

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 109

Senator Hackett

A BILL

To amend sections 149.43, 2105.062, 2305.111, 1
2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2
2907.17, 2907.18, 2921.22, 2929.42, 2950.01, 3
2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 4
4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 5
4731.224, 4731.251, 4731.99, 4759.05, 4759.07, 6
4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 7
4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 8
4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 9
4774.16, 4774.99, 4778.14, 4778.18, and 4778.99 10
and to enact sections 4731.2210, 4759.14, and 11
4778.171 of the Revised Code regarding sex 12
offenses and individuals regulated by the State 13
Medical Board and to amend the version of 14
section 4759.05 of the Revised Code that is 15
scheduled to take effect December 29, 2023, to 16
continue the change on and after that date. 17

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

Section 1. That sections 149.43, 2105.062, 2305.111, 18
2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 19
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 20

3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 21
4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 22
4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 23
4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 24
4778.14, 4778.18, and 4778.99 be amended and sections 4731.2210, 25
4759.14, and 4778.171 of the Revised Code be enacted to read as 26
follows: 27

Sec. 149.43. (A) As used in this section: 28

(1) "Public record" means records kept by any public 29
office, including, but not limited to, state, county, city, 30
village, township, and school district units, and records 31
pertaining to the delivery of educational services by an 32
alternative school in this state kept by the nonprofit or for- 33
profit entity operating the alternative school pursuant to 34
section 3313.533 of the Revised Code. "Public record" does not 35
mean any of the following: 36

(a) Medical records; 37

(b) Records pertaining to probation and parole 38
proceedings, to proceedings related to the imposition of 39
community control sanctions and post-release control sanctions, 40
or to proceedings related to determinations under section 41
2967.271 of the Revised Code regarding the release or maintained 42
incarceration of an offender to whom that section applies; 43

(c) Records pertaining to actions under section 2151.85 44
and division (C) of section 2919.121 of the Revised Code and to 45
appeals of actions arising under those sections; 46

(d) Records pertaining to adoption proceedings, including 47
the contents of an adoption file maintained by the department of 48
health under sections 3705.12 to 3705.124 of the Revised Code; 49

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	50 51 52 53 54 55
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	56 57
(g) Trial preparation records;	58
(h) Confidential law enforcement investigatory records;	59
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	60 61
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	62 63
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	64 65 66 67
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	68 69 70 71
(m) Intellectual property records;	72
(n) Donor profile records;	73
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	74 75
(p) Designated public service worker residential and	76

familial information;	77
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	78 79 80 81 82
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	83 84
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	85 86 87 88 89 90 91 92 93 94 95 96
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	97 98 99 100 101
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or	102 103 104 105

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

(ee) The confidential name, address, and other personally 134
identifiable information of a program participant in the address 135
confidentiality program established under sections 111.41 to 136
111.47 of the Revised Code, including the contents of any 137
application for absent voter's ballots, absent voter's ballot 138
identification envelope statement of voter, or provisional 139
ballot affirmation completed by a program participant who has a 140
confidential voter registration record; records or portions of 141
records pertaining to that program that identify the number of 142
program participants that reside within a precinct, ward, 143
township, municipal corporation, county, or any other geographic 144
area smaller than the state; and any real property 145
confidentiality notice filed under section 111.431 of the 146
Revised Code and the information described in division (C) of 147
that section. As used in this division, "confidential address" 148
and "program participant" have the meaning defined in section 149
111.41 of the Revised Code. 150

(ff) Orders for active military service of an individual 151
serving or with previous service in the armed forces of the 152
United States, including a reserve component, or the Ohio 153
organized militia, except that, such order becomes a public 154
record on the day that is fifteen years after the published date 155
or effective date of the call to order; 156

(gg) The name, address, contact information, or other 157
personal information of an individual who is less than eighteen 158
years of age that is included in any record related to a traffic 159
accident involving a school vehicle in which the individual was 160
an occupant at the time of the accident; 161

(hh) Protected health information, as defined in 45 C.F.R. 162
160.103, that is in a claim for payment for a health care 163

product, service, or procedure, as well as any other health	164
claims data in another document that reveals the identity of an	165
individual who is the subject of the data or could be used to	166
reveal that individual's identity;	167
(ii) Any depiction by photograph, film, videotape, or	168
printed or digital image under either of the following	169
circumstances:	170
(i) The depiction is that of a victim of an offense the	171
release of which would be, to a reasonable person of ordinary	172
sensibilities, an offensive and objectionable intrusion into the	173
victim's expectation of bodily privacy and integrity.	174
(ii) The depiction captures or depicts the victim of a	175
sexually oriented offense, as defined in section 2950.01 of the	176
Revised Code, at the actual occurrence of that offense.	177
(jj) Restricted portions of a body-worn camera or	178
dashboard camera recording;	179
(kk) In the case of a fetal-infant mortality review board	180
acting under sections 3707.70 to 3707.77 of the Revised Code,	181
records, documents, reports, or other information presented to	182
the board or a person abstracting such materials on the board's	183
behalf, statements made by review board members during board	184
meetings, all work products of the board, and data submitted by	185
the board to the department of health or a national infant death	186
review database, other than the report prepared pursuant to	187
section 3707.77 of the Revised Code.	188
(ll) Records, documents, reports, or other information	189
presented to the pregnancy-associated mortality review board	190
established under section 3738.01 of the Revised Code,	191
statements made by board members during board meetings, all work	192

products of the board, and data submitted by the board to the	193
department of health, other than the biennial reports prepared	194
under section 3738.08 of the Revised Code;	195
(mm) Except as otherwise provided in division (A) (1) (oo)	196
of this section, telephone numbers for a victim, as defined in	197
section 2930.01 of the Revised Code or a witness to a crime that	198
are listed on any law enforcement record or report.	199
(nn) A preneed funeral contract, as defined in section	200
4717.01 of the Revised Code, and contract terms and personally	201
identifying information of a preneed funeral contract, that is	202
contained in a report submitted by or for a funeral home to the	203
board of embalmers and funeral directors under division (C) of	204
section 4717.13, division (J) of section 4717.31, or section	205
4717.41 of the Revised Code.	206
(oo) Telephone numbers for a party to a motor vehicle	207
accident subject to the requirements of section 5502.11 of the	208
Revised Code that are listed on any law enforcement record or	209
report, except that the telephone numbers described in this	210
division are not excluded from the definition of "public record"	211
under this division on and after the thirtieth day after the	212
occurrence of the motor vehicle accident.	213
(pp) Records pertaining to individuals who complete	214
training under section 5502.703 of the Revised Code to be	215
permitted by a school district board of education or governing	216
body of a community school established under Chapter 3314. of	217
the Revised Code, a STEM school established under Chapter 3326.	218
of the Revised Code, or a chartered nonpublic school to convey	219
deadly weapons or dangerous ordnance into a school safety zone;	220
(qq) Records, documents, reports, or other information	221

presented to a domestic violence fatality review board 222
established under section 307.651 of the Revised Code, 223
statements made by board members during board meetings, all work 224
products of the board, and data submitted by the board to the 225
department of health, other than a report prepared pursuant to 226
section 307.656 of the Revised Code; 227

(rr) Records, documents, and information the release of 228
which is prohibited under sections 2930.04 and 2930.07 of the 229
Revised Code; 230

(ss) Records of an existing qualified nonprofit 231
corporation that creates a special improvement district under 232
Chapter 1710. of the Revised Code that do not pertain to a 233
purpose for which the district is created; 234

(tt) License or certificate application or renewal 235
responses and supporting documentation submitted to the state 236
medical board regarding an applicant's, or a license or 237
certificate holder's, inability to practice according to 238
acceptable and prevailing standards of care by reason of a 239
medical condition. 240

A record that is not a public record under division (A) (1) 241
of this section and that, under law, is permanently retained 242
becomes a public record on the day that is seventy-five years 243
after the day on which the record was created, except for any 244
record protected by the attorney-client privilege, a trial 245
preparation record as defined in this section, a statement 246
prohibiting the release of identifying information signed under 247
section 3107.083 of the Revised Code, a denial of release form 248
filed pursuant to section 3107.46 of the Revised Code, or any 249
record that is exempt from release or disclosure under section 250
149.433 of the Revised Code. If the record is a birth 251

certificate and a biological parent's name redaction request 252
form has been accepted under section 3107.391 of the Revised 253
Code, the name of that parent shall be redacted from the birth 254
certificate before it is released under this paragraph. If any 255
other section of the Revised Code establishes a time period for 256
disclosure of a record that conflicts with the time period 257
specified in this section, the time period in the other section 258
prevails. 259

(2) "Confidential law enforcement investigatory record" 260
means any record that pertains to a law enforcement matter of a 261
criminal, quasi-criminal, civil, or administrative nature, but 262
only to the extent that the release of the record would create a 263
high probability of disclosure of any of the following: 264

(a) The identity of a suspect who has not been charged 265
with the offense to which the record pertains, or of an 266
information source or witness to whom confidentiality has been 267
reasonably promised; 268

(b) Information provided by an information source or 269
witness to whom confidentiality has been reasonably promised, 270
which information would reasonably tend to disclose the source's 271
or witness's identity; 272

(c) Specific confidential investigatory techniques or 273
procedures or specific investigatory work product; 274

(d) Information that would endanger the life or physical 275
safety of law enforcement personnel, a crime victim, a witness, 276
or a confidential information source. 277

(3) "Medical record" means any document or combination of 278
documents, except births, deaths, and the fact of admission to 279
or discharge from a hospital, that pertains to the medical 280

history, diagnosis, prognosis, or medical condition of a patient 281
and that is generated and maintained in the process of medical 282
treatment. 283

(4) "Trial preparation record" means any record that 284
contains information that is specifically compiled in reasonable 285
anticipation of, or in defense of, a civil or criminal action or 286
proceeding, including the independent thought processes and 287
personal trial preparation of an attorney. 288

(5) "Intellectual property record" means a record, other 289
than a financial or administrative record, that is produced or 290
collected by or for faculty or staff of a state institution of 291
higher learning in the conduct of or as a result of study or 292
research on an educational, commercial, scientific, artistic, 293
technical, or scholarly issue, regardless of whether the study 294
or research was sponsored by the institution alone or in 295
conjunction with a governmental body or private concern, and 296
that has not been publicly released, published, or patented. 297

(6) "Donor profile record" means all records about donors 298
or potential donors to a public institution of higher education 299
except the names and reported addresses of the actual donors and 300
the date, amount, and conditions of the actual donation. 301

(7) "Designated public service worker" means a peace 302
officer, parole officer, probation officer, bailiff, prosecuting 303
attorney, assistant prosecuting attorney, correctional employee, 304
county or multicounty corrections officer, community-based 305
correctional facility employee, designated Ohio national guard 306
member, protective services worker, youth services employee, 307
firefighter, EMT, medical director or member of a cooperating 308
physician advisory board of an emergency medical service 309
organization, state board of pharmacy employee, investigator of 310

the bureau of criminal identification and investigation, 311
emergency service telecommunicator, forensic mental health 312
provider, mental health evaluation provider, regional 313
psychiatric hospital employee, judge, magistrate, or federal law 314
enforcement officer. 315

(8) "Designated public service worker residential and 316
familial information" means any information that discloses any 317
of the following about a designated public service worker: 318

(a) The address of the actual personal residence of a 319
designated public service worker, except for the following 320
information: 321

(i) The address of the actual personal residence of a 322
prosecuting attorney or judge; and 323

(ii) The state or political subdivision in which a 324
designated public service worker resides. 325

(b) Information compiled from referral to or participation 326
in an employee assistance program; 327

(c) The social security number, the residential telephone 328
number, any bank account, debit card, charge card, or credit 329
card number, or the emergency telephone number of, or any 330
medical information pertaining to, a designated public service 331
worker; 332

(d) The name of any beneficiary of employment benefits, 333
including, but not limited to, life insurance benefits, provided 334
to a designated public service worker by the designated public 335
service worker's employer; 336

(e) The identity and amount of any charitable or 337
employment benefit deduction made by the designated public 338

service worker's employer from the designated public service 339
worker's compensation, unless the amount of the deduction is 340
required by state or federal law; 341

(f) The name, the residential address, the name of the 342
employer, the address of the employer, the social security 343
number, the residential telephone number, any bank account, 344
debit card, charge card, or credit card number, or the emergency 345
telephone number of the spouse, a former spouse, or any child of 346
a designated public service worker; 347

(g) A photograph of a peace officer who holds a position 348
or has an assignment that may include undercover or plain 349
clothes positions or assignments as determined by the peace 350
officer's appointing authority. 351

(9) As used in divisions (A) (7) and (15) to (17) of this 352
section: 353

"Peace officer" has the meaning defined in section 109.71 354
of the Revised Code and also includes the superintendent and 355
troopers of the state highway patrol; it does not include the 356
sheriff of a county or a supervisory employee who, in the 357
absence of the sheriff, is authorized to stand in for, exercise 358
the authority of, and perform the duties of the sheriff. 359

"Correctional employee" means any employee of the 360
department of rehabilitation and correction who in the course of 361
performing the employee's job duties has or has had contact with 362
inmates and persons under supervision. 363

"County or multicounty corrections officer" means any 364
corrections officer employed by any county or multicounty 365
correctional facility. 366

"Designated Ohio national guard member" means a member of 367

the Ohio national guard who is participating in duties related 368
to remotely piloted aircraft, including, but not limited to, 369
pilots, sensor operators, and mission intelligence personnel, 370
duties related to special forces operations, or duties related 371
to cybersecurity, and is designated by the adjutant general as a 372
designated public service worker for those purposes. 373

"Protective services worker" means any employee of a 374
county agency who is responsible for child protective services, 375
child support services, or adult protective services. 376

"Youth services employee" means any employee of the 377
department of youth services who in the course of performing the 378
employee's job duties has or has had contact with children 379
committed to the custody of the department of youth services. 380

"Firefighter" means any regular, paid or volunteer, member 381
of a lawfully constituted fire department of a municipal 382
corporation, township, fire district, or village. 383

"EMT" means EMTs-basic, EMTs-I, and paramedics that 384
provide emergency medical services for a public emergency 385
medical service organization. "Emergency medical service 386
organization," "EMT-basic," "EMT-I," and "paramedic" have the 387
meanings defined in section 4765.01 of the Revised Code. 388

"Investigator of the bureau of criminal identification and 389
investigation" has the meaning defined in section 2903.11 of the 390
Revised Code. 391

