

As Passed by the House

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 476

Representatives Bird, Lightbody

Cosponsors: Representatives Schmidt, White, Johnson, Miller, J., Stewart, Weinstein, Sheehy, Boggs, Ingram, Miller, A., Lepore-Hagan, West, Abrams, Baldrige, Blackshear, Boyd, Brent, Brown, Callender, Carruthers, Click, Cross, Crossman, Cutrona, Davis, Fraizer, Galonski, Ghanbari, Ginter, Grendell, Gross, Hall, Hicks-Hudson, Hoops, Humphrey, Jarrells, John, Jones, Kick, Lanese, Leland, Lipps, Liston, Loychik, Manning, Miranda, O'Brien, Oelslager, Patton, Plummer, Ray, Richardson, Riedel, Russo, Skindell, Smith, K., Troy, Upchurch, Wilkin, Young, T., Speaker Cupp

A BILL

To amend sections 5.27, 4723.28, 4730.25, and 1
4731.22 and to enact sections 3701.25 and 2
3701.251 of the Revised Code to establish a 3
Parkinson's disease registry and to change the 4
observance of "Parkinson's Disease Awareness 5
Month" from September to April. 6

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

Section 1. That sections 5.27, 4723.28, 4730.25, and 7
4731.22 be amended and sections 3701.25 and 3701.251 of the 8
Revised Code be enacted to read as follows: 9

Sec. 5.27. The month of ~~September~~ April is designated as 10
"Parkinson's Disease Awareness Month." 11

Sec. 3701.25. (A) As used in this section and section 12
3701.251 of the Revised Code: 13

(1) "Certified nurse practitioner" and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code. 14
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(2) "Hospital" has the same meaning as in section 3722.01 of the Revised Code. 17
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(3) "Parkinson's disease" means a chronic and progressive neurological disorder resulting from a deficiency of the neurotransmitter dopamine as the consequence of specific degenerative changes in the area of the brain called the basal ganglia. Parkinson's disease can be characterized by tremor at rest, slow movements, muscle rigidity, stooped posture, and unsteady or shuffling gait. 19
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(4) "Parkinsonism" means a condition related to Parkinson's disease that meets both of the following: 26
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(a) It can cause a combination of the movement abnormalities seen in the disease, including tremor at rest, slow movement, muscle rigidity, impaired speech, or muscle stiffness, which often overlaps with and can evolve from what appears to be Parkinson's disease. 28
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(b) It is included on the list of Parkinsonisms developed and updated by the Parkinson's disease registry advisory committee as described in section 3701.251 of the Revised Code. 33
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(5) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 36
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(6) "Physician assistant" means an individual authorized under Chapter 4730. of the Revised Code to practice as a physician assistant. 39
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(B) Not later than one year after the effective date of 42
this section, the department of health shall establish and 43
maintain a Parkinson's disease registry for the collection and 44
dissemination of the following: 45

(1) Data on the incidence and prevalence of Parkinson's 46
disease and Parkinsonisms in Ohio; 47

(2) Any other epidemiological data related to the disease. 48

The director of health shall supervise the registry and 49
the collection and dissemination of data included in the 50
registry. 51

(C) (1) Except as provided in division (C) (2) of this 52
section, each individual case of Parkinson's disease or a 53
Parkinsonism shall be reported to the registry by one of the 54
following: 55

(a) The certified nurse practitioner, clinical nurse 56
specialist, physician, or physician assistant who diagnosed or 57
treated the individual's Parkinson's disease or Parkinsonism; 58

(b) The group practice or hospital or other health care 59
facility that employs or contracts with the professional 60
described in division (C) (1) (a) of this section. 61

(2) In the event an individual who is diagnosed with or 62
treated for Parkinson's disease or a Parkinsonism is under the 63
care of one or more of the following at the same time, a single 64
report may be submitted to the registry to meet the requirement 65
of division (C) (1) of this section: a certified nurse 66
practitioner, clinical nurse specialist, physician, or physician 67
assistant. 68

(3) As soon as practicable after the individual's 69

diagnosis or treatment, the nurse, physician, physician 70
assistant, practice, hospital, or facility also shall inform the 71
individual or individual's representative of both of the 72
following: 73

(a) That the department of health has established and 74
maintains a Parkinson's disease registry; 75

(b) That state law requires each diagnosis or treatment of 76
Parkinson's disease or a Parkinsonism to be reported to the 77
registry. 78

(D) On receipt of a report described in division (C) of 79
this section, the department of health shall notify the 80
individual who is the subject of the report or the individual's 81
representative about the registry and the department's 82
collection of data related to Parkinson's disease and 83
Parkinsonisms. The notice shall be in writing and shall include 84
all of the following: 85

(1) A description of the registry and the process for 86
collecting additional data about the individual beyond the 87
initial report of the individual's diagnosis or treatment; 88

(2) A statement acknowledging that an individual is not 89
required to participate in the registry; 90

(3) A statement informing the individual that any data or 91
information concerning the individual shall remain confidential; 92

(4) A statement informing the individual that he or she 93
shall have access to his or her data and information maintained 94
in the registry; 95

(5) The name and contact information for a representative 96
designated by the department to answer questions about the 97

registry. 98

An individual who does not wish to participate in the 99
registry and the department's collection of data shall 100
affirmatively opt-out in writing after an opportunity to review 101
the written notice and ask questions of the department's 102
designated representative. No individual shall be required to 103
participate in this registry. In the event an individual opts- 104
out of the registry, no further data or information about the 105
individual beyond a report of a diagnosis or treatment shall be 106
provided to the registry. 107

(E) With respect to each individual who participates in 108
the registry, the department of health, in accordance with 109
division (D) of section 3701.251 of the Revised Code, shall 110
develop a system for collecting and disseminating additional 111
data related to the individual's diagnosis of and treatment for 112
Parkinson's disease and Parkinsonisms. In developing such a 113
system, the department may do the following: 114

(1) Create, review, and revise a list of data points, 115
including the following: 116

(a) Necessary triggering diagnostic conditions, consistent 117
with the most recent international statistical classification of 118
diseases and related health problems; 119

(b) Resulting case data, including diagnosis, treatment, 120
and survival. 121

(2) Require the professionals described in division (B) of 122
this section to report the additional data to the registry, 123
including in a format prescribed by the department; 124

(3) Inform the professionals described in division (B) of 125
this section, through a bulletin or other instruction and 126

without taking regulatory action, about the additional data to 127
be reported. 128

(F) Not later than six months after the effective date of 129
this section, the department of health shall provide notice of 130
the reporting required by this section on the internet web site 131
the department maintains. The department also shall provide 132
notice of the required reporting to all of the following 133
entities: 134

(1) The Ohio board of nursing; 135

(2) The Ohio association of advanced practice nurses; 136

(3) The Ohio association of physician assistants; 137

(4) The Ohio hospital association; 138

(5) The Ohio state medical association; 139

(6) The state medical board of Ohio. 140

(G) The director of health may enter into contracts, 141
grants, or other agreements as necessary to administer the 142
registry and satisfy the requirements of this section, including 143
data sharing contracts with data reporting entities and their 144
associated electronic medical record systems vendors to securely 145
and confidentially receive information related to Parkinson's 146
disease testing, diagnosis, and treatment. 147

(H) The director of health may enter into agreements to 148
furnish data collected in this registry with other states' 149
Parkinson's disease registries, federal Parkinson's disease 150
control agencies, local health officers, or health researchers 151
for the study of Parkinson's disease. Before confidential 152
information is disclosed to those agencies, officers, 153
researchers, or out-of-state registries, the requesting entity 154

shall agree in writing to maintain the confidentiality of the 155
information, and, in the case of researchers, also shall do both 156
of the following: 157

(1) Obtain approval from their respective committees for 158
the protection of human subjects established in accordance with 159
45 C.F.R. 46; 160

(2) Provide documentation to the director of health that 161
demonstrates to the director's satisfaction that the researchers 162
are able to and have established procedures to maintain the 163
confidentiality of the information. 164

(I) Except as otherwise provided in this section, all data 165
and information collected pursuant to this section shall be 166
confidential. For purposes of this section, the data and 167
information shall be referred to as confidential information. To 168
ensure privacy, the department of health shall establish a 169
coding system that removes any identifying information about an 170
individual diagnosed with or treated for Parkinson's disease or 171
a Parkinsonism. 172

Each individual who participates in the registry shall 173
have access to his or her own data and information maintained in 174
the registry. 175

(J) Notwithstanding any conflicting provision of the 176
Revised Code, a disclosure authorized by this section shall 177
include only the data and information necessary for the stated 178
purpose of the requested disclosure, shall be used only for the 179
approved purpose, and shall not be further disclosed. 180

(K) Provided the security of confidentiality has been 181
documented, furnishing confidential information to the 182
department of health or its authorized representative in 183

accordance with this section shall not expose any person, 184
agency, or entity to liability and shall not be considered a 185
waiver of any privilege or a violation of a confidential 186
relationship. 187

(L) The department of health shall maintain an accurate 188
record of all persons who are given access to confidential 189
information under this section. The record shall include: the 190
name of the person authorizing access; the name, title, address, 191
and organizational affiliation of any person given access; the 192
dates of access; and the specific purpose for which information 193
is to be used. The record of access shall be open to public 194
inspection during normal operating hours of the department. 195

(M) Notwithstanding any conflicting provision of the 196
Revised Code, the confidential information shall not be 197
available for subpoena or disclosed, discoverable, or compelled 198
to be produced in any civil, criminal, administrative, or other 199
proceeding. The confidential information shall not be deemed 200
admissible as evidence in any civil, criminal, administrative, 201
or other tribunal or court for any reason. 202

(N) This section does not prevent either of the following: 203

(1) The department of health from publishing reports and 204
statistical compilations that do not in any way identify or tend 205
to identify individual cases or individual sources of 206
information; 207

(2) A professional, hospital, or facility described in 208
division (B) of this section that provides diagnostic or 209
treatment services to individuals with Parkinson's disease from 210
maintaining Parkinson's disease registries. 211

