of the sheriff, is authorized to stand in for, exercise 649
the authority of, and perform the duties of the sheriff. 650

"Correctional employee" means any employee of the 651
department of rehabilitation and correction who in the course of 652
performing the employee's job duties has or has had contact with 653
inmates and persons under supervision. 654

"County or multicounty corrections officer" means any 655
corrections officer employed by any county or multicounty 656
correctional facility. 657

"Youth services employee" means any employee of the 658
department of youth services who in the course of performing the 659
employee's job duties has or has had contact with children 660
committed to the custody of the department of youth services. 661

"Firefighter" means any regular, paid or volunteer, member 662
of a lawfully constituted fire department of a municipal 663
corporation, township, fire district, or village. 664

"EMT" means EMTs-basic, EMTs-I, and paramedics that 665
provide emergency medical services for a public emergency 666
medical service organization. "Emergency medical service 667
organization," "EMT-basic," "EMT-I," and "paramedic" have the 668
meanings defined in section 4765.01 of the Revised Code. 669

"Investigator of the bureau of criminal identification and 670
investigation" has the meaning defined in section 2903.11 of the 671
Revised Code. 672

"Federal law enforcement officer" has the meaning defined 673
in section 9.88 of the Revised Code. 674

(10) "Information pertaining to the recreational 675
activities of a person under the age of eighteen" means 676
information that is kept in the ordinary course of business by a 677
public office, that pertains to the recreational activities of a 678
person under the age of eighteen years, and that discloses any 679
of the following: 680

(a) The address or telephone number of a person under the 681
age of eighteen or the address or telephone number of that 682
person's parent, guardian, custodian, or emergency contact 683

person; 684

(b) The social security number, birth date, or 685
photographic image of a person under the age of eighteen; 686

(c) Any medical record, history, or information pertaining 687
to a person under the age of eighteen; 688

(d) Any additional information sought or required about a 689
person under the age of eighteen for the purpose of allowing 690
that person to participate in any recreational activity 691
conducted or sponsored by a public office or to use or obtain 692
admission privileges to any recreational facility owned or 693
operated by a public office. 694

(11) "Community control sanction" has the meaning defined 695
in section 2929.01 of the Revised Code. 696

(12) "Post-release control sanction" has the meaning 697
defined in section 2967.01 of the Revised Code. 698

(13) "Redaction" means obscuring or deleting any 699
information that is exempt from the duty to permit public 700
inspection or copying from an item that otherwise meets the 701
definition of a "record" in section 149.011 of the Revised Code. 702

(14) "Designee," "elected official," and "future official" 703
have the meanings defined in section 109.43 of the Revised Code. 704

(15) "Body-worn camera" means a visual and audio recording 705
device worn on the person of a peace officer while the peace 706
officer is engaged in the performance of the peace officer's 707
duties. 708

(16) "Dashboard camera" means a visual and audio recording 709
device mounted on a peace officer's vehicle or vessel that is 710
used while the peace officer is engaged in the performance of 711

the peace officer's duties. 712

(17) "Restricted portions of a body-worn camera or 713
dashboard camera recording" means any visual or audio portion of 714
a body-worn camera or dashboard camera recording that shows, 715
communicates, or discloses any of the following: 716

(a) The image or identity of a child or information that 717
could lead to the identification of a child who is a primary 718
subject of the recording when the law enforcement agency knows 719
or has reason to know the person is a child based on the law 720
enforcement agency's records or the content of the recording; 721

(b) The death of a person or a deceased person's body, 722
unless the death was caused by a peace officer or, subject to 723
division (H) (1) of this section, the consent of the decedent's 724
executor or administrator has been obtained; 725

(c) The death of a peace officer, firefighter, paramedic, 726
or other first responder, occurring while the decedent was 727
engaged in the performance of official duties, unless, subject 728
to division (H) (1) of this section, the consent of the 729
decedent's executor or administrator has been obtained; 730

(d) Grievous bodily harm, unless the injury was effected 731
by a peace officer or, subject to division (H) (1) of this 732
section, the consent of the injured person or the injured 733
person's guardian has been obtained; 734

(e) An act of severe violence against a person that 735
results in serious physical harm to the person, unless the act 736
and injury was effected by a peace officer or, subject to 737
division (H) (1) of this section, the consent of the injured 738
person or the injured person's guardian has been obtained; 739

(f) Grievous bodily harm to a peace officer, firefighter, 740

paramedic, or other first responder, occurring while the injured 741
person was engaged in the performance of official duties, 742
unless, subject to division (H) (1) of this section, the consent 743
of the injured person or the injured person's guardian has been 744
obtained; 745

(g) An act of severe violence resulting in serious 746
physical harm against a peace officer, firefighter, paramedic, 747
or other first responder, occurring while the injured person was 748
engaged in the performance of official duties, unless, subject 749
to division (H) (1) of this section, the consent of the injured 750
person or the injured person's guardian has been obtained; 751

(h) A person's nude body, unless, subject to division (H) 752
(1) of this section, the person's consent has been obtained; 753

(i) Protected health information, the identity of a person 754
in a health care facility who is not the subject of a law 755
enforcement encounter, or any other information in a health care 756
facility that could identify a person who is not the subject of 757
a law enforcement encounter; 758

(j) Information that could identify the alleged victim of 759
a sex offense, menacing by stalking, or domestic violence; 760

(k) Information, that does not constitute a confidential 761
law enforcement investigatory record, that could identify a 762
person who provides sensitive or confidential information to a 763
law enforcement agency when the disclosure of the person's 764
identity or the information provided could reasonably be 765
expected to threaten or endanger the safety or property of the 766
person or another person; 767

(l) Personal information of a person who is not arrested, 768
cited, charged, or issued a written warning by a peace officer; 769

(m) Proprietary police contingency plans or tactics that	770
are intended to prevent crime and maintain public order and	771
safety;	772
(n) A personal conversation unrelated to work between	773
peace officers or between a peace officer and an employee of a	774
law enforcement agency;	775
(o) A conversation between a peace officer and a member of	776
the public that does not concern law enforcement activities;	777
(p) The interior of a residence, unless the interior of a	778
residence is the location of an adversarial encounter with, or a	779
use of force by, a peace officer;	780
(q) Any portion of the interior of a private business that	781
is not open to the public, unless an adversarial encounter with,	782
or a use of force by, a peace officer occurs in that location.	783
As used in division (A) (17) of this section:	784
"Grievous bodily harm" has the same meaning as in section	785
5924.120 of the Revised Code.	786
"Health care facility" has the same meaning as in section	787
1337.11 of the Revised Code.	788
"Protected health information" has the same meaning as in	789
45 C.F.R. 160.103.	790
"Law enforcement agency" has the same meaning as in	791
section 2925.61 of the Revised Code.	792
"Personal information" means any government-issued	793
identification number, date of birth, address, financial	794
information, or criminal justice information from the law	795
enforcement automated data system or similar databases.	796

"Sex offense" has the same meaning as in section 2907.10 797
of the Revised Code. 798

"Firefighter," "paramedic," and "first responder" have the 799
same meanings as in section 4765.01 of the Revised Code. 800

(18) "Insurer" and "insurance agent" have the same 801
meanings as in section 3905.01 of the Revised Code. 802

(B) (1) Upon request and subject to division (B) (8) of this 803
section, all public records responsive to the request shall be 804
promptly prepared and made available for inspection to any 805
person at all reasonable times during regular business hours. 806
Subject to division (B) (8) of this section, upon request by any 807
person, a public office or person responsible for public records 808
shall make copies of the requested public record available to 809
the requester at cost and within a reasonable period of time. If 810
a public record contains information that is exempt from the 811
duty to permit public inspection or to copy the public record, 812
the public office or the person responsible for the public 813
record shall make available all of the information within the 814
public record that is not exempt. When making that public record 815
available for public inspection or copying that public record, 816
the public office or the person responsible for the public 817
record shall notify the requester of any redaction or make the 818
redaction plainly visible. A redaction shall be deemed a denial 819
of a request to inspect or copy the redacted information, except 820
if federal or state law authorizes or requires a public office 821
to make the redaction. 822

(2) To facilitate broader access to public records, a 823
public office or the person responsible for public records shall 824
organize and maintain public records in a manner that they can 825
be made available for inspection or copying in accordance with 826

division (B) of this section. A public office also shall have 827
available a copy of its current records retention schedule at a 828
location readily available to the public. If a requester makes 829
an ambiguous or overly broad request or has difficulty in making 830
a request for copies or inspection of public records under this 831
section such that the public office or the person responsible 832
for the requested public record cannot reasonably identify what 833
public records are being requested, the public office or the 834
person responsible for the requested public record may deny the 835
request but shall provide the requester with an opportunity to 836
revise the request by informing the requester of the manner in 837
which records are maintained by the public office and accessed 838
in the ordinary course of the public office's or person's 839
duties. 840

(3) If a request is ultimately denied, in part or in 841
whole, the public office or the person responsible for the 842
requested public record shall provide the requester with an 843
explanation, including legal authority, setting forth why the 844
request was denied. If the initial request was provided in 845
writing, the explanation also shall be provided to the requester 846
in writing. The explanation shall not preclude the public office 847
or the person responsible for the requested public record from 848
relying upon additional reasons or legal authority in defending 849
an action commenced under division (C) of this section. 850

(4) Unless specifically required or authorized by state or 851
federal law or in accordance with division (B) of this section, 852
no public office or person responsible for public records may 853
limit or condition the availability of public records by 854
requiring disclosure of the requester's identity or the intended 855
use of the requested public record. Any requirement that the 856
requester disclose the requester's identity or the intended use 857

of the requested public record constitutes a denial of the 858
request. 859

(5) A public office or person responsible for public 860
records may ask a requester to make the request in writing, may 861
ask for the requester's identity, and may inquire about the 862
intended use of the information requested, but may do so only 863
after disclosing to the requester that a written request is not 864
mandatory, that the requester may decline to reveal the 865
requester's identity or the intended use, and when a written 866
request or disclosure of the identity or intended use would 867
benefit the requester by enhancing the ability of the public 868
office or person responsible for public records to identify, 869
locate, or deliver the public records sought by the requester. 870

(6) If any person requests a copy of a public record in 871
accordance with division (B) of this section, the public office 872
or person responsible for the public record may require that 873
person to pay in advance the cost involved in providing the copy 874
of the public record in accordance with the choice made by the 875
person requesting the copy under this division. The public 876
office or the person responsible for the public record shall 877
permit that person to choose to have the public record 878
duplicated upon paper, upon the same medium upon which the 879
public office or person responsible for the public record keeps 880
it, or upon any other medium upon which the public office or 881
person responsible for the public record determines that it 882
reasonably can be duplicated as an integral part of the normal 883
operations of the public office or person responsible for the 884
public record. When the person requesting the copy makes a 885
choice under this division, the public office or person 886
responsible for the public record shall provide a copy of it in 887
accordance with the choice made by that person. Nothing in this 888

section requires a public office or person responsible for the 889
public record to allow the person requesting a copy of the 890
public record to make the copies of the public record. 891

(7) (a) Upon a request made in accordance with division (B) 892
of this section and subject to division (B) (6) of this section, 893
a public office or person responsible for public records shall 894
transmit a copy of a public record to any person by United 895
States mail or by any other means of delivery or transmission 896
within a reasonable period of time after receiving the request 897
for the copy. The public office or person responsible for the 898
public record may require the person making the request to pay 899
in advance the cost of postage if the copy is transmitted by 900
United States mail or the cost of delivery if the copy is 901
transmitted other than by United States mail, and to pay in 902
advance the costs incurred for other supplies used in the 903
mailing, delivery, or transmission. 904

(b) Any public office may adopt a policy and procedures 905
that it will follow in transmitting, within a reasonable period 906
of time after receiving a request, copies of public records by 907
United States mail or by any other means of delivery or 908
transmission pursuant to division (B) (7) of this section. A 909
public office that adopts a policy and procedures under division 910
(B) (7) of this section shall comply with them in performing its 911
duties under that division. 912

(c) In any policy and procedures adopted under division 913
(B) (7) of this section: 914

(i) A public office may limit the number of records 915
requested by a person that the office will physically deliver by 916
United States mail or by another delivery service to ten per 917
month, unless the person certifies to the office in writing that 918

the person does not intend to use or forward the requested 919
records, or the information contained in them, for commercial 920
purposes; 921

(ii) A public office that chooses to provide some or all 922
of its public records on a web site that is fully accessible to 923
and searchable by members of the public at all times, other than 924
during acts of God outside the public office's control or 925
maintenance, and that charges no fee to search, access, 926
download, or otherwise receive records provided on the web site, 927
may limit to ten per month the number of records requested by a 928
person that the office will deliver in a digital format, unless 929
the requested records are not provided on the web site and 930
unless the person certifies to the office in writing that the 931
person does not intend to use or forward the requested records, 932
or the information contained in them, for commercial purposes. 933

(iii) For purposes of division (B) (7) of this section, 934
"commercial" shall be narrowly construed and does not include 935
reporting or gathering news, reporting or gathering information 936
to assist citizen oversight or understanding of the operation or 937
activities of government, or nonprofit educational research. 938

(8) A public office or person responsible for public 939
records is not required to permit a person who is incarcerated 940
pursuant to a criminal conviction or a juvenile adjudication to 941
inspect or to obtain a copy of any public record concerning a 942
criminal investigation or prosecution or concerning what would 943
be a criminal investigation or prosecution if the subject of the 944
investigation or prosecution were an adult, unless the request 945
to inspect or to obtain a copy of the record is for the purpose 946
of acquiring information that is subject to release as a public 947
record under this section and the judge who imposed the sentence 948

or made the adjudication with respect to the person, or the 949
judge's successor in office, finds that the information sought 950
in the public record is necessary to support what appears to be 951
a justiciable claim of the person. 952

(9) (a) Upon written request made and signed by a 953
journalist, a public office, or person responsible for public 954
records, having custody of the records of the agency employing a 955
specified designated public service worker shall disclose to the 956
journalist the address of the actual personal residence of the 957
designated public service worker and, if the designated public 958
service worker's spouse, former spouse, or child is employed by 959
a public office, the name and address of the employer of the 960
designated public service worker's spouse, former spouse, or 961
child. The request shall include the journalist's name and title 962
and the name and address of the journalist's employer and shall 963
state that disclosure of the information sought would be in the 964
public interest. 965

(b) Division (B) (9) (a) of this section also applies to 966
journalist requests for: 967

(i) Customer information maintained by a municipally owned 968
or operated public utility, other than social security numbers 969
and any private financial information such as credit reports, 970
payment methods, credit card numbers, and bank account 971
information; 972

(ii) Information about minors involved in a school vehicle 973
accident as provided in division (A) (1) (gg) of this section, 974
other than personal information as defined in section 149.45 of 975
the Revised Code. 976

(c) As used in division (B) (9) of this section, 977

"journalist" means a person engaged in, connected with, or 978
employed by any news medium, including a newspaper, magazine, 979
press association, news agency, or wire service, a radio or 980
television station, or a similar medium, for the purpose of 981
gathering, processing, transmitting, compiling, editing, or 982
disseminating information for the general public. 983

(10) Upon a request made by a victim, victim's attorney, 984
or victim's representative, as that term is used in section 985
2930.02 of the Revised Code, a public office or person 986
responsible for public records shall transmit a copy of a 987
depiction of the victim as described in division (A) (1) (ii) of 988
this section to the victim, victim's attorney, or victim's 989
representative. 990