"Emergency service telecommunicator" has the meaning 392
defined in section 4742.01 of the Revised Code. 393

"Forensic mental health provider" means any employee of a 394
community mental health service provider or local alcohol, drug 395
addiction, and mental health services board who, in the course 396

of the employee's duties, has contact with persons committed to 397
a local alcohol, drug addiction, and mental health services 398
board by a court order pursuant to section 2945.38, 2945.39, 399
2945.40, or 2945.402 of the Revised Code. 400

"Mental health evaluation provider" means an individual 401
who, under Chapter 5122. of the Revised Code, examines a 402
respondent who is alleged to be a mentally ill person subject to 403
court order, as defined in section 5122.01 of the Revised Code, 404
and reports to the probate court the respondent's mental 405
condition. 406

"Regional psychiatric hospital employee" means any 407
employee of the department of mental health and addiction 408
services who, in the course of performing the employee's duties, 409
has contact with patients committed to the department of mental 410
health and addiction services by a court order pursuant to 411
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 412
Code. 413

"Federal law enforcement officer" has the meaning defined 414
in section 9.88 of the Revised Code. 415

(10) "Information pertaining to the recreational 416
activities of a person under the age of eighteen" means 417
information that is kept in the ordinary course of business by a 418
public office, that pertains to the recreational activities of a 419
person under the age of eighteen years, and that discloses any 420
of the following: 421

(a) The address or telephone number of a person under the 422
age of eighteen or the address or telephone number of that 423
person's parent, guardian, custodian, or emergency contact 424
person; 425

(b) The social security number, birth date, or	426
photographic image of a person under the age of eighteen;	427
(c) Any medical record, history, or information pertaining	428
to a person under the age of eighteen;	429
(d) Any additional information sought or required about a	430
person under the age of eighteen for the purpose of allowing	431
that person to participate in any recreational activity	432
conducted or sponsored by a public office or to use or obtain	433
admission privileges to any recreational facility owned or	434
operated by a public office.	435
(11) "Community control sanction" has the meaning defined	436
in section 2929.01 of the Revised Code.	437
(12) "Post-release control sanction" has the meaning	438
defined in section 2967.01 of the Revised Code.	439
(13) "Redaction" means obscuring or deleting any	440
information that is exempt from the duty to permit public	441
inspection or copying from an item that otherwise meets the	442
definition of a "record" in section 149.011 of the Revised Code.	443
(14) "Designee," "elected official," and "future official"	444
have the meanings defined in section 109.43 of the Revised Code.	445
(15) "Body-worn camera" means a visual and audio recording	446
device worn on the person of a correctional employee, youth	447
services employee, or peace officer while the correctional	448
employee, youth services employee, or peace officer is engaged	449
in the performance of official duties.	450
(16) "Dashboard camera" means a visual and audio recording	451
device mounted on a peace officer's vehicle or vessel that is	452
used while the peace officer is engaged in the performance of	453

the peace officer's duties. 454

(17) "Restricted portions of a body-worn camera or 455
dashboard camera recording" means any visual or audio portion of 456
a body-worn camera or dashboard camera recording that shows, 457
communicates, or discloses any of the following: 458

(a) The image or identity of a child or information that 459
could lead to the identification of a child who is a primary 460
subject of the recording when the department of rehabilitation 461
and correction, department of youth services, or the law 462
enforcement agency knows or has reason to know the person is a 463
child based on the department's or law enforcement agency's 464
records or the content of the recording; 465

(b) The death of a person or a deceased person's body, 466
unless the death was caused by a correctional employee, youth 467
services employee, or peace officer or, subject to division (H) 468
(1) of this section, the consent of the decedent's executor or 469
administrator has been obtained; 470

(c) The death of a correctional employee, youth services 471
employee, peace officer, firefighter, paramedic, or other first 472
responder, occurring while the decedent was engaged in the 473
performance of official duties, unless, subject to division (H) 474
(1) of this section, the consent of the decedent's executor or 475
administrator has been obtained; 476

(d) Grievous bodily harm, unless the injury was effected 477
by a correctional employee, youth services employee, or peace 478
officer or, subject to division (H) (1) of this section, the 479
consent of the injured person or the injured person's guardian 480
has been obtained; 481

(e) An act of severe violence against a person that 482

results in serious physical harm to the person, unless the act 483
and injury was effected by a correctional employee, youth 484
services employee, or peace officer or, subject to division (H) 485
(1) of this section, the consent of the injured person or the 486
injured person's guardian has been obtained; 487

(f) Grievous bodily harm to a correctional employee, youth 488
services employee, peace officer, firefighter, paramedic, or 489
other first responder, occurring while the injured person was 490
engaged in the performance of official duties, unless, subject 491
to division (H) (1) of this section, the consent of the injured 492
person or the injured person's guardian has been obtained; 493

(g) An act of severe violence resulting in serious 494
physical harm against a correctional employee, youth services 495
employee, peace officer, firefighter, paramedic, or other first 496
responder, occurring while the injured person was engaged in the 497
performance of official duties, unless, subject to division (H) 498
(1) of this section, the consent of the injured person or the 499
injured person's guardian has been obtained; 500

(h) A person's nude body, unless, subject to division (H) 501
(1) of this section, the person's consent has been obtained; 502

(i) Protected health information, the identity of a person 503
in a health care facility who is not the subject of a law 504
enforcement encounter, or any other information in a health care 505
facility that could identify a person who is not the subject of 506
a law enforcement encounter; 507

(j) Information that could identify the alleged victim of 508
a sex offense, menacing by stalking, or domestic violence; 509

(k) Information, that does not constitute a confidential 510
law enforcement investigatory record, that could identify a 511

person who provides sensitive or confidential information to the 512
department of rehabilitation and correction, the department of 513
youth services, or a law enforcement agency when the disclosure 514
of the person's identity or the information provided could 515
reasonably be expected to threaten or endanger the safety or 516
property of the person or another person; 517

(l) Personal information of a person who is not arrested, 518
cited, charged, or issued a written warning by a peace officer; 519

(m) Proprietary police contingency plans or tactics that 520
are intended to prevent crime and maintain public order and 521
safety; 522

(n) A personal conversation unrelated to work between 523
peace officers or between a peace officer and an employee of a 524
law enforcement agency; 525

(o) A conversation between a peace officer and a member of 526
the public that does not concern law enforcement activities; 527

(p) The interior of a residence, unless the interior of a 528
residence is the location of an adversarial encounter with, or a 529
use of force by, a peace officer; 530

(q) Any portion of the interior of a private business that 531
is not open to the public, unless an adversarial encounter with, 532
or a use of force by, a peace officer occurs in that location. 533

As used in division (A) (17) of this section: 534

"Grievous bodily harm" has the same meaning as in section 535
5924.120 of the Revised Code. 536

"Health care facility" has the same meaning as in section 537
1337.11 of the Revised Code. 538

"Protected health information" has the same meaning as in 539
45 C.F.R. 160.103. 540

"Law enforcement agency" means a government entity that 541
employs peace officers to perform law enforcement duties. 542

"Personal information" means any government-issued 543
identification number, date of birth, address, financial 544
information, or criminal justice information from the law 545
enforcement automated data system or similar databases. 546

"Sex offense" has the same meaning as in section 2907.10 547
of the Revised Code. 548

"Firefighter," "paramedic," and "first responder" have the 549
same meanings as in section 4765.01 of the Revised Code. 550

(B) (1) Upon request by any person and subject to division 551
(B) (8) of this section, all public records responsive to the 552
request shall be promptly prepared and made available for 553
inspection to the requester at all reasonable times during 554
regular business hours. Subject to division (B) (8) of this 555
section, upon request by any person, a public office or person 556
responsible for public records shall make copies of the 557
requested public record available to the requester at cost and 558
within a reasonable period of time. If a public record contains 559
information that is exempt from the duty to permit public 560
inspection or to copy the public record, the public office or 561
the person responsible for the public record shall make 562
available all of the information within the public record that 563
is not exempt. When making that public record available for 564
public inspection or copying that public record, the public 565
office or the person responsible for the public record shall 566
notify the requester of any redaction or make the redaction 567

plainly visible. A redaction shall be deemed a denial of a 568
request to inspect or copy the redacted information, except if 569
federal or state law authorizes or requires a public office to 570
make the redaction. 571

(2) To facilitate broader access to public records, a 572
public office or the person responsible for public records shall 573
organize and maintain public records in a manner that they can 574
be made available for inspection or copying in accordance with 575
division (B) of this section. A public office also shall have 576
available a copy of its current records retention schedule at a 577
location readily available to the public. If a requester makes 578
an ambiguous or overly broad request or has difficulty in making 579
a request for copies or inspection of public records under this 580
section such that the public office or the person responsible 581
for the requested public record cannot reasonably identify what 582
public records are being requested, the public office or the 583
person responsible for the requested public record may deny the 584
request but shall provide the requester with an opportunity to 585
revise the request by informing the requester of the manner in 586
which records are maintained by the public office and accessed 587
in the ordinary course of the public office's or person's 588
duties. 589

(3) If a request is ultimately denied, in part or in 590
whole, the public office or the person responsible for the 591
requested public record shall provide the requester with an 592
explanation, including legal authority, setting forth why the 593
request was denied. If the initial request was provided in 594
writing, the explanation also shall be provided to the requester 595
in writing. The explanation shall not preclude the public office 596
or the person responsible for the requested public record from 597
relying upon additional reasons or legal authority in defending 598

an action commenced under division (C) of this section. 599

(4) Unless specifically required or authorized by state or 600
federal law or in accordance with division (B) of this section, 601
no public office or person responsible for public records may 602
limit or condition the availability of public records by 603
requiring disclosure of the requester's identity or the intended 604
use of the requested public record. Any requirement that the 605
requester disclose the requester's identity or the intended use 606
of the requested public record constitutes a denial of the 607
request. 608

(5) A public office or person responsible for public 609
records may ask a requester to make the request in writing, may 610
ask for the requester's identity, and may inquire about the 611
intended use of the information requested, but may do so only 612
after disclosing to the requester that a written request is not 613
mandatory, that the requester may decline to reveal the 614
requester's identity or the intended use, and when a written 615
request or disclosure of the identity or intended use would 616
benefit the requester by enhancing the ability of the public 617
office or person responsible for public records to identify, 618
locate, or deliver the public records sought by the requester. 619

(6) If any person requests a copy of a public record in 620
accordance with division (B) of this section, the public office 621
or person responsible for the public record may require the 622
requester to pay in advance the cost involved in providing the 623
copy of the public record in accordance with the choice made by 624
the requester under this division. The public office or the 625
person responsible for the public record shall permit the 626
requester to choose to have the public record duplicated upon 627
paper, upon the same medium upon which the public office or 628

person responsible for the public record keeps it, or upon any 629
other medium upon which the public office or person responsible 630
for the public record determines that it reasonably can be 631
duplicated as an integral part of the normal operations of the 632
public office or person responsible for the public record. When 633
the requester makes a choice under this division, the public 634
office or person responsible for the public record shall provide 635
a copy of it in accordance with the choice made by the 636
requester. Nothing in this section requires a public office or 637
person responsible for the public record to allow the requester 638
of a copy of the public record to make the copies of the public 639
record. 640

(7) (a) Upon a request made in accordance with division (B) 641
of this section and subject to division (B) (6) of this section, 642
a public office or person responsible for public records shall 643
transmit a copy of a public record to any person by United 644
States mail or by any other means of delivery or transmission 645
within a reasonable period of time after receiving the request 646
for the copy. The public office or person responsible for the 647
public record may require the person making the request to pay 648
in advance the cost of postage if the copy is transmitted by 649
United States mail or the cost of delivery if the copy is 650
transmitted other than by United States mail, and to pay in 651
advance the costs incurred for other supplies used in the 652
mailing, delivery, or transmission. 653

(b) Any public office may adopt a policy and procedures 654
that it will follow in transmitting, within a reasonable period 655
of time after receiving a request, copies of public records by 656
United States mail or by any other means of delivery or 657
transmission pursuant to division (B) (7) of this section. A 658
public office that adopts a policy and procedures under division 659

(B) (7) of this section shall comply with them in performing its 660
duties under that division. 661

(c) In any policy and procedures adopted under division 662
(B) (7) of this section: 663

(i) A public office may limit the number of records 664
requested by a person that the office will physically deliver by 665
United States mail or by another delivery service to ten per 666
month, unless the person certifies to the office in writing that 667
the person does not intend to use or forward the requested 668
records, or the information contained in them, for commercial 669
purposes; 670

(ii) A public office that chooses to provide some or all 671
of its public records on a web site that is fully accessible to 672
and searchable by members of the public at all times, other than 673
during acts of God outside the public office's control or 674
maintenance, and that charges no fee to search, access, 675
download, or otherwise receive records provided on the web site, 676
may limit to ten per month the number of records requested by a 677
person that the office will deliver in a digital format, unless 678
the requested records are not provided on the web site and 679
unless the person certifies to the office in writing that the 680
person does not intend to use or forward the requested records, 681
or the information contained in them, for commercial purposes. 682

(iii) For purposes of division (B) (7) of this section, 683
"commercial" shall be narrowly construed and does not include 684
reporting or gathering news, reporting or gathering information 685
to assist citizen oversight or understanding of the operation or 686
activities of government, or nonprofit educational research. 687

(8) A public office or person responsible for public 688

records is not required to permit a person who is incarcerated 689
pursuant to a criminal conviction or a juvenile adjudication to 690
inspect or to obtain a copy of any public record concerning a 691
criminal investigation or prosecution or concerning what would 692
be a criminal investigation or prosecution if the subject of the 693
investigation or prosecution were an adult, unless the request 694
to inspect or to obtain a copy of the record is for the purpose 695
of acquiring information that is subject to release as a public 696
record under this section and the judge who imposed the sentence 697
or made the adjudication with respect to the person, or the 698
judge's successor in office, finds that the information sought 699
in the public record is necessary to support what appears to be 700
a justiciable claim of the person. 701

(9) (a) Upon written request made and signed by a 702
journalist, a public office, or person responsible for public 703
records, having custody of the records of the agency employing a 704
specified designated public service worker shall disclose to the 705
journalist the address of the actual personal residence of the 706
designated public service worker and, if the designated public 707
service worker's spouse, former spouse, or child is employed by 708
a public office, the name and address of the employer of the 709
designated public service worker's spouse, former spouse, or 710
child. The request shall include the journalist's name and title 711
and the name and address of the journalist's employer and shall 712
state that disclosure of the information sought would be in the 713
public interest. 714