Sec. 3701.251. (A) There is hereby created in the 212

<u>department of health the Parkinson's disease registry advisory</u>	213
<u>committee. The committee shall consist of all of the following</u>	214
<u>members, each appointed by the director of health:</u>	215
<u>(1) One physician who specializes in neurology;</u>	216
<u>(2) One physician who specializes in movement disorders;</u>	217
<u>(3) One physician who specializes in primary care;</u>	218
<u>(4) One physician with experience in clinical informatics;</u>	219
<u>(5) One individual who represents patients diagnosed with</u>	220
<u>Parkinson's disease;</u>	221
<u>(6) One individual who specializes in public health;</u>	222
<u>(7) One individual who is a population health researcher</u>	223
<u>with experience in developing or maintaining one or more disease</u>	224
<u>registries;</u>	225
<u>(8) One individual with experience conducting Parkinson's</u>	226
<u>disease research;</u>	227
<u>(9) One individual deemed necessary by the director.</u>	228
<u>(B) Initial appointments to the committee shall be made</u>	229
<u>not later than sixty days after the effective date of this</u>	230
<u>section. Of the initial appointments, four shall be for terms of</u>	231
<u>two years and five shall be for terms of three years.</u>	232
<u>Thereafter, terms shall be for three years, with each term</u>	233
<u>ending on the same day of the same month as did the term that it</u>	234
<u>succeeds. Vacancies shall be filled in the same manner as</u>	235
<u>appointments.</u>	236
<u>When the term of any member expires, a successor shall be</u>	237
<u>appointed in the same manner as the initial appointment. Any</u>	238
<u>member appointed to fill a vacancy occurring prior to the</u>	239

expiration of the term for which the member's predecessor was 240
appointed shall hold office for the remainder of that term. A 241
member shall continue in office subsequent to the expiration 242
date of the member's term until the member's successor takes 243
office or until a period of sixty days has elapsed, whichever 244
occurs first. A member may be reappointed for one additional 245
term only. 246

(C) Not later than ninety days after the effective date of 247
this section, the committee shall hold its first meeting. 248
Thereafter, the committee shall meet at least twice a year. 249

The committee shall organize by selecting a chairperson 250
from among its members and may select a new chairperson at any 251
time. The committee may transact official business if at least 252
five members of the committee are present. Members shall serve 253
without compensation but shall receive payment for their actual 254
and necessary expenses incurred in the performance of their 255
official duties. 256

(D) The committee shall do all of the following: 257

(1) Assist the department of health in developing and 258
implementing the Parkinson's disease registry; 259

(2) Determine the data to be collected and maintained in 260
the registry; 261

(3) Develop and update on a periodic basis a list of the 262
Parkinsonisms to be reported to the registry, including multiple 263
system atrophy, dementia with Lewy Bodies, corticobasal 264
degeneration, and progressive supranuclear palsy; 265

(4) Advise the department of health as necessary. 266

(E) The department of health shall provide meeting space, 267

staff, and other administrative support to the committee in 268
order for the committee to carry out its duties. 269

Sec. 4723.28. (A) The board of nursing, by a vote of a 270
quorum, may impose one or more of the following sanctions if it 271
finds that a person committed fraud in passing an examination 272
required to obtain a license or dialysis technician certificate 273
issued by the board or to have committed fraud, 274
misrepresentation, or deception in applying for or securing any 275
nursing license or dialysis technician certificate issued by the 276
board: deny, revoke, suspend, or place restrictions on any 277
nursing license or dialysis technician certificate issued by the 278
board; reprimand or otherwise discipline a holder of a nursing 279
license or dialysis technician certificate; or impose a fine of 280
not more than five hundred dollars per violation. 281

(B) Except as provided in section 4723.092 of the Revised 282
Code, the board of nursing, by a vote of a quorum, may impose 283
one or more of the following sanctions: deny, revoke, suspend, 284
or place restrictions on any nursing license or dialysis 285
technician certificate issued by the board; reprimand or 286
otherwise discipline a holder of a nursing license or dialysis 287
technician certificate; or impose a fine of not more than five 288
hundred dollars per violation. The sanctions may be imposed for 289
any of the following: 290

(1) Denial, revocation, suspension, or restriction of 291
authority to engage in a licensed profession or practice a 292
health care occupation, including nursing or practice as a 293
dialysis technician, for any reason other than a failure to 294
renew, in Ohio or another state or jurisdiction; 295

(2) Engaging in the practice of nursing or engaging in 296
practice as a dialysis technician, having failed to renew a 297

nursing license or dialysis technician certificate issued under 298
this chapter, or while a nursing license or dialysis technician 299
certificate is under suspension; 300

(3) Conviction of, a plea of guilty to, a judicial finding 301
of guilt of, a judicial finding of guilt resulting from a plea 302
of no contest to, or a judicial finding of eligibility for a 303
pretrial diversion or similar program or for intervention in 304
lieu of conviction for, a misdemeanor committed in the course of 305
practice; 306

(4) Conviction of, a plea of guilty to, a judicial finding 307
of guilt of, a judicial finding of guilt resulting from a plea 308
of no contest to, or a judicial finding of eligibility for a 309
pretrial diversion or similar program or for intervention in 310
lieu of conviction for, any felony or of any crime involving 311
gross immorality or moral turpitude; 312

(5) Selling, giving away, or administering drugs or 313
therapeutic devices for other than legal and legitimate 314
therapeutic purposes; or conviction of, a plea of guilty to, a 315
judicial finding of guilt of, a judicial finding of guilt 316
resulting from a plea of no contest to, or a judicial finding of 317
eligibility for a pretrial diversion or similar program or for 318
intervention in lieu of conviction for, violating any municipal, 319
state, county, or federal drug law; 320

(6) Conviction of, a plea of guilty to, a judicial finding 321
of guilt of, a judicial finding of guilt resulting from a plea 322
of no contest to, or a judicial finding of eligibility for a 323
pretrial diversion or similar program or for intervention in 324
lieu of conviction for, an act in another jurisdiction that 325
would constitute a felony or a crime of moral turpitude in Ohio; 326

(7) Conviction of, a plea of guilty to, a judicial finding	327
of guilt of, a judicial finding of guilt resulting from a plea	328
of no contest to, or a judicial finding of eligibility for a	329
pretrial diversion or similar program or for intervention in	330
lieu of conviction for, an act in the course of practice in	331
another jurisdiction that would constitute a misdemeanor in	332
Ohio;	333
(8) Self-administering or otherwise taking into the body	334
any dangerous drug, as defined in section 4729.01 of the Revised	335
Code, in any way that is not in accordance with a legal, valid	336
prescription issued for that individual, or self-administering	337
or otherwise taking into the body any drug that is a schedule I	338
controlled substance;	339
(9) Habitual or excessive use of controlled substances,	340
other habit-forming drugs, or alcohol or other chemical	341
substances to an extent that impairs the individual's ability to	342
provide safe nursing care or safe dialysis care;	343
(10) Impairment of the ability to practice according to	344
acceptable and prevailing standards of safe nursing care or safe	345
dialysis care because of the use of drugs, alcohol, or other	346
chemical substances;	347
(11) Impairment of the ability to practice according to	348
acceptable and prevailing standards of safe nursing care or safe	349
dialysis care because of a physical or mental disability;	350
(12) Assaulting or causing harm to a patient or depriving	351
a patient of the means to summon assistance;	352
(13) Misappropriation or attempted misappropriation of	353
money or anything of value in the course of practice;	354
(14) Adjudication by a probate court of being mentally ill	355

or mentally incompetent. The board may reinstate the person's 356
nursing license or dialysis technician certificate upon 357
adjudication by a probate court of the person's restoration to 358
competency or upon submission to the board of other proof of 359
competency. 360

(15) The suspension or termination of employment by the 361
United States department of defense or department of veterans 362
affairs for any act that violates or would violate this chapter; 363

(16) Violation of this chapter or any rules adopted under 364
it; 365

(17) Violation of any restrictions placed by the board on 366
a nursing license or dialysis technician certificate; 367

(18) Failure to use universal and standard precautions 368
established by rules adopted under section 4723.07 of the 369
Revised Code; 370

(19) Failure to practice in accordance with acceptable and 371
prevailing standards of safe nursing care or safe dialysis care; 372

(20) In the case of a registered nurse, engaging in 373
activities that exceed the practice of nursing as a registered 374
nurse; 375

(21) In the case of a licensed practical nurse, engaging 376
in activities that exceed the practice of nursing as a licensed 377
practical nurse; 378

(22) In the case of a dialysis technician, engaging in 379
activities that exceed those permitted under section 4723.72 of 380
the Revised Code; 381

(23) Aiding and abetting a person in that person's 382
practice of nursing without a license or practice as a dialysis 383

technician without a certificate issued under this chapter;	384
(24) In the case of an advanced practice registered nurse,	385
except as provided in division (M) of this section, either of	386
the following:	387
(a) Waiving the payment of all or any part of a deductible	388
or copayment that a patient, pursuant to a health insurance or	389
health care policy, contract, or plan that covers such nursing	390
services, would otherwise be required to pay if the waiver is	391
used as an enticement to a patient or group of patients to	392
receive health care services from that provider;	393
(b) Advertising that the nurse will waive the payment of	394
all or any part of a deductible or copayment that a patient,	395
pursuant to a health insurance or health care policy, contract,	396
or plan that covers such nursing services, would otherwise be	397
required to pay.	398
(25) Failure to comply with the terms and conditions of	399
participation in the substance use disorder monitoring program	400
established under section 4723.35 of the Revised Code;	401
(26) Failure to comply with the terms and conditions	402
required under the practice intervention and improvement program	403
established under section 4723.282 of the Revised Code;	404
(27) In the case of an advanced practice registered nurse:	405
(a) Engaging in activities that exceed those permitted for	406
the nurse's nursing specialty under section 4723.43 of the	407
Revised Code;	408
(b) Failure to meet the quality assurance standards	409
established under section 4723.07 of the Revised Code.	410
(28) In the case of an advanced practice registered nurse	411

other than a certified registered nurse anesthetist, failure to 412
maintain a standard care arrangement in accordance with section 413
4723.431 of the Revised Code or to practice in accordance with 414
the standard care arrangement; 415

(29) In the case of an advanced practice registered nurse 416
who is designated as a clinical nurse specialist, certified 417
nurse-midwife, or certified nurse practitioner, failure to 418
prescribe drugs and therapeutic devices in accordance with 419
section 4723.481 of the Revised Code; 420

(30) Prescribing any drug or device to perform or induce 421
an abortion, or otherwise performing or inducing an abortion; 422

(31) Failure to establish and maintain professional 423
boundaries with a patient, as specified in rules adopted under 424
section 4723.07 of the Revised Code; 425