(C) (1) If a person allegedly is aggrieved by the failure 991
of a public office or the person responsible for public records 992
to promptly prepare a public record and to make it available to 993
the person for inspection in accordance with division (B) of 994
this section or by any other failure of a public office or the 995
person responsible for public records to comply with an 996
obligation in accordance with division (B) of this section, the 997
person allegedly aggrieved may do only one of the following, and 998
not both: 999

(a) File a complaint with the clerk of the court of claims 1000
or the clerk of the court of common pleas under section 2743.75 1001
of the Revised Code; 1002

(b) Commence a mandamus action to obtain a judgment that 1003
orders the public office or the person responsible for the 1004
public record to comply with division (B) of this section, that 1005
awards court costs and reasonable attorney's fees to the person 1006
that instituted the mandamus action, and, if applicable, that 1007

includes an order fixing statutory damages under division (C) (2) 1008
of this section. The mandamus action may be commenced in the 1009
court of common pleas of the county in which division (B) of 1010
this section allegedly was not complied with, in the supreme 1011
court pursuant to its original jurisdiction under Section 2 of 1012
Article IV, Ohio Constitution, or in the court of appeals for 1013
the appellate district in which division (B) of this section 1014
allegedly was not complied with pursuant to its original 1015
jurisdiction under Section 3 of Article IV, Ohio Constitution. 1016

(2) If a requester transmits a written request by hand 1017
delivery, electronic submission, or certified mail to inspect or 1018
receive copies of any public record in a manner that fairly 1019
describes the public record or class of public records to the 1020
public office or person responsible for the requested public 1021
records, except as otherwise provided in this section, the 1022
requester shall be entitled to recover the amount of statutory 1023
damages set forth in this division if a court determines that 1024
the public office or the person responsible for public records 1025
failed to comply with an obligation in accordance with division 1026
(B) of this section. 1027

The amount of statutory damages shall be fixed at one 1028
hundred dollars for each business day during which the public 1029
office or person responsible for the requested public records 1030
failed to comply with an obligation in accordance with division 1031
(B) of this section, beginning with the day on which the 1032
requester files a mandamus action to recover statutory damages, 1033
up to a maximum of one thousand dollars. The award of statutory 1034
damages shall not be construed as a penalty, but as compensation 1035
for injury arising from lost use of the requested information. 1036
The existence of this injury shall be conclusively presumed. The 1037
award of statutory damages shall be in addition to all other 1038

remedies authorized by this section. 1039

The court may reduce an award of statutory damages or not 1040
award statutory damages if the court determines both of the 1041
following: 1042

(a) That, based on the ordinary application of statutory 1043
law and case law as it existed at the time of the conduct or 1044
threatened conduct of the public office or person responsible 1045
for the requested public records that allegedly constitutes a 1046
failure to comply with an obligation in accordance with division 1047
(B) of this section and that was the basis of the mandamus 1048
action, a well-informed public office or person responsible for 1049
the requested public records reasonably would believe that the 1050
conduct or threatened conduct of the public office or person 1051
responsible for the requested public records did not constitute 1052
a failure to comply with an obligation in accordance with 1053
division (B) of this section; 1054

(b) That a well-informed public office or person 1055
responsible for the requested public records reasonably would 1056
believe that the conduct or threatened conduct of the public 1057
office or person responsible for the requested public records 1058
would serve the public policy that underlies the authority that 1059
is asserted as permitting that conduct or threatened conduct. 1060

(3) In a mandamus action filed under division (C) (1) of 1061
this section, the following apply: 1062

(a) (i) If the court orders the public office or the person 1063
responsible for the public record to comply with division (B) of 1064
this section, the court shall determine and award to the relator 1065
all court costs, which shall be construed as remedial and not 1066
punitive. 1067

(ii) If the court makes a determination described in 1068
division (C) (3) (b) (iii) of this section, the court shall 1069
determine and award to the relator all court costs, which shall 1070
be construed as remedial and not punitive. 1071

(b) If the court renders a judgment that orders the public 1072
office or the person responsible for the public record to comply 1073
with division (B) of this section or if the court determines any 1074
of the following, the court may award reasonable attorney's fees 1075
to the relator, subject to division (C) (4) of this section: 1076

(i) The public office or the person responsible for the 1077
public records failed to respond affirmatively or negatively to 1078
the public records request in accordance with the time allowed 1079
under division (B) of this section. 1080

(ii) The public office or the person responsible for the 1081
public records promised to permit the relator to inspect or 1082
receive copies of the public records requested within a 1083
specified period of time but failed to fulfill that promise 1084
within that specified period of time. 1085

(iii) The public office or the person responsible for the 1086
public records acted in bad faith when the office or person 1087
voluntarily made the public records available to the relator for 1088
the first time after the relator commenced the mandamus action, 1089
but before the court issued any order concluding whether or not 1090
the public office or person was required to comply with division 1091
(B) of this section. No discovery may be conducted on the issue 1092
of the alleged bad faith of the public office or person 1093
responsible for the public records. This division shall not be 1094
construed as creating a presumption that the public office or 1095
the person responsible for the public records acted in bad faith 1096
when the office or person voluntarily made the public records 1097

available to the relator for the first time after the relator 1098
commenced the mandamus action, but before the court issued any 1099
order described in this division. 1100

(c) The court shall not award attorney's fees to the 1101
relator if the court determines both of the following: 1102

(i) That, based on the ordinary application of statutory 1103
law and case law as it existed at the time of the conduct or 1104
threatened conduct of the public office or person responsible 1105
for the requested public records that allegedly constitutes a 1106
failure to comply with an obligation in accordance with division 1107
(B) of this section and that was the basis of the mandamus 1108
action, a well-informed public office or person responsible for 1109
the requested public records reasonably would believe that the 1110
conduct or threatened conduct of the public office or person 1111
responsible for the requested public records did not constitute 1112
a failure to comply with an obligation in accordance with 1113
division (B) of this section; 1114

(ii) That a well-informed public office or person 1115
responsible for the requested public records reasonably would 1116
believe that the conduct or threatened conduct of the public 1117
office or person responsible for the requested public records 1118
would serve the public policy that underlies the authority that 1119
is asserted as permitting that conduct or threatened conduct. 1120

(4) All of the following apply to any award of reasonable 1121
attorney's fees awarded under division (C) (3) (b) of this 1122
section: 1123

(a) The fees shall be construed as remedial and not 1124
punitive. 1125

(b) The fees awarded shall not exceed the total of the 1126

reasonable attorney's fees incurred before the public record was 1127
made available to the relator and the fees described in division 1128
(C) (4) (c) of this section. 1129

(c) Reasonable attorney's fees shall include reasonable 1130
fees incurred to produce proof of the reasonableness and amount 1131
of the fees and to otherwise litigate entitlement to the fees. 1132

(d) The court may reduce the amount of fees awarded if the 1133
court determines that, given the factual circumstances involved 1134
with the specific public records request, an alternative means 1135
should have been pursued to more effectively and efficiently 1136
resolve the dispute that was subject to the mandamus action 1137
filed under division (C) (1) of this section. 1138

(5) If the court does not issue a writ of mandamus under 1139
division (C) of this section and the court determines at that 1140
time that the bringing of the mandamus action was frivolous 1141
conduct as defined in division (A) of section 2323.51 of the 1142
Revised Code, the court may award to the public office all court 1143
costs, expenses, and reasonable attorney's fees, as determined 1144
by the court. 1145

(D) Chapter 1347. of the Revised Code does not limit the 1146
provisions of this section. 1147

(E) (1) To ensure that all employees of public offices are 1148
appropriately educated about a public office's obligations under 1149
division (B) of this section, all elected officials or their 1150
appropriate designees shall attend training approved by the 1151
attorney general as provided in section 109.43 of the Revised 1152
Code. A future official may satisfy the requirements of this 1153
division by attending the training before taking office, 1154
provided that the future official may not send a designee in the 1155

future official's place. 1156

(2) All public offices shall adopt a public records policy 1157
in compliance with this section for responding to public records 1158
requests. In adopting a public records policy under this 1159
division, a public office may obtain guidance from the model 1160
public records policy developed and provided to the public 1161
office by the attorney general under section 109.43 of the 1162
Revised Code. Except as otherwise provided in this section, the 1163
policy may not limit the number of public records that the 1164
public office will make available to a single person, may not 1165
limit the number of public records that it will make available 1166
during a fixed period of time, and may not establish a fixed 1167
period of time before it will respond to a request for 1168
inspection or copying of public records, unless that period is 1169
less than eight hours. 1170

The public office shall distribute the public records 1171
policy adopted by the public office under this division to the 1172
employee of the public office who is the records custodian or 1173
records manager or otherwise has custody of the records of that 1174
office. The public office shall require that employee to 1175
acknowledge receipt of the copy of the public records policy. 1176
The public office shall create a poster that describes its 1177
public records policy and shall post the poster in a conspicuous 1178
place in the public office and in all locations where the public 1179
office has branch offices. The public office may post its public 1180
records policy on the internet web site of the public office if 1181
the public office maintains an internet web site. A public 1182
office that has established a manual or handbook of its general 1183
policies and procedures for all employees of the public office 1184
shall include the public records policy of the public office in 1185
the manual or handbook. 1186

(F) (1) The bureau of motor vehicles may adopt rules 1187
pursuant to Chapter 119. of the Revised Code to reasonably limit 1188
the number of bulk commercial special extraction requests made 1189
by a person for the same records or for updated records during a 1190
calendar year. The rules may include provisions for charges to 1191
be made for bulk commercial special extraction requests for the 1192
actual cost of the bureau, plus special extraction costs, plus 1193
ten per cent. The bureau may charge for expenses for redacting 1194
information, the release of which is prohibited by law. 1195

(2) As used in division (F) (1) of this section: 1196

(a) "Actual cost" means the cost of depleted supplies, 1197
records storage media costs, actual mailing and alternative 1198
delivery costs, or other transmitting costs, and any direct 1199
equipment operating and maintenance costs, including actual 1200
costs paid to private contractors for copying services. 1201

(b) "Bulk commercial special extraction request" means a 1202
request for copies of a record for information in a format other 1203
than the format already available, or information that cannot be 1204
extracted without examination of all items in a records series, 1205
class of records, or database by a person who intends to use or 1206
forward the copies for surveys, marketing, solicitation, or 1207
resale for commercial purposes. "Bulk commercial special 1208
extraction request" does not include a request by a person who 1209
gives assurance to the bureau that the person making the request 1210
does not intend to use or forward the requested copies for 1211
surveys, marketing, solicitation, or resale for commercial 1212
purposes. 1213

(c) "Commercial" means profit-seeking production, buying, 1214
or selling of any good, service, or other product. 1215

(d) "Special extraction costs" means the cost of the time 1216
spent by the lowest paid employee competent to perform the task, 1217
the actual amount paid to outside private contractors employed 1218
by the bureau, or the actual cost incurred to create computer 1219
programs to make the special extraction. "Special extraction 1220
costs" include any charges paid to a public agency for computer 1221
or records services. 1222

(3) For purposes of divisions (F) (1) and (2) of this 1223
section, "surveys, marketing, solicitation, or resale for 1224
commercial purposes" shall be narrowly construed and does not 1225
include reporting or gathering news, reporting or gathering 1226
information to assist citizen oversight or understanding of the 1227
operation or activities of government, or nonprofit educational 1228
research. 1229

(G) A request by a defendant, counsel of a defendant, or 1230
any agent of a defendant in a criminal action that public 1231
records related to that action be made available under this 1232
section shall be considered a demand for discovery pursuant to 1233
the Criminal Rules, except to the extent that the Criminal Rules 1234
plainly indicate a contrary intent. The defendant, counsel of 1235
the defendant, or agent of the defendant making a request under 1236
this division shall serve a copy of the request on the 1237
prosecuting attorney, director of law, or other chief legal 1238
officer responsible for prosecuting the action. 1239

(H) (1) Any portion of a body-worn camera or dashboard 1240
camera recording described in divisions (A) (17) (b) to (h) of 1241
this section may be released by consent of the subject of the 1242
recording or a representative of that person, as specified in 1243
those divisions, only if either of the following applies: 1244

(a) The recording will not be used in connection with any 1245

probable or pending criminal proceedings; 1246

(b) The recording has been used in connection with a 1247
criminal proceeding that was dismissed or for which a judgment 1248
has been entered pursuant to Rule 32 of the Rules of Criminal 1249
Procedure, and will not be used again in connection with any 1250
probable or pending criminal proceedings. 1251

(2) If a public office denies a request to release a 1252
restricted portion of a body-worn camera or dashboard camera 1253
recording, as defined in division (A) (17) of this section, any 1254
person may file a mandamus action pursuant to this section or a 1255
complaint with the clerk of the court of claims pursuant to 1256
section 2743.75 of the Revised Code, requesting the court to 1257
order the release of all or portions of the recording. If the 1258
court considering the request determines that the filing 1259
articulates by clear and convincing evidence that the public 1260
interest in the recording substantially outweighs privacy 1261
interests and other interests asserted to deny release, the 1262
court shall order the public office to release the recording. 1263

Sec. 307.631. (A) A board of county commissioners may 1264
appoint a health commissioner of the board of health of a city 1265
or general health district that is entirely or partially located 1266
in the county in which the board of county commissioners is 1267
located to establish a domestic violence fatality review board 1268
to review the deaths of individuals over eighteen years of age 1269
by domestic violence that occurred in the county. 1270

(B) The boards of county commissioners of two or more 1271
counties may, by adopting a joint resolution passed by a 1272
majority of the members of each participating board of county 1273
commissioners, create a regional domestic violence fatality 1274
review board to review the deaths of individuals over eighteen 1275

years of age by domestic violence that occurred in the 1276
participating counties. The joint resolution shall appoint, for 1277
each county participating as part of the regional review board, 1278
one health commissioner from a board of health of a city or 1279
general health district located at least in part in that county. 1280
The health commissioners appointed shall select one of their 1281
number as the health commissioner to establish the regional 1282
review board. 1283

(C) In any county that, on the effective date of this 1284
section, has a body that is acting as a domestic violence 1285
fatality review board and is comprised of the members described 1286
in division (A) (1) of section 307.632 of the Revised Code, 1287
including a public health official or designee, the board of 1288
county commissioners of that county, in lieu of having a health 1289
commissioner establish a domestic violence fatality review 1290
board, may appoint that body to function as the domestic 1291
violence fatality review board for the county. The body shall 1292
have the same duties, obligations, and protections as a domestic 1293
violence fatality review board appointed by a health 1294
commissioner. 1295

Sec. 307.632. (A) (1) If a health commissioner establishes 1296
a domestic violence fatality review board as described in 1297
division (A) of section 307.631 of the Revised Code, the 1298
commissioner shall select the following to serve on the review 1299
board: 1300

(a) The county coroner or designee; 1301

(b) The chief of police of a police department in the 1302
county or the county sheriff or a designee of the chief or 1303
sheriff; 1304