(b) Division (B) (9) (a) of this section also applies to 715
journalist requests for: 716

(i) Customer information maintained by a municipally owned 717
or operated public utility, other than social security numbers 718

and any private financial information such as credit reports, 719
payment methods, credit card numbers, and bank account 720
information; 721

(ii) Information about minors involved in a school vehicle 722
accident as provided in division (A)(1)(gg) of this section, 723
other than personal information as defined in section 149.45 of 724
the Revised Code. 725

(c) As used in division (B)(9) of this section, 726
"journalist" means a person engaged in, connected with, or 727
employed by any news medium, including a newspaper, magazine, 728
press association, news agency, or wire service, a radio or 729
television station, or a similar medium, for the purpose of 730
gathering, processing, transmitting, compiling, editing, or 731
disseminating information for the general public. 732

(10) Upon a request made by a victim, victim's attorney, 733
or victim's representative, as that term is used in section 734
2930.02 of the Revised Code, a public office or person 735
responsible for public records shall transmit a copy of a 736
depiction of the victim as described in division (A)(1)(ii) of 737
this section to the victim, victim's attorney, or victim's 738
representative. 739

(C)(1) If a person allegedly is aggrieved by the failure 740
of a public office or the person responsible for public records 741
to promptly prepare a public record and to make it available to 742
the person for inspection in accordance with division (B) of 743
this section or by any other failure of a public office or the 744
person responsible for public records to comply with an 745
obligation in accordance with division (B) of this section, the 746
person allegedly aggrieved may do only one of the following, and 747
not both: 748

(a) File a complaint with the clerk of the court of claims 749
or the clerk of the court of common pleas under section 2743.75 750
of the Revised Code; 751

(b) Commence a mandamus action to obtain a judgment that 752
orders the public office or the person responsible for the 753
public record to comply with division (B) of this section, that 754
awards court costs and reasonable attorney's fees to the person 755
that instituted the mandamus action, and, if applicable, that 756
includes an order fixing statutory damages under division (C) (2) 757
of this section. The mandamus action may be commenced in the 758
court of common pleas of the county in which division (B) of 759
this section allegedly was not complied with, in the supreme 760
court pursuant to its original jurisdiction under Section 2 of 761
Article IV, Ohio Constitution, or in the court of appeals for 762
the appellate district in which division (B) of this section 763
allegedly was not complied with pursuant to its original 764
jurisdiction under Section 3 of Article IV, Ohio Constitution. 765

(2) If a requester transmits a written request by hand 766
delivery, electronic submission, or certified mail to inspect or 767
receive copies of any public record in a manner that fairly 768
describes the public record or class of public records to the 769
public office or person responsible for the requested public 770
records, except as otherwise provided in this section, the 771
requester shall be entitled to recover the amount of statutory 772
damages set forth in this division if a court determines that 773
the public office or the person responsible for public records 774
failed to comply with an obligation in accordance with division 775
(B) of this section. 776

The amount of statutory damages shall be fixed at one 777
hundred dollars for each business day during which the public 778

office or person responsible for the requested public records 779
failed to comply with an obligation in accordance with division 780
(B) of this section, beginning with the day on which the 781
requester files a mandamus action to recover statutory damages, 782
up to a maximum of one thousand dollars. The award of statutory 783
damages shall not be construed as a penalty, but as compensation 784
for injury arising from lost use of the requested information. 785
The existence of this injury shall be conclusively presumed. The 786
award of statutory damages shall be in addition to all other 787
remedies authorized by this section. 788

The court may reduce an award of statutory damages or not 789
award statutory damages if the court determines both of the 790
following: 791

(a) That, based on the ordinary application of statutory 792
law and case law as it existed at the time of the conduct or 793
threatened conduct of the public office or person responsible 794
for the requested public records that allegedly constitutes a 795
failure to comply with an obligation in accordance with division 796
(B) of this section and that was the basis of the mandamus 797
action, a well-informed public office or person responsible for 798
the requested public records reasonably would believe that the 799
conduct or threatened conduct of the public office or person 800
responsible for the requested public records did not constitute 801
a failure to comply with an obligation in accordance with 802
division (B) of this section; 803

(b) That a well-informed public office or person 804
responsible for the requested public records reasonably would 805
believe that the conduct or threatened conduct of the public 806
office or person responsible for the requested public records 807
would serve the public policy that underlies the authority that 808

is asserted as permitting that conduct or threatened conduct. 809

(3) In a mandamus action filed under division (C) (1) of 810
this section, the following apply: 811

(a) (i) If the court orders the public office or the person 812
responsible for the public record to comply with division (B) of 813
this section, the court shall determine and award to the relator 814
all court costs, which shall be construed as remedial and not 815
punitive. 816

(ii) If the court makes a determination described in 817
division (C) (3) (b) (iii) of this section, the court shall 818
determine and award to the relator all court costs, which shall 819
be construed as remedial and not punitive. 820

(b) If the court renders a judgment that orders the public 821
office or the person responsible for the public record to comply 822
with division (B) of this section or if the court determines any 823
of the following, the court may award reasonable attorney's fees 824
to the relator, subject to division (C) (4) of this section: 825

(i) The public office or the person responsible for the 826
public records failed to respond affirmatively or negatively to 827
the public records request in accordance with the time allowed 828
under division (B) of this section. 829

(ii) The public office or the person responsible for the 830
public records promised to permit the relator to inspect or 831
receive copies of the public records requested within a 832
specified period of time but failed to fulfill that promise 833
within that specified period of time. 834

(iii) The public office or the person responsible for the 835
public records acted in bad faith when the office or person 836
voluntarily made the public records available to the relator for 837

the first time after the relator commenced the mandamus action, 838
but before the court issued any order concluding whether or not 839
the public office or person was required to comply with division 840
(B) of this section. No discovery may be conducted on the issue 841
of the alleged bad faith of the public office or person 842
responsible for the public records. This division shall not be 843
construed as creating a presumption that the public office or 844
the person responsible for the public records acted in bad faith 845
when the office or person voluntarily made the public records 846
available to the relator for the first time after the relator 847
commenced the mandamus action, but before the court issued any 848
order described in this division. 849

(c) The court shall not award attorney's fees to the 850
relator if the court determines both of the following: 851

(i) That, based on the ordinary application of statutory 852
law and case law as it existed at the time of the conduct or 853
threatened conduct of the public office or person responsible 854
for the requested public records that allegedly constitutes a 855
failure to comply with an obligation in accordance with division 856
(B) of this section and that was the basis of the mandamus 857
action, a well-informed public office or person responsible for 858
the requested public records reasonably would believe that the 859
conduct or threatened conduct of the public office or person 860
responsible for the requested public records did not constitute 861
a failure to comply with an obligation in accordance with 862
division (B) of this section; 863

(ii) That a well-informed public office or person 864
responsible for the requested public records reasonably would 865
believe that the conduct or threatened conduct of the public 866
office or person responsible for the requested public records 867

would serve the public policy that underlies the authority that 868
is asserted as permitting that conduct or threatened conduct. 869

(4) All of the following apply to any award of reasonable 870
attorney's fees awarded under division (C) (3) (b) of this 871
section: 872

(a) The fees shall be construed as remedial and not 873
punitive. 874

(b) The fees awarded shall not exceed the total of the 875
reasonable attorney's fees incurred before the public record was 876
made available to the relator and the fees described in division 877
(C) (4) (c) of this section. 878

(c) Reasonable attorney's fees shall include reasonable 879
fees incurred to produce proof of the reasonableness and amount 880
of the fees and to otherwise litigate entitlement to the fees. 881

(d) The court may reduce the amount of fees awarded if the 882
court determines that, given the factual circumstances involved 883
with the specific public records request, an alternative means 884
should have been pursued to more effectively and efficiently 885
resolve the dispute that was subject to the mandamus action 886
filed under division (C) (1) of this section. 887

(5) If the court does not issue a writ of mandamus under 888
division (C) of this section and the court determines at that 889
time that the bringing of the mandamus action was frivolous 890
conduct as defined in division (A) of section 2323.51 of the 891
Revised Code, the court may award to the public office all court 892
costs, expenses, and reasonable attorney's fees, as determined 893
by the court. 894

(D) Chapter 1347. of the Revised Code does not limit the 895
provisions of this section. 896

(E) (1) To ensure that all employees of public offices are 897
appropriately educated about a public office's obligations under 898
division (B) of this section, all elected officials or their 899
appropriate designees shall attend training approved by the 900
attorney general as provided in section 109.43 of the Revised 901
Code. A future official may satisfy the requirements of this 902
division by attending the training before taking office, 903
provided that the future official may not send a designee in the 904
future official's place. 905

(2) All public offices shall adopt a public records policy 906
in compliance with this section for responding to public records 907
requests. In adopting a public records policy under this 908
division, a public office may obtain guidance from the model 909
public records policy developed and provided to the public 910
office by the attorney general under section 109.43 of the 911
Revised Code. Except as otherwise provided in this section, the 912
policy may not limit the number of public records that the 913
public office will make available to a single person, may not 914
limit the number of public records that it will make available 915
during a fixed period of time, and may not establish a fixed 916
period of time before it will respond to a request for 917
inspection or copying of public records, unless that period is 918
less than eight hours. 919

The public office shall distribute the public records 920
policy adopted by the public office under this division to the 921
employee of the public office who is the records custodian or 922
records manager or otherwise has custody of the records of that 923
office. The public office shall require that employee to 924
acknowledge receipt of the copy of the public records policy. 925
The public office shall create a poster that describes its 926
public records policy and shall post the poster in a conspicuous 927

place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

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

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

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

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

extraction request" does not include a request by a person who 958
gives assurance to the bureau that the person making the request 959
does not intend to use or forward the requested copies for 960
surveys, marketing, solicitation, or resale for commercial 961
purposes. 962

(c) "Commercial" means profit-seeking production, buying, 963
or selling of any good, service, or other product. 964

(d) "Special extraction costs" means the cost of the time 965
spent by the lowest paid employee competent to perform the task, 966
the actual amount paid to outside private contractors employed 967
by the bureau, or the actual cost incurred to create computer 968
programs to make the special extraction. "Special extraction 969
costs" include any charges paid to a public agency for computer 970
or records services. 971

(3) For purposes of divisions (F) (1) and (2) of this 972
section, "surveys, marketing, solicitation, or resale for 973
commercial purposes" shall be narrowly construed and does not 974
include reporting or gathering news, reporting or gathering 975
information to assist citizen oversight or understanding of the 976
operation or activities of government, or nonprofit educational 977
research. 978

(G) A request by a defendant, counsel of a defendant, or 979
any agent of a defendant in a criminal action that public 980
records related to that action be made available under this 981
section shall be considered a demand for discovery pursuant to 982
the Criminal Rules, except to the extent that the Criminal Rules 983
plainly indicate a contrary intent. The defendant, counsel of 984
the defendant, or agent of the defendant making a request under 985
this division shall serve a copy of the request on the 986
prosecuting attorney, director of law, or other chief legal 987

officer responsible for prosecuting the action.	988
(H) (1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A) (17) (b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:	989 990 991 992 993
(a) The recording will not be used in connection with any probable or pending criminal proceedings;	994 995
(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.	996 997 998 999 1000
(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A) (17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.	1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012
Sec. 2105.062. As used in this section, "relative" includes a parent, grandparent, great-grandparent, stepparent, child, grandchild, aunt, uncle, cousin, sibling, and half sibling.	1013 1014 1015 1016

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

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

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

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

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

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

parent, or stepparent or the guardian, custodian, or person in loco parentis of the victim. 1046
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(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim. 1048
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(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor is not enrolled in and does not attend that school. 1051
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(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution. 1057
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(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim. 1061
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(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes. 1065
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(vii) The actor is a licensed medical professional, the victim is a patient of the actor, and the sexual contact occurs in the course of medical treatment. 1070
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(viii) The victim is confined in a detention facility, and the actor is an employee of that detention facility. 1073
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~~(viii)~~ (ix) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric. 1075
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(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code. 1078
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(3) "Licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code. 1080
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(4) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 1082
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~~(4)~~ (5) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 1084
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~~(5)~~ (6) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code. 1086
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~~(6)~~ (7) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse. 1088
1089

(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following: 1090
1091
1092
1093
1094
1095

(1) The date on which the alleged assault or battery occurred; 1096
1097

(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates: 1098
1099
1100
1101

(a) The date on which the plaintiff learns the identity of 1102
that person; 1103

(b) The date on which, by the exercise of reasonable 1104
diligence, the plaintiff should have learned the identity of 1105
that person. 1106

(C) An action for assault or battery brought by a victim 1107
of childhood sexual abuse based on childhood sexual abuse, or an 1108
action brought by a victim of childhood sexual abuse asserting 1109
any claim resulting from childhood sexual abuse, shall be 1110
brought within twelve years after the cause of action accrues. 1111
For purposes of this section, a cause of action for assault or 1112
battery based on childhood sexual abuse, or a cause of action 1113
for a claim resulting from childhood sexual abuse, accrues upon 1114
the date on which the victim reaches the age of majority. If the 1115
defendant in an action brought by a victim of childhood sexual 1116
abuse asserting a claim resulting from childhood sexual abuse 1117
that occurs on or after August 3, 2006, has fraudulently 1118
concealed from the plaintiff facts that form the basis of the 1119
claim, the running of the limitations period with regard to that 1120
claim is tolled until the time when the plaintiff discovers or 1121
in the exercise of due diligence should have discovered those 1122
facts. 1123

Sec. 2305.252. ~~(A) Proceedings~~ (A) (1) Except as required 1124
to comply with a subpoena issued by the state medical board for 1125
the production of information, documents, or records related to 1126
an allegation of sexual misconduct or criminal conduct, 1127
proceedings and records within the scope of a peer review 1128
committee of a health care entity shall be held in confidence 1129
and shall not be subject to discovery or introduction in 1130
evidence in any civil action against a health care entity or 1131

health care provider, including both individuals who provide 1132
health care and entities that provide health care, arising out 1133
of matters that are the subject of evaluation and review by the 1134
peer review committee. No individual who attends a meeting of a 1135
peer review committee, serves as a member of a peer review 1136
committee, works for or on behalf of a peer review committee, or 1137
provides information to a peer review committee shall be 1138
permitted or required to testify in any civil action as to any 1139
evidence or other matters produced or presented during the 1140
proceedings of the peer review committee or as to any finding, 1141
recommendation, evaluation, opinion, or other action of the 1142
committee or a member thereof. 1143