(32) Regardless of whether the contact or verbal behavior 426
is consensual, engaging with a patient other than the spouse of 427
the registered nurse, licensed practical nurse, or dialysis 428
technician in any of the following: 429

(a) Sexual contact, as defined in section 2907.01 of the 430
Revised Code; 431

(b) Verbal behavior that is sexually demeaning to the 432
patient or may be reasonably interpreted by the patient as 433
sexually demeaning. 434

(33) Assisting suicide, as defined in section 3795.01 of 435
the Revised Code; 436

(34) Failure to comply with the requirements in section 437
3719.061 of the Revised Code before issuing for a minor a 438
prescription for an opioid analgesic, as defined in section 439

3719.01 of the Revised Code;	440
(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	441 442 443 444
(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;	445 446 447 448 449 450
(37) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;	451 452 453 454 455
<u>(38) In the case of a certified nurse practitioner or clinical nurse specialist, failure to report a case of Parkinson's disease or a Parkinsonism as required by section 3701.25 of the Revised Code.</u>	456 457 458 459
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to	460 461 462 463 464 465 466 467 468

ratify a consent agreement, the admissions and findings 469
contained in the agreement shall be of no effect. 470

(D) The hearings of the board shall be conducted in 471
accordance with Chapter 119. of the Revised Code, the board may 472
appoint a hearing examiner, as provided in section 119.09 of the 473
Revised Code, to conduct any hearing the board is authorized to 474
hold under Chapter 119. of the Revised Code. 475

In any instance in which the board is required under 476
Chapter 119. of the Revised Code to give notice of an 477
opportunity for a hearing and the applicant, licensee, or 478
certificate holder does not make a timely request for a hearing 479
in accordance with section 119.07 of the Revised Code, the board 480
is not required to hold a hearing, but may adopt, by a vote of a 481
quorum, a final order that contains the board's findings. In the 482
final order, the board may order any of the sanctions listed in 483
division (A) or (B) of this section. 484

(E) If a criminal action is brought against a registered 485
nurse, licensed practical nurse, or dialysis technician for an 486
act or crime described in divisions (B) (3) to (7) of this 487
section and the action is dismissed by the trial court other 488
than on the merits, the board shall conduct an adjudication to 489
determine whether the registered nurse, licensed practical 490
nurse, or dialysis technician committed the act on which the 491
action was based. If the board determines on the basis of the 492
adjudication that the registered nurse, licensed practical 493
nurse, or dialysis technician committed the act, or if the 494
registered nurse, licensed practical nurse, or dialysis 495
technician fails to participate in the adjudication, the board 496
may take action as though the registered nurse, licensed 497
practical nurse, or dialysis technician had been convicted of 498

the act. 499

If the board takes action on the basis of a conviction, 500
plea, or a judicial finding as described in divisions (B) (3) to 501
(7) of this section that is overturned on appeal, the registered 502
nurse, licensed practical nurse, or dialysis technician may, on 503
exhaustion of the appeal process, petition the board for 504
reconsideration of its action. On receipt of the petition and 505
supporting court documents, the board shall temporarily rescind 506
its action. If the board determines that the decision on appeal 507
was a decision on the merits, it shall permanently rescind its 508
action. If the board determines that the decision on appeal was 509
not a decision on the merits, it shall conduct an adjudication 510
to determine whether the registered nurse, licensed practical 511
nurse, or dialysis technician committed the act on which the 512
original conviction, plea, or judicial finding was based. If the 513
board determines on the basis of the adjudication that the 514
registered nurse, licensed practical nurse, or dialysis 515
technician committed such act, or if the registered nurse, 516
licensed practical nurse, or dialysis technician does not 517
request an adjudication, the board shall reinstate its action; 518
otherwise, the board shall permanently rescind its action. 519

Notwithstanding the provision of division (C) (2) of 520
section 2953.32 of the Revised Code specifying that if records 521
pertaining to a criminal case are sealed under that section the 522
proceedings in the case shall be deemed not to have occurred, 523
sealing of the following records on which the board has based an 524
action under this section shall have no effect on the board's 525
action or any sanction imposed by the board under this section: 526
records of any conviction, guilty plea, judicial finding of 527
guilt resulting from a plea of no contest, or a judicial finding 528
of eligibility for a pretrial diversion program or intervention 529

in lieu of conviction. 530

The board shall not be required to seal, destroy, redact, 531
or otherwise modify its records to reflect the court's sealing 532
of conviction records. 533

(F) The board may investigate an individual's criminal 534
background in performing its duties under this section. As part 535
of such investigation, the board may order the individual to 536
submit, at the individual's expense, a request to the bureau of 537
criminal identification and investigation for a criminal records 538
check and check of federal bureau of investigation records in 539
accordance with the procedure described in section 4723.091 of 540
the Revised Code. 541

(G) During the course of an investigation conducted under 542
this section, the board may compel any registered nurse, 543
licensed practical nurse, or dialysis technician or applicant 544
under this chapter to submit to a mental or physical 545
examination, or both, as required by the board and at the 546
expense of the individual, if the board finds reason to believe 547
that the individual under investigation may have a physical or 548
mental impairment that may affect the individual's ability to 549
provide safe nursing care. Failure of any individual to submit 550
to a mental or physical examination when directed constitutes an 551
admission of the allegations, unless the failure is due to 552
circumstances beyond the individual's control, and a default and 553
final order may be entered without the taking of testimony or 554
presentation of evidence. 555

If the board finds that an individual is impaired, the 556
board shall require the individual to submit to care, 557
counseling, or treatment approved or designated by the board, as 558
a condition for initial, continued, reinstated, or renewed 559

authority to practice. The individual shall be afforded an 560
opportunity to demonstrate to the board that the individual can 561
begin or resume the individual's occupation in compliance with 562
acceptable and prevailing standards of care under the provisions 563
of the individual's authority to practice. 564

For purposes of this division, any registered nurse, 565
licensed practical nurse, or dialysis technician or applicant 566
under this chapter shall be deemed to have given consent to 567
submit to a mental or physical examination when directed to do 568
so in writing by the board, and to have waived all objections to 569
the admissibility of testimony or examination reports that 570
constitute a privileged communication. 571

(H) The board shall investigate evidence that appears to 572
show that any person has violated any provision of this chapter 573
or any rule of the board. Any person may report to the board any 574
information the person may have that appears to show a violation 575
of any provision of this chapter or rule of the board. In the 576
absence of bad faith, any person who reports such information or 577
who testifies before the board in any adjudication conducted 578
under Chapter 119. of the Revised Code shall not be liable for 579
civil damages as a result of the report or testimony. 580

(I) All of the following apply under this chapter with 581
respect to the confidentiality of information: 582

(1) Information received by the board pursuant to a 583
complaint or an investigation is confidential and not subject to 584
discovery in any civil action, except that the board may 585
disclose information to law enforcement officers and government 586
entities for purposes of an investigation of either a licensed 587
health care professional, including a registered nurse, licensed 588
practical nurse, or dialysis technician, or a person who may 589

have engaged in the unauthorized practice of nursing or dialysis 590
care. No law enforcement officer or government entity with 591
knowledge of any information disclosed by the board pursuant to 592
this division shall divulge the information to any other person 593
or government entity except for the purpose of a government 594
investigation, a prosecution, or an adjudication by a court or 595
government entity. 596

(2) If an investigation requires a review of patient 597
records, the investigation and proceeding shall be conducted in 598
such a manner as to protect patient confidentiality. 599

(3) All adjudications and investigations of the board 600
shall be considered civil actions for the purposes of section 601
2305.252 of the Revised Code. 602

(4) Any board activity that involves continued monitoring 603
of an individual as part of or following any disciplinary action 604
taken under this section shall be conducted in a manner that 605
maintains the individual's confidentiality. Information received 606
or maintained by the board with respect to the board's 607
monitoring activities is not subject to discovery in any civil 608
action and is confidential, except that the board may disclose 609
information to law enforcement officers and government entities 610
for purposes of an investigation of a licensee or certificate 611
holder. 612

(J) Any action taken by the board under this section 613
resulting in a suspension from practice shall be accompanied by 614
a written statement of the conditions under which the person may 615
be reinstated to practice. 616

(K) When the board refuses to grant a license or 617
certificate to an applicant, revokes a license or certificate, 618

or refuses to reinstate a license or certificate, the board may 619
specify that its action is permanent. An individual subject to 620
permanent action taken by the board is forever ineligible to 621
hold a license or certificate of the type that was refused or 622
revoked and the board shall not accept from the individual an 623
application for reinstatement of the license or certificate or 624
for a new license or certificate. 625

(L) No unilateral surrender of a nursing license or 626
dialysis technician certificate issued under this chapter shall 627
be effective unless accepted by majority vote of the board. No 628
application for a nursing license or dialysis technician 629
certificate issued under this chapter may be withdrawn without a 630
majority vote of the board. The board's jurisdiction to take 631
disciplinary action under this section is not removed or limited 632
when an individual has a license or certificate classified as 633
inactive or fails to renew a license or certificate. 634

(M) Sanctions shall not be imposed under division (B) (24) 635
of this section against any licensee who waives deductibles and 636
copayments as follows: 637

(1) In compliance with the health benefit plan that 638
expressly allows such a practice. Waiver of the deductibles or 639
copayments shall be made only with the full knowledge and 640
consent of the plan purchaser, payer, and third-party 641
administrator. Documentation of the consent shall be made 642
available to the board upon request. 643

(2) For professional services rendered to any other person 644
licensed pursuant to this chapter to the extent allowed by this 645
chapter and the rules of the board. 646

Sec. 4730.25. (A) The state medical board, by an 647

affirmative vote of not fewer than six members, may revoke or 648
may refuse to grant a license to practice as a physician 649
assistant to a person found by the board to have committed 650
fraud, misrepresentation, or deception in applying for or 651
securing the license. 652

(B) Except as provided in division (N) of this section, 653
the board, by an affirmative vote of not fewer than six members, 654
shall, to the extent permitted by law, limit, revoke, or suspend 655
an individual's license to practice as a physician assistant or 656
prescriber number, refuse to issue a license to an applicant, 657
refuse to renew a license, refuse to reinstate a license, or 658
reprimand or place on probation the holder of a license for any 659
of the following reasons: 660