<u>(c) A public health official or designee;</u>	1305
<u>(d) The county prosecutor or designee;</u>	1306
<u>(e) The executive director of a public children services agency or designee;</u>	1307 1308
<u>(f) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery with expertise in domestic violence;</u>	1309 1310 1311
<u>(g) An individual representing a domestic violence shelter or with experience advocating for domestic violence victims;</u>	1312 1313
<u>(h) An individual representing a domestic violence perpetrator treatment program;</u>	1314 1315
<u>(i) A county corrections official or designee;</u>	1316
<u>(j) An individual representing school teachers, guidance counselors, or student health services staff;</u>	1317 1318
<u>(k) An individual representing judges or court administrators.</u>	1319 1320
<u>(2) If a health commissioner establishes a domestic violence fatality review board as described in division (B) of section 307.631 of the Revised Code, the commissioner shall select the following to serve on the review board:</u>	1321 1322 1323 1324
<u>(a) A county coroner or designee;</u>	1325
<u>(b) The chief of police of a police department or a sheriff or a designee of the chief or sheriff;</u>	1326 1327
<u>(c) A public health official or designee;</u>	1328
<u>(d) A county prosecutor or designee;</u>	1329
<u>(e) The executive director of a public children services</u>	1330

agency or designee; 1331

(f) A physician authorized under Chapter 4731. of the 1332
Revised Code to practice medicine and surgery or osteopathic 1333
medicine and surgery with expertise in domestic violence; 1334

(g) An individual representing a domestic violence shelter 1335
or with experience advocating for domestic violence victims; 1336

(h) An individual representing a domestic violence 1337
perpetrator treatment program; 1338

(i) A county corrections official or designee; 1339

(j) An individual representing school teachers, guidance 1340
counselors, or student health services staff; 1341

(k) An individual representing judges or court 1342
administrators. 1343

The members described in divisions (A) (2) (a), (b), (c), 1344
(d), (i), and (k) of this section shall be representatives from 1345
the most populous county served by the board. 1346

(B) The majority of the members of a review board may 1347
invite additional members to serve on the board. The additional 1348
members invited under this division shall serve for a period of 1349
time determined by a majority of the members described in 1350
division (A) of this section. Each additional member shall have 1351
the same authority, duties, and responsibilities as members 1352
described in division (A) of this section. 1353

(C) A vacancy in a domestic violence review board shall be 1354
filled in the same manner as the original appointment. If the 1355
health commissioner who made the original appointment as 1356
described in division (A) of this section is no longer serving 1357
in that capacity, a successor of the commissioner shall fill the 1358

vacancy. 1359

(D) A domestic violence fatality review board member shall 1360
not receive any compensation for, and shall not be paid for any 1361
expenses incurred pursuant to, fulfilling the member's duties on 1362
the board unless compensation for, or payment for expenses 1363
incurred pursuant to, those duties is received pursuant to a 1364
member's regular employment. 1365

(E) No person shall serve as a member of a domestic 1366
violence fatality review board without signing a statement 1367
acknowledging the provisions of section 307.639 of the Revised 1368
Code. 1369

Sec. 307.633. (A) If a domestic violence fatality review 1370
board is established under section 307.631 of the Revised Code, 1371
the board members shall select, by majority vote, a member of 1372
the board to serve as the chairperson of the review board. 1373

(B) The chairperson of the review board shall be 1374
responsible for all of the following: 1375

(1) Convening board meetings; 1376

(2) Notifying members of board meetings; 1377

(3) Providing members with a list of fatalities to be 1378
reviewed during a board meeting; 1379

(4) Ensuring that the review board complies with the 1380
procedure for conducting reviews of deaths established in rules 1381
adopted under section 3701.0410 of the Revised Code. 1382

Sec. 307.634. The purpose of a domestic violence fatality 1383
review board established under section 307.631 of the Revised 1384
Code is to decrease the incidence of deaths occurring as a 1385
result of domestic violence by doing all of the following: 1386

(A) Promoting cooperation, collaboration, and communication between all groups, professions, agencies, or entities engaged in the prevention of, and education about, domestic violence; 1387
1388
1389
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(B) Maintaining a comprehensive database of all deaths by domestic violence that occur in the county or region served by the review board in order to develop an understanding of the causes and incidence of those deaths; 1391
1392
1393
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(C) Recommending and developing plans for implementing local service and program changes and changes to the groups, professions, agencies, or entities that serve local residents that might prevent deaths by domestic violence; 1395
1396
1397
1398

(D) Providing the department of health with aggregate data, trends, and patterns concerning deaths by domestic violence. 1399
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Sec. 307.635. A domestic violence fatality review board may not conduct a review of a death while an investigation of the death or prosecution of a person for causing the death is pending unless the prosecuting attorney agrees to allow the review. The law enforcement agency conducting the criminal investigation, on the conclusion of the investigation, and the prosecuting attorney prosecuting the case, on the conclusion of the prosecution, shall notify the chairperson of the review board of the conclusion. 1402
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Sec. 307.636. (A) A domestic violence fatality review board shall establish a system for collecting and maintaining information necessary for the review of deaths by domestic violence in the county or region. In an effort to ensure confidentiality, each board shall do all of the following: 1411
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<u>(1) Maintain all records in a secure location;</u>	1416
<u>(2) Develop security measures to prevent unauthorized</u>	1417
<u>access to records containing information that could reasonably</u>	1418
<u>identify any person;</u>	1419
<u>(3) Develop a system for storing, processing, indexing,</u>	1420
<u>retrieving, and destroying information obtained in the course of</u>	1421
<u>reviewing a death.</u>	1422
<u>(B) For each death reviewed by a board, the board shall</u>	1423
<u>collect all of the following:</u>	1424
<u>(1) Demographic information of the deceased and</u>	1425
<u>perpetrator, including age, sex, race, and ethnicity;</u>	1426
<u>(2) The year in which the death occurred;</u>	1427
<u>(3) The geographic location of the death;</u>	1428
<u>(4) The cause of death;</u>	1429
<u>(5) Any factors contributing to the death;</u>	1430
<u>(6) Any other information the board considers relevant.</u>	1431
<u>(C) By the first day of April of each year, the person</u>	1432
<u>convening a domestic violence fatality review board shall</u>	1433
<u>prepare and submit to the department of health in the manner and</u>	1434
<u>format prescribed by the department a report that includes all</u>	1435
<u>of the following information for the previous calendar year:</u>	1436
<u>(1) The total number of deaths by domestic violence in the</u>	1437
<u>county or region;</u>	1438
<u>(2) The total number of deaths by domestic violence</u>	1439
<u>reviewed by the board;</u>	1440
<u>(3) A summary of demographic information for the deaths</u>	1441

reviewed, including age, sex, race, and ethnicity of both 1442
deceased and perpetrators; 1443

(4) A summary of any trends or patterns identified by the 1444
board. 1445

The report shall specify the number of deaths by domestic 1446
violence that were not reviewed during the previous calendar 1447
year. 1448

The report shall include recommendations for actions that 1449
might prevent other deaths, as well as any other information the 1450
review board determines should be included. 1451

(D) Reports prepared under division (C) of this section 1452
shall be considered public records under section 149.43 of the 1453
Revised Code. 1454

Sec. 307.637. (A) (1) Notwithstanding section 3701.17 and 1455
any other section of the Revised Code pertaining to 1456
confidentiality, on the request of the domestic violence 1457
fatality review board, any individual, law enforcement agency, 1458
or other public or private entity that provided services to any 1459
of the following shall submit to the review board a summary 1460
sheet of information: 1461

(a) A person whose death is being reviewed by a domestic 1462
violence fatality review board; 1463

(b) A person who caused the death of a person whose death 1464
is being reviewed by a domestic violence fatality review board; 1465

(c) A child of a person whose death is being reviewed by a 1466
domestic violence fatality review board. 1467

(2) With respect to a request made to a health care 1468
entity, the summary sheet shall contain only information 1469

available and reasonably drawn from the person's or child's 1470
medical record created by the health care entity. 1471

(3) With respect to a request made to any other individual 1472
or entity, the summary sheet shall contain only information 1473
available and reasonably drawn from any record involving the 1474
person or child to which the individual or entity has access. 1475

(4) On the request of the review board, an individual or 1476
entity may, at the individual or entity's discretion, make any 1477
additional information, documents, or reports available to the 1478
review board. 1479

(B) Notwithstanding division (A) of this section, no 1480
person, entity, law enforcement agency, or prosecuting attorney 1481
shall provide any information to a domestic violence fatality 1482
review board while an investigation of the death or prosecution 1483
of a person for causing the death is pending unless the 1484
prosecuting attorney has agreed pursuant to section 307.635 of 1485
the Revised Code to allow review of the death. 1486

Sec. 307.638. (A) Except as provided in division (B) of 1487
this section, members of a domestic violence fatality review 1488
board and their agents or employees, if any, are immune from 1489
claims and are not subject to any suits, liability, damages, or 1490
any other recourse, civil or criminal, arising from any act, 1491
proceeding, decision, or determination undertaken or performed 1492
or recommendation made by the review board. 1493

No organization, institution, or person furnishing 1494
information, data, testimony, reports, or records to the 1495
domestic violence fatality review board is civilly or criminally 1496
liable or subject to any other recourse for providing the 1497
information. 1498

(B) The immunity from criminal liability granted by this 1499
section does not extend to violations of division (E) of section 1500
307.632 of the Revised Code or division (B) of section 307.639 1501
of the Revised Code. 1502

Sec. 307.639. (A) Any information, document, or report 1503
presented to a domestic violence fatality review board, all 1504
statements made by review board members during meetings of the 1505
review board, all work products of the review board, and data 1506
submitted by the review board to the department of health, other 1507
than the report prepared pursuant to section 307.636 of the 1508
Revised Code, are confidential, are not public records open to 1509
public inspection and copying under section 149.43 of the 1510
Revised Code, and shall be used by the review board, its 1511
members, and the department of health only in the exercise of 1512
the proper functions of the review board and the department. 1513

(B) No member of a domestic violence fatality review board 1514
shall disclose any of the following, except in the exercise of 1515
the proper functions of the review board: 1516

(1) Information, documents, or reports presented to the 1517
board; 1518

(2) Work products of the review board or data submitted to 1519
the department of health other than reports prepared pursuant to 1520
division (C) of section 307.636 of the Revised Code. 1521

Sec. 307.99. (A) Whoever violates section 307.42 of the 1522
Revised Code shall be fined not less than twenty-five nor more 1523
than one hundred dollars for each offense. 1524

(B) Whoever violates section 307.43 of the Revised Code 1525
shall be fined not less than twenty-five nor more than two 1526
hundred dollars, and imprisoned not less than ten nor more than 1527

sixty days. 1528

(C) Whoever violates section 307.37 of the Revised Code, 1529
shall be fined not more than three hundred dollars. 1530

(D) Whoever violates division (C) (5) of section 307.97 of 1531
the Revised Code shall be fined not less than one hundred nor 1532
more than five hundred dollars. 1533

(E) Whoever violates any other subdivision of division (C) 1534
of section 307.97 of the Revised Code shall be imprisoned not 1535
more than six months or fined not more than one thousand 1536
dollars, or both. 1537

(F) Whoever violates division (E) of section 307.632 of 1538
the Revised Code or division (B) of section 307.639 of the 1539
Revised Code is guilty of a misdemeanor of the first degree. 1540

Sec. 3701.0410. The department of health shall adopt rules 1541
in accordance with Chapter 119. of the Revised Code establishing 1542
a procedure for county or regional domestic violence fatality 1543
review boards to follow in conducting a review of a death by 1544
domestic violence. The rules shall do all of the following: 1545

(A) Establish the format for the annual reports required 1546
by section 307.636 of the Revised Code; 1547

(B) Establish guidelines for a county or regional review 1548
board to follow in compiling statistics for annual reports so 1549
that the reports do not contain any information that would 1550
permit any person's identity to be ascertained from a report; 1551

(C) Establish guidelines for a county or regional review 1552
board to follow in creating and maintaining the comprehensive 1553
database of deaths by domestic violence that is required by 1554
section 307.634 of the Revised Code, including provisions 1555

establishing uniform record-keeping procedures; 1556

(D) Establish guidelines for reporting domestic violence 1557
fatality review data to the department of health, which must 1558
maintain the confidentiality of information that would permit a 1559
person's identity to be ascertained; 1560

(E) Establish guidelines, materials, and training to help 1561
educate members of county or regional review boards about the 1562
purpose of the review process and the confidentiality of the 1563
information described in section 307.639 of the Revised Code. 1564

Sec. 4731.22. (A) The state medical board, by an 1565
affirmative vote of not fewer than six of its members, may 1566
limit, revoke, or suspend a license or certificate to practice 1567
or certificate to recommend, refuse to grant a license or 1568
certificate, refuse to renew a license or certificate, refuse to 1569
reinstate a license or certificate, or reprimand or place on 1570
probation the holder of a license or certificate if the 1571
individual applying for or holding the license or certificate is 1572
found by the board to have committed fraud during the 1573
administration of the examination for a license or certificate 1574
to practice or to have committed fraud, misrepresentation, or 1575
deception in applying for, renewing, or securing any license or 1576
certificate to practice or certificate to recommend issued by 1577
the board. 1578

(B) The board, by an affirmative vote of not fewer than 1579
six members, shall, to the extent permitted by law, limit, 1580
revoke, or suspend a license or certificate to practice or 1581
certificate to recommend, refuse to issue a license or 1582
certificate, refuse to renew a license or certificate, refuse to 1583
reinstate a license or certificate, or reprimand or place on 1584
probation the holder of a license or certificate for one or more 1585

of the following reasons: 1586

(1) Permitting one's name or one's license or certificate 1587
to practice to be used by a person, group, or corporation when 1588
the individual concerned is not actually directing the treatment 1589
given; 1590

(2) Failure to maintain minimal standards applicable to 1591
the selection or administration of drugs, or failure to employ 1592
acceptable scientific methods in the selection of drugs or other 1593
modalities for treatment of disease; 1594

(3) Except as provided in section 4731.97 of the Revised 1595
Code, selling, giving away, personally furnishing, prescribing, 1596
or administering drugs for other than legal and legitimate 1597
therapeutic purposes or a plea of guilty to, a judicial finding 1598
of guilt of, or a judicial finding of eligibility for 1599
intervention in lieu of conviction of, a violation of any 1600
federal or state law regulating the possession, distribution, or 1601
use of any drug; 1602

(4) Willfully betraying a professional confidence. 1603

For purposes of this division, "willfully betraying a 1604
professional confidence" does not include providing any 1605
information, documents, or reports under sections 307.621 to 1606
307.629 of the Revised Code to a child fatality review board; 1607
does not include providing any information, documents, or 1608
reports under sections 307.631 to 307.639 of the Revised Code to 1609
a domestic violence fatality review board; does not include 1610
providing any information, documents, or reports to the director 1611
of health pursuant to guidelines established under section 1612
3701.70 of the Revised Code; does not include written notice to 1613
a mental health professional under section 4731.62 of the 1614

Revised Code; and does not include the making of a report of an 1615
employee's use of a drug of abuse, or a report of a condition of 1616
an employee other than one involving the use of a drug of abuse, 1617
to the employer of the employee as described in division (B) of 1618
section 2305.33 of the Revised Code. Nothing in this division 1619
affects the immunity from civil liability conferred by section 1620
2305.33 or 4731.62 of the Revised Code upon a physician who 1621
makes a report in accordance with section 2305.33 or notifies a 1622
mental health professional in accordance with section 4731.62 of 1623
the Revised Code. As used in this division, "employee," 1624
"employer," and "physician" have the same meanings as in section 1625
2305.33 of the Revised Code. 1626

(5) Making a false, fraudulent, deceptive, or misleading 1627
statement in the solicitation of or advertising for patients; in 1628
relation to the practice of medicine and surgery, osteopathic 1629
medicine and surgery, podiatric medicine and surgery, or a 1630
limited branch of medicine; or in securing or attempting to 1631
secure any license or certificate to practice issued by the 1632
board. 1633