Information, documents, or records otherwise available 1144
from original sources are not to be construed as being 1145
unavailable for discovery or for use in any civil action merely 1146
because they were produced or presented during proceedings of a 1147
peer review committee, but the information, documents, or 1148
records are available only from the original sources and cannot 1149
be obtained from the peer review committee's proceedings or 1150
records. 1151

The release of any information, documents, or records that 1152
were produced or presented during proceedings of a peer review 1153
committee or created to document the proceedings does not affect 1154
the confidentiality of any other information, documents, or 1155
records produced or presented during those proceedings or 1156
created to document them. Only the information, documents, or 1157
records actually released cease to be privileged under this 1158
section. 1159

Nothing in this section precludes health care entities 1160
from sharing information, documents, or records that were 1161

produced or presented during proceedings of a peer review 1162
committee or created to document them as long as the 1163
information, documents, or records are used only for peer review 1164
purposes. Health care entities shall provide information, 1165
documents, or records related to allegations of sexual 1166
misconduct or criminal conduct of individuals licensed by the 1167
state medical board that were produced or presented during the 1168
proceedings of a peer review committee or were created to 1169
document the proceedings, to the state medical board pursuant to 1170
a subpoena issued by the board. 1171

An individual who testifies before a peer review 1172
committee, serves as a representative of a peer review 1173
committee, serves as a member of a peer review committee, works 1174
for or on behalf of a peer review committee, or provides 1175
information to a peer review committee shall not be prevented 1176
from testifying as to matters within the individual's knowledge, 1177
but the individual cannot be asked about the individual's 1178
testimony before the peer review committee, information the 1179
individual provided to the peer review committee, or any opinion 1180
the individual formed as a result of the peer review committee's 1181
activities. 1182

An order by a court to produce for discovery or for use at 1183
trial the proceedings or records described in this section is a 1184
final order. 1185

(2) As used in division (A) (1) of this section: 1186

(a) "Criminal conduct" means any conduct that would 1187
constitute a felony, a misdemeanor committed in the course of 1188
medical practice, an offense of violence, or a sexually oriented 1189
offense, as defined in section 2950.01 of the Revised Code, 1190
regardless of whether a criminal charge has been filed or the 1191

location in this state where the conduct occurred. 1192

(b) "Sexual misconduct" means conduct that exploits the 1193
licensee-patient relationship in a sexual way, whether verbal or 1194
physical, and may include the expression of thoughts, feelings, 1195
or gestures that are sexual or that reasonably may be construed 1196
by the patient as sexual. "Sexual misconduct" includes sexual 1197
impropriety, sexual contact, and sexual interaction as defined 1198
by the state medical board in rules adopted in accordance with 1199
Chapter 119. of the Revised Code. 1200

(B) Division (A) of this section applies to a peer review 1201
committee of the bureau of workers' compensation that is 1202
responsible for reviewing the professional qualifications and 1203
the performance of providers certified by the bureau to 1204
participate in the health partnership program created under 1205
sections 4121.44 and 4121.441 of the Revised Code, except that 1206
the proceedings and records within the scope of the peer review 1207
committee are subject to discovery or court subpoena and may be 1208
admitted into evidence in any criminal action or administrative 1209
or civil action initiated, prosecuted, or adjudicated by the 1210
bureau involving an alleged violation of applicable statutes or 1211
administrative rules. The bureau may share proceedings and 1212
records within the scope of the peer review committee, including 1213
claimant records and claim file information, with law 1214
enforcement agencies, licensing boards, and other governmental 1215
agencies that are prosecuting, adjudicating, or investigating 1216
alleged violations of applicable statutes or administrative 1217
rules. If the bureau shares proceedings or records with a law 1218
enforcement agency, licensing board, or another governmental 1219
agency pursuant to this division, that sharing does not affect 1220
the confidentiality of the record. Recipients of claimant 1221
records and claim file information provided by the bureau 1222

pursuant to this division shall take appropriate measures to 1223
maintain the confidentiality of the information. 1224

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 1225
2917.211 of the Revised Code: 1226

(A) "Sexual conduct" means vaginal intercourse between a 1227
male and female; anal intercourse, fellatio, and cunnilingus 1228
between persons regardless of sex; and, without privilege to do 1229
so, the insertion, however slight, of any part of the body or 1230
any instrument, apparatus, or other object into the vaginal or 1231
anal opening of another. Penetration, however slight, is 1232
sufficient to complete vaginal or anal intercourse. 1233

(B) "Sexual contact" means any touching of an erogenous 1234
zone of another, including without limitation the thigh, 1235
genitals, buttock, pubic region, or, if the person is a female, 1236
a breast, for the purpose of sexually arousing or gratifying 1237
either person. 1238

(C) "Sexual activity" means sexual conduct or sexual 1239
contact, or both. 1240

(D) "Prostitute" means a male or female who promiscuously 1241
engages in sexual activity for hire, regardless of whether the 1242
hire is paid to the prostitute or to another. 1243

(E) "Harmful to juveniles" means that quality of any 1244
material or performance describing or representing nudity, 1245
sexual conduct, sexual excitement, or sado-masochistic abuse in 1246
any form to which all of the following apply: 1247

(1) The material or performance, when considered as a 1248
whole, appeals to the prurient interest of juveniles in sex. 1249

(2) The material or performance is patently offensive to 1250

prevailing standards in the adult community as a whole with 1251
respect to what is suitable for juveniles. 1252

(3) The material or performance, when considered as a 1253
whole, lacks serious literary, artistic, political, and 1254
scientific value for juveniles. 1255

(F) When considered as a whole, and judged with reference 1256
to ordinary adults or, if it is designed for sexual deviates or 1257
other specially susceptible group, judged with reference to that 1258
group, any material or performance is "obscene" if any of the 1259
following apply: 1260

(1) Its dominant appeal is to prurient interest; 1261

(2) Its dominant tendency is to arouse lust by displaying 1262
or depicting sexual activity, masturbation, sexual excitement, 1263
or nudity in a way that tends to represent human beings as mere 1264
objects of sexual appetite; 1265

(3) Its dominant tendency is to arouse lust by displaying 1266
or depicting bestiality or extreme or bizarre violence, cruelty, 1267
or brutality; 1268

(4) Its dominant tendency is to appeal to scatological 1269
interest by displaying or depicting human bodily functions of 1270
elimination in a way that inspires disgust or revulsion in 1271
persons with ordinary sensibilities, without serving any genuine 1272
scientific, educational, sociological, moral, or artistic 1273
purpose; 1274

(5) It contains a series of displays or descriptions of 1275
sexual activity, masturbation, sexual excitement, nudity, 1276
bestiality, extreme or bizarre violence, cruelty, or brutality, 1277
or human bodily functions of elimination, the cumulative effect 1278
of which is a dominant tendency to appeal to prurient or 1279

scatological interest, when the appeal to such an interest is 1280
primarily for its own sake or for commercial exploitation, 1281
rather than primarily for a genuine scientific, educational, 1282
sociological, moral, or artistic purpose. 1283

(G) "Sexual excitement" means the condition of human male 1284
or female genitals when in a state of sexual stimulation or 1285
arousal. 1286

(H) "Nudity" means the showing, representation, or 1287
depiction of human male or female genitals, pubic area, or 1288
buttocks with less than a full, opaque covering, or of a female 1289
breast with less than a full, opaque covering of any portion 1290
thereof below the top of the nipple, or of covered male genitals 1291
in a discernibly turgid state. 1292

(I) "Juvenile" means an unmarried person under the age of 1293
eighteen. 1294

(J) "Material" means any book, magazine, newspaper, 1295
pamphlet, poster, print, picture, figure, image, description, 1296
motion picture film, phonographic record, or tape, or other 1297
tangible thing capable of arousing interest through sight, 1298
sound, or touch and includes an image or text appearing on a 1299
computer monitor, television screen, liquid crystal display, or 1300
similar display device or an image or text recorded on a 1301
computer hard disk, computer floppy disk, compact disk, magnetic 1302
tape, or similar data storage device. 1303

(K) "Performance" means any motion picture, preview, 1304
trailer, play, show, skit, dance, or other exhibition performed 1305
before an audience. 1306

(L) "Spouse" means a person married to an offender at the 1307
time of an alleged offense, except that such person shall not be 1308

considered the spouse when any of the following apply: 1309

(1) When the parties have entered into a written 1310
separation agreement authorized by section 3103.06 of the 1311
Revised Code; 1312

(2) During the pendency of an action between the parties 1313
for annulment, divorce, dissolution of marriage, or legal 1314
separation; 1315

(3) In the case of an action for legal separation, after 1316
the effective date of the judgment for legal separation. 1317

(M) "Minor" means a person under the age of eighteen. 1318

(N) "Mental health client or patient" has the same meaning 1319
as in section 2305.51 of the Revised Code. 1320

(O) "Mental health professional" has the same meaning as 1321
in section 2305.115 of the Revised Code. 1322

(P) "Sado-masochistic abuse" means flagellation or torture 1323
by or upon a person or the condition of being fettered, bound, 1324
or otherwise physically restrained. 1325

(Q) "Place where a person has a reasonable expectation of 1326
privacy" means a place where a reasonable person would believe 1327
that the person could fully disrobe in private. 1328

(R) "Private area" means the genitals, pubic area, 1329
buttocks, or female breast below the top of the areola, where 1330
nude or covered by an undergarment. 1331

(S) "Licensed medical professional" means any of the 1332
following medical professionals: 1333

(1) A physician assistant licensed under Chapter 4730. of 1334
the Revised Code; 1335

(2) A physician authorized under Chapter 4731. of the 1336
Revised Code to practice medicine and surgery, osteopathic 1337
medicine and surgery, or podiatric medicine and surgery; 1338

(3) A massage therapist licensed under Chapter 4731. of 1339
the Revised Code. 1340

Sec. 2907.02. (A) (1) No person shall engage in sexual 1341
conduct with another who is not the spouse of the offender or 1342
who is the spouse of the offender but is living separate and 1343
apart from the offender, when any of the following applies: 1344

(a) For the purpose of preventing resistance, the offender 1345
substantially impairs the other person's judgment or control by 1346
administering any drug, intoxicant, or controlled substance to 1347
the other person surreptitiously or by force, threat of force, 1348
or deception. 1349

(b) The other person is less than thirteen years of age, 1350
whether or not the offender knows the age of the other person. 1351

(c) The other person's ability to resist or consent is 1352
substantially impaired because of a mental or physical condition 1353
or because of advanced age, and the offender knows or has 1354
reasonable cause to believe that the other person's ability to 1355
resist or consent is substantially impaired because of a mental 1356
or physical condition or because of advanced age. 1357

(d) The offender knows that the judgment or control of the 1358
other person is substantially impaired as a result of the 1359
influence of any drug or intoxicant administered to the other 1360
person with the other person's consent for the purpose of any 1361
kind of medical or dental examination, treatment, or surgery. 1362

(2) No person shall engage in sexual conduct with another 1363
when the offender purposely compels the other person to submit 1364

by force or threat of force. 1365

(B) Whoever violates this section is guilty of rape, a 1366
felony of the first degree. If the offender under division (A) 1367
(1) (a) of this section substantially impairs the other person's 1368
judgment or control by administering any controlled substance, 1369
as defined in section 3719.01 of the Revised Code, to the other 1370
person surreptitiously or by force, threat of force, or 1371
deception, the prison term imposed upon the offender shall be 1372
one of the definite prison terms prescribed for a felony of the 1373
first degree in division (A) (1) (b) of section 2929.14 of the 1374
Revised Code that is not less than five years, except that if 1375
the violation is committed on or after March 22, 2019, the court 1376
shall impose as the minimum prison term for the offense a 1377
mandatory prison term that is one of the minimum terms 1378
prescribed for a felony of the first degree in division (A) (1) 1379
(a) of section 2929.14 of the Revised Code that is not less than 1380
five years. Except as otherwise provided in this division, 1381
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 1382
an offender under division (A) (1) (b) of this section shall be 1383
sentenced to a prison term or term of life imprisonment pursuant 1384
to section 2971.03 of the Revised Code. If an offender is 1385
convicted of or pleads guilty to a violation of division (A) (1) 1386
(b) of this section, if the offender was less than sixteen years 1387
of age at the time the offender committed the violation of that 1388
division, and if the offender during or immediately after the 1389
commission of the offense did not cause serious physical harm to 1390
the victim, the victim was ten years of age or older at the time 1391
of the commission of the violation, and the offender has not 1392
previously been convicted of or pleaded guilty to a violation of 1393
this section or a substantially similar existing or former law 1394
of this state, another state, or the United States, the court 1395

shall not sentence the offender to a prison term or term of life 1396
imprisonment pursuant to section 2971.03 of the Revised Code, 1397
and instead the court shall sentence the offender as otherwise 1398
provided in this division. If an offender under division (A) (1) 1399
(b) of this section previously has been convicted of or pleaded 1400
guilty to violating division (A) (1) (b) of this section or to 1401
violating an existing or former law of this state, another 1402
state, or the United States that is substantially similar to 1403
division (A) (1) (b) of this section, if the offender during or 1404
immediately after the commission of the offense caused serious 1405
physical harm to the victim, or if the victim under division (A) 1406
(1) (b) of this section is less than ten years of age, in lieu of 1407
sentencing the offender to a prison term or term of life 1408
imprisonment pursuant to section 2971.03 of the Revised Code, 1409
except as otherwise provided in this division, the court may 1410
impose upon the offender a term of life without parole. If the 1411
court imposes a term of life without parole pursuant to this 1412
division, division (F) of section 2971.03 of the Revised Code 1413
applies, and the offender automatically is classified a tier III 1414
sex offender/child-victim offender, as described in that 1415
division. A court shall not impose a term of life without parole 1416
on an offender for rape if the offender was under eighteen years 1417
of age at the time of the offense. 1418

(C) A victim need not prove physical resistance to the 1419
offender in prosecutions under this section. 1420

(D) Evidence of specific instances of the victim's sexual 1421
activity, opinion evidence of the victim's sexual activity, and 1422
reputation evidence of the victim's sexual activity shall not be 1423
admitted under this section unless it involves evidence of the 1424
origin of semen, pregnancy, or sexually transmitted disease or 1425
infection, or the victim's past sexual activity with the 1426

offender, and only to the extent that the court finds that the 1427
evidence is material to a fact at issue in the case and that its 1428
inflammatory or prejudicial nature does not outweigh its 1429
probative value. 1430