(1) Failure to practice in accordance with the supervising 661
physician's supervision agreement with the physician assistant, 662
including, if applicable, the policies of the health care 663
facility in which the supervising physician and physician 664
assistant are practicing; 665

(2) Failure to comply with the requirements of this 666
chapter, Chapter 4731. of the Revised Code, or any rules adopted 667
by the board; 668

(3) Violating or attempting to violate, directly or 669
indirectly, or assisting in or abetting the violation of, or 670
conspiring to violate, any provision of this chapter, Chapter 671
4731. of the Revised Code, or the rules adopted by the board; 672

(4) Inability to practice according to acceptable and 673
prevailing standards of care by reason of mental illness or 674
physical illness, including physical deterioration that 675
adversely affects cognitive, motor, or perceptive skills; 676

(5) Impairment of ability to practice according to 677
acceptable and prevailing standards of care because of habitual 678
or excessive use or abuse of drugs, alcohol, or other substances 679
that impair ability to practice; 680

(6) Administering drugs for purposes other than those 681
authorized under this chapter; 682

(7) Willfully betraying a professional confidence; 683

(8) Making a false, fraudulent, deceptive, or misleading 684
statement in soliciting or advertising for employment as a 685
physician assistant; in connection with any solicitation or 686
advertisement for patients; in relation to the practice of 687
medicine as it pertains to physician assistants; or in securing 688
or attempting to secure a license to practice as a physician 689
assistant. 690

As used in this division, "false, fraudulent, deceptive, 691
or misleading statement" means a statement that includes a 692
misrepresentation of fact, is likely to mislead or deceive 693
because of a failure to disclose material facts, is intended or 694
is likely to create false or unjustified expectations of 695
favorable results, or includes representations or implications 696
that in reasonable probability will cause an ordinarily prudent 697
person to misunderstand or be deceived. 698

(9) Representing, with the purpose of obtaining 699
compensation or other advantage personally or for any other 700
person, that an incurable disease or injury, or other incurable 701
condition, can be permanently cured; 702

(10) The obtaining of, or attempting to obtain, money or 703
anything of value by fraudulent misrepresentations in the course 704
of practice; 705

(11) A plea of guilty to, a judicial finding of guilt of, 706
or a judicial finding of eligibility for intervention in lieu of 707
conviction for, a felony; 708

(12) Commission of an act that constitutes a felony in 709
this state, regardless of the jurisdiction in which the act was 710
committed; 711

(13) A plea of guilty to, a judicial finding of guilt of, 712
or a judicial finding of eligibility for intervention in lieu of 713
conviction for, a misdemeanor committed in the course of 714
practice; 715

(14) A plea of guilty to, a judicial finding of guilt of, 716
or a judicial finding of eligibility for intervention in lieu of 717
conviction for, a misdemeanor involving moral turpitude; 718

(15) Commission of an act in the course of practice that 719
constitutes a misdemeanor in this state, regardless of the 720
jurisdiction in which the act was committed; 721

(16) Commission of an act involving moral turpitude that 722
constitutes a misdemeanor in this state, regardless of the 723
jurisdiction in which the act was committed; 724

(17) A plea of guilty to, a judicial finding of guilt of, 725
or a judicial finding of eligibility for intervention in lieu of 726
conviction for violating any state or federal law regulating the 727
possession, distribution, or use of any drug, including 728
trafficking in drugs; 729

(18) Any of the following actions taken by the state 730
agency responsible for regulating the practice of physician 731
assistants in another state, for any reason other than the 732
nonpayment of fees: the limitation, revocation, or suspension of 733
an individual's license to practice; acceptance of an 734

individual's license surrender; denial of a license; refusal to	735
renew or reinstate a license; imposition of probation; or	736
issuance of an order of censure or other reprimand;	737
(19) A departure from, or failure to conform to, minimal	738
standards of care of similar physician assistants under the same	739
or similar circumstances, regardless of whether actual injury to	740
a patient is established;	741
(20) Violation of the conditions placed by the board on a	742
license to practice as a physician assistant;	743
(21) Failure to use universal blood and body fluid	744
precautions established by rules adopted under section 4731.051	745
of the Revised Code;	746
(22) Failure to cooperate in an investigation conducted by	747
the board under section 4730.26 of the Revised Code, including	748
failure to comply with a subpoena or order issued by the board	749
or failure to answer truthfully a question presented by the	750
board at a deposition or in written interrogatories, except that	751
failure to cooperate with an investigation shall not constitute	752
grounds for discipline under this section if a court of	753
competent jurisdiction has issued an order that either quashes a	754
subpoena or permits the individual to withhold the testimony or	755
evidence in issue;	756
(23) Assisting suicide, as defined in section 3795.01 of	757
the Revised Code;	758
(24) Prescribing any drug or device to perform or induce	759
an abortion, or otherwise performing or inducing an abortion;	760
(25) Failure to comply with section 4730.53 of the Revised	761
Code, unless the board no longer maintains a drug database	762
pursuant to section 4729.75 of the Revised Code;	763

(26) Failure to comply with the requirements in section 764
3719.061 of the Revised Code before issuing for a minor a 765
prescription for an opioid analgesic, as defined in section 766
3719.01 of the Revised Code; 767

(27) Having certification by the national commission on 768
certification of physician assistants or a successor 769
organization expire, lapse, or be suspended or revoked; 770

(28) The revocation, suspension, restriction, reduction, 771
or termination of clinical privileges by the United States 772
department of defense or department of veterans affairs or the 773
termination or suspension of a certificate of registration to 774
prescribe drugs by the drug enforcement administration of the 775
United States department of justice; 776

(29) Failure to comply with terms of a consult agreement 777
entered into with a pharmacist pursuant to section 4729.39 of 778
the Revised Code; 779

(30) Failure to report a case of Parkinson's disease or a 780
Parkinsonism as required by section 3701.25 of the Revised Code. 781

(C) Disciplinary actions taken by the board under 782
divisions (A) and (B) of this section shall be taken pursuant to 783
an adjudication under Chapter 119. of the Revised Code, except 784
that in lieu of an adjudication, the board may enter into a 785
consent agreement with a physician assistant or applicant to 786
resolve an allegation of a violation of this chapter or any rule 787
adopted under it. A consent agreement, when ratified by an 788
affirmative vote of not fewer than six members of the board, 789
shall constitute the findings and order of the board with 790
respect to the matter addressed in the agreement. If the board 791
refuses to ratify a consent agreement, the admissions and 792

findings contained in the consent agreement shall be of no force 793
or effect. 794

(D) For purposes of divisions (B) (12), (15), and (16) of 795
this section, the commission of the act may be established by a 796
finding by the board, pursuant to an adjudication under Chapter 797
119. of the Revised Code, that the applicant or license holder 798
committed the act in question. The board shall have no 799
jurisdiction under these divisions in cases where the trial 800
court renders a final judgment in the license holder's favor and 801
that judgment is based upon an adjudication on the merits. The 802
board shall have jurisdiction under these divisions in cases 803
where the trial court issues an order of dismissal upon 804
technical or procedural grounds. 805

(E) The sealing of conviction records by any court shall 806
have no effect upon a prior board order entered under the 807
provisions of this section or upon the board's jurisdiction to 808
take action under the provisions of this section if, based upon 809
a plea of guilty, a judicial finding of guilt, or a judicial 810
finding of eligibility for intervention in lieu of conviction, 811
the board issued a notice of opportunity for a hearing prior to 812
the court's order to seal the records. The board shall not be 813
required to seal, destroy, redact, or otherwise modify its 814
records to reflect the court's sealing of conviction records. 815

(F) For purposes of this division, any individual who 816
holds a license issued under this chapter, or applies for a 817
license issued under this chapter, shall be deemed to have given 818
consent to submit to a mental or physical examination when 819
directed to do so in writing by the board and to have waived all 820
objections to the admissibility of testimony or examination 821
reports that constitute a privileged communication. 822

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

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

chosen by the board. 854

Failure to submit to a mental or physical examination 855
ordered by the board constitutes an admission of the allegations 856
against the individual unless the failure is due to 857
circumstances beyond the individual's control, and a default and 858
final order may be entered without the taking of testimony or 859
presentation of evidence. If the board determines that the 860
individual's ability to practice is impaired, the board shall 861
suspend the individual's license or deny the individual's 862
application and shall require the individual, as a condition for 863
initial, continued, reinstated, or renewed licensure, to submit 864
to treatment. 865

Before being eligible to apply for reinstatement of a 866
license suspended under this division, the physician assistant 867
shall demonstrate to the board the ability to resume practice or 868
prescribing in compliance with acceptable and prevailing 869
standards of care. The demonstration shall include the 870
following: 871

(a) Certification from a treatment provider approved under 872
section 4731.25 of the Revised Code that the individual has 873
successfully completed any required inpatient treatment; 874

(b) Evidence of continuing full compliance with an 875
aftercare contract or consent agreement; 876

(c) Two written reports indicating that the individual's 877
ability to practice has been assessed and that the individual 878
has been found capable of practicing according to acceptable and 879
prevailing standards of care. The reports shall be made by 880
individuals or providers approved by the board for making such 881
assessments and shall describe the basis for their 882

determination. 883

The board may reinstate a license suspended under this 884
division after such demonstration and after the individual has 885
entered into a written consent agreement. 886

When the impaired physician assistant resumes practice or 887
prescribing, the board shall require continued monitoring of the 888
physician assistant. The monitoring shall include compliance 889
with the written consent agreement entered into before 890
reinstatement or with conditions imposed by board order after a 891
hearing, and, upon termination of the consent agreement, 892
submission to the board for at least two years of annual written 893
progress reports made under penalty of falsification stating 894
whether the physician assistant has maintained sobriety. 895

(G) If the secretary and supervising member determine that 896
there is clear and convincing evidence that a physician 897
assistant has violated division (B) of this section and that the 898
individual's continued practice or prescribing presents a danger 899
of immediate and serious harm to the public, they may recommend 900
that the board suspend the individual's license without a prior 901
hearing. Written allegations shall be prepared for consideration 902
by the board. 903

The board, upon review of those allegations and by an 904
affirmative vote of not fewer than six of its members, excluding 905
the secretary and supervising member, may suspend a license 906
without a prior hearing. A telephone conference call may be 907
utilized for reviewing the allegations and taking the vote on 908
the summary suspension. 909