As used in this division, "false, fraudulent, deceptive, 1634
or misleading statement" means a statement that includes a 1635
misrepresentation of fact, is likely to mislead or deceive 1636
because of a failure to disclose material facts, is intended or 1637
is likely to create false or unjustified expectations of 1638
favorable results, or includes representations or implications 1639
that in reasonable probability will cause an ordinarily prudent 1640
person to misunderstand or be deceived. 1641

(6) A departure from, or the failure to conform to, 1642
minimal standards of care of similar practitioners under the 1643
same or similar circumstances, whether or not actual injury to a 1644

patient is established; 1645

(7) Representing, with the purpose of obtaining 1646
compensation or other advantage as personal gain or for any 1647
other person, that an incurable disease or injury, or other 1648
incurable condition, can be permanently cured; 1649

(8) The obtaining of, or attempting to obtain, money or 1650
anything of value by fraudulent misrepresentations in the course 1651
of practice; 1652

(9) A plea of guilty to, a judicial finding of guilt of, 1653
or a judicial finding of eligibility for intervention in lieu of 1654
conviction for, a felony; 1655

(10) Commission of an act that constitutes a felony in 1656
this state, regardless of the jurisdiction in which the act was 1657
committed; 1658

(11) A plea of guilty to, a judicial finding of guilt of, 1659
or a judicial finding of eligibility for intervention in lieu of 1660
conviction for, a misdemeanor committed in the course of 1661
practice; 1662

(12) Commission of an act in the course of practice that 1663
constitutes a misdemeanor in this state, regardless of the 1664
jurisdiction in which the act was committed; 1665

(13) A plea of guilty to, a judicial finding of guilt of, 1666
or a judicial finding of eligibility for intervention in lieu of 1667
conviction for, a misdemeanor involving moral turpitude; 1668

(14) Commission of an act involving moral turpitude that 1669
constitutes a misdemeanor in this state, regardless of the 1670
jurisdiction in which the act was committed; 1671

(15) Violation of the conditions of limitation placed by 1672

the board upon a license or certificate to practice; 1673

(16) Failure to pay license renewal fees specified in this 1674
chapter; 1675

(17) Except as authorized in section 4731.31 of the 1676
Revised Code, engaging in the division of fees for referral of 1677
patients, or the receiving of a thing of value in return for a 1678
specific referral of a patient to utilize a particular service 1679
or business; 1680

(18) Subject to section 4731.226 of the Revised Code, 1681
violation of any provision of a code of ethics of the American 1682
medical association, the American osteopathic association, the 1683
American podiatric medical association, or any other national 1684
professional organizations that the board specifies by rule. The 1685
state medical board shall obtain and keep on file current copies 1686
of the codes of ethics of the various national professional 1687
organizations. The individual whose license or certificate is 1688
being suspended or revoked shall not be found to have violated 1689
any provision of a code of ethics of an organization not 1690
appropriate to the individual's profession. 1691

For purposes of this division, a "provision of a code of 1692
ethics of a national professional organization" does not include 1693
any provision that would preclude the making of a report by a 1694
physician of an employee's use of a drug of abuse, or of a 1695
condition of an employee other than one involving the use of a 1696
drug of abuse, to the employer of the employee as described in 1697
division (B) of section 2305.33 of the Revised Code. Nothing in 1698
this division affects the immunity from civil liability 1699
conferred by that section upon a physician who makes either type 1700
of report in accordance with division (B) of that section. As 1701
used in this division, "employee," "employer," and "physician" 1702

have the same meanings as in section 2305.33 of the Revised Code. 1703
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(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. 1705
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In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter 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 1710
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accepts the privilege of practicing in this state and, by so 1734
doing, shall be deemed to have given consent to submit to a 1735
mental or physical examination when directed to do so in writing 1736
by the board, and to have waived all objections to the 1737
admissibility of testimony or examination reports that 1738
constitute a privileged communication. 1739

(20) Except as provided in division (F) (1) (b) of section 1740
4731.282 of the Revised Code or when civil penalties are imposed 1741
under section 4731.225 of the Revised Code, and subject to 1742
section 4731.226 of the Revised Code, violating or attempting to 1743
violate, directly or indirectly, or assisting in or abetting the 1744
violation of, or conspiring to violate, any provisions of this 1745
chapter or any rule promulgated by the board. 1746

This division does not apply to a violation or attempted 1747
violation of, assisting in or abetting the violation of, or a 1748
conspiracy to violate, any provision of this chapter or any rule 1749
adopted by the board that would preclude the making of a report 1750
by a physician of an employee's use of a drug of abuse, or of a 1751
condition of an employee other than one involving the use of a 1752
drug of abuse, to the employer of the employee as described in 1753
division (B) of section 2305.33 of the Revised Code. Nothing in 1754
this division affects the immunity from civil liability 1755
conferred by that section upon a physician who makes either type 1756
of report in accordance with division (B) of that section. As 1757
used in this division, "employee," "employer," and "physician" 1758
have the same meanings as in section 2305.33 of the Revised 1759
Code. 1760

(21) The violation of section 3701.79 of the Revised Code 1761
or of any abortion rule adopted by the director of health 1762
pursuant to section 3701.341 of the Revised Code; 1763

(22) Any of the following actions taken by an agency 1764
responsible for authorizing, certifying, or regulating an 1765
individual to practice a health care occupation or provide 1766
health care services in this state or another jurisdiction, for 1767
any reason other than the nonpayment of fees: the limitation, 1768
revocation, or suspension of an individual's license to 1769
practice; acceptance of an individual's license surrender; 1770
denial of a license; refusal to renew or reinstate a license; 1771
imposition of probation; or issuance of an order of censure or 1772
other reprimand; 1773

(23) The violation of section 2919.12 of the Revised Code 1774
or the performance or inducement of an abortion upon a pregnant 1775
woman with actual knowledge that the conditions specified in 1776
division (B) of section 2317.56 of the Revised Code have not 1777
been satisfied or with a heedless indifference as to whether 1778
those conditions have been satisfied, unless an affirmative 1779
defense as specified in division (H) (2) of that section would 1780
apply in a civil action authorized by division (H) (1) of that 1781
section; 1782

(24) The revocation, suspension, restriction, reduction, 1783
or termination of clinical privileges by the United States 1784
department of defense or department of veterans affairs or the 1785
termination or suspension of a certificate of registration to 1786
prescribe drugs by the drug enforcement administration of the 1787
United States department of justice; 1788

(25) Termination or suspension from participation in the 1789
medicare or medicaid programs by the department of health and 1790
human services or other responsible agency; 1791

(26) Impairment of ability to practice according to 1792
acceptable and prevailing standards of care because of habitual 1793

or excessive use or abuse of drugs, alcohol, or other substances 1794
that impair ability to practice. 1795

For the purposes of this division, any individual 1796
authorized to practice by this chapter accepts the privilege of 1797
practicing in this state subject to supervision by the board. By 1798
filing an application for or holding a license or certificate to 1799
practice under this chapter, an individual shall be deemed to 1800
have given consent to submit to a mental or physical examination 1801
when ordered to do so by the board in writing, and to have 1802
waived all objections to the admissibility of testimony or 1803
examination reports that constitute privileged communications. 1804

If it has reason to believe that any individual authorized 1805
to practice by this chapter or any applicant for licensure or 1806
certification to practice suffers such impairment, the board may 1807
compel the individual to submit to a mental or physical 1808
examination, or both. The expense of the examination is the 1809
responsibility of the individual compelled to be examined. Any 1810
mental or physical examination required under this division 1811
shall be undertaken by a treatment provider or physician who is 1812
qualified to conduct the examination and who is chosen by the 1813
board. 1814

Failure to submit to a mental or physical examination 1815
ordered by the board constitutes an admission of the allegations 1816
against the individual unless the failure is due to 1817
circumstances beyond the individual's control, and a default and 1818
final order may be entered without the taking of testimony or 1819
presentation of evidence. If the board determines that the 1820
individual's ability to practice is impaired, the board shall 1821
suspend the individual's license or certificate or deny the 1822
individual's application and shall require the individual, as a 1823

condition for initial, continued, reinstated, or renewed 1824
licensure or certification to practice, to submit to treatment. 1825

Before being eligible to apply for reinstatement of a 1826
license or certificate suspended under this division, the 1827
impaired practitioner shall demonstrate to the board the ability 1828
to resume practice in compliance with acceptable and prevailing 1829
standards of care under the provisions of the practitioner's 1830
license or certificate. The demonstration shall include, but 1831
shall not be limited to, the following: 1832

(a) Certification from a treatment provider approved under 1833
section 4731.25 of the Revised Code that the individual has 1834
successfully completed any required inpatient treatment; 1835

(b) Evidence of continuing full compliance with an 1836
aftercare contract or consent agreement; 1837

(c) Two written reports indicating that the individual's 1838
ability to practice has been assessed and that the individual 1839
has been found capable of practicing according to acceptable and 1840
prevailing standards of care. The reports shall be made by 1841
individuals or providers approved by the board for making the 1842
assessments and shall describe the basis for their 1843
determination. 1844

The board may reinstate a license or certificate suspended 1845
under this division after that demonstration and after the 1846
individual has entered into a written consent agreement. 1847

When the impaired practitioner resumes practice, the board 1848
shall require continued monitoring of the individual. The 1849
monitoring shall include, but not be limited to, compliance with 1850
the written consent agreement entered into before reinstatement 1851
or with conditions imposed by board order after a hearing, and, 1852

upon termination of the consent agreement, submission to the 1853
board for at least two years of annual written progress reports 1854
made under penalty of perjury stating whether the individual has 1855
maintained sobriety. 1856

(27) A second or subsequent violation of section 4731.66 1857
or 4731.69 of the Revised Code; 1858

(28) Except as provided in division (N) of this section: 1859

(a) Waiving the payment of all or any part of a deductible 1860
or copayment that a patient, pursuant to a health insurance or 1861
health care policy, contract, or plan that covers the 1862
individual's services, otherwise would be required to pay if the 1863
waiver is used as an enticement to a patient or group of 1864
patients to receive health care services from that individual; 1865

(b) Advertising that the individual will waive the payment 1866
of all or any part of a deductible or copayment that a patient, 1867
pursuant to a health insurance or health care policy, contract, 1868
or plan that covers the individual's services, otherwise would 1869
be required to pay. 1870

(29) Failure to use universal blood and body fluid 1871
precautions established by rules adopted under section 4731.051 1872
of the Revised Code; 1873

(30) Failure to provide notice to, and receive 1874
acknowledgment of the notice from, a patient when required by 1875
section 4731.143 of the Revised Code prior to providing 1876
nonemergency professional services, or failure to maintain that 1877
notice in the patient's medical record; 1878

(31) Failure of a physician supervising a physician 1879
assistant to maintain supervision in accordance with the 1880
requirements of Chapter 4730. of the Revised Code and the rules 1881

adopted under that chapter;	1882
(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;	1883 1884 1885 1886 1887 1888 1889
(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;	1890 1891 1892
(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;	1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;	1904 1905 1906
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	1907 1908 1909
(37) Assisting suicide, as defined in section 3795.01 of	1910

the Revised Code;	1911
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1912 1913
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	1914 1915 1916
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	1917 1918 1919 1920
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	1921 1922 1923 1924
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	1925 1926 1927 1928
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	1929 1930 1931 1932
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	1933 1934 1935 1936 1937
(45) Practicing at a facility that is subject to licensure	1938

as a category III terminal distributor of dangerous drugs with a 1939
pain management clinic classification unless the person 1940
operating the facility has obtained and maintains the license 1941
with the classification; 1942

(46) Owning a facility that is subject to licensure as a 1943
category III terminal distributor of dangerous drugs with a pain 1944
management clinic classification unless the facility is licensed 1945
with the classification; 1946

(47) Failure to comply with any of the requirements 1947
regarding making or maintaining medical records or documents 1948
described in division (A) of section 2919.192, division (C) of 1949
section 2919.193, division (B) of section 2919.195, or division 1950
(A) of section 2919.196 of the Revised Code; 1951

(48) Failure to comply with the requirements in section 1952
3719.061 of the Revised Code before issuing for a minor a 1953
prescription for an opioid analgesic, as defined in section 1954
3719.01 of the Revised Code; 1955

(49) Failure to comply with the requirements of section 1956
4731.30 of the Revised Code or rules adopted under section 1957
4731.301 of the Revised Code when recommending treatment with 1958
medical marijuana; 1959

(50) Practicing at a facility, clinic, or other location 1960
that is subject to licensure as a category III terminal 1961
distributor of dangerous drugs with an office-based opioid 1962
treatment classification unless the person operating that place 1963
has obtained and maintains the license with the classification; 1964

(51) Owning a facility, clinic, or other location that is 1965
subject to licensure as a category III terminal distributor of 1966
dangerous drugs with an office-based opioid treatment 1967

classification unless that place is licensed with the 1968
classification; 1969

(52) A pattern of continuous or repeated violations of 1970
division (E) (2) or (3) of section 3963.02 of the Revised Code. 1971

(C) Disciplinary actions taken by the board under 1972
divisions (A) and (B) of this section shall be taken pursuant to 1973
an adjudication under Chapter 119. of the Revised Code, except 1974
that in lieu of an adjudication, the board may enter into a 1975
consent agreement with an individual to resolve an allegation of 1976
a violation of this chapter or any rule adopted under it. A 1977
consent agreement, when ratified by an affirmative vote of not 1978
fewer than six members of the board, shall constitute the 1979
findings and order of the board with respect to the matter 1980
addressed in the agreement. If the board refuses to ratify a 1981
consent agreement, the admissions and findings contained in the 1982
consent agreement shall be of no force or effect. 1983

A telephone conference call may be utilized for 1984
ratification of a consent agreement that revokes or suspends an 1985
individual's license or certificate to practice or certificate 1986
to recommend. The telephone conference call shall be considered 1987
a special meeting under division (F) of section 121.22 of the 1988
Revised Code. 1989

If the board takes disciplinary action against an 1990
individual under division (B) of this section for a second or 1991
subsequent plea of guilty to, or judicial finding of guilt of, a 1992
violation of section 2919.123 or 2919.124 of the Revised Code, 1993
the disciplinary action shall consist of a suspension of the 1994
individual's license or certificate to practice for a period of 1995
at least one year or, if determined appropriate by the board, a 1996
more serious sanction involving the individual's license or 1997

certificate to practice. Any consent agreement entered into 1998
under this division with an individual that pertains to a second 1999
or subsequent plea of guilty to, or judicial finding of guilt 2000
of, a violation of that section shall provide for a suspension 2001
of the individual's license or certificate to practice for a 2002
period of at least one year or, if determined appropriate by the 2003
board, a more serious sanction involving the individual's 2004
license or certificate to practice. 2005

(D) For purposes of divisions (B) (10), (12), and (14) of 2006
this section, the commission of the act may be established by a 2007
finding by the board, pursuant to an adjudication under Chapter 2008
119. of the Revised Code, that the individual committed the act. 2009
The board does not have jurisdiction under those divisions if 2010
the trial court renders a final judgment in the individual's 2011
favor and that judgment is based upon an adjudication on the 2012
merits. The board has jurisdiction under those divisions if the 2013
trial court issues an order of dismissal upon technical or 2014
procedural grounds. 2015

(E) The sealing of conviction records by any court shall 2016
have no effect upon a prior board order entered under this 2017
section or upon the board's jurisdiction to take action under 2018
this section if, based upon a plea of guilty, a judicial finding 2019
of guilt, or a judicial finding of eligibility for intervention 2020
in lieu of conviction, the board issued a notice of opportunity 2021
for a hearing prior to the court's order to seal the records. 2022
The board shall not be required to seal, destroy, redact, or 2023
otherwise modify its records to reflect the court's sealing of 2024
conviction records. 2025