Evidence of specific instances of the defendant's sexual 1431
activity, opinion evidence of the defendant's sexual activity, 1432
and reputation evidence of the defendant's sexual activity shall 1433
not be admitted under this section unless it involves evidence 1434
of the origin of semen, pregnancy, or sexually transmitted 1435
disease or infection, the defendant's past sexual activity with 1436
the victim, or is admissible against the defendant under section 1437
2945.59 of the Revised Code, and only to the extent that the 1438
court finds that the evidence is material to a fact at issue in 1439
the case and that its inflammatory or prejudicial nature does 1440
not outweigh its probative value. 1441

(E) Prior to taking testimony or receiving evidence of any 1442
sexual activity of the victim or the defendant in a proceeding 1443
under this section, the court shall resolve the admissibility of 1444
the proposed evidence in a hearing in chambers, which shall be 1445
held at or before preliminary hearing and not less than three 1446
days before trial, or for good cause shown during the trial. 1447

(F) Upon approval by the court, the victim may be 1448
represented by counsel in any hearing in chambers or other 1449
proceeding to resolve the admissibility of evidence. If the 1450
victim is indigent or otherwise is unable to obtain the services 1451
of counsel, the court, upon request, may appoint counsel to 1452
represent the victim without cost to the victim. 1453

(G) It is not a defense to a charge under division (A) (2) 1454
of this section that the offender and the victim were married or 1455
were cohabiting at the time of the commission of the offense. 1456

Sec. 2907.03. (A) No person shall engage in sexual ~~conduct~~ 1457
activity with another, not the spouse of the offender; ~~cause~~ 1458
another, not the spouse of the offender, to engage in sexual 1459
activity with the offender; or cause two or more other persons 1460
to engage in sexual activity when any of the following apply: 1461

(1) The offender knowingly coerces the other person, or 1462
one of the other persons, to submit by any means that would 1463
prevent resistance by a person of ordinary resolution. 1464

(2) The offender knows that the other person's, or one of 1465
the other person's, ability to appraise the nature of or control 1466
the other person's own conduct is substantially impaired. 1467

(3) The offender knows that the other person, or one of 1468
the other persons, submits because the other person is unaware 1469
that the act is being committed. 1470

(4) The offender knows that the other person, or one of 1471
the other persons, submits because the other person mistakenly 1472
identifies the offender as the other person's spouse. 1473

(5) The offender is the other person's, or one of the 1474
other person's, natural or adoptive parent, or a stepparent, or 1475
guardian, custodian, or person in loco parentis of the other 1476
person. 1477

(6) The other person, or one of the other persons, is in 1478
custody of law or a patient in a hospital or other institution, 1479
and the offender has supervisory or disciplinary authority over 1480
the other person. 1481

(7) The offender is a teacher, administrator, coach, or 1482
other person in authority employed by or serving in a school for 1483
which the state board of education prescribes minimum standards 1484
pursuant to division (D) of section 3301.07 of the Revised Code, 1485

the other person, or one of the other persons, is enrolled in or 1486
attends that school, and the offender is not enrolled in and 1487
does not attend that school. 1488

(8) The other person, or one of the other persons, is a 1489
minor, the offender is a teacher, administrator, coach, or other 1490
person in authority employed by or serving in an institution of 1491
higher education, and the other person is enrolled in or attends 1492
that institution. 1493

(9) The other person, or one of the other persons, is a 1494
minor, and the offender is the other person's athletic or other 1495
type of coach, is the other person's instructor, is the leader 1496
of a scouting troop of which the other person is a member, or is 1497
a person with temporary or occasional disciplinary control over 1498
the other person. 1499

(10) The offender is a mental health professional, the 1500
other person, or one of the other persons, is a mental health 1501
client or patient of the offender, and the offender induces the 1502
other person to submit by falsely representing to the other 1503
person that the sexual conduct is necessary for mental health 1504
treatment purposes. 1505

(11) The offender is a licensed medical professional, the 1506
other person, or one of the other persons, is a patient of the 1507
offender, and the sexual activity occurs in the course of 1508
medical treatment. 1509

(12) The other person, or one of the other persons, is 1510
confined in a detention facility, and the offender is an 1511
employee of that detention facility. 1512

~~(12)~~ (13) The other person, or one of the other persons, 1513
is a minor, the offender is a cleric, and the other person is a 1514

member of, or attends, the church or congregation served by the 1515
cleric. 1516

~~(13)~~ (14) The other person, or one of the other persons, 1517
is a minor, the offender is a peace officer, and the offender is 1518
more than two years older than the other person. 1519

(B) Whoever violates this section is guilty of sexual 1520
battery. 1521

~~Except~~ (1) If the sexual activity involved is sexual 1522
conduct, except as otherwise provided in this division, sexual 1523
battery is a felony of the third degree. If the other person, or 1524
one of the other persons, is less than thirteen years of age or 1525
over and less than eighteen years of age, sexual battery is a 1526
felony of the second degree, and the court shall impose upon the 1527
offender a mandatory prison term equal to one of the definite 1528
prison terms prescribed in division (A) (2) (b) of section 2929.14 1529
of the Revised Code for a felony of the second degree, except 1530
that if the violation is committed on or after ~~the effective~~ 1531
~~date of this amendment~~ March 22, 2019, the court shall impose as 1532
the minimum prison term for the offense a mandatory prison term 1533
that is one of the minimum terms prescribed in division (A) (2) 1534
(a) of that section for a felony of the second degree. 1535

(2) If the sexual activity involved is sexual contact, 1536
except as otherwise provided in this division, sexual battery is 1537
a felony of the fifth degree. If the other person, or one of the 1538
other persons, is less than eighteen years of age, sexual 1539
battery is a felony of the fourth degree. 1540

(C) As used in this section: 1541

(1) "Cleric" has the same meaning as in section 2317.02 of 1542
the Revised Code. 1543

(2) "Detention facility" has the same meaning as in 1544
section 2921.01 of the Revised Code. 1545

(3) "Institution of higher education" means a state 1546
institution of higher education defined in section 3345.011 of 1547
the Revised Code, a private nonprofit college or university 1548
located in this state that possesses a certificate of 1549
authorization issued by the Ohio board of regents pursuant to 1550
Chapter 1713. of the Revised Code, or a school certified under 1551
Chapter 3332. of the Revised Code. 1552

(4) "Peace officer" has the same meaning as in section 1553
2935.01 of the Revised Code. 1554

(5) "Medical treatment" means in-person examination, 1555
consultation, health care, treatment, procedure, surgery, or 1556
other in-person services provided by a licensed medical 1557
professional under the legal authority conferred by a license or 1558
certificate. 1559

Sec. 2907.06. (A) No person shall have sexual contact with 1560
another, not the spouse of the offender; cause another, not the 1561
spouse of the offender, to have sexual contact with the 1562
offender; or cause two or more other persons to have sexual 1563
contact when ~~any of the following applies:~~ 1564

~~(1) The the offender knows that the sexual contact is 1565
offensive to the other person, or one of the other persons, or 1566
is reckless in that regard. 1567~~

~~(2) The offender knows that the other person's, or one of 1568
the other person's, ability to appraise the nature of or control 1569
the offender's or touching person's conduct is substantially 1570
impaired. 1571~~

~~(3) The offender knows that the other person, or one of 1572~~

~~the other persons, submits because of being unaware of the~~ 1573
~~sexual contact.~~ 1574

~~(4) The other person, or one of the other persons, is~~ 1575
~~thirteen years of age or older but less than sixteen years of~~ 1576
~~age, whether or not the offender knows the age of such person,~~ 1577
~~and the offender is at least eighteen years of age and four or~~ 1578
~~more years older than such other person.~~ 1579

~~(5) The offender is a mental health professional, the~~ 1580
~~other person or one of the other persons is a mental health~~ 1581
~~client or patient of the offender, and the offender induces the~~ 1582
~~other person who is the client or patient to submit by falsely~~ 1583
~~representing to the other person who is the client or patient~~ 1584
~~that the sexual contact is necessary for mental health treatment~~ 1585
~~purposes.~~ 1586

(B) No person shall be convicted of a violation of this 1587
section solely upon the victim's testimony unsupported by other 1588
evidence. 1589

(C) Whoever violates this section is guilty of sexual 1590
imposition, a misdemeanor of the third degree. If the offender 1591
previously has been convicted of or pleaded guilty to a 1592
violation of this section or of section 2907.02, 2907.03, 1593
2907.04, or 2907.05, or former section 2907.12 of the Revised 1594
Code, a violation of this section is a misdemeanor of the first 1595
degree. If the offender previously has been convicted of or 1596
pleaded guilty to three or more violations of this section or 1597
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 1598
2907.12 of the Revised Code, or of any combination of those 1599
sections, a violation of this section is a misdemeanor of the 1600
first degree and, notwithstanding the range of jail terms 1601
prescribed in section 2929.24 of the Revised Code, the court may 1602

impose on the offender a definite jail term of not more than one 1603
year. 1604

Sec. 2907.17. If a mental health professional or a 1605
licensed medical professional is indicted or charged and bound 1606
over to the court of common pleas for trial for an alleged 1607
violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1608
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1609
whichever is applicable, the prosecuting attorney handling the 1610
case shall send written notice of the indictment or the charge 1611
and bind over to the regulatory or licensing board or agency, if 1612
any, that has the administrative authority to suspend or revoke 1613
the mental health professional's or licensed medical 1614
professional's professional license, certification, 1615
registration, or authorization. 1616

Sec. 2907.18. If a mental health professional or a 1617
licensed medical professional is convicted of or pleads guilty 1618
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1619
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1620
whichever is applicable, the court shall transmit a certified 1621
copy of the judgment entry of conviction to the regulatory or 1622
licensing board or agency, if any, that has the administrative 1623
authority to suspend or revoke the mental health professional's 1624
or licensed medical professional's professional license, 1625
certification, registration, or authorization. 1626

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1627
of this section, no person, knowing that a felony has been or is 1628
being committed, shall knowingly fail to report such information 1629
to law enforcement authorities. 1630

(2) No person, knowing that a violation of division (B) of 1631
section 2913.04 of the Revised Code has been, or is being 1632

committed or that the person has received information derived 1633
from such a violation, shall knowingly fail to report the 1634
violation to law enforcement authorities. 1635

(B) Except for conditions that are within the scope of 1636
division (E) of this section, no person giving aid to a sick or 1637
injured person shall negligently fail to report to law 1638
enforcement authorities any gunshot or stab wound treated or 1639
observed by the person, or any serious physical harm to persons 1640
that the person knows or has reasonable cause to believe 1641
resulted from an offense of violence. 1642

(C) No person who discovers the body or acquires the first 1643
knowledge of the death of a person shall fail to report the 1644
death immediately to a physician or advanced practice registered 1645
nurse whom the person knows to be treating the deceased for a 1646
condition from which death at such time would not be unexpected, 1647
or to a law enforcement officer, an ambulance service, an 1648
emergency squad, or the coroner in a political subdivision in 1649
which the body is discovered, the death is believed to have 1650
occurred, or knowledge concerning the death is obtained. For 1651
purposes of this division, "advanced practice registered nurse" 1652
does not include a certified registered nurse anesthetist. 1653

(D) No person shall fail to provide upon request of the 1654
person to whom a report required by division (C) of this section 1655
was made, or to any law enforcement officer who has reasonable 1656
cause to assert the authority to investigate the circumstances 1657
surrounding the death, any facts within the person's knowledge 1658
that may have a bearing on the investigation of the death. 1659

(E) (1) As used in this division, "burn injury" means any 1660
of the following: 1661

- (a) Second or third degree burns; 1662
- (b) Any burns to the upper respiratory tract or laryngeal 1663
edema due to the inhalation of superheated air; 1664
- (c) Any burn injury or wound that may result in death; 1665
- (d) Any physical harm to persons caused by or as the 1666
result of the use of fireworks, novelties and trick noisemakers, 1667
and wire sparklers, as each is defined by section 3743.01 of the 1668
Revised Code. 1669
- (2) No physician, nurse, physician assistant, or limited 1670
practitioner who, outside a hospital, sanitarium, or other 1671
medical facility, attends or treats a person who has sustained a 1672
burn injury that is inflicted by an explosion or other 1673
incendiary device or that shows evidence of having been 1674
inflicted in a violent, malicious, or criminal manner shall fail 1675
to report the burn injury immediately to the local arson, or 1676
fire and explosion investigation, bureau, if there is a bureau 1677
of this type in the jurisdiction in which the person is attended 1678
or treated, or otherwise to local law enforcement authorities. 1679
- (3) No manager, superintendent, or other person in charge 1680
of a hospital, sanitarium, or other medical facility in which a 1681
person is attended or treated for any burn injury that is 1682
inflicted by an explosion or other incendiary device or that 1683
shows evidence of having been inflicted in a violent, malicious, 1684
or criminal manner shall fail to report the burn injury 1685
immediately to the local arson, or fire and explosion 1686
investigation, bureau, if there is a bureau of this type in the 1687
jurisdiction in which the person is attended or treated, or 1688
otherwise to local law enforcement authorities. 1689
- (4) No person who is required to report any burn injury 1690

under division (E) (2) or (3) of this section shall fail to file, 1691
within three working days after attending or treating the 1692
victim, a written report of the burn injury with the office of 1693
the state fire marshal. The report shall comply with the uniform 1694
standard developed by the state fire marshal pursuant to 1695
division (A) (15) of section 3737.22 of the Revised Code. 1696

(5) Anyone participating in the making of reports under 1697
division (E) of this section or anyone participating in a 1698
judicial proceeding resulting from the reports is immune from 1699
any civil or criminal liability that otherwise might be incurred 1700
or imposed as a result of such actions. Notwithstanding section 1701
4731.22 of the Revised Code, the physician-patient relationship 1702
or advanced practice registered nurse-patient relationship is 1703
not a ground for excluding evidence regarding a person's burn 1704
injury or the cause of the burn injury in any judicial 1705
proceeding resulting from a report submitted under division (E) 1706
of this section. 1707