The board shall issue a written order of suspension by 910
certified mail or in person in accordance with section 119.07 of 911

the Revised Code. The order shall not be subject to suspension 912
by the court during pendency of any appeal filed under section 913
119.12 of the Revised Code. If the physician assistant requests 914
an adjudicatory hearing by the board, the date set for the 915
hearing shall be within fifteen days, but not earlier than seven 916
days, after the physician assistant requests the hearing, unless 917
otherwise agreed to by both the board and the license holder. 918

A summary suspension imposed under this division shall 919
remain in effect, unless reversed on appeal, until a final 920
adjudicative order issued by the board pursuant to this section 921
and Chapter 119. of the Revised Code becomes effective. The 922
board shall issue its final adjudicative order within sixty days 923
after completion of its hearing. Failure to issue the order 924
within sixty days shall result in dissolution of the summary 925
suspension order, but shall not invalidate any subsequent, final 926
adjudicative order. 927

(H) If the board takes action under division (B) (11), 928
(13), or (14) of this section, and the judicial finding of 929
guilt, guilty plea, or judicial finding of eligibility for 930
intervention in lieu of conviction is overturned on appeal, upon 931
exhaustion of the criminal appeal, a petition for 932
reconsideration of the order may be filed with the board along 933
with appropriate court documents. Upon receipt of a petition and 934
supporting court documents, the board shall reinstate the 935
individual's license. The board may then hold an adjudication 936
under Chapter 119. of the Revised Code to determine whether the 937
individual committed the act in question. Notice of opportunity 938
for hearing shall be given in accordance with Chapter 119. of 939
the Revised Code. If the board finds, pursuant to an 940
adjudication held under this division, that the individual 941
committed the act, or if no hearing is requested, it may order 942

any of the sanctions identified under division (B) of this 943
section. 944

(I) The license to practice issued to a physician 945
assistant and the physician assistant's practice in this state 946
are automatically suspended as of the date the physician 947
assistant pleads guilty to, is found by a judge or jury to be 948
guilty of, or is subject to a judicial finding of eligibility 949
for intervention in lieu of conviction in this state or 950
treatment or intervention in lieu of conviction in another state 951
for any of the following criminal offenses in this state or a 952
substantially equivalent criminal offense in another 953
jurisdiction: aggravated murder, murder, voluntary manslaughter, 954
felonious assault, kidnapping, rape, sexual battery, gross 955
sexual imposition, aggravated arson, aggravated robbery, or 956
aggravated burglary. Continued practice after the suspension 957
shall be considered practicing without a license. 958

The board shall notify the individual subject to the 959
suspension by certified mail or in person in accordance with 960
section 119.07 of the Revised Code. If an individual whose 961
license is suspended under this division fails to make a timely 962
request for an adjudication under Chapter 119. of the Revised 963
Code, the board shall enter a final order permanently revoking 964
the individual's license to practice. 965

(J) In any instance in which the board is required by 966
Chapter 119. of the Revised Code to give notice of opportunity 967
for hearing and the individual subject to the notice does not 968
timely request a hearing in accordance with section 119.07 of 969
the Revised Code, the board is not required to hold a hearing, 970
but may adopt, by an affirmative vote of not fewer than six of 971
its members, a final order that contains the board's findings. 972

In that final order, the board may order any of the sanctions 973
identified under division (A) or (B) of this section. 974

(K) Any action taken by the board under division (B) of 975
this section resulting in a suspension shall be accompanied by a 976
written statement of the conditions under which the physician 977
assistant's license may be reinstated. The board shall adopt 978
rules in accordance with Chapter 119. of the Revised Code 979
governing conditions to be imposed for reinstatement. 980
Reinstatement of a license suspended pursuant to division (B) of 981
this section requires an affirmative vote of not fewer than six 982
members of the board. 983

(L) When the board refuses to grant or issue to an 984
applicant a license to practice as a physician assistant, 985
revokes an individual's license, refuses to renew an 986
individual's license, or refuses to reinstate an individual's 987
license, the board may specify that its action is permanent. An 988
individual subject to a permanent action taken by the board is 989
forever thereafter ineligible to hold the license and the board 990
shall not accept an application for reinstatement of the license 991
or for issuance of a new license. 992

(M) Notwithstanding any other provision of the Revised 993
Code, all of the following apply: 994

(1) The surrender of a license issued under this chapter 995
is not effective unless or until accepted by the board. 996
Reinstatement of a license surrendered to the board requires an 997
affirmative vote of not fewer than six members of the board. 998

(2) An application made under this chapter for a license 999
may not be withdrawn without approval of the board. 1000

(3) Failure by an individual to renew a license in 1001

accordance with section 4730.14 of the Revised Code shall not 1002
remove or limit the board's jurisdiction to take disciplinary 1003
action under this section against the individual. 1004

(N) The board shall not refuse to issue a license to an 1005
applicant because of a conviction, plea of guilty, judicial 1006
finding of guilt, judicial finding of eligibility for 1007
intervention in lieu of conviction, or the commission of an act 1008
that constitutes a criminal offense, unless the refusal is in 1009
accordance with section 9.79 of the Revised Code. 1010

Sec. 4731.22. (A) The state medical board, by an 1011
affirmative vote of not fewer than six of its members, may 1012
limit, revoke, or suspend a license or certificate to practice 1013
or certificate to recommend, refuse to grant a license or 1014
certificate, refuse to renew a license or certificate, refuse to 1015
reinstate a license or certificate, or reprimand or place on 1016
probation the holder of a license or certificate if the 1017
individual applying for or holding the license or certificate is 1018
found by the board to have committed fraud during the 1019
administration of the examination for a license or certificate 1020
to practice or to have committed fraud, misrepresentation, or 1021
deception in applying for, renewing, or securing any license or 1022
certificate to practice or certificate to recommend issued by 1023
the board. 1024

(B) Except as provided in division (P) of this section, 1025
the board, by an affirmative vote of not fewer than six members, 1026
shall, to the extent permitted by law, limit, revoke, or suspend 1027
a license or certificate to practice or certificate to 1028
recommend, refuse to issue a license or certificate, refuse to 1029
renew a license or certificate, refuse to reinstate a license or 1030
certificate, or reprimand or place on probation the holder of a 1031

license or certificate for one or more of the following reasons: 1032

(1) Permitting one's name or one's license or certificate 1033
to practice to be used by a person, group, or corporation when 1034
the individual concerned is not actually directing the treatment 1035
given; 1036

(2) Failure to maintain minimal standards applicable to 1037
the selection or administration of drugs, or failure to employ 1038
acceptable scientific methods in the selection of drugs or other 1039
modalities for treatment of disease; 1040

(3) Except as provided in section 4731.97 of the Revised 1041
Code, selling, giving away, personally furnishing, prescribing, 1042
or administering drugs for other than legal and legitimate 1043
therapeutic purposes or a plea of guilty to, a judicial finding 1044
of guilt of, or a judicial finding of eligibility for 1045
intervention in lieu of conviction of, a violation of any 1046
federal or state law regulating the possession, distribution, or 1047
use of any drug; 1048

(4) Willfully betraying a professional confidence. 1049

For purposes of this division, "willfully betraying a 1050
professional confidence" does not include providing any 1051
information, documents, or reports under sections 307.621 to 1052
307.629 of the Revised Code to a child fatality review board; 1053
does not include providing any information, documents, or 1054
reports under sections 307.631 to 307.6410 of the Revised Code 1055
to a drug overdose fatality review committee, a suicide fatality 1056
review committee, or hybrid drug overdose fatality and suicide 1057
fatality review committee; does not include providing any 1058
information, documents, or reports to the director of health 1059
pursuant to guidelines established under section 3701.70 of the 1060

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

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

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

(6) A departure from, or the failure to conform to,

minimal standards of care of similar practitioners under the 1091
same or similar circumstances, whether or not actual injury to a 1092
patient is established; 1093

(7) Representing, with the purpose of obtaining 1094
compensation or other advantage as personal gain or for any 1095
other person, that an incurable disease or injury, or other 1096
incurable condition, can be permanently cured; 1097

(8) The obtaining of, or attempting to obtain, money or 1098
anything of value by fraudulent misrepresentations in the course 1099
of practice; 1100

(9) A plea of guilty to, a judicial finding of guilt of, 1101
or a judicial finding of eligibility for intervention in lieu of 1102
conviction for, a felony; 1103

(10) Commission of an act that constitutes a felony in 1104
this state, regardless of the jurisdiction in which the act was 1105
committed; 1106

(11) A plea of guilty to, a judicial finding of guilt of, 1107
or a judicial finding of eligibility for intervention in lieu of 1108
conviction for, a misdemeanor committed in the course of 1109
practice; 1110

(12) Commission of an act in the course of practice that 1111
constitutes a misdemeanor in this state, regardless of the 1112
jurisdiction in which the act was committed; 1113

(13) A plea of guilty to, a judicial finding of guilt of, 1114
or a judicial finding of eligibility for intervention in lieu of 1115
conviction for, a misdemeanor involving moral turpitude; 1116

(14) Commission of an act involving moral turpitude that 1117
constitutes a misdemeanor in this state, regardless of the 1118

jurisdiction in which the act was committed; 1119

(15) Violation of the conditions of limitation placed by 1120
the board upon a license or certificate to practice; 1121

(16) Failure to pay license renewal fees specified in this 1122
chapter; 1123

(17) Except as authorized in section 4731.31 of the 1124
Revised Code, engaging in the division of fees for referral of 1125
patients, or the receiving of a thing of value in return for a 1126
specific referral of a patient to utilize a particular service 1127
or business; 1128

(18) Subject to section 4731.226 of the Revised Code, 1129
violation of any provision of a code of ethics of the American 1130
medical association, the American osteopathic association, the 1131
American podiatric medical association, or any other national 1132
professional organizations that the board specifies by rule. The 1133
state medical board shall obtain and keep on file current copies 1134
of the codes of ethics of the various national professional 1135
organizations. The individual whose license or certificate is 1136
being suspended or revoked shall not be found to have violated 1137
any provision of a code of ethics of an organization not 1138
appropriate to the individual's profession. 1139

For purposes of this division, a "provision of a code of 1140
ethics of a national professional organization" does not include 1141
any provision that would preclude the making of a report by a 1142
physician of an employee's use of a drug of abuse, or of a 1143
condition of an employee other than one involving the use of a 1144
drug of abuse, to the employer of the employee as described in 1145
division (B) of section 2305.33 of the Revised Code. Nothing in 1146
this division affects the immunity from civil liability 1147

conferred by that section upon a physician who makes either type 1148
of report in accordance with division (B) of that section. As 1149
used in this division, "employee," "employer," and "physician" 1150
have the same meanings as in section 2305.33 of the Revised 1151
Code. 1152