(F) (1) The board shall investigate evidence that appears 2026
to show that a person has violated any provision of this chapter 2027

or any rule adopted under it. Any person may report to the board 2028
in a signed writing any information that the person may have 2029
that appears to show a violation of any provision of this 2030
chapter or any rule adopted under it. In the absence of bad 2031
faith, any person who reports information of that nature or who 2032
testifies before the board in any adjudication conducted under 2033
Chapter 119. of the Revised Code shall not be liable in damages 2034
in a civil action as a result of the report or testimony. Each 2035
complaint or allegation of a violation received by the board 2036
shall be assigned a case number and shall be recorded by the 2037
board. 2038

(2) Investigations of alleged violations of this chapter 2039
or any rule adopted under it shall be supervised by the 2040
supervising member elected by the board in accordance with 2041
section 4731.02 of the Revised Code and by the secretary as 2042
provided in section 4731.39 of the Revised Code. The president 2043
may designate another member of the board to supervise the 2044
investigation in place of the supervising member. No member of 2045
the board who supervises the investigation of a case shall 2046
participate in further adjudication of the case. 2047

(3) In investigating a possible violation of this chapter 2048
or any rule adopted under this chapter, or in conducting an 2049
inspection under division (E) of section 4731.054 of the Revised 2050
Code, the board may question witnesses, conduct interviews, 2051
administer oaths, order the taking of depositions, inspect and 2052
copy any books, accounts, papers, records, or documents, issue 2053
subpoenas, and compel the attendance of witnesses and production 2054
of books, accounts, papers, records, documents, and testimony, 2055
except that a subpoena for patient record information shall not 2056
be issued without consultation with the attorney general's 2057
office and approval of the secretary and supervising member of 2058

the board. 2059

(a) Before issuance of a subpoena for patient record 2060
information, the secretary and supervising member shall 2061
determine whether there is probable cause to believe that the 2062
complaint filed alleges a violation of this chapter or any rule 2063
adopted under it and that the records sought are relevant to the 2064
alleged violation and material to the investigation. The 2065
subpoena may apply only to records that cover a reasonable 2066
period of time surrounding the alleged violation. 2067

(b) On failure to comply with any subpoena issued by the 2068
board and after reasonable notice to the person being 2069
subpoenaed, the board may move for an order compelling the 2070
production of persons or records pursuant to the Rules of Civil 2071
Procedure. 2072

(c) A subpoena issued by the board may be served by a 2073
sheriff, the sheriff's deputy, or a board employee or agent 2074
designated by the board. Service of a subpoena issued by the 2075
board may be made by delivering a copy of the subpoena to the 2076
person named therein, reading it to the person, or leaving it at 2077
the person's usual place of residence, usual place of business, 2078
or address on file with the board. When serving a subpoena to an 2079
applicant for or the holder of a license or certificate issued 2080
under this chapter, service of the subpoena may be made by 2081
certified mail, return receipt requested, and the subpoena shall 2082
be deemed served on the date delivery is made or the date the 2083
person refuses to accept delivery. If the person being served 2084
refuses to accept the subpoena or is not located, service may be 2085
made to an attorney who notifies the board that the attorney is 2086
representing the person. 2087

(d) A sheriff's deputy who serves a subpoena shall receive 2088

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 2119
the Revised Code or procedure of the agency or board that 2120
applies when it is dealing with other information in its 2121
possession. In a judicial proceeding, the information may be 2122
admitted into evidence only in accordance with the Rules of 2123
Evidence, but the court shall require that appropriate measures 2124
are taken to ensure that confidentiality is maintained with 2125
respect to any part of the information that contains names or 2126
other identifying information about patients or complainants 2127
whose confidentiality was protected by the state medical board 2128
when the information was in the board's possession. Measures to 2129
ensure confidentiality that may be taken by the court include 2130
sealing its records or deleting specific information from its 2131
records. 2132

(6) On a quarterly basis, the board shall prepare a report 2133
that documents the disposition of all cases during the preceding 2134
three months. The report shall contain the following information 2135
for each case with which the board has completed its activities: 2136

(a) The case number assigned to the complaint or alleged 2137
violation; 2138

(b) The type of license or certificate to practice, if 2139
any, held by the individual against whom the complaint is 2140
directed; 2141

(c) A description of the allegations contained in the 2142
complaint; 2143

(d) The disposition of the case. 2144

The report shall state how many cases are still pending 2145
and shall be prepared in a manner that protects the identity of 2146
each person involved in each case. The report shall be a public 2147

record under section 149.43 of the Revised Code. 2148

(G) If the secretary and supervising member determine both 2149
of the following, they may recommend that the board suspend an 2150
individual's license or certificate to practice or certificate 2151
to recommend without a prior hearing: 2152

(1) That there is clear and convincing evidence that an 2153
individual has violated division (B) of this section; 2154

(2) That the individual's continued practice presents a 2155
danger of immediate and serious harm to the public. 2156

Written allegations shall be prepared for consideration by 2157
the board. The board, upon review of those allegations and by an 2158
affirmative vote of not fewer than six of its members, excluding 2159
the secretary and supervising member, may suspend a license or 2160
certificate without a prior hearing. A telephone conference call 2161
may be utilized for reviewing the allegations and taking the 2162
vote on the summary suspension. 2163

The board shall issue a written order of suspension by 2164
certified mail or in person in accordance with section 119.07 of 2165
the Revised Code. The order shall not be subject to suspension 2166
by the court during pendency of any appeal filed under section 2167
119.12 of the Revised Code. If the individual subject to the 2168
summary suspension requests an adjudicatory hearing by the 2169
board, the date set for the hearing shall be within fifteen 2170
days, but not earlier than seven days, after the individual 2171
requests the hearing, unless otherwise agreed to by both the 2172
board and the individual. 2173

Any summary suspension imposed under this division shall 2174
remain in effect, unless reversed on appeal, until a final 2175
adjudicative order issued by the board pursuant to this section 2176

and Chapter 119. of the Revised Code becomes effective. The 2177
board shall issue its final adjudicative order within seventy- 2178
five days after completion of its hearing. A failure to issue 2179
the order within seventy-five days shall result in dissolution 2180
of the summary suspension order but shall not invalidate any 2181
subsequent, final adjudicative order. 2182

(H) If the board takes action under division (B) (9), (11), 2183
or (13) of this section and the judicial finding of guilt, 2184
guilty plea, or judicial finding of eligibility for intervention 2185
in lieu of conviction is overturned on appeal, upon exhaustion 2186
of the criminal appeal, a petition for reconsideration of the 2187
order may be filed with the board along with appropriate court 2188
documents. Upon receipt of a petition of that nature and 2189
supporting court documents, the board shall reinstate the 2190
individual's license or certificate to practice. The board may 2191
then hold an adjudication under Chapter 119. of the Revised Code 2192
to determine whether the individual committed the act in 2193
question. Notice of an opportunity for a hearing shall be given 2194
in accordance with Chapter 119. of the Revised Code. If the 2195
board finds, pursuant to an adjudication held under this 2196
division, that the individual committed the act or if no hearing 2197
is requested, the board may order any of the sanctions 2198
identified under division (B) of this section. 2199

(I) The license or certificate to practice issued to an 2200
individual under this chapter and the individual's practice in 2201
this state are automatically suspended as of the date of the 2202
individual's second or subsequent plea of guilty to, or judicial 2203
finding of guilt of, a violation of section 2919.123 or 2919.124 2204
of the Revised Code. In addition, the license or certificate to 2205
practice or certificate to recommend issued to an individual 2206
under this chapter and the individual's practice in this state 2207

are automatically suspended as of the date the individual pleads 2208
guilty to, is found by a judge or jury to be guilty of, or is 2209
subject to a judicial finding of eligibility for intervention in 2210
lieu of conviction in this state or treatment or intervention in 2211
lieu of conviction in another jurisdiction for any of the 2212
following criminal offenses in this state or a substantially 2213
equivalent criminal offense in another jurisdiction: aggravated 2214
murder, murder, voluntary manslaughter, felonious assault, 2215
kidnapping, rape, sexual battery, gross sexual imposition, 2216
aggravated arson, aggravated robbery, or aggravated burglary. 2217
Continued practice after suspension shall be considered 2218
practicing without a license or certificate. 2219

The board shall notify the individual subject to the 2220
suspension by certified mail or in person in accordance with 2221
section 119.07 of the Revised Code. If an individual whose 2222
license or certificate is automatically suspended under this 2223
division fails to make a timely request for an adjudication 2224
under Chapter 119. of the Revised Code, the board shall do 2225
whichever of the following is applicable: 2226

(1) If the automatic suspension under this division is for 2227
a second or subsequent plea of guilty to, or judicial finding of 2228
guilt of, a violation of section 2919.123 or 2919.124 of the 2229
Revised Code, the board shall enter an order suspending the 2230
individual's license or certificate to practice for a period of 2231
at least one year or, if determined appropriate by the board, 2232
imposing a more serious sanction involving the individual's 2233
license or certificate to practice. 2234

(2) In all circumstances in which division (I)(1) of this 2235
section does not apply, enter a final order permanently revoking 2236
the individual's license or certificate to practice. 2237

(J) If the board is required by Chapter 119. of the 2238
Revised Code to give notice of an opportunity for a hearing and 2239
if the individual subject to the notice does not timely request 2240
a hearing in accordance with section 119.07 of the Revised Code, 2241
the board is not required to hold a hearing, but may adopt, by 2242
an affirmative vote of not fewer than six of its members, a 2243
final order that contains the board's findings. In that final 2244
order, the board may order any of the sanctions identified under 2245
division (A) or (B) of this section. 2246

(K) Any action taken by the board under division (B) of 2247
this section resulting in a suspension from practice shall be 2248
accompanied by a written statement of the conditions under which 2249
the individual's license or certificate to practice may be 2250
reinstated. The board shall adopt rules governing conditions to 2251
be imposed for reinstatement. Reinstatement of a license or 2252
certificate suspended pursuant to division (B) of this section 2253
requires an affirmative vote of not fewer than six members of 2254
the board. 2255

(L) When the board refuses to grant or issue a license or 2256
certificate to practice to an applicant, revokes an individual's 2257
license or certificate to practice, refuses to renew an 2258
individual's license or certificate to practice, or refuses to 2259
reinstatement an individual's license or certificate to practice, 2260
the board may specify that its action is permanent. An 2261
individual subject to a permanent action taken by the board is 2262
forever thereafter ineligible to hold a license or certificate 2263
to practice and the board shall not accept an application for 2264
reinstatement of the license or certificate or for issuance of a 2265
new license or certificate. 2266

(M) Notwithstanding any other provision of the Revised 2267

Code, all of the following apply:	2268
(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.	2269 2270 2271 2272 2273 2274 2275 2276 2277
(2) An application for a license or certificate made under the provisions of this chapter may not be withdrawn without approval of the board.	2278 2279 2280
(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 shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.	2281 2282 2283 2284 2285 2286
(4) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or permanently revoked.	2287 2288 2289 2290
(N) Sanctions shall not be imposed under division (B) (28) of this section against any person who waives deductibles and copayments as follows:	2291 2292 2293
(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	2294 2295 2296

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.

(0) 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; 2326

(5) Adopt rules in accordance with Chapter 119. of the 2327
Revised Code to further implement the quality intervention 2328
program. 2329

An individual who participates in an individual 2330
educational program pursuant to this division shall pay the 2331
financial obligations arising from that educational program. 2332

Section 2. That existing sections 121.22, 149.43, 307.99, 2333
and 4731.22 of the Revised Code are hereby repealed. 2334

Section 3. That the versions of sections 121.22 and 2335
4731.22 of the Revised Code that are scheduled to take effect 2336
October 9, 2021, be amended to read as follows: 2337

Sec. 121.22. (A) This section shall be liberally construed 2338
to require public officials to take official action and to 2339
conduct all deliberations upon official business only in open 2340
meetings unless the subject matter is specifically excepted by 2341
law. 2342

(B) As used in this section: 2343

(1) "Public body" means any of the following: 2344

(a) Any board, commission, committee, council, or similar 2345
decision-making body of a state agency, institution, or 2346
authority, and any legislative authority or board, commission, 2347
committee, council, agency, authority, or similar decision- 2348
making body of any county, township, municipal corporation, 2349
school district, or other political subdivision or local public 2350
institution; 2351

(b) Any committee or subcommittee of a body described in 2352
division (B) (1) (a) of this section; 2353

(c) A court of jurisdiction of a sanitary district 2354
organized wholly for the purpose of providing a water supply for 2355
domestic, municipal, and public use when meeting for the purpose 2356
of the appointment, removal, or reappointment of a member of the 2357
board of directors of such a district pursuant to section 2358
6115.10 of the Revised Code, if applicable, or for any other 2359
matter related to such a district other than litigation 2360
involving the district. As used in division (B) (1) (c) of this 2361
section, "court of jurisdiction" has the same meaning as "court" 2362
in section 6115.01 of the Revised Code. 2363

(2) "Meeting" means any prearranged discussion of the 2364
public business of the public body by a majority of its members. 2365

(3) "Regulated individual" means either of the following: 2366

(a) A student in a state or local public educational 2367
institution; 2368

(b) A person who is, voluntarily or involuntarily, an 2369
inmate, patient, or resident of a state or local institution 2370
because of criminal behavior, mental illness, an intellectual 2371
disability, disease, disability, age, or other condition 2372
requiring custodial care. 2373

(4) "Public office" has the same meaning as in section 2374
149.011 of the Revised Code. 2375

(C) All meetings of any public body are declared to be 2376
public meetings open to the public at all times. A member of a 2377
public body shall be present in person at a meeting open to the 2378
public to be considered present or to vote at the meeting and 2379
for purposes of determining whether a quorum is present at the 2380
meeting. 2381

The minutes of a regular or special meeting of any public 2382

body shall be promptly prepared, filed, and maintained and shall 2383
be open to public inspection. The minutes need only reflect the 2384
general subject matter of discussions in executive sessions 2385
authorized under division (G) or (J) of this section. 2386

(D) This section does not apply to any of the following: 2387

(1) A grand jury; 2388

(2) An audit conference conducted by the auditor of state 2389
or independent certified public accountants with officials of 2390
the public office that is the subject of the audit; 2391

(3) The adult parole authority when its hearings are 2392
conducted at a correctional institution for the sole purpose of 2393
interviewing inmates to determine parole or pardon and the 2394
department of rehabilitation and correction when its hearings 2395
are conducted at a correctional institution for the sole purpose 2396
of making determinations under section 2967.271 of the Revised 2397
Code regarding the release or maintained incarceration of an 2398
offender to whom that section applies; 2399

(4) The organized crime investigations commission 2400
established under section 177.01 of the Revised Code; 2401

(5) Meetings of a child fatality review board established 2402
under section 307.621 of the Revised Code, meetings related to a 2403
review conducted pursuant to guidelines established by the 2404
director of health under section 3701.70 of the Revised Code, 2405
and meetings conducted pursuant to sections 5153.171 to 5153.173 2406
of the Revised Code; 2407

(6) The state medical board when determining whether to 2408
suspend a license or certificate without a prior hearing 2409
pursuant to division (G) of either section 4730.25 or 4731.22 of 2410
the Revised Code; 2411