(F) (1) No person who knows, or has reasonable cause to 1708
suspect based on facts that would cause a reasonable person in a 1709
similar position to suspect, that a licensed medical 1710
professional has committed an offense under Chapter 2907. of the 1711
Revised Code, a violation of a municipal ordinance that is 1712
substantially equivalent to such offense, or a substantially 1713
equivalent criminal offense in another jurisdiction, against a 1714
patient of the licensed medical professional shall fail to 1715
report such knowledge or reasonable cause to suspect to law 1716
enforcement authorities within thirty days of obtaining the 1717
knowledge or reasonable cause to suspect. 1718

(2) Except for a self-report or participation in the 1719
offense or violation being reported, any person who makes a 1720

report within the thirty-day period provided in division (F) (1) 1721
of this section or any person who participates in a judicial 1722
proceeding that results from such report is immune from civil or 1723
criminal liability that otherwise might be incurred or imposed 1724
as a result of making that report or participating in that 1725
proceeding so long as the person is acting in good faith without 1726
fraud or malice. 1727

(3) The physician-patient relationship or physician 1728
assistant-patient relationship is not a ground for excluding 1729
evidence regarding the person's knowledge of, or reasonable 1730
cause to suspect, a licensed medical professional's commission 1731
of an offense or violation reported under division (F) (1) of 1732
this section, against that licensed medical professional in any 1733
judicial proceeding resulting from a report made under that 1734
division. 1735

(4) As used in division (F) of this section, "licensed 1736
medical professional" has the same meaning as in section 2907.01 1737
of the Revised Code. 1738

(G) (1) Any doctor of medicine or osteopathic medicine, 1739
hospital intern or resident, nurse, psychologist, social worker, 1740
independent social worker, social work assistant, licensed 1741
professional clinical counselor, licensed professional 1742
counselor, independent marriage and family therapist, or 1743
marriage and family therapist who knows or has reasonable cause 1744
to believe that a patient or client has been the victim of 1745
domestic violence, as defined in section 3113.31 of the Revised 1746
Code, shall note that knowledge or belief and the basis for it 1747
in the patient's or client's records. 1748

(2) Notwithstanding section 4731.22 of the Revised Code, 1749
the physician-patient privilege or advanced practice registered 1750

nurse-patient privilege shall not be a ground for excluding any 1751
information regarding the report containing the knowledge or 1752
belief noted under division ~~(F) (1)~~ (G) (1) of this section, and 1753
the information may be admitted as evidence in accordance with 1754
the Rules of Evidence. 1755

~~(G)~~ (H) Divisions (A) and (D) of this section do not 1756
require disclosure of information, when any of the following 1757
applies: 1758

(1) The information is privileged by reason of the 1759
relationship between attorney and client; physician and patient; 1760
advanced practice registered nurse and patient; licensed 1761
psychologist or licensed school psychologist and client; 1762
licensed professional clinical counselor, licensed professional 1763
counselor, independent social worker, social worker, independent 1764
marriage and family therapist, or marriage and family therapist 1765
and client; member of the clergy, rabbi, minister, or priest and 1766
any person communicating information confidentially to the 1767
member of the clergy, rabbi, minister, or priest for a religious 1768
counseling purpose of a professional character; husband and 1769
wife; or a communications assistant and those who are a party to 1770
a telecommunications relay service call. 1771

(2) The information would tend to incriminate a member of 1772
the actor's immediate family. 1773

(3) Disclosure of the information would amount to 1774
revealing a news source, privileged under section 2739.04 or 1775
2739.12 of the Revised Code. 1776

(4) Disclosure of the information would amount to 1777
disclosure by a member of the ordained clergy of an organized 1778
religious body of a confidential communication made to that 1779

member of the clergy in that member's capacity as a member of 1780
the clergy by a person seeking the aid or counsel of that member 1781
of the clergy. 1782

(5) Disclosure would amount to revealing information 1783
acquired by the actor in the course of the actor's duties in 1784
connection with a bona fide program of treatment or services for 1785
persons with drug dependencies or persons in danger of drug 1786
dependence, which program is maintained or conducted by a 1787
hospital, clinic, person, agency, or community addiction 1788
services provider whose alcohol and drug addiction services are 1789
certified pursuant to section 5119.36 of the Revised Code. 1790

(6) Disclosure would amount to revealing information 1791
acquired by the actor in the course of the actor's duties in 1792
connection with a bona fide program for providing counseling 1793
services to victims of crimes that are violations of section 1794
2907.02 or 2907.05 of the Revised Code or to victims of 1795
felonious sexual penetration in violation of former section 1796
2907.12 of the Revised Code. As used in this division, 1797
"counseling services" include services provided in an informal 1798
setting by a person who, by education or experience, is 1799
competent to provide those services. 1800

~~(H)~~ (I) No disclosure of information pursuant to this 1801
section gives rise to any liability or recrimination for a 1802
breach of privilege or confidence. 1803

~~(I)~~ (J) Whoever violates division (A) ~~or~~ (B), or (F) (1) 1804
of this section is guilty of failure to report a crime. 1805
Violation of division (A) (1) or (F) (1) of this section is a 1806
misdemeanor of the fourth degree. Violation of division (A) (2) 1807
or (B) of this section is a misdemeanor of the second degree. 1808

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1809
section is guilty of failure to report knowledge of a death, a 1810
misdemeanor of the fourth degree. 1811

~~(K)~~ ~~(1)~~ (L) (1) Whoever negligently violates division (E) of 1812
this section is guilty of a minor misdemeanor. 1813

(2) Whoever knowingly violates division (E) of this 1814
section is guilty of a misdemeanor of the second degree. 1815

~~(I)~~ (M) As used in this section, "nurse" includes an 1816
advanced practice registered nurse, registered nurse, and 1817
licensed practical nurse. 1818

Sec. 2929.42. (A) The prosecutor in any case against any 1819
person licensed, certified, registered, or otherwise authorized 1820
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1821
4731., 4734., ~~or 4741., 4759., 4760., 4761., 4762., 4774., or~~ 1822
4778. of the Revised Code shall notify the appropriate licensing 1823
board, on forms provided by the board, of any of the following 1824
regarding the person: 1825

(1) A plea of guilty to, or a conviction of, a felony, or 1826
a court order dismissing a felony charge on technical or 1827
procedural grounds; 1828

(2) A plea of guilty to, or a conviction of, a misdemeanor 1829
committed in the course of practice or in the course of 1830
business, or a court order dismissing such a misdemeanor charge 1831
on technical or procedural grounds; 1832

(3) A plea of guilty to, or a conviction of, a misdemeanor 1833
involving moral turpitude, or a court order dismissing such a 1834
charge on technical or procedural grounds. 1835

(B) The report required by division (A) of this section 1836

shall include the name and address of the person, the nature of 1837
the offense, and certified copies of court entries in the 1838
action. 1839

Sec. 2950.01. As used in this chapter, unless the context 1840
clearly requires otherwise: 1841

(A) "Sexually oriented offense" means any of the following 1842
violations or offenses committed by a person, regardless of the 1843
person's age: 1844

(1) A violation of section 2907.02, 2907.03, 2907.05, 1845
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1846
2907.322, or 2907.323 of the Revised Code; 1847

(2) A violation of section 2907.04 of the Revised Code 1848
when the offender is less than four years older than the other 1849
person with whom the offender engaged in sexual conduct, the 1850
other person did not consent to the sexual conduct, and the 1851
offender previously has not been convicted of or pleaded guilty 1852
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1853
Revised Code or a violation of former section 2907.12 of the 1854
Revised Code; 1855

(3) A violation of section 2907.04 of the Revised Code 1856
when the offender is at least four years older than the other 1857
person with whom the offender engaged in sexual conduct or when 1858
the offender is less than four years older than the other person 1859
with whom the offender engaged in sexual conduct and the 1860
offender previously has been convicted of or pleaded guilty to a 1861
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1862
Code or a violation of former section 2907.12 of the Revised 1863
Code; 1864

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1865

the Revised Code when the violation was committed with a sexual 1866
motivation; 1867

(5) A violation of division (A) of section 2903.04 of the 1868
Revised Code when the offender committed or attempted to commit 1869
the felony that is the basis of the violation with a sexual 1870
motivation; 1871

(6) A violation of division (A) (3) of section 2903.211 of 1872
the Revised Code; 1873

(7) A violation of division (A) (1), (2), (3), or (5) of 1874
section 2905.01 of the Revised Code when the offense is 1875
committed with a sexual motivation; 1876

(8) A violation of division (A) (4) of section 2905.01 of 1877
the Revised Code; 1878

(9) A violation of division (B) of section 2905.01 of the 1879
Revised Code when the victim of the offense is under eighteen 1880
years of age and the offender is not a parent of the victim of 1881
the offense; 1882

(10) A violation of division (B) of section 2903.03, of 1883
division (B) of section 2905.02, of division (B) of section 1884
2905.03, of division (B) of section 2905.05, or of division (B) 1885
(5) of section 2919.22 of the Revised Code; 1886

(11) A violation of section 2905.32 of the Revised Code 1887
when either of the following applies: 1888

(a) The violation is a violation of division (A) (1) of 1889
that section and the offender knowingly recruited, lured, 1890
enticed, isolated, harbored, transported, provided, obtained, or 1891
maintained, or knowingly attempted to recruit, lure, entice, 1892
isolate, harbor, transport, provide, obtain, or maintain, 1893

another person knowing that the person would be compelled to 1894
engage in sexual activity for hire, engage in a performance that 1895
was obscene, sexually oriented, or nudity oriented, or be a 1896
model or participant in the production of material that was 1897
obscene, sexually oriented, or nudity oriented. 1898

(b) The violation is a violation of division (A) (2) of 1899
that section and the offender knowingly recruited, lured, 1900
enticed, isolated, harbored, transported, provided, obtained, or 1901
maintained, or knowingly attempted to recruit, lure, entice, 1902
isolate, harbor, transport, provide, obtain, or maintain a 1903
person who is less than eighteen years of age or is a person 1904
with a developmental disability whom the offender knows or has 1905
reasonable cause to believe is a person with a developmental 1906
disability for any purpose listed in divisions (A) (2) (a) to (c) 1907
of that section. 1908

(12) A violation of division (B) (4) of section 2907.09 of 1909
the Revised Code if the sentencing court classifies the offender 1910
as a tier I sex offender/child-victim offender relative to that 1911
offense pursuant to division (D) of that section; 1912

(13) A violation of any former law of this state, any 1913
existing or former municipal ordinance or law of another state 1914
or the United States, any existing or former law applicable in a 1915
military court or in an Indian tribal court, or any existing or 1916
former law of any nation other than the United States that is or 1917
was substantially equivalent to any offense listed in division 1918
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1919
(12) of this section; 1920

(14) Any attempt to commit, conspiracy to commit, or 1921
complicity in committing any offense listed in division (A) (1), 1922
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1923

(13) of this section. 1924

(B) (1) "Sex offender" means, subject to division (B) (2) of 1925
this section, a person who is convicted of, pleads guilty to, 1926
has been convicted of, has pleaded guilty to, is adjudicated a 1927
delinquent child for committing, or has been adjudicated a 1928
delinquent child for committing any sexually oriented offense. 1929

(2) "Sex offender" does not include a person who is 1930
convicted of, pleads guilty to, has been convicted of, has 1931
pleaded guilty to, is adjudicated a delinquent child for 1932
committing, or has been adjudicated a delinquent child for 1933
committing a sexually oriented offense if the offense involves 1934
consensual sexual conduct or consensual sexual contact and 1935
either of the following applies: 1936

(a) The victim of the sexually oriented offense was 1937
eighteen years of age or older and at the time of the sexually 1938
oriented offense was not under the custodial authority of the 1939
person who is convicted of, pleads guilty to, has been convicted 1940
of, has pleaded guilty to, is adjudicated a delinquent child for 1941
committing, or has been adjudicated a delinquent child for 1942
committing the sexually oriented offense. 1943

(b) The victim of the offense was thirteen years of age or 1944
older, and the person who is convicted of, pleads guilty to, has 1945
been convicted of, has pleaded guilty to, is adjudicated a 1946
delinquent child for committing, or has been adjudicated a 1947
delinquent child for committing the sexually oriented offense is 1948
not more than four years older than the victim. 1949

(C) "Child-victim oriented offense" means any of the 1950
following violations or offenses committed by a person, 1951
regardless of the person's age, when the victim is under 1952

eighteen years of age and is not a child of the person who 1953
commits the violation: 1954

(1) A violation of division (A)(1), (2), (3), or (5) of 1955
section 2905.01 of the Revised Code when the violation is not 1956
included in division (A)(7) of this section; 1957

(2) A violation of division (A) of section 2905.02, 1958
division (A) of section 2905.03, or division (A) of section 1959
2905.05 of the Revised Code; 1960

(3) A violation of any former law of this state, any 1961
existing or former municipal ordinance or law of another state 1962
or the United States, any existing or former law applicable in a 1963
military court or in an Indian tribal court, or any existing or 1964
former law of any nation other than the United States that is or 1965
was substantially equivalent to any offense listed in division 1966
(C)(1) or (2) of this section; 1967

(4) Any attempt to commit, conspiracy to commit, or 1968
complicity in committing any offense listed in division (C)(1), 1969
(2), or (3) of this section. 1970

(D) "Child-victim offender" means a person who is 1971
convicted of, pleads guilty to, has been convicted of, has 1972
pleaded guilty to, is adjudicated a delinquent child for 1973
committing, or has been adjudicated a delinquent child for 1974
committing any child-victim oriented offense. 1975

(E) "Tier I sex offender/child-victim offender" means any 1976
of the following: 1977

(1) A sex offender who is convicted of, pleads guilty to, 1978
has been convicted of, or has pleaded guilty to any of the 1979
following sexually oriented offenses: 1980