(19) Inability to practice according to acceptable and 1153
prevailing standards of care by reason of mental illness or 1154
physical illness, including, but not limited to, physical 1155
deterioration that adversely affects cognitive, motor, or 1156
perceptive skills. 1157

In enforcing this division, the board, upon a showing of a 1158
possible violation, may compel any individual authorized to 1159
practice by this chapter or who has submitted an application 1160
pursuant to this chapter to submit to a mental examination, 1161
physical examination, including an HIV test, or both a mental 1162
and a physical examination. The expense of the examination is 1163
the responsibility of the individual compelled to be examined. 1164
Failure to submit to a mental or physical examination or consent 1165
to an HIV test ordered by the board constitutes an admission of 1166
the allegations against the individual unless the failure is due 1167
to circumstances beyond the individual's control, and a default 1168
and final order may be entered without the taking of testimony 1169
or presentation of evidence. If the board finds an individual 1170
unable to practice because of the reasons set forth in this 1171
division, the board shall require the individual to submit to 1172
care, counseling, or treatment by physicians approved or 1173
designated by the board, as a condition for initial, continued, 1174
reinstated, or renewed authority to practice. An individual 1175
affected under this division shall be afforded an opportunity to 1176
demonstrate to the board the ability to resume practice in 1177
compliance with acceptable and prevailing standards under the 1178

provisions of the individual's license or certificate. For the 1179
purpose of this division, any individual who applies for or 1180
receives a license or certificate to practice under this chapter 1181
accepts the privilege of practicing in this state and, by so 1182
doing, shall be deemed to have given consent to submit to a 1183
mental or physical examination when directed to do so in writing 1184
by the board, and to have waived all objections to the 1185
admissibility of testimony or examination reports that 1186
constitute a privileged communication. 1187

(20) Except as provided in division (F) (1) (b) of section 1188
4731.282 of the Revised Code or when civil penalties are imposed 1189
under section 4731.225 of the Revised Code, and subject to 1190
section 4731.226 of the Revised Code, violating or attempting to 1191
violate, directly or indirectly, or assisting in or abetting the 1192
violation of, or conspiring to violate, any provisions of this 1193
chapter or any rule promulgated by the board. 1194

This division does not apply to a violation or attempted 1195
violation of, assisting in or abetting the violation of, or a 1196
conspiracy to violate, any provision of this chapter or any rule 1197
adopted by the board that would preclude the making of a report 1198
by a physician of an employee's use of a drug of abuse, or of a 1199
condition of an employee other than one involving the use of a 1200
drug of abuse, to the employer of the employee as described in 1201
division (B) of section 2305.33 of the Revised Code. Nothing in 1202
this division affects the immunity from civil liability 1203
conferred by that section upon a physician who makes either type 1204
of report in accordance with division (B) of that section. As 1205
used in this division, "employee," "employer," and "physician" 1206
have the same meanings as in section 2305.33 of the Revised 1207
Code. 1208

(21) The violation of section 3701.79 of the Revised Code 1209
or of any abortion rule adopted by the director of health 1210
pursuant to section 3701.341 of the Revised Code; 1211

(22) Any of the following actions taken by an agency 1212
responsible for authorizing, certifying, or regulating an 1213
individual to practice a health care occupation or provide 1214
health care services in this state or another jurisdiction, for 1215
any reason other than the nonpayment of fees: the limitation, 1216
revocation, or suspension of an individual's license to 1217
practice; acceptance of an individual's license surrender; 1218
denial of a license; refusal to renew or reinstate a license; 1219
imposition of probation; or issuance of an order of censure or 1220
other reprimand; 1221

(23) The violation of section 2919.12 of the Revised Code 1222
or the performance or inducement of an abortion upon a pregnant 1223
woman with actual knowledge that the conditions specified in 1224
division (B) of section 2317.56 of the Revised Code have not 1225
been satisfied or with a heedless indifference as to whether 1226
those conditions have been satisfied, unless an affirmative 1227
defense as specified in division (H)(2) of that section would 1228
apply in a civil action authorized by division (H)(1) of that 1229
section; 1230

(24) The revocation, suspension, restriction, reduction, 1231
or termination of clinical privileges by the United States 1232
department of defense or department of veterans affairs or the 1233
termination or suspension of a certificate of registration to 1234
prescribe drugs by the drug enforcement administration of the 1235
United States department of justice; 1236

(25) Termination or suspension from participation in the 1237
medicare or medicaid programs by the department of health and 1238

human services or other responsible agency; 1239

(26) Impairment of ability to practice according to 1240
acceptable and prevailing standards of care because of habitual 1241
or excessive use or abuse of drugs, alcohol, or other substances 1242
that impair ability to practice. 1243

For the purposes of this division, any individual 1244
authorized to practice by this chapter accepts the privilege of 1245
practicing in this state subject to supervision by the board. By 1246
filing an application for or holding a license or certificate to 1247
practice under this chapter, an individual shall be deemed to 1248
have given consent to submit to a mental or physical examination 1249
when ordered to do so by the board in writing, and to have 1250
waived all objections to the admissibility of testimony or 1251
examination reports that constitute privileged communications. 1252

If it has reason to believe that any individual authorized 1253
to practice by this chapter or any applicant for licensure or 1254
certification to practice suffers such impairment, the board may 1255
compel the individual to submit to a mental or physical 1256
examination, or both. The expense of the examination is the 1257
responsibility of the individual compelled to be examined. Any 1258
mental or physical examination required under this division 1259
shall be undertaken by a treatment provider or physician who is 1260
qualified to conduct the examination and who is chosen by the 1261
board. 1262

Failure to submit to a mental or physical examination 1263
ordered by the board constitutes an admission of the allegations 1264
against the individual unless the failure is due to 1265
circumstances beyond the individual's control, and a default and 1266
final order may be entered without the taking of testimony or 1267
presentation of evidence. If the board determines that the 1268

individual's ability to practice is impaired, the board shall 1269
suspend the individual's license or certificate or deny the 1270
individual's application and shall require the individual, as a 1271
condition for initial, continued, reinstated, or renewed 1272
licensure or certification to practice, to submit to treatment. 1273

Before being eligible to apply for reinstatement of a 1274
license or certificate suspended under this division, the 1275
impaired practitioner shall demonstrate to the board the ability 1276
to resume practice in compliance with acceptable and prevailing 1277
standards of care under the provisions of the practitioner's 1278
license or certificate. The demonstration shall include, but 1279
shall not be limited to, the following: 1280

(a) Certification from a treatment provider approved under 1281
section 4731.25 of the Revised Code that the individual has 1282
successfully completed any required inpatient treatment; 1283

(b) Evidence of continuing full compliance with an 1284
aftercare contract or consent agreement; 1285

(c) Two written reports indicating that the individual's 1286
ability to practice has been assessed and that the individual 1287
has been found capable of practicing according to acceptable and 1288
prevailing standards of care. The reports shall be made by 1289
individuals or providers approved by the board for making the 1290
assessments and shall describe the basis for their 1291
determination. 1292

The board may reinstate a license or certificate suspended 1293
under this division after that demonstration and after the 1294
individual has entered into a written consent agreement. 1295

When the impaired practitioner resumes practice, the board 1296
shall require continued monitoring of the individual. The 1297

monitoring shall include, but not be limited to, compliance with 1298
the written consent agreement entered into before reinstatement 1299
or with conditions imposed by board order after a hearing, and, 1300
upon termination of the consent agreement, submission to the 1301
board for at least two years of annual written progress reports 1302
made under penalty of perjury stating whether the individual has 1303
maintained sobriety. 1304

(27) A second or subsequent violation of section 4731.66 1305
or 4731.69 of the Revised Code; 1306

(28) Except as provided in division (N) of this section: 1307

(a) Waiving the payment of all or any part of a deductible 1308
or copayment that a patient, pursuant to a health insurance or 1309
health care policy, contract, or plan that covers the 1310
individual's services, otherwise would be required to pay if the 1311
waiver is used as an enticement to a patient or group of 1312
patients to receive health care services from that individual; 1313

(b) Advertising that the individual will waive the payment 1314
of all or any part of a deductible or copayment that a patient, 1315
pursuant to a health insurance or health care policy, contract, 1316
or plan that covers the individual's services, otherwise would 1317
be required to pay. 1318

(29) Failure to use universal blood and body fluid 1319
precautions established by rules adopted under section 4731.051 1320
of the Revised Code; 1321

(30) Failure to provide notice to, and receive 1322
acknowledgment of the notice from, a patient when required by 1323
section 4731.143 of the Revised Code prior to providing 1324
nonemergency professional services, or failure to maintain that 1325
notice in the patient's medical record; 1326

(31) Failure of a physician supervising a physician 1327
assistant to maintain supervision in accordance with the 1328
requirements of Chapter 4730. of the Revised Code and the rules 1329
adopted under that chapter; 1330

(32) Failure of a physician or podiatrist to enter into a 1331
standard care arrangement with a clinical nurse specialist, 1332
certified nurse-midwife, or certified nurse practitioner with 1333
whom the physician or podiatrist is in collaboration pursuant to 1334
section 4731.27 of the Revised Code or failure to fulfill the 1335
responsibilities of collaboration after entering into a standard 1336
care arrangement; 1337

(33) Failure to comply with the terms of a consult 1338
agreement entered into with a pharmacist pursuant to section 1339
4729.39 of the Revised Code; 1340

(34) Failure to cooperate in an investigation conducted by 1341
the board under division (F) of this section, including failure 1342
to comply with a subpoena or order issued by the board or 1343
failure to answer truthfully a question presented by the board 1344
in an investigative interview, an investigative office 1345
conference, at a deposition, or in written interrogatories, 1346
except that failure to cooperate with an investigation shall not 1347
constitute grounds for discipline under this section if a court 1348
of competent jurisdiction has issued an order that either 1349
quashes a subpoena or permits the individual to withhold the 1350
testimony or evidence in issue; 1351

(35) Failure to supervise an acupuncturist in accordance 1352
with Chapter 4762. of the Revised Code and the board's rules for 1353
providing that supervision; 1354