(7) The board of nursing when determining whether to	2412
suspend a license or certificate without a prior hearing	2413
pursuant to division (B) of section 4723.281 of the Revised	2414
Code;	2415
(8) The state board of pharmacy when determining whether	2416
to do either of the following:	2417
(a) Suspend a license, certification, or registration	2418
without a prior hearing, including during meetings conducted by	2419
telephone conference, pursuant to Chapters 3719., 3796., 4729.,	2420
and 4752. of the Revised Code and rules adopted thereunder; or	2421
(b) Restrict a person from obtaining further information	2422
from the drug database established in section 4729.75 of the	2423
Revised Code without a prior hearing pursuant to division (C) of	2424
section 4729.86 of the Revised Code.	2425
(9) The state chiropractic board when determining whether	2426
to suspend a license without a hearing pursuant to section	2427
4734.37 of the Revised Code;	2428
(10) The executive committee of the emergency response	2429
commission when determining whether to issue an enforcement	2430
order or request that a civil action, civil penalty action, or	2431
criminal action be brought to enforce Chapter 3750. of the	2432
Revised Code;	2433
(11) The board of directors of the nonprofit corporation	2434
formed under section 187.01 of the Revised Code or any committee	2435
thereof, and the board of directors of any subsidiary of that	2436
corporation or a committee thereof;	2437
(12) An audit conference conducted by the audit staff of	2438
the department of job and family services with officials of the	2439
public office that is the subject of that audit under section	2440

5101.37 of the Revised Code;	2441
(13) The occupational therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license or limited permit without a hearing pursuant to division (E) of section 4755.11 of the Revised Code;	2442 2443 2444 2445 2446
(14) The physical therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (F) of section 4755.47 of the Revised Code;	2447 2448 2449 2450
(15) The athletic trainers section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (E) of section 4755.64 of the Revised Code;	2451 2452 2453 2454
(16) Meetings of the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code;	2455 2456
(17) Meetings of a fetal-infant mortality review board established under section 3707.71 of the Revised Code;	2457 2458
<u>(18) Meetings of a domestic violence fatality review board established under section 307.631 of the Revised Code.</u>	2459 2460
(E) The controlling board, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board or authority members present, may close the meeting during consideration of the following information confidentially received by the authority or board from the applicant:	2461 2462 2463 2464 2465 2466 2467 2468 2469

(1) Marketing plans;	2470
(2) Specific business strategy;	2471
(3) Production techniques and trade secrets;	2472
(4) Financial projections;	2473
(5) Personal financial statements of the applicant or	2474
members of the applicant's immediate family, including, but not	2475
limited to, tax records or other similar information not open to	2476
public inspection.	2477
The vote by the authority or board to accept or reject the	2478
application, as well as all proceedings of the authority or	2479
board not subject to this division, shall be open to the public	2480
and governed by this section.	2481
(F) Every public body, by rule, shall establish a	2482
reasonable method whereby any person may determine the time and	2483
place of all regularly scheduled meetings and the time, place,	2484
and purpose of all special meetings. A public body shall not	2485
hold a special meeting unless it gives at least twenty-four	2486
hours' advance notice to the news media that have requested	2487
notification, except in the event of an emergency requiring	2488
immediate official action. In the event of an emergency, the	2489
member or members calling the meeting shall notify the news	2490
media that have requested notification immediately of the time,	2491
place, and purpose of the meeting.	2492
The rule shall provide that any person, upon request and	2493
payment of a reasonable fee, may obtain reasonable advance	2494
notification of all meetings at which any specific type of	2495
public business is to be discussed. Provisions for advance	2496
notification may include, but are not limited to, mailing the	2497
agenda of meetings to all subscribers on a mailing list or	2498

mailing notices in self-addressed, stamped envelopes provided by 2499
the person. 2500

(G) Except as provided in divisions (G)(8) and (J) of this 2501
section, the members of a public body may hold an executive 2502
session only after a majority of a quorum of the public body 2503
determines, by a roll call vote, to hold an executive session 2504
and only at a regular or special meeting for the sole purpose of 2505
the consideration of any of the following matters: 2506

(1) To consider the appointment, employment, dismissal, 2507
discipline, promotion, demotion, or compensation of a public 2508
employee or official, or the investigation of charges or 2509
complaints against a public employee, official, licensee, or 2510
regulated individual, unless the public employee, official, 2511
licensee, or regulated individual requests a public hearing. 2512
Except as otherwise provided by law, no public body shall hold 2513
an executive session for the discipline of an elected official 2514
for conduct related to the performance of the elected official's 2515
official duties or for the elected official's removal from 2516
office. If a public body holds an executive session pursuant to 2517
division (G)(1) of this section, the motion and vote to hold 2518
that executive session shall state which one or more of the 2519
approved purposes listed in division (G)(1) of this section are 2520
the purposes for which the executive session is to be held, but 2521
need not include the name of any person to be considered at the 2522
meeting. 2523

(2) To consider the purchase of property for public 2524
purposes, the sale of property at competitive bidding, or the 2525
sale or other disposition of unneeded, obsolete, or unfit-for- 2526
use property in accordance with section 505.10 of the Revised 2527
Code, if premature disclosure of information would give an 2528

unfair competitive or bargaining advantage to a person whose 2529
personal, private interest is adverse to the general public 2530
interest. No member of a public body shall use division (G) (2) 2531
of this section as a subterfuge for providing covert information 2532
to prospective buyers or sellers. A purchase or sale of public 2533
property is void if the seller or buyer of the public property 2534
has received covert information from a member of a public body 2535
that has not been disclosed to the general public in sufficient 2536
time for other prospective buyers and sellers to prepare and 2537
submit offers. 2538

If the minutes of the public body show that all meetings 2539
and deliberations of the public body have been conducted in 2540
compliance with this section, any instrument executed by the 2541
public body purporting to convey, lease, or otherwise dispose of 2542
any right, title, or interest in any public property shall be 2543
conclusively presumed to have been executed in compliance with 2544
this section insofar as title or other interest of any bona fide 2545
purchasers, lessees, or transferees of the property is 2546
concerned. 2547

(3) Conferences with an attorney for the public body 2548
concerning disputes involving the public body that are the 2549
subject of pending or imminent court action; 2550

(4) Preparing for, conducting, or reviewing negotiations 2551
or bargaining sessions with public employees concerning their 2552
compensation or other terms and conditions of their employment; 2553

(5) Matters required to be kept confidential by federal 2554
law or regulations or state statutes; 2555

(6) Details relative to the security arrangements and 2556
emergency response protocols for a public body or a public 2557

office, if disclosure of the matters discussed could reasonably 2558
be expected to jeopardize the security of the public body or 2559
public office; 2560

(7) In the case of a county hospital operated pursuant to 2561
Chapter 339. of the Revised Code, a joint township hospital 2562
operated pursuant to Chapter 513. of the Revised Code, or a 2563
municipal hospital operated pursuant to Chapter 749. of the 2564
Revised Code, to consider trade secrets, as defined in section 2565
1333.61 of the Revised Code; 2566

(8) To consider confidential information related to the 2567
marketing plans, specific business strategy, production 2568
techniques, trade secrets, or personal financial statements of 2569
an applicant for economic development assistance, or to 2570
negotiations with other political subdivisions respecting 2571
requests for economic development assistance, provided that both 2572
of the following conditions apply: 2573

(a) The information is directly related to a request for 2574
economic development assistance that is to be provided or 2575
administered under any provision of Chapter 715., 725., 1724., 2576
or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 2577
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 2578
5709.81 of the Revised Code, or that involves public 2579
infrastructure improvements or the extension of utility services 2580
that are directly related to an economic development project. 2581

(b) A unanimous quorum of the public body determines, by a 2582
roll call vote, that the executive session is necessary to 2583
protect the interests of the applicant or the possible 2584
investment or expenditure of public funds to be made in 2585
connection with the economic development project. 2586

If a public body holds an executive session to consider 2587
any of the matters listed in divisions (G) (2) to (8) of this 2588
section, the motion and vote to hold that executive session 2589
shall state which one or more of the approved matters listed in 2590
those divisions are to be considered at the executive session. 2591

A public body specified in division (B) (1) (c) of this 2592
section shall not hold an executive session when meeting for the 2593
purposes specified in that division. 2594

(H) A resolution, rule, or formal action of any kind is 2595
invalid unless adopted in an open meeting of the public body. A 2596
resolution, rule, or formal action adopted in an open meeting 2597
that results from deliberations in a meeting not open to the 2598
public is invalid unless the deliberations were for a purpose 2599
specifically authorized in division (G) or (J) of this section 2600
and conducted at an executive session held in compliance with 2601
this section. A resolution, rule, or formal action adopted in an 2602
open meeting is invalid if the public body that adopted the 2603
resolution, rule, or formal action violated division (F) of this 2604
section. 2605

(I) (1) Any person may bring an action to enforce this 2606
section. An action under division (I) (1) of this section shall 2607
be brought within two years after the date of the alleged 2608
violation or threatened violation. Upon proof of a violation or 2609
threatened violation of this section in an action brought by any 2610
person, the court of common pleas shall issue an injunction to 2611
compel the members of the public body to comply with its 2612
provisions. 2613

(2) (a) If the court of common pleas issues an injunction 2614
pursuant to division (I) (1) of this section, the court shall 2615
order the public body that it enjoins to pay a civil forfeiture 2616

of five hundred dollars to the party that sought the injunction 2617
and shall award to that party all court costs and, subject to 2618
reduction as described in division (I) (2) of this section, 2619
reasonable attorney's fees. The court, in its discretion, may 2620
reduce an award of attorney's fees to the party that sought the 2621
injunction or not award attorney's fees to that party if the 2622
court determines both of the following: 2623

(i) That, based on the ordinary application of statutory 2624
law and case law as it existed at the time of violation or 2625
threatened violation that was the basis of the injunction, a 2626
well-informed public body reasonably would believe that the 2627
public body was not violating or threatening to violate this 2628
section; 2629

(ii) That a well-informed public body reasonably would 2630
believe that the conduct or threatened conduct that was the 2631
basis of the injunction would serve the public policy that 2632
underlies the authority that is asserted as permitting that 2633
conduct or threatened conduct. 2634

(b) If the court of common pleas does not issue an 2635
injunction pursuant to division (I) (1) of this section and the 2636
court determines at that time that the bringing of the action 2637
was frivolous conduct, as defined in division (A) of section 2638
2323.51 of the Revised Code, the court shall award to the public 2639
body all court costs and reasonable attorney's fees, as 2640
determined by the court. 2641

(3) Irreparable harm and prejudice to the party that 2642
sought the injunction shall be conclusively and irrebuttably 2643
presumed upon proof of a violation or threatened violation of 2644
this section. 2645

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I) (1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J) (1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name,

address, and occupation of the applicant, whether the assistance 2675
was granted or denied, the amount of the assistance if 2676
assistance is granted, and the votes for and against the 2677
granting of assistance. 2678

Sec. 4731.22. (A) The state medical board, by an 2679
affirmative vote of not fewer than six of its members, may 2680
limit, revoke, or suspend a license or certificate to practice 2681
or certificate to recommend, refuse to grant a license or 2682
certificate, refuse to renew a license or certificate, refuse to 2683
reinstate a license or certificate, or reprimand or place on 2684
probation the holder of a license or certificate if the 2685
individual applying for or holding the license or certificate is 2686
found by the board to have committed fraud during the 2687
administration of the examination for a license or certificate 2688
to practice or to have committed fraud, misrepresentation, or 2689
deception in applying for, renewing, or securing any license or 2690
certificate to practice or certificate to recommend issued by 2691
the board. 2692

(B) Except as provided in division (P) of this section, 2693
the board, by an affirmative vote of not fewer than six members, 2694
shall, to the extent permitted by law, limit, revoke, or suspend 2695
a license or certificate to practice or certificate to 2696
recommend, refuse to issue a license or certificate, refuse to 2697
renew a license or certificate, refuse to reinstate a license or 2698
certificate, or reprimand or place on probation the holder of a 2699
license or certificate for one or more of the following reasons: 2700

(1) Permitting one's name or one's license or certificate 2701
to practice to be used by a person, group, or corporation when 2702
the individual concerned is not actually directing the treatment 2703
given; 2704

(2) Failure to maintain minimal standards applicable to 2705
the selection or administration of drugs, or failure to employ 2706
acceptable scientific methods in the selection of drugs or other 2707
modalities for treatment of disease; 2708

(3) Except as provided in section 4731.97 of the Revised 2709
Code, selling, giving away, personally furnishing, prescribing, 2710
or administering drugs for other than legal and legitimate 2711
therapeutic purposes or a plea of guilty to, a judicial finding 2712
of guilt of, or a judicial finding of eligibility for 2713
intervention in lieu of conviction of, a violation of any 2714
federal or state law regulating the possession, distribution, or 2715
use of any drug; 2716

(4) Willfully betraying a professional confidence. 2717

For purposes of this division, "willfully betraying a 2718
professional confidence" does not include providing any 2719
information, documents, or reports under sections 307.621 to 2720
307.629 of the Revised Code to a child fatality review board; 2721
does not include providing any information, documents, or 2722
reports under sections 307.631 to 307.639 of the Revised Code to 2723
a domestic violence fatality review board; does not include 2724
providing any information, documents, or reports to the director 2725
of health pursuant to guidelines established under section 2726
3701.70 of the Revised Code; does not include written notice to 2727
a mental health professional under section 4731.62 of the 2728
Revised Code; and does not include the making of a report of an 2729
employee's use of a drug of abuse, or a report of a condition of 2730
an employee other than one involving the use of a drug of abuse, 2731
to the employer of the employee as described in division (B) of 2732
section 2305.33 of the Revised Code. Nothing in this division 2733
affects the immunity from civil liability conferred by section 2734

2305.33 or 4731.62 of the Revised Code upon a physician who 2735
makes a report in accordance with section 2305.33 or notifies a 2736
mental health professional in accordance with section 4731.62 of 2737
the Revised Code. As used in this division, "employee," 2738
"employer," and "physician" have the same meanings as in section 2739
2305.33 of the Revised Code. 2740

(5) Making a false, fraudulent, deceptive, or misleading 2741
statement in the solicitation of or advertising for patients; in 2742
relation to the practice of medicine and surgery, osteopathic 2743
medicine and surgery, podiatric medicine and surgery, or a 2744
limited branch of medicine; or in securing or attempting to 2745
secure any license or certificate to practice issued by the 2746
board. 2747

As used in this division, "false, fraudulent, deceptive, 2748
or misleading statement" means a statement that includes a 2749
misrepresentation of fact, is likely to mislead or deceive 2750
because of a failure to disclose material facts, is intended or 2751
is likely to create false or unjustified expectations of 2752
favorable results, or includes representations or implications 2753
that in reasonable probability will cause an ordinarily prudent 2754
person to misunderstand or be deceived. 2755

(6) A departure from, or the failure to conform to, 2756
minimal standards of care of similar practitioners under the 2757
same or similar circumstances, whether or not actual injury to a 2758
patient is established; 2759

(7) Representing, with the purpose of obtaining 2760
compensation or other advantage as personal gain or for any 2761
other person, that an incurable disease or injury, or other 2762
incurable condition, can be permanently cured; 2763

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 2764
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(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; 2767
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(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 2770
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(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; 2773
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(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; 2777
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(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 2780
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(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; 2783
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(15) Violation of the conditions of limitation placed by the board upon a license or certificate to practice; 2786
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(16) Failure to pay license renewal fees specified in this chapter; 2788
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(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of 2790
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patients, or the receiving of a thing of value in return for a 2792
specific referral of a patient to utilize a particular service 2793
or business; 2794