(a) A violation of section 2907.06, 2907.07, 2907.08,	1981
2907.22, or 2907.32 of the Revised Code;	1982
(b) A violation of section 2907.04 of the Revised Code	1983
when the offender is less than four years older than the other	1984
person with whom the offender engaged in sexual conduct, the	1985
other person did not consent to the sexual conduct, and the	1986
offender previously has not been convicted of or pleaded guilty	1987
to a violation of section 2907.02, 2907.03, or 2907.04 of the	1988
Revised Code or a violation of former section 2907.12 of the	1989
Revised Code;	1990
(c) A violation of division (A) (1), (2), (3), or (5) of	1991
section 2907.05 of the Revised Code;	1992
(d) A violation of division (A) (3) of section 2907.323 of	1993
the Revised Code;	1994
(e) A violation of division (A) (3) of section 2903.211, of	1995
division (B) of section 2905.03, or of division (B) of section	1996
2905.05 of the Revised Code;	1997
(f) A violation of division (B) (4) of section 2907.09 of	1998
the Revised Code if the sentencing court classifies the offender	1999
as a tier I sex offender/child-victim offender relative to that	2000
offense pursuant to division (D) of that section;	2001
(g) A violation of any former law of this state, any	2002
existing or former municipal ordinance or law of another state	2003
or the United States, any existing or former law applicable in a	2004
military court or in an Indian tribal court, or any existing or	2005
former law of any nation other than the United States, that is	2006
or was substantially equivalent to any offense listed in	2007
division (E) (1) (a), (b), (c), (d), (e), or (f) of this section;	2008
(h) Any attempt to commit, conspiracy to commit, or	2009

complicity in committing any offense listed in division (E) (1)	2010
(a), (b), (c), (d), (e), (f), or (g) of this section.	2011
(2) A child-victim offender who is convicted of, pleads	2012
guilty to, has been convicted of, or has pleaded guilty to a	2013
child-victim oriented offense and who is not within either	2014
category of child-victim offender described in division (F) (2)	2015
or (G) (2) of this section.	2016
(3) A sex offender who is adjudicated a delinquent child	2017
for committing or has been adjudicated a delinquent child for	2018
committing any sexually oriented offense and who a juvenile	2019
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85	2020
of the Revised Code, classifies a tier I sex offender/child-	2021
victim offender relative to the offense.	2022
(4) A child-victim offender who is adjudicated a	2023
delinquent child for committing or has been adjudicated a	2024
delinquent child for committing any child-victim oriented	2025
offense and who a juvenile court, pursuant to section 2152.82,	2026
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a	2027
tier I sex offender/child-victim offender relative to the	2028
offense.	2029
(F) "Tier II sex offender/child-victim offender" means any	2030
of the following:	2031
(1) A sex offender who is convicted of, pleads guilty to,	2032
has been convicted of, or has pleaded guilty to any of the	2033
following sexually oriented offenses:	2034
(a) A violation of section 2907.21, 2907.321, or 2907.322	2035
of the Revised Code;	2036
(b) A violation of section 2907.04 of the Revised Code	2037
when the offender is at least four years older than the other	2038

person with whom the offender engaged in sexual conduct, or when 2039
the offender is less than four years older than the other person 2040
with whom the offender engaged in sexual conduct and the 2041
offender previously has been convicted of or pleaded guilty to a 2042
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 2043
Code or former section 2907.12 of the Revised Code; 2044

(c) A violation of section 2907.03 of the Revised Code if 2045
the sexual activity involved is sexual contact; 2046

(d) A violation of division (A) (4) of section 2907.05 or 2047
of division (A) (1) or (2) of section 2907.323 of the Revised 2048
Code; 2049

~~(d)~~ (e) A violation of division (A) (1), (2), (3), or (5) 2050
of section 2905.01 of the Revised Code when the offense is 2051
committed with a sexual motivation; 2052

~~(e)~~ (f) A violation of division (A) (4) of section 2905.01 2053
of the Revised Code when the victim of the offense is eighteen 2054
years of age or older; 2055

~~(f)~~ (g) A violation of division (B) of section 2905.02 or 2056
of division (B) (5) of section 2919.22 of the Revised Code; 2057

~~(g)~~ (h) A violation of section 2905.32 of the Revised Code 2058
that is described in division (A) (11) (a) or (b) of this section; 2059

~~(h)~~ (i) A violation of any former law of this state, any 2060
existing or former municipal ordinance or law of another state 2061
or the United States, any existing or former law applicable in a 2062
military court or in an Indian tribal court, or any existing or 2063
former law of any nation other than the United States that is or 2064
was substantially equivalent to any offense listed in division 2065
(F) (1) (a), (b), (c), (d), (e), (f), ~~or~~ (g), or (h) of this 2066
section; 2067

~~(i)~~ (j) Any attempt to commit, conspiracy to commit, or 2068
complicity in committing any offense listed in division (F) (1) 2069
(a), (b), (c), (d), (e), (f), (g), ~~or~~ (h), or (i) of this 2070
section; 2071

~~(j)~~ (k) Any sexually oriented offense that is committed 2072
after the sex offender previously has been convicted of, pleaded 2073
guilty to, or has been adjudicated a delinquent child for 2074
committing any sexually oriented offense or child-victim 2075
oriented offense for which the offender was classified a tier I 2076
sex offender/child-victim offender. 2077

(2) A child-victim offender who is convicted of, pleads 2078
guilty to, has been convicted of, or has pleaded guilty to any 2079
child-victim oriented offense when the child-victim oriented 2080
offense is committed after the child-victim offender previously 2081
has been convicted of, pleaded guilty to, or been adjudicated a 2082
delinquent child for committing any sexually oriented offense or 2083
child-victim oriented offense for which the offender was 2084
classified a tier I sex offender/child-victim offender. 2085

(3) A sex offender who is adjudicated a delinquent child 2086
for committing or has been adjudicated a delinquent child for 2087
committing any sexually oriented offense and who a juvenile 2088
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2089
of the Revised Code, classifies a tier II sex offender/child- 2090
victim offender relative to the offense. 2091

(4) A child-victim offender who is adjudicated a 2092
delinquent child for committing or has been adjudicated a 2093
delinquent child for committing any child-victim oriented 2094
offense and whom a juvenile court, pursuant to section 2152.82, 2095
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2096
tier II sex offender/child-victim offender relative to the 2097

current offense. 2098

(5) A sex offender or child-victim offender who is not in 2099
any category of tier II sex offender/child-victim offender set 2100
forth in division (F)(1), (2), (3), or (4) of this section, who 2101
prior to January 1, 2008, was adjudicated a delinquent child for 2102
committing a sexually oriented offense or child-victim oriented 2103
offense, and who prior to that date was determined to be a 2104
habitual sex offender or determined to be a habitual child- 2105
victim offender, unless either of the following applies: 2106

(a) The sex offender or child-victim offender is 2107
reclassified pursuant to section 2950.031 or 2950.032 of the 2108
Revised Code as a tier I sex offender/child-victim offender or a 2109
tier III sex offender/child-victim offender relative to the 2110
offense. 2111

(b) A juvenile court, pursuant to section 2152.82, 2112
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the 2113
child a tier I sex offender/child-victim offender or a tier III 2114
sex offender/child-victim offender relative to the offense. 2115

(G) "Tier III sex offender/child-victim offender" means 2116
any of the following: 2117

(1) A sex offender who is convicted of, pleads guilty to, 2118
has been convicted of, or has pleaded guilty to any of the 2119
following sexually oriented offenses: 2120

(a) A violation of section 2907.02 of the Revised Code or 2121
a violation of section 2907.03 of the Revised Code if the sexual 2122
activity involved is sexual conduct; 2123

(b) A violation of division (B) of section 2907.05 of the 2124
Revised Code; 2125

(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;	2126 2127 2128
(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;	2129 2130 2131 2132
(e) A violation of division (A) (4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;	2133 2134 2135
(f) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;	2136 2137 2138 2139
(g) A violation of division (B) of section 2903.03 of the Revised Code;	2140 2141
(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section;	2142 2143 2144 2145 2146 2147 2148
(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (G) (1) (a), (b), (c), (d), (e), (f), (g), or (h) of this section;	2149 2150 2151
(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing	2152 2153 2154

any sexually oriented offense or child-victim oriented offense 2155
for which the offender was classified a tier II sex 2156
offender/child-victim offender or a tier III sex offender/child- 2157
victim offender. 2158

(2) A child-victim offender who is convicted of, pleads 2159
guilty to, has been convicted of, or has pleaded guilty to any 2160
child-victim oriented offense when the child-victim oriented 2161
offense is committed after the child-victim offender previously 2162
has been convicted of, pleaded guilty to, or been adjudicated a 2163
delinquent child for committing any sexually oriented offense or 2164
child-victim oriented offense for which the offender was 2165
classified a tier II sex offender/child-victim offender or a 2166
tier III sex offender/child-victim offender. 2167

(3) A sex offender who is adjudicated a delinquent child 2168
for committing or has been adjudicated a delinquent child for 2169
committing any sexually oriented offense and who a juvenile 2170
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2171
of the Revised Code, classifies a tier III sex offender/child- 2172
victim offender relative to the offense. 2173

(4) A child-victim offender who is adjudicated a 2174
delinquent child for committing or has been adjudicated a 2175
delinquent child for committing any child-victim oriented 2176
offense and whom a juvenile court, pursuant to section 2152.82, 2177
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2178
tier III sex offender/child-victim offender relative to the 2179
current offense. 2180

(5) A sex offender or child-victim offender who is not in 2181
any category of tier III sex offender/child-victim offender set 2182
forth in division (G)(1), (2), (3), or (4) of this section, who 2183
prior to January 1, 2008, was convicted of or pleaded guilty to 2184

a sexually oriented offense or child-victim oriented offense or 2185
was adjudicated a delinquent child for committing a sexually 2186
oriented offense or child-victim oriented offense and classified 2187
a juvenile offender registrant, and who prior to that date was 2188
adjudicated a sexual predator or adjudicated a child-victim 2189
predator, unless either of the following applies: 2190

(a) The sex offender or child-victim offender is 2191
reclassified pursuant to section 2950.031 or 2950.032 of the 2192
Revised Code as a tier I sex offender/child-victim offender or a 2193
tier II sex offender/child-victim offender relative to the 2194
offense. 2195

(b) The sex offender or child-victim offender is a 2196
delinquent child, and a juvenile court, pursuant to section 2197
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2198
classifies the child a tier I sex offender/child-victim offender 2199
or a tier II sex offender/child-victim offender relative to the 2200
offense. 2201

(6) A sex offender who is convicted of, pleads guilty to, 2202
was convicted of, or pleaded guilty to a sexually oriented 2203
offense, if the sexually oriented offense and the circumstances 2204
in which it was committed are such that division (F) of section 2205
2971.03 of the Revised Code automatically classifies the 2206
offender as a tier III sex offender/child-victim offender; 2207

(7) A sex offender or child-victim offender who is 2208
convicted of, pleads guilty to, was convicted of, pleaded guilty 2209
to, is adjudicated a delinquent child for committing, or was 2210
adjudicated a delinquent child for committing a sexually 2211
oriented offense or child-victim offense in another state, in a 2212
federal court, military court, or Indian tribal court, or in a 2213
court in any nation other than the United States if both of the 2214

following apply: 2215

(a) Under the law of the jurisdiction in which the 2216
offender was convicted or pleaded guilty or the delinquent child 2217
was adjudicated, the offender or delinquent child is in a 2218
category substantially equivalent to a category of tier III sex 2219
offender/child-victim offender described in division (G) (1), 2220
(2), (3), (4), (5), or (6) of this section. 2221

(b) Subsequent to the conviction, plea of guilty, or 2222
adjudication in the other jurisdiction, the offender or 2223
delinquent child resides, has temporary domicile, attends school 2224
or an institution of higher education, is employed, or intends 2225
to reside in this state in any manner and for any period of time 2226
that subjects the offender or delinquent child to a duty to 2227
register or provide notice of intent to reside under section 2228
2950.04 or 2950.041 of the Revised Code. 2229

(H) "Confinement" includes, but is not limited to, a 2230
community residential sanction imposed pursuant to section 2231
2929.16 or 2929.26 of the Revised Code. 2232

(I) "Prosecutor" has the same meaning as in section 2233
2935.01 of the Revised Code. 2234

(J) "Supervised release" means a release of an offender 2235
from a prison term, a term of imprisonment, or another type of 2236
confinement that satisfies either of the following conditions: 2237

(1) The release is on parole, a conditional pardon, under 2238
a community control sanction, under transitional control, or 2239
under a post-release control sanction, and it requires the 2240
person to report to or be supervised by a parole officer, 2241
probation officer, field officer, or another type of supervising 2242
officer. 2243

(2) The release is any type of release that is not 2244
described in division (J) (1) of this section and that requires 2245
the person to report to or be supervised by a probation officer, 2246
a parole officer, a field officer, or another type of 2247
supervising officer. 2248

(K) "Sexually violent predator specification," "sexually 2249
violent predator," "sexually violent offense," "sexual 2250
motivation specification," "designated homicide, assault, or 2251
kidnapping offense," and "violent sex offense" have the same 2252
meanings as in section 2971.01 of the Revised Code. 2253

(L) "Post-release control sanction" and "transitional 2254
control" have the same meanings as in section 2967.01 of the 2255
Revised Code. 2256

(M) "Juvenile offender registrant" means a person who is 2257
adjudicated a delinquent child for committing on or after 2258
January 1, 2002, a sexually oriented offense or a child-victim 2259
oriented offense, who is fourteen years of age or older at the 2260
time of committing the offense, and who a juvenile court judge, 2261
pursuant to an order issued under section 2152.82, 2152.83, 2262
2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a 2263
juvenile offender registrant and specifies has a duty to comply 2264
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 2265
Revised Code. "Juvenile offender registrant" includes a person 2266
who prior to January 1, 2008, was a "juvenile offender 2267
registrant" under the definition of the term in existence prior 2268
to January 1, 2008, and a person who prior to July 31, 2003, was 2269
a "juvenile sex offender registrant" under the former definition 2270
of that former term. 2271

(N) "Public registry-qualified juvenile offender 2272
registrant" means a person who is adjudicated a delinquent child 2273

and on whom a juvenile court has imposed a serious youthful 2274
offender dispositional sentence under section 2152.13 of the 2275
Revised Code before, on, or after January 1, 2008, and to whom 2276
all of the following apply: 2277

(1) The person is adjudicated a delinquent child for 2278
committing, attempting to commit, conspiring to commit, or 2279
complicity in committing one of the following acts: 2280

(a) A violation of section 2907.02 of the Revised Code, 2281
division (B) of section 2907.05 of the Revised Code, or section 2282
2907.03 of the Revised Code if the victim of the violation was 2283
less than twelve years of age; 2284

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 2285
the Revised Code that was committed with a purpose to gratify 2286
the sexual needs or desires of the child; 2287

(c) A violation of division (B) of section 2903.03 of the 2288
Revised Code. 2289

(2) The person was fourteen, fifteen, sixteen, or 2290
seventeen years of age at the time of committing the act. 2291