(36) Failure to supervise an anesthesiologist assistant in 1355

accordance with Chapter 4760. of the Revised Code and the	1356
board's rules for supervision of an anesthesiologist assistant;	1357
(37) Assisting suicide, as defined in section 3795.01 of	1358
the Revised Code;	1359
(38) Failure to comply with the requirements of section	1360
2317.561 of the Revised Code;	1361
(39) Failure to supervise a radiologist assistant in	1362
accordance with Chapter 4774. of the Revised Code and the	1363
board's rules for supervision of radiologist assistants;	1364
(40) Performing or inducing an abortion at an office or	1365
facility with knowledge that the office or facility fails to	1366
post the notice required under section 3701.791 of the Revised	1367
Code;	1368
(41) Failure to comply with the standards and procedures	1369
established in rules under section 4731.054 of the Revised Code	1370
for the operation of or the provision of care at a pain	1371
management clinic;	1372
(42) Failure to comply with the standards and procedures	1373
established in rules under section 4731.054 of the Revised Code	1374
for providing supervision, direction, and control of individuals	1375
at a pain management clinic;	1376
(43) Failure to comply with the requirements of section	1377
4729.79 or 4731.055 of the Revised Code, unless the state board	1378
of pharmacy no longer maintains a drug database pursuant to	1379
section 4729.75 of the Revised Code;	1380
(44) Failure to comply with the requirements of section	1381
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	1382
to submit to the department of health in accordance with a court	1383

order a complete report as described in section 2919.171 or 1384
2919.202 of the Revised Code; 1385

(45) Practicing at a facility that is subject to licensure 1386
as a category III terminal distributor of dangerous drugs with a 1387
pain management clinic classification unless the person 1388
operating the facility has obtained and maintains the license 1389
with the classification; 1390

(46) Owning a facility that is subject to licensure as a 1391
category III terminal distributor of dangerous drugs with a pain 1392
management clinic classification unless the facility is licensed 1393
with the classification; 1394

(47) Failure to comply with any of the requirements 1395
regarding making or maintaining medical records or documents 1396
described in division (A) of section 2919.192, division (C) of 1397
section 2919.193, division (B) of section 2919.195, or division 1398
(A) of section 2919.196 of the Revised Code; 1399

(48) Failure to comply with the requirements in section 1400
3719.061 of the Revised Code before issuing for a minor a 1401
prescription for an opioid analgesic, as defined in section 1402
3719.01 of the Revised Code; 1403

(49) Failure to comply with the requirements of section 1404
4731.30 of the Revised Code or rules adopted under section 1405
4731.301 of the Revised Code when recommending treatment with 1406
medical marijuana; 1407

(50) Practicing at a facility, clinic, or other location 1408
that is subject to licensure as a category III terminal 1409
distributor of dangerous drugs with an office-based opioid 1410
treatment classification unless the person operating that place 1411
has obtained and maintains the license with the classification; 1412

(51) Owning a facility, clinic, or other location that is 1413
subject to licensure as a category III terminal distributor of 1414
dangerous drugs with an office-based opioid treatment 1415
classification unless that place is licensed with the 1416
classification; 1417

(52) A pattern of continuous or repeated violations of 1418
division (E) (2) or (3) of section 3963.02 of the Revised Code; 1419

(53) Failure to fulfill the responsibilities of a 1420
collaboration agreement entered into with an athletic trainer as 1421
described in section 4755.621 of the Revised Code; 1422

(54) Failure to take the steps specified in section 1423
4731.911 of the Revised Code following an abortion or attempted 1424
abortion in an ambulatory surgical facility or other location 1425
that is not a hospital when a child is born alive; 1426

(55) Failure to report a case of Parkinson's disease or a 1427
Parkinsonism as required by section 3701.25 of the Revised Code. 1428

(C) Disciplinary actions taken by the board under 1429
divisions (A) and (B) of this section shall be taken pursuant to 1430
an adjudication under Chapter 119. of the Revised Code, except 1431
that in lieu of an adjudication, the board may enter into a 1432
consent agreement with an individual to resolve an allegation of 1433
a violation of this chapter or any rule adopted under it. A 1434
consent agreement, when ratified by an affirmative vote of not 1435
fewer than six members of the board, shall constitute the 1436
findings and order of the board with respect to the matter 1437
addressed in the agreement. If the board refuses to ratify a 1438
consent agreement, the admissions and findings contained in the 1439
consent agreement shall be of no force or effect. 1440

A telephone conference call may be utilized for 1441

ratification of a consent agreement that revokes or suspends an 1442
individual's license or certificate to practice or certificate 1443
to recommend. The telephone conference call shall be considered 1444
a special meeting under division (F) of section 121.22 of the 1445
Revised Code. 1446

If the board takes disciplinary action against an 1447
individual under division (B) of this section for a second or 1448
subsequent plea of guilty to, or judicial finding of guilt of, a 1449
violation of section 2919.123 or 2919.124 of the Revised Code, 1450
the disciplinary action shall consist of a suspension of the 1451
individual's license or certificate to practice for a period of 1452
at least one year or, if determined appropriate by the board, a 1453
more serious sanction involving the individual's license or 1454
certificate to practice. Any consent agreement entered into 1455
under this division with an individual that pertains to a second 1456
or subsequent plea of guilty to, or judicial finding of guilt 1457
of, a violation of that section shall provide for a suspension 1458
of the individual's license or certificate to practice for a 1459
period of at least one year or, if determined appropriate by the 1460
board, a more serious sanction involving the individual's 1461
license or certificate to practice. 1462

(D) For purposes of divisions (B) (10), (12), and (14) of 1463
this section, the commission of the act may be established by a 1464
finding by the board, pursuant to an adjudication under Chapter 1465
119. of the Revised Code, that the individual committed the act. 1466
The board does not have jurisdiction under those divisions if 1467
the trial court renders a final judgment in the individual's 1468
favor and that judgment is based upon an adjudication on the 1469
merits. The board has jurisdiction under those divisions if the 1470
trial court issues an order of dismissal upon technical or 1471
procedural grounds. 1472

(E) The sealing of conviction records by any court shall 1473
have no effect upon a prior board order entered under this 1474
section or upon the board's jurisdiction to take action under 1475
this section if, based upon a plea of guilty, a judicial finding 1476
of guilt, or a judicial finding of eligibility for intervention 1477
in lieu of conviction, the board issued a notice of opportunity 1478
for a hearing prior to the court's order to seal the records. 1479
The board shall not be required to seal, destroy, redact, or 1480
otherwise modify its records to reflect the court's sealing of 1481
conviction records. 1482

(F) (1) The board shall investigate evidence that appears 1483
to show that a person has violated any provision of this chapter 1484
or any rule adopted under it. Any person may report to the board 1485
in a signed writing any information that the person may have 1486
that appears to show a violation of any provision of this 1487
chapter or any rule adopted under it. In the absence of bad 1488
faith, any person who reports information of that nature or who 1489
testifies before the board in any adjudication conducted under 1490
Chapter 119. of the Revised Code shall not be liable in damages 1491
in a civil action as a result of the report or testimony. Each 1492
complaint or allegation of a violation received by the board 1493
shall be assigned a case number and shall be recorded by the 1494
board. 1495

(2) Investigations of alleged violations of this chapter 1496
or any rule adopted under it shall be supervised by the 1497
supervising member elected by the board in accordance with 1498
section 4731.02 of the Revised Code and by the secretary as 1499
provided in section 4731.39 of the Revised Code. The president 1500
may designate another member of the board to supervise the 1501
investigation in place of the supervising member. No member of 1502
the board who supervises the investigation of a case shall 1503

participate in further adjudication of the case. 1504

(3) In investigating a possible violation of this chapter 1505
or any rule adopted under this chapter, or in conducting an 1506
inspection under division (E) of section 4731.054 of the Revised 1507
Code, the board may question witnesses, conduct interviews, 1508
administer oaths, order the taking of depositions, inspect and 1509
copy any books, accounts, papers, records, or documents, issue 1510
subpoenas, and compel the attendance of witnesses and production 1511
of books, accounts, papers, records, documents, and testimony, 1512
except that a subpoena for patient record information shall not 1513
be issued without consultation with the attorney general's 1514
office and approval of the secretary and supervising member of 1515
the board. 1516

(a) Before issuance of a subpoena for patient record 1517
information, the secretary and supervising member shall 1518
determine whether there is probable cause to believe that the 1519
complaint filed alleges a violation of this chapter or any rule 1520
adopted under it and that the records sought are relevant to the 1521
alleged violation and material to the investigation. The 1522
subpoena may apply only to records that cover a reasonable 1523
period of time surrounding the alleged violation. 1524

(b) On failure to comply with any subpoena issued by the 1525
board and after reasonable notice to the person being 1526
subpoenaed, the board may move for an order compelling the 1527
production of persons or records pursuant to the Rules of Civil 1528
Procedure. 1529

(c) A subpoena issued by the board may be served by a 1530
sheriff, the sheriff's deputy, or a board employee or agent 1531
designated by the board. Service of a subpoena issued by the 1532
board may be made by delivering a copy of the subpoena to the 1533

person named therein, reading it to the person, or leaving it at 1534
the person's usual place of residence, usual place of business, 1535
or address on file with the board. When serving a subpoena to an 1536
applicant for or the holder of a license or certificate issued 1537
under this chapter, service of the subpoena may be made by 1538
certified mail, return receipt requested, and the subpoena shall 1539
be deemed served on the date delivery is made or the date the 1540
person refuses to accept delivery. If the person being served 1541
refuses to accept the subpoena or is not located, service may be 1542
made to an attorney who notifies the board that the attorney is 1543
representing the person. 1544

(d) A sheriff's deputy who serves a subpoena shall receive 1545
the same fees as a sheriff. Each witness who appears before the 1546
board in obedience to a subpoena shall receive the fees and 1547
mileage provided for under section 119.094 of the Revised Code. 1548

(4) All hearings, investigations, and inspections of the 1549
board shall be considered civil actions for the purposes of 1550
section 2305.252 of the Revised Code. 1551

(5) A report required to be submitted to the board under 1552
this chapter, a complaint, or information received by the board 1553
pursuant to an investigation or pursuant to an inspection under 1554
division (E) of section 4731.054 of the Revised Code is 1555
confidential and not subject to discovery in any civil action. 1556