(18) Subject to section 4731.226 of the Revised Code, 2795
violation of any provision of a code of ethics of the American 2796
medical association, the American osteopathic association, the 2797
American podiatric medical association, or any other national 2798
professional organizations that the board specifies by rule. The 2799
state medical board shall obtain and keep on file current copies 2800
of the codes of ethics of the various national professional 2801
organizations. The individual whose license or certificate is 2802
being suspended or revoked shall not be found to have violated 2803
any provision of a code of ethics of an organization not 2804
appropriate to the individual's profession. 2805

For purposes of this division, a "provision of a code of 2806
ethics of a national professional organization" does not include 2807
any provision that would preclude the making of a report by a 2808
physician of an employee's use of a drug of abuse, or of a 2809
condition of an employee other than one involving the use of a 2810
drug of abuse, to the employer of the employee as described in 2811
division (B) of section 2305.33 of the Revised Code. Nothing in 2812
this division affects the immunity from civil liability 2813
conferred by that section upon a physician who makes either type 2814
of report in accordance with division (B) of that section. As 2815
used in this division, "employee," "employer," and "physician" 2816
have the same meanings as in section 2305.33 of the Revised 2817
Code. 2818

(19) Inability to practice according to acceptable and 2819
prevailing standards of care by reason of mental illness or 2820
physical illness, including, but not limited to, physical 2821

deterioration that adversely affects cognitive, motor, or 2822
perceptive skills. 2823

In enforcing this division, the board, upon a showing of a 2824
possible violation, may compel any individual authorized to 2825
practice by this chapter or who has submitted an application 2826
pursuant to this chapter to submit to a mental examination, 2827
physical examination, including an HIV test, or both a mental 2828
and a physical examination. The expense of the examination is 2829
the responsibility of the individual compelled to be examined. 2830
Failure to submit to a mental or physical examination or consent 2831
to an HIV test ordered by the board constitutes an admission of 2832
the allegations against the individual unless the failure is due 2833
to circumstances beyond the individual's control, and a default 2834
and final order may be entered without the taking of testimony 2835
or presentation of evidence. If the board finds an individual 2836
unable to practice because of the reasons set forth in this 2837
division, the board shall require the individual to submit to 2838
care, counseling, or treatment by physicians approved or 2839
designated by the board, as a condition for initial, continued, 2840
reinstated, or renewed authority to practice. An individual 2841
affected under this division shall be afforded an opportunity to 2842
demonstrate to the board the ability to resume practice in 2843
compliance with acceptable and prevailing standards under the 2844
provisions of the individual's license or certificate. For the 2845
purpose of this division, any individual who applies for or 2846
receives a license or certificate to practice under this chapter 2847
accepts the privilege of practicing in this state and, by so 2848
doing, shall be deemed to have given consent to submit to a 2849
mental or physical examination when directed to do so in writing 2850
by the board, and to have waived all objections to the 2851
admissibility of testimony or examination reports that 2852

constitute a privileged communication. 2853

(20) Except as provided in division (F) (1) (b) of section 2854
4731.282 of the Revised Code or when civil penalties are imposed 2855
under section 4731.225 of the Revised Code, and subject to 2856
section 4731.226 of the Revised Code, violating or attempting to 2857
violate, directly or indirectly, or assisting in or abetting the 2858
violation of, or conspiring to violate, any provisions of this 2859
chapter or any rule promulgated by the board. 2860

This division does not apply to a violation or attempted 2861
violation of, assisting in or abetting the violation of, or a 2862
conspiracy to violate, any provision of this chapter or any rule 2863
adopted by the board that would preclude the making of a report 2864
by a physician of an employee's use of a drug of abuse, or of a 2865
condition of an employee other than one involving the use of a 2866
drug of abuse, to the employer of the employee as described in 2867
division (B) of section 2305.33 of the Revised Code. Nothing in 2868
this division affects the immunity from civil liability 2869
conferred by that section upon a physician who makes either type 2870
of report in accordance with division (B) of that section. As 2871
used in this division, "employee," "employer," and "physician" 2872
have the same meanings as in section 2305.33 of the Revised 2873
Code. 2874

(21) The violation of section 3701.79 of the Revised Code 2875
or of any abortion rule adopted by the director of health 2876
pursuant to section 3701.341 of the Revised Code; 2877

(22) Any of the following actions taken by an agency 2878
responsible for authorizing, certifying, or regulating an 2879
individual to practice a health care occupation or provide 2880
health care services in this state or another jurisdiction, for 2881
any reason other than the nonpayment of fees: the limitation, 2882

revocation, or suspension of an individual's license to 2883
practice; acceptance of an individual's license surrender; 2884
denial of a license; refusal to renew or reinstate a license; 2885
imposition of probation; or issuance of an order of censure or 2886
other reprimand; 2887

(23) The violation of section 2919.12 of the Revised Code 2888
or the performance or inducement of an abortion upon a pregnant 2889
woman with actual knowledge that the conditions specified in 2890
division (B) of section 2317.56 of the Revised Code have not 2891
been satisfied or with a heedless indifference as to whether 2892
those conditions have been satisfied, unless an affirmative 2893
defense as specified in division (H) (2) of that section would 2894
apply in a civil action authorized by division (H) (1) of that 2895
section; 2896

(24) The revocation, suspension, restriction, reduction, 2897
or termination of clinical privileges by the United States 2898
department of defense or department of veterans affairs or the 2899
termination or suspension of a certificate of registration to 2900
prescribe drugs by the drug enforcement administration of the 2901
United States department of justice; 2902

(25) Termination or suspension from participation in the 2903
medicare or medicaid programs by the department of health and 2904
human services or other responsible agency; 2905

(26) Impairment of ability to practice according to 2906
acceptable and prevailing standards of care because of habitual 2907
or excessive use or abuse of drugs, alcohol, or other substances 2908
that impair ability to practice. 2909

For the purposes of this division, any individual 2910
authorized to practice by this chapter accepts the privilege of 2911

practicing in this state subject to supervision by the board. By 2912
filing an application for or holding a license or certificate to 2913
practice under this chapter, an individual shall be deemed to 2914
have given consent to submit to a mental or physical examination 2915
when ordered to do so by the board in writing, and to have 2916
waived all objections to the admissibility of testimony or 2917
examination reports that constitute privileged communications. 2918

If it has reason to believe that any individual authorized 2919
to practice by this chapter or any applicant for licensure or 2920
certification to practice suffers such impairment, the board may 2921
compel the individual to submit to a mental or physical 2922
examination, or both. The expense of the examination is the 2923
responsibility of the individual compelled to be examined. Any 2924
mental or physical examination required under this division 2925
shall be undertaken by a treatment provider or physician who is 2926
qualified to conduct the examination and who is chosen by the 2927
board. 2928

Failure to submit to a mental or physical examination 2929
ordered by the board constitutes an admission of the allegations 2930
against the individual unless the failure is due to 2931
circumstances beyond the individual's control, and a default and 2932
final order may be entered without the taking of testimony or 2933
presentation of evidence. If the board determines that the 2934
individual's ability to practice is impaired, the board shall 2935
suspend the individual's license or certificate or deny the 2936
individual's application and shall require the individual, as a 2937
condition for initial, continued, reinstated, or renewed 2938
licensure or certification to practice, to submit to treatment. 2939

Before being eligible to apply for reinstatement of a 2940
license or certificate suspended under this division, the 2941

impaired practitioner shall demonstrate to the board the ability 2942
to resume practice in compliance with acceptable and prevailing 2943
standards of care under the provisions of the practitioner's 2944
license or certificate. The demonstration shall include, but 2945
shall not be limited to, the following: 2946

(a) Certification from a treatment provider approved under 2947
section 4731.25 of the Revised Code that the individual has 2948
successfully completed any required inpatient treatment; 2949

(b) Evidence of continuing full compliance with an 2950
aftercare contract or consent agreement; 2951

(c) Two written reports indicating that the individual's 2952
ability to practice has been assessed and that the individual 2953
has been found capable of practicing according to acceptable and 2954
prevailing standards of care. The reports shall be made by 2955
individuals or providers approved by the board for making the 2956
assessments and shall describe the basis for their 2957
determination. 2958

The board may reinstate a license or certificate suspended 2959
under this division after that demonstration and after the 2960
individual has entered into a written consent agreement. 2961

When the impaired practitioner resumes practice, the board 2962
shall require continued monitoring of the individual. The 2963
monitoring shall include, but not be limited to, compliance with 2964
the written consent agreement entered into before reinstatement 2965
or with conditions imposed by board order after a hearing, and, 2966
upon termination of the consent agreement, submission to the 2967
board for at least two years of annual written progress reports 2968
made under penalty of perjury stating whether the individual has 2969
maintained sobriety. 2970

(27) A second or subsequent violation of section 4731.66	2971
or 4731.69 of the Revised Code;	2972
(28) Except as provided in division (N) of this section:	2973
(a) Waiving the payment of all or any part of a deductible	2974
or copayment that a patient, pursuant to a health insurance or	2975
health care policy, contract, or plan that covers the	2976
individual's services, otherwise would be required to pay if the	2977
waiver is used as an enticement to a patient or group of	2978
patients to receive health care services from that individual;	2979
(b) Advertising that the individual will waive the payment	2980
of all or any part of a deductible or copayment that a patient,	2981
pursuant to a health insurance or health care policy, contract,	2982
or plan that covers the individual's services, otherwise would	2983
be required to pay.	2984
(29) Failure to use universal blood and body fluid	2985
precautions established by rules adopted under section 4731.051	2986
of the Revised Code;	2987
(30) Failure to provide notice to, and receive	2988
acknowledgment of the notice from, a patient when required by	2989
section 4731.143 of the Revised Code prior to providing	2990
nonemergency professional services, or failure to maintain that	2991
notice in the patient's medical record;	2992
(31) Failure of a physician supervising a physician	2993
assistant to maintain supervision in accordance with the	2994
requirements of Chapter 4730. of the Revised Code and the rules	2995
adopted under that chapter;	2996
(32) Failure of a physician or podiatrist to enter into a	2997
standard care arrangement with a clinical nurse specialist,	2998
certified nurse-midwife, or certified nurse practitioner with	2999

whom the physician or podiatrist is in collaboration pursuant to 3000
section 4731.27 of the Revised Code or failure to fulfill the 3001
responsibilities of collaboration after entering into a standard 3002
care arrangement; 3003

(33) Failure to comply with the terms of a consult 3004
agreement entered into with a pharmacist pursuant to section 3005
4729.39 of the Revised Code; 3006

(34) Failure to cooperate in an investigation conducted by 3007
the board under division (F) of this section, including failure 3008
to comply with a subpoena or order issued by the board or 3009
failure to answer truthfully a question presented by the board 3010
in an investigative interview, an investigative office 3011
conference, at a deposition, or in written interrogatories, 3012
except that failure to cooperate with an investigation shall not 3013
constitute grounds for discipline under this section if a court 3014
of competent jurisdiction has issued an order that either 3015
quashes a subpoena or permits the individual to withhold the 3016
testimony or evidence in issue; 3017

(35) Failure to supervise an acupuncturist in accordance 3018
with Chapter 4762. of the Revised Code and the board's rules for 3019
providing that supervision; 3020

(36) Failure to supervise an anesthesiologist assistant in 3021
accordance with Chapter 4760. of the Revised Code and the 3022
board's rules for supervision of an anesthesiologist assistant; 3023

(37) Assisting suicide, as defined in section 3795.01 of 3024
the Revised Code; 3025

(38) Failure to comply with the requirements of section 3026
2317.561 of the Revised Code; 3027

(39) Failure to supervise a radiologist assistant in 3028

accordance with Chapter 4774. of the Revised Code and the 3029
board's rules for supervision of radiologist assistants; 3030

(40) Performing or inducing an abortion at an office or 3031
facility with knowledge that the office or facility fails to 3032
post the notice required under section 3701.791 of the Revised 3033
Code; 3034

(41) Failure to comply with the standards and procedures 3035
established in rules under section 4731.054 of the Revised Code 3036
for the operation of or the provision of care at a pain 3037
management clinic; 3038

(42) Failure to comply with the standards and procedures 3039
established in rules under section 4731.054 of the Revised Code 3040
for providing supervision, direction, and control of individuals 3041
at a pain management clinic; 3042

(43) Failure to comply with the requirements of section 3043
4729.79 or 4731.055 of the Revised Code, unless the state board 3044
of pharmacy no longer maintains a drug database pursuant to 3045
section 4729.75 of the Revised Code; 3046

(44) Failure to comply with the requirements of section 3047
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 3048
to submit to the department of health in accordance with a court 3049
order a complete report as described in section 2919.171 or 3050
2919.202 of the Revised Code; 3051

(45) Practicing at a facility that is subject to licensure 3052
as a category III terminal distributor of dangerous drugs with a 3053
pain management clinic classification unless the person 3054
operating the facility has obtained and maintains the license 3055
with the classification; 3056

(46) Owning a facility that is subject to licensure as a 3057

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

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

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

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

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

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

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

(C) Disciplinary actions taken by the board under

divisions (A) and (B) of this section shall be taken pursuant to 3087
an adjudication under Chapter 119. of the Revised Code, except 3088
that in lieu of an adjudication, the board may enter into a 3089
consent agreement with an individual to resolve an allegation of 3090
a violation of this chapter or any rule adopted under it. A 3091
consent agreement, when ratified by an affirmative vote of not 3092
fewer than six members of the board, shall constitute the 3093
findings and order of the board with respect to the matter 3094
addressed in the agreement. If the board refuses to ratify a 3095
consent agreement, the admissions and findings contained in the 3096
consent agreement shall be of no force or effect. 3097

A telephone conference call may be utilized for 3098
ratification of a consent agreement that revokes or suspends an 3099
individual's license or certificate to practice or certificate 3100
to recommend. The telephone conference call shall be considered 3101
a special meeting under division (F) of section 121.22 of the 3102
Revised Code. 3103

If the board takes disciplinary action against an 3104
individual under division (B) of this section for a second or 3105
subsequent plea of guilty to, or judicial finding of guilt of, a 3106
violation of section 2919.123 or 2919.124 of the Revised Code, 3107
the disciplinary action shall consist of a suspension of the 3108
individual's license or certificate to practice for a period of 3109
at least one year or, if determined appropriate by the board, a 3110
more serious sanction involving the individual's license or 3111
certificate to practice. Any consent agreement entered into 3112
under this division with an individual that pertains to a second 3113
or subsequent plea of guilty to, or judicial finding of guilt 3114
of, a violation of that section shall provide for a suspension 3115
of the individual's license or certificate to practice for a 3116
period of at least one year or, if determined appropriate by the 3117

board, a more serious sanction involving the individual's 3118
license or certificate to practice. 3119

(D) For purposes of divisions (B) (10), (12), and (14) of 3120
this section, the commission of the act may be established by a 3121
finding by the board, pursuant to an adjudication under Chapter 3122
119. of the Revised Code, that the individual committed the act. 3123
The board does not have jurisdiction under those divisions if 3124
the trial court renders a final judgment in the individual's 3125
favor and that judgment is based upon an adjudication on the 3126
merits. The board has jurisdiction under those divisions if the 3127
trial court issues an order of dismissal upon technical or 3128
procedural grounds. 3129