The board shall conduct all investigations or inspections 1557
and proceedings in a manner that protects the confidentiality of 1558
patients and persons who file complaints with the board. The 1559
board shall not make public the names or any other identifying 1560
information about patients or complainants unless proper consent 1561
is given or, in the case of a patient, a waiver of the patient 1562
privilege exists under division (B) of section 2317.02 of the 1563

Revised Code, except that consent or a waiver of that nature is 1564
not required if the board possesses reliable and substantial 1565
evidence that no bona fide physician-patient relationship 1566
exists. 1567

The board may share any information it receives pursuant 1568
to an investigation or inspection, including patient records and 1569
patient record information, with law enforcement agencies, other 1570
licensing boards, and other governmental agencies that are 1571
prosecuting, adjudicating, or investigating alleged violations 1572
of statutes or administrative rules. An agency or board that 1573
receives the information shall comply with the same requirements 1574
regarding confidentiality as those with which the state medical 1575
board must comply, notwithstanding any conflicting provision of 1576
the Revised Code or procedure of the agency or board that 1577
applies when it is dealing with other information in its 1578
possession. In a judicial proceeding, the information may be 1579
admitted into evidence only in accordance with the Rules of 1580
Evidence, but the court shall require that appropriate measures 1581
are taken to ensure that confidentiality is maintained with 1582
respect to any part of the information that contains names or 1583
other identifying information about patients or complainants 1584
whose confidentiality was protected by the state medical board 1585
when the information was in the board's possession. Measures to 1586
ensure confidentiality that may be taken by the court include 1587
sealing its records or deleting specific information from its 1588
records. 1589

(6) On a quarterly basis, the board shall prepare a report 1590
that documents the disposition of all cases during the preceding 1591
three months. The report shall contain the following information 1592
for each case with which the board has completed its activities: 1593

(a) The case number assigned to the complaint or alleged violation; 1594
1595

(b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed; 1596
1597
1598

(c) A description of the allegations contained in the complaint; 1599
1600

(d) The disposition of the case. 1601

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code. 1602
1603
1604
1605

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or certificate to practice or certificate to recommend without a prior hearing: 1606
1607
1608
1609

(1) That there is clear and convincing evidence that an individual has violated division (B) of this section; 1610
1611

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public. 1612
1613

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. 1614
1615
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The board shall issue a written order of suspension by 1621

certified mail or in person in accordance with section 119.07 of 1622
the Revised Code. The order shall not be subject to suspension 1623
by the court during pendency of any appeal filed under section 1624
119.12 of the Revised Code. If the individual subject to the 1625
summary suspension requests an adjudicatory hearing by the 1626
board, the date set for the hearing shall be within fifteen 1627
days, but not earlier than seven days, after the individual 1628
requests the hearing, unless otherwise agreed to by both the 1629
board and the individual. 1630

Any summary suspension imposed under this division shall 1631
remain in effect, unless reversed on appeal, until a final 1632
adjudicative order issued by the board pursuant to this section 1633
and Chapter 119. of the Revised Code becomes effective. The 1634
board shall issue its final adjudicative order within seventy- 1635
five days after completion of its hearing. A failure to issue 1636
the order within seventy-five days shall result in dissolution 1637
of the summary suspension order but shall not invalidate any 1638
subsequent, final adjudicative order. 1639

(H) If the board takes action under division (B) (9), (11), 1640
or (13) of this section and the judicial finding of guilt, 1641
guilty plea, or judicial finding of eligibility for intervention 1642
in lieu of conviction is overturned on appeal, upon exhaustion 1643
of the criminal appeal, a petition for reconsideration of the 1644
order may be filed with the board along with appropriate court 1645
documents. Upon receipt of a petition of that nature and 1646
supporting court documents, the board shall reinstate the 1647
individual's license or certificate to practice. The board may 1648
then hold an adjudication under Chapter 119. of the Revised Code 1649
to determine whether the individual committed the act in 1650
question. Notice of an opportunity for a hearing shall be given 1651
in accordance with Chapter 119. of the Revised Code. If the 1652

board finds, pursuant to an adjudication held under this 1653
division, that the individual committed the act or if no hearing 1654
is requested, the board may order any of the sanctions 1655
identified under division (B) of this section. 1656

(I) The license or certificate to practice issued to an 1657
individual under this chapter and the individual's practice in 1658
this state are automatically suspended as of the date of the 1659
individual's second or subsequent plea of guilty to, or judicial 1660
finding of guilt of, a violation of section 2919.123 or 2919.124 1661
of the Revised Code. In addition, the license or certificate to 1662
practice or certificate to recommend issued to an individual 1663
under this chapter and the individual's practice in this state 1664
are automatically suspended as of the date the individual pleads 1665
guilty to, is found by a judge or jury to be guilty of, or is 1666
subject to a judicial finding of eligibility for intervention in 1667
lieu of conviction in this state or treatment or intervention in 1668
lieu of conviction in another jurisdiction for any of the 1669
following criminal offenses in this state or a substantially 1670
equivalent criminal offense in another jurisdiction: aggravated 1671
murder, murder, voluntary manslaughter, felonious assault, 1672
kidnapping, rape, sexual battery, gross sexual imposition, 1673
aggravated arson, aggravated robbery, or aggravated burglary. 1674
Continued practice after suspension shall be considered 1675
practicing without a license or certificate. 1676

The board shall notify the individual subject to the 1677
suspension by certified mail or in person in accordance with 1678
section 119.07 of the Revised Code. If an individual whose 1679
license or certificate is automatically suspended under this 1680
division fails to make a timely request for an adjudication 1681
under Chapter 119. of the Revised Code, the board shall do 1682
whichever of the following is applicable: 1683

(1) If the automatic suspension under this division is for 1684
a second or subsequent plea of guilty to, or judicial finding of 1685
guilt of, a violation of section 2919.123 or 2919.124 of the 1686
Revised Code, the board shall enter an order suspending the 1687
individual's license or certificate to practice for a period of 1688
at least one year or, if determined appropriate by the board, 1689
imposing a more serious sanction involving the individual's 1690
license or certificate to practice. 1691

(2) In all circumstances in which division (I)(1) of this 1692
section does not apply, enter a final order permanently revoking 1693
the individual's license or certificate to practice. 1694

(J) If the board is required by Chapter 119. of the 1695
Revised Code to give notice of an opportunity for a hearing and 1696
if the individual subject to the notice does not timely request 1697
a hearing in accordance with section 119.07 of the Revised Code, 1698
the board is not required to hold a hearing, but may adopt, by 1699
an affirmative vote of not fewer than six of its members, a 1700
final order that contains the board's findings. In that final 1701
order, the board may order any of the sanctions identified under 1702
division (A) or (B) of this section. 1703

(K) Any action taken by the board under division (B) of 1704
this section resulting in a suspension from practice shall be 1705
accompanied by a written statement of the conditions under which 1706
the individual's license or certificate to practice may be 1707
reinstated. The board shall adopt rules governing conditions to 1708
be imposed for reinstatement. Reinstatement of a license or 1709
certificate suspended pursuant to division (B) of this section 1710
requires an affirmative vote of not fewer than six members of 1711
the board. 1712

(L) When the board refuses to grant or issue a license or 1713

certificate to practice to an applicant, revokes an individual's 1714
license or certificate to practice, refuses to renew an 1715
individual's license or certificate to practice, or refuses to 1716
reinstate an individual's license or certificate to practice, 1717
the board may specify that its action is permanent. An 1718
individual subject to a permanent action taken by the board is 1719
forever thereafter ineligible to hold a license or certificate 1720
to practice and the board shall not accept an application for 1721
reinstatement of the license or certificate or for issuance of a 1722
new license or certificate. 1723

(M) Notwithstanding any other provision of the Revised 1724
Code, all of the following apply: 1725

(1) The surrender of a license or certificate issued under 1726
this chapter shall not be effective unless or until accepted by 1727
the board. A telephone conference call may be utilized for 1728
acceptance of the surrender of an individual's license or 1729
certificate to practice. The telephone conference call shall be 1730
considered a special meeting under division (F) of section 1731
121.22 of the Revised Code. Reinstatement of a license or 1732
certificate surrendered to the board requires an affirmative 1733
vote of not fewer than six members of the board. 1734

(2) An application for a license or certificate made under 1735
the provisions of this chapter may not be withdrawn without 1736
approval of the board. 1737

(3) Failure by an individual to renew a license or 1738
certificate to practice in accordance with this chapter or a 1739
certificate to recommend in accordance with rules adopted under 1740
section 4731.301 of the Revised Code shall not remove or limit 1741
the board's jurisdiction to take any disciplinary action under 1742
this section against the individual. 1743

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

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

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

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

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

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

(2) Select providers of educational and assessment

services, including a quality intervention program panel of case reviewers; 1773
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(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program. 1775
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(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate; 1780
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(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program. 1784
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An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program. 1787
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(P) The board shall not refuse to issue a license to an applicant because of a conviction, plea of guilty, judicial finding of guilt, judicial finding of eligibility for intervention in lieu of conviction, or the commission of an act that constitutes a criminal offense, unless the refusal is in accordance with section 9.79 of the Revised Code. 1790
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Section 2. That existing sections 5.27, 4723.28, 4730.25, and 4731.22 of the Revised Code are hereby repealed. 1796
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Section 3. The reporting requirement set forth in division (C) of section 3701.25 of the Revised Code, as enacted by this act, begins on the date that the Parkinson's Disease Registry, as established under that section, is capable of receiving 1798
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reports, as determined by the Director of Health. The Director 1802
shall provide notice of the date on the internet web site 1803
maintained by the Department of Health and to all of the 1804
entities specified in division (F) of section 3701.25 of the 1805
Revised Code, as enacted by this act. 1806

Section 4. The General Assembly, applying the principle 1807
stated in division (B) of section 1.52 of the Revised Code that 1808
amendments are to be harmonized if reasonably capable of 1809
simultaneous operation, finds that the following sections, 1810
presented in this act as composites of the sections as amended 1811
by the acts indicated, are the resulting versions of the 1812
sections in effect prior to the effective date of the sections 1813
as presented in this act: 1814

Section 4723.28 of the Revised Code as amended by both 1815
H.B. 203 and H.B. 263 of the 133rd General Assembly. 1816

Section 4730.25 of the Revised Code as amended by H.B. 203 1817
and H.B. 263, both of the 133rd General Assembly. 1818