(E) The sealing of conviction records by any court shall 3130
have no effect upon a prior board order entered under this 3131
section or upon the board's jurisdiction to take action under 3132
this section if, based upon a plea of guilty, a judicial finding 3133
of guilt, or a judicial finding of eligibility for intervention 3134
in lieu of conviction, the board issued a notice of opportunity 3135
for a hearing prior to the court's order to seal the records. 3136
The board shall not be required to seal, destroy, redact, or 3137
otherwise modify its records to reflect the court's sealing of 3138
conviction records. 3139

(F) (1) The board shall investigate evidence that appears 3140
to show that a person has violated any provision of this chapter 3141
or any rule adopted under it. Any person may report to the board 3142
in a signed writing any information that the person may have 3143
that appears to show a violation of any provision of this 3144
chapter or any rule adopted under it. In the absence of bad 3145
faith, any person who reports information of that nature or who 3146
testifies before the board in any adjudication conducted under 3147

Chapter 119. of the Revised Code shall not be liable in damages 3148
in a civil action as a result of the report or testimony. Each 3149
complaint or allegation of a violation received by the board 3150
shall be assigned a case number and shall be recorded by the 3151
board. 3152

(2) Investigations of alleged violations of this chapter 3153
or any rule adopted under it shall be supervised by the 3154
supervising member elected by the board in accordance with 3155
section 4731.02 of the Revised Code and by the secretary as 3156
provided in section 4731.39 of the Revised Code. The president 3157
may designate another member of the board to supervise the 3158
investigation in place of the supervising member. No member of 3159
the board who supervises the investigation of a case shall 3160
participate in further adjudication of the case. 3161

(3) In investigating a possible violation of this chapter 3162
or any rule adopted under this chapter, or in conducting an 3163
inspection under division (E) of section 4731.054 of the Revised 3164
Code, the board may question witnesses, conduct interviews, 3165
administer oaths, order the taking of depositions, inspect and 3166
copy any books, accounts, papers, records, or documents, issue 3167
subpoenas, and compel the attendance of witnesses and production 3168
of books, accounts, papers, records, documents, and testimony, 3169
except that a subpoena for patient record information shall not 3170
be issued without consultation with the attorney general's 3171
office and approval of the secretary and supervising member of 3172
the board. 3173

(a) Before issuance of a subpoena for patient record 3174
information, the secretary and supervising member shall 3175
determine whether there is probable cause to believe that the 3176
complaint filed alleges a violation of this chapter or any rule 3177

adopted under it and that the records sought are relevant to the 3178
alleged violation and material to the investigation. The 3179
subpoena may apply only to records that cover a reasonable 3180
period of time surrounding the alleged violation. 3181

(b) On failure to comply with any subpoena issued by the 3182
board and after reasonable notice to the person being 3183
subpoenaed, the board may move for an order compelling the 3184
production of persons or records pursuant to the Rules of Civil 3185
Procedure. 3186

(c) A subpoena issued by the board may be served by a 3187
sheriff, the sheriff's deputy, or a board employee or agent 3188
designated by the board. Service of a subpoena issued by the 3189
board may be made by delivering a copy of the subpoena to the 3190
person named therein, reading it to the person, or leaving it at 3191
the person's usual place of residence, usual place of business, 3192
or address on file with the board. When serving a subpoena to an 3193
applicant for or the holder of a license or certificate issued 3194
under this chapter, service of the subpoena may be made by 3195
certified mail, return receipt requested, and the subpoena shall 3196
be deemed served on the date delivery is made or the date the 3197
person refuses to accept delivery. If the person being served 3198
refuses to accept the subpoena or is not located, service may be 3199
made to an attorney who notifies the board that the attorney is 3200
representing the person. 3201

(d) A sheriff's deputy who serves a subpoena shall receive 3202
the same fees as a sheriff. Each witness who appears before the 3203
board in obedience to a subpoena shall receive the fees and 3204
mileage provided for under section 119.094 of the Revised Code. 3205

(4) All hearings, investigations, and inspections of the 3206
board shall be considered civil actions for the purposes of 3207

section 2305.252 of the Revised Code. 3208

(5) A report required to be submitted to the board under 3209
this chapter, a complaint, or information received by the board 3210
pursuant to an investigation or pursuant to an inspection under 3211
division (E) of section 4731.054 of the Revised Code is 3212
confidential and not subject to discovery in any civil action. 3213

The board shall conduct all investigations or inspections 3214
and proceedings in a manner that protects the confidentiality of 3215
patients and persons who file complaints with the board. The 3216
board shall not make public the names or any other identifying 3217
information about patients or complainants unless proper consent 3218
is given or, in the case of a patient, a waiver of the patient 3219
privilege exists under division (B) of section 2317.02 of the 3220
Revised Code, except that consent or a waiver of that nature is 3221
not required if the board possesses reliable and substantial 3222
evidence that no bona fide physician-patient relationship 3223
exists. 3224

The board may share any information it receives pursuant 3225
to an investigation or inspection, including patient records and 3226
patient record information, with law enforcement agencies, other 3227
licensing boards, and other governmental agencies that are 3228
prosecuting, adjudicating, or investigating alleged violations 3229
of statutes or administrative rules. An agency or board that 3230
receives the information shall comply with the same requirements 3231
regarding confidentiality as those with which the state medical 3232
board must comply, notwithstanding any conflicting provision of 3233
the Revised Code or procedure of the agency or board that 3234
applies when it is dealing with other information in its 3235
possession. In a judicial proceeding, the information may be 3236
admitted into evidence only in accordance with the Rules of 3237

Evidence, but the court shall require that appropriate measures 3238
are taken to ensure that confidentiality is maintained with 3239
respect to any part of the information that contains names or 3240
other identifying information about patients or complainants 3241
whose confidentiality was protected by the state medical board 3242
when the information was in the board's possession. Measures to 3243
ensure confidentiality that may be taken by the court include 3244
sealing its records or deleting specific information from its 3245
records. 3246

(6) On a quarterly basis, the board shall prepare a report 3247
that documents the disposition of all cases during the preceding 3248
three months. The report shall contain the following information 3249
for each case with which the board has completed its activities: 3250

(a) The case number assigned to the complaint or alleged 3251
violation; 3252

(b) The type of license or certificate to practice, if 3253
any, held by the individual against whom the complaint is 3254
directed; 3255

(c) A description of the allegations contained in the 3256
complaint; 3257

(d) The disposition of the case. 3258

The report shall state how many cases are still pending 3259
and shall be prepared in a manner that protects the identity of 3260
each person involved in each case. The report shall be a public 3261
record under section 149.43 of the Revised Code. 3262

(G) If the secretary and supervising member determine both 3263
of the following, they may recommend that the board suspend an 3264
individual's license or certificate to practice or certificate 3265
to recommend without a prior hearing: 3266

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

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

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 issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the 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.

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), 3297
or (13) of this section and the judicial finding of guilt, 3298
guilty plea, or judicial finding of eligibility for intervention 3299
in lieu of conviction is overturned on appeal, upon exhaustion 3300
of the criminal appeal, a petition for reconsideration of the 3301
order may be filed with the board along with appropriate court 3302
documents. Upon receipt of a petition of that nature and 3303
supporting court documents, the board shall reinstate the 3304
individual's license or certificate to practice. The board may 3305
then hold an adjudication under Chapter 119. of the Revised Code 3306
to determine whether the individual committed the act in 3307
question. Notice of an opportunity for a hearing shall be given 3308
in accordance with Chapter 119. of the Revised Code. If the 3309
board finds, pursuant to an adjudication held under this 3310
division, that the individual committed the act or if no hearing 3311
is requested, the board may order any of the sanctions 3312
identified under division (B) of this section. 3313

(I) The license or certificate to practice issued to an 3314
individual under this chapter and the individual's practice in 3315
this state are automatically suspended as of the date of the 3316
individual's second or subsequent plea of guilty to, or judicial 3317
finding of guilt of, a violation of section 2919.123 or 2919.124 3318
of the Revised Code. In addition, the license or certificate to 3319
practice or certificate to recommend issued to an individual 3320
under this chapter and the individual's practice in this state 3321
are automatically suspended as of the date the individual pleads 3322
guilty to, is found by a judge or jury to be guilty of, or is 3323
subject to a judicial finding of eligibility for intervention in 3324
lieu of conviction in this state or treatment or intervention in 3325
lieu of conviction in another jurisdiction for any of the 3326
following criminal offenses in this state or a substantially 3327

equivalent criminal offense in another jurisdiction: aggravated 3328
murder, murder, voluntary manslaughter, felonious assault, 3329
kidnapping, rape, sexual battery, gross sexual imposition, 3330
aggravated arson, aggravated robbery, or aggravated burglary. 3331
Continued practice after suspension shall be considered 3332
practicing without a license or certificate. 3333

The board shall notify the individual subject to the 3334
suspension by certified mail or in person in accordance with 3335
section 119.07 of the Revised Code. If an individual whose 3336
license or certificate is automatically suspended under this 3337
division fails to make a timely request for an adjudication 3338
under Chapter 119. of the Revised Code, the board shall do 3339
whichever of the following is applicable: 3340

(1) If the automatic suspension under this division is for 3341
a second or subsequent plea of guilty to, or judicial finding of 3342
guilt of, a violation of section 2919.123 or 2919.124 of the 3343
Revised Code, the board shall enter an order suspending the 3344
individual's license or certificate to practice for a period of 3345
at least one year or, if determined appropriate by the board, 3346
imposing a more serious sanction involving the individual's 3347
license or certificate to practice. 3348

(2) In all circumstances in which division (I)(1) of this 3349
section does not apply, enter a final order permanently revoking 3350
the individual's license or certificate to practice. 3351

(J) If the board is required by Chapter 119. of the 3352
Revised Code to give notice of an opportunity for a hearing and 3353
if the individual subject to the notice does not timely request 3354
a hearing in accordance with section 119.07 of the Revised Code, 3355
the board is not required to hold a hearing, but may adopt, by 3356
an affirmative vote of not fewer than six of its members, a 3357

final order that contains the board's findings. In that final 3358
order, the board may order any of the sanctions identified under 3359
division (A) or (B) of this section. 3360

(K) Any action taken by the board under division (B) of 3361
this section resulting in a suspension from practice shall be 3362
accompanied by a written statement of the conditions under which 3363
the individual's license or certificate to practice may be 3364
reinstated. The board shall adopt rules governing conditions to 3365
be imposed for reinstatement. Reinstatement of a license or 3366
certificate suspended pursuant to division (B) of this section 3367
requires an affirmative vote of not fewer than six members of 3368
the board. 3369

(L) When the board refuses to grant or issue a license or 3370
certificate to practice to an applicant, revokes an individual's 3371
license or certificate to practice, refuses to renew an 3372
individual's license or certificate to practice, or refuses to 3373
reinstatement an individual's license or certificate to practice, 3374
the board may specify that its action is permanent. An 3375
individual subject to a permanent action taken by the board is 3376
forever thereafter ineligible to hold a license or certificate 3377
to practice and the board shall not accept an application for 3378
reinstatement of the license or certificate or for issuance of a 3379
new license or certificate. 3380

(M) Notwithstanding any other provision of the Revised 3381
Code, all of the following apply: 3382

(1) The surrender of a license or certificate issued under 3383
this chapter shall not be effective unless or until accepted by 3384
the board. A telephone conference call may be utilized for 3385
acceptance of the surrender of an individual's license or 3386
certificate to practice. The telephone conference call shall be 3387

considered a special meeting under division (F) of section 3388
121.22 of the Revised Code. Reinstatement of a license or 3389
certificate surrendered to the board requires an affirmative 3390
vote of not fewer than six members of the board. 3391

(2) An application for a license or certificate made under 3392
the provisions of this chapter may not be withdrawn without 3393
approval of the board. 3394

(3) Failure by an individual to renew a license or 3395
certificate to practice in accordance with this chapter or a 3396
certificate to recommend in accordance with rules adopted under 3397
section 4731.301 of the Revised Code shall not remove or limit 3398
the board's jurisdiction to take any disciplinary action under 3399
this section against the individual. 3400

(4) At the request of the board, a license or certificate 3401
holder shall immediately surrender to the board a license or 3402
certificate that the board has suspended, revoked, or 3403
permanently revoked. 3404

(N) Sanctions shall not be imposed under division (B) (28) 3405
of this section against any person who waives deductibles and 3406
copayments as follows: 3407

(1) In compliance with the health benefit plan that 3408
expressly allows such a practice. Waiver of the deductibles or 3409
copayments shall be made only with the full knowledge and 3410
consent of the plan purchaser, payer, and third-party 3411
administrator. Documentation of the consent shall be made 3412
available to the board upon request. 3413

(2) For professional services rendered to any other person 3414
authorized to practice pursuant to this chapter, to the extent 3415
allowed by this chapter and rules adopted by the board. 3416

(O) Under the board's investigative duties described in 3417
this section and subject to division (F) of this section, the 3418
board shall develop and implement a quality intervention program 3419
designed to improve through remedial education the clinical and 3420
communication skills of individuals authorized under this 3421
chapter to practice medicine and surgery, osteopathic medicine 3422
and surgery, and podiatric medicine and surgery. In developing 3423
and implementing the quality intervention program, the board may 3424
do all of the following: 3425

(1) Offer in appropriate cases as determined by the board 3426
an educational and assessment program pursuant to an 3427
investigation the board conducts under this section; 3428

(2) Select providers of educational and assessment 3429
services, including a quality intervention program panel of case 3430
reviewers; 3431

(3) Make referrals to educational and assessment service 3432
providers and approve individual educational programs 3433
recommended by those providers. The board shall monitor the 3434
progress of each individual undertaking a recommended individual 3435
educational program. 3436

(4) Determine what constitutes successful completion of an 3437
individual educational program and require further monitoring of 3438
the individual who completed the program or other action that 3439
the board determines to be appropriate; 3440

(5) Adopt rules in accordance with Chapter 119. of the 3441
Revised Code to further implement the quality intervention 3442
program. 3443

An individual who participates in an individual 3444
educational program pursuant to this division shall pay the 3445

financial obligations arising from that educational program. 3446

(P) The board shall not refuse to issue a license to an 3447
applicant because of a conviction, plea of guilty, judicial 3448
finding of guilt, judicial finding of eligibility for 3449
intervention in lieu of conviction, or the commission of an act 3450
that constitutes a criminal offense, unless the refusal is in 3451
accordance with section 9.79 of the Revised Code. 3452

Section 4. That the existing versions of sections 121.22 3453
and 4731.22 of the Revised Code that are scheduled to take 3454
effect October 9, 2021, are hereby repealed. 3455

Section 5. The General Assembly, applying the principle 3456
stated in division (B) of section 1.52 of the Revised Code that 3457
amendments are to be harmonized if reasonably capable of 3458
simultaneous operation, finds that the following sections, 3459
presented in this act as composites of the sections as amended 3460
by the acts indicated, are the resulting versions of the 3461
sections in effect prior to the effective date of the sections 3462
as presented in this act: 3463

The version of section 121.22 of the Revised Code that is 3464
scheduled to take effect on October 9, 2021, is presented in 3465
this act as a composite of the section as amended by both H.B. 3466
263 and H.B. 341 of the 133rd General Assembly. 3467

Section 4731.22 of the Revised Code is presented in this 3468
act as a composite of the section as amended by both H.B. 442 3469
and S.B. 260 of the 133rd General Assembly. 3470

The version of section 4731.22 of the Revised Code that is 3471
scheduled to take effect on October 9, 2021, is presented in 3472
this act as a composite of the section as amended by H.B. 263, 3473
H.B. 442, and S.B. 260, all of the 133rd General Assembly. 3474