(3) A juvenile court judge, pursuant to an order issued 2292
under section 2152.86 of the Revised Code, classifies the person 2293
a juvenile offender registrant, specifies the person has a duty 2294
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2295
Revised Code, and classifies the person a public registry- 2296
qualified juvenile offender registrant, and the classification 2297
of the person as a public registry-qualified juvenile offender 2298
registrant has not been terminated pursuant to division (D) of 2299
section 2152.86 of the Revised Code. 2300

(O) "Secure facility" means any facility that is designed 2301
and operated to ensure that all of its entrances and exits are 2302

locked and under the exclusive control of its staff and to 2303
ensure that, because of that exclusive control, no person who is 2304
institutionalized or confined in the facility may leave the 2305
facility without permission or supervision. 2306

(P) "Out-of-state juvenile offender registrant" means a 2307
person who is adjudicated a delinquent child in a court in 2308
another state, in a federal court, military court, or Indian 2309
tribal court, or in a court in any nation other than the United 2310
States for committing a sexually oriented offense or a child- 2311
victim oriented offense, who on or after January 1, 2002, moves 2312
to and resides in this state or temporarily is domiciled in this 2313
state for more than five days, and who has a duty under section 2314
2950.04 or 2950.041 of the Revised Code to register in this 2315
state and the duty to otherwise comply with that applicable 2316
section and sections 2950.05 and 2950.06 of the Revised Code. 2317
"Out-of-state juvenile offender registrant" includes a person 2318
who prior to January 1, 2008, was an "out-of-state juvenile 2319
offender registrant" under the definition of the term in 2320
existence prior to January 1, 2008, and a person who prior to 2321
July 31, 2003, was an "out-of-state juvenile sex offender 2322
registrant" under the former definition of that former term. 2323

(Q) "Juvenile court judge" includes a magistrate to whom 2324
the juvenile court judge confers duties pursuant to division (A) 2325
(15) of section 2151.23 of the Revised Code. 2326

(R) "Adjudicated a delinquent child for committing a 2327
sexually oriented offense" includes a child who receives a 2328
serious youthful offender dispositional sentence under section 2329
2152.13 of the Revised Code for committing a sexually oriented 2330
offense. 2331

(S) "School" and "school premises" have the same meanings 2332

as in section 2925.01 of the Revised Code. 2333

(T) "Residential premises" means the building in which a 2334
residential unit is located and the grounds upon which that 2335
building stands, extending to the perimeter of the property. 2336
"Residential premises" includes any type of structure in which a 2337
residential unit is located, including, but not limited to, 2338
multi-unit buildings and mobile and manufactured homes. 2339

(U) "Residential unit" means a dwelling unit for 2340
residential use and occupancy, and includes the structure or 2341
part of a structure that is used as a home, residence, or 2342
sleeping place by one person who maintains a household or two or 2343
more persons who maintain a common household. "Residential unit" 2344
does not include a halfway house or a community-based 2345
correctional facility. 2346

(V) "Multi-unit building" means a building in which is 2347
located more than twelve residential units that have entry doors 2348
that open directly into the unit from a hallway that is shared 2349
with one or more other units. A residential unit is not 2350
considered located in a multi-unit building if the unit does not 2351
have an entry door that opens directly into the unit from a 2352
hallway that is shared with one or more other units or if the 2353
unit is in a building that is not a multi-unit building as 2354
described in this division. 2355

(W) "Community control sanction" has the same meaning as 2356
in section 2929.01 of the Revised Code. 2357

(X) "Halfway house" and "community-based correctional 2358
facility" have the same meanings as in section 2929.01 of the 2359
Revised Code. 2360

(Y) A person is in a "restricted offender category" if 2361

both of the following apply with respect to the person: 2362

(1) The person has been convicted of, is convicted of, has 2363
pleaded guilty to, or pleads guilty to a sexually oriented 2364
offense where the victim was under the age of eighteen or a 2365
child-victim oriented offense. 2366

(2) With respect to the offense described in division (Y) 2367
(1) of this section, one of the following applies: 2368

(a) With respect to that offense, the person is a tier II 2369
sex offender/child-victim offender or is a tier III sex 2370
offender/child-victim offender who is subject to the duties 2371
imposed by sections 2950.04, 2950.041, 2950.05, and 2950.06 of 2372
the Revised Code. 2373

(b) With respect to that offense if it was committed prior 2374
to January 1, 2008, under the version of Chapter 2950. of the 2375
Revised Code in effect prior to January 1, 2008, the person was 2376
adjudicated a sexual predator, was adjudicated a child-victim 2377
predator, was classified a habitual sex offender, or was 2378
classified a habitual child-victim sex offender. 2379

(Z) "Adjudicated a sexual predator," "adjudicated a child- 2380
victim predator," "habitual sex offender," and "habitual child- 2381
victim offender" have the meanings of those terms that applied 2382
to them under Chapter 2950. of the Revised Code prior to January 2383
1, 2008. 2384

Sec. 2950.151. (A) As used in this section, "eligible 2385
offender" means either of the following: 2386

(1) An offender who was convicted of or pleaded guilty to 2387
a violation of section 2907.04 of the Revised Code to whom all 2388
of the following apply: 2389

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

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

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

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

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

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

(2) An offender who was convicted of or pleaded guilty to a violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United

States, any existing or former law applicable in a military 2419
court or in an Indian trial court, or any existing or former law 2420
of any nation other than the United States that is or was 2421
substantially equivalent to a violation of section 2907.04 of 2422
the Revised Code and to whom all of the factors described in 2423
divisions (A) (1) (a) to (f) of this section apply. For purposes 2424
of this division: 2425

(a) The reference in division (A) (1) (b) of this section to 2426
a community control sanction shall be construed as including 2427
nonprison sanctions under the law of the jurisdiction in which 2428
the offender was convicted of or pleaded guilty to the violation 2429
that is or was substantially equivalent to a violation of 2430
section 2907.04 of the Revised Code; 2431

(b) The reference in division (A) (1) (d) of this section to 2432
the violations specified in that division shall be construed as 2433
including substantially equivalent violations under the law of 2434
the jurisdiction in which the offender was convicted of or 2435
pleaded guilty to the violation that is or was substantially 2436
equivalent to a violation of section 2907.04 of the Revised 2437
Code. 2438

(B) Upon completion of all community control sanctions 2439
imposed by the sentencing court for the violation of section 2440
2907.04 of the Revised Code or the violation of the 2441
substantially equivalent law or ordinance, whichever is 2442
applicable, an eligible offender may petition the appropriate 2443
court specified in division (C) of this section to review the 2444
effectiveness of the offender's participation in community 2445
control sanctions and to determine whether to terminate the 2446
offender's duty to comply with sections 2950.04, 2950.05, and 2447
2950.06 of the Revised Code, reclassify the offender as a tier I 2448

sex offender/child-victim offender, or continue the offender's 2449
current classification. 2450

(C) Except as otherwise provided in this division, the 2451
eligible offender shall file the petition described in division 2452
(B) of this section in the court in which the eligible offender 2453
was convicted of or pleaded guilty to the offense. If the 2454
eligible offender was convicted of or pleaded guilty to the 2455
offense in a jurisdiction other than this state, the eligible 2456
offender shall file the petition in whichever of the following 2457
courts is applicable: 2458

(1) If the eligible offender is a resident of this state, 2459
in the court of common pleas of the county in which the offender 2460
resides; 2461

(2) If the eligible offender is not a resident of this 2462
state, in the court of common pleas of the county in which the 2463
offender has registered pursuant to section 2950.04 of the 2464
Revised Code. If the offender has registered addresses of that 2465
nature in more than one county, the offender may file a petition 2466
in the court of only one of those counties. 2467

(D) An eligible offender who files a petition under 2468
division (B) of this section shall include all of the following 2469
with the petition: 2470

(1) A certified copy of the judgment entry and any other 2471
documentation of the sentence given for the offense for which 2472
the eligible offender was convicted or pleaded guilty; 2473

(2) Documentation of the date of discharge from probation 2474
supervision or other supervision, if applicable; 2475

(3) Evidence that the eligible offender has completed a 2476
sex offender treatment program certified by the department of 2477

rehabilitation and correction pursuant to section 2950.16 of the Revised Code in the county where the offender was sentenced if the completion of such a program is ordered by the court, or, if completion of such a program is ordered by the court and such a program is not available in the county of sentencing, in another county;

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

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

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

(F) Upon the filing of a petition under division (B) of this section, the court shall schedule a hearing to review the eligible offender's petition and all evidence of rehabilitation accompanying the petition. The court shall notify the offender and the prosecutor of the county in which the petition is filed of the date, time, and place of the hearing. Upon receipt of the notice, the prosecutor shall notify the victim of the date, time, and place of the hearing. The victim may submit a written statement to the prosecutor regarding any knowledge the victim has of the eligible offender's conduct while subject to the duties imposed by sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At least seven days before the hearing date, the

prosecutor may file an objection to the petition with the court 2508
and serve a copy of the objection to the petition on the 2509
eligible offender or the eligible offender's attorney. In 2510
addition to considering the evidence and information included 2511
with the petition as described in division (D) of this section 2512
and any risk assessment or professional opinion submitted as 2513
described in division (E) of this section, in determining the 2514
type of order to enter in response to the petition, the court 2515
shall consider any objections submitted by the prosecutor and 2516
any written statement submitted by the victim. After the 2517
hearing, the court shall enter one of the following orders: 2518

(1) An order to terminate the offender's duty to comply 2519
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2520

(2) If the offender is classified a tier II sex 2521
offender/child-victim offender, an order to reclassify the 2522
offender from a tier II sex offender/child-victim offender 2523
classification to a tier I sex offender/child-victim offender 2524
classification; 2525

(3) If the offender is classified a tier I sex 2526
offender/child-victim offender or a tier II sex offender/child- 2527
victim offender, an order to continue the offender's 2528
classification as a tier I sex offender/child-victim offender or 2529
tier II sex offender/child-victim offender, whichever is 2530
applicable, required to comply with sections 2950.04, 2950.05, 2531
and 2950.06 of the Revised Code. 2532

(G) After issuing an order pursuant to division (F) of 2533
this section, the court shall provide a copy of the order to the 2534
eligible offender and the bureau of criminal identification and 2535
investigation. The bureau, upon receipt of the copy, shall 2536
promptly notify the sheriff with whom the offender most recently 2537

registered under section 2950.04 or 2950.05 of the Revised Code 2538
of the court's order. 2539

(H) (1) An order issued under division (F) (2) or (3) of 2540
this section shall remain in effect for the duration of the 2541
eligible offender's duty to comply with sections 2950.04, 2542
2950.05, and 2950.06 of the Revised Code under the 2543
reclassification or continuation, whichever is applicable, as 2544
specified in section 2950.07 of the Revised Code, except that an 2545
eligible offender may refile a petition under this section at 2546
the time prescribed under division (H) (2) of this section. An 2547
order issued under division (F) (2) or (3) of this section shall 2548
not increase the duration of the offender's duty to comply with 2549
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2550

(2) After the eligible offender's initial petition filed 2551
under this section, if the court entered an order continuing the 2552
offender's classification or reclassifying the offender, the 2553
offender may file a second petition not earlier than three years 2554
after the court entered the first order. After the second 2555
petition, the offender may file one subsequent petition not 2556
earlier than five years after the most recent order continuing 2557
the offender's classification or reclassifying the offender. A 2558
petition filed under this division shall comply with the 2559
requirements described in divisions (C), (D), and (E) of this 2560
section. 2561

(3) Upon the filing of a second or subsequent petition by 2562
an eligible offender pursuant to division (H) (2) of this 2563
section, the court shall schedule a hearing to review any 2564
previous order entered under this section, consider all of the 2565
documents previously submitted, and evaluate any new evidence of 2566
rehabilitation presented with the petition. The court shall 2567

notify the offender and the prosecutor of the county in which 2568
the petition is filed of the date, time, and place of the 2569
hearing. Upon receipt of the notice, the prosecutor shall notify 2570
the victim of the date, time, and place of the hearing. The 2571
victim may submit a written statement to the prosecutor 2572
regarding any knowledge the victim has of the eligible 2573
offender's conduct while subject to the duties imposed by 2574
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2575
least seven days before the hearing date, the prosecutor may 2576
file an objection to the petition with the court and serve a 2577
copy of the objection to the petition on the eligible offender 2578
or the eligible offender's attorney. In addition to reviewing 2579
any previous order, considering the documents previously 2580
submitted, and evaluating any new evidence of rehabilitation 2581
presented with the petition as described in this division, in 2582
determining whether to deny the petition or the type of order to 2583
enter in response to the petition, the court shall consider any 2584
objections submitted by the prosecutor and any written statement 2585
submitted by the victim. After the hearing on the petition, the 2586
court may deny the petition or enter either of the following 2587
orders: 2588

(a) If the previous order continued the offender's 2589
classification as a tier II sex offender/child-victim offender, 2590
an order to reclassify the offender as a tier I sex 2591
offender/child-victim offender or terminate the offender's duty 2592
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2593
Revised Code; 2594

(b) If the previous order reclassified the offender as a 2595
tier I sex offender/child-victim offender or continued the 2596
offender's classification as a tier I sex offender/child-victim 2597
offender, an order to terminate the offender's duty to comply 2598

with sections 2950.04, 2950.05, and 2950.06 of the Revised Code.	2599
Sec. 2971.01. As used in this chapter:	2600
(A) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	2601 2602
(B) "Designated homicide, assault, or kidnapping offense" means any of the following:	2603 2604
(1) A violation of section 2903.01, 2903.02, 2903.11, or 2905.01 of the Revised Code or a violation of division (A) of section 2903.04 of the Revised Code;	2605 2606 2607
(2) An attempt to commit or complicity in committing a violation listed in division (B) (1) of this section, if the attempt or complicity is a felony.	2608 2609 2610
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2611 2612
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2613 2614
(E) "Prosecuting attorney" means the prosecuting attorney who prosecuted the case of the offender in question or the successor in office to that prosecuting attorney.	2615 2616 2617
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2618 2619 2620
(G) "Sexually violent offense" means any of the following:	2621
(1) A violent sex offense;	2622
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2623 2624

(H) (1) "Sexually violent predator" means a person who, on 2625
or after January 1, 1997, commits a sexually violent offense and 2626
is likely to engage in the future in one or more sexually 2627
violent offenses. 2628

(2) For purposes of division (H) (1) of this section, any 2629
of the following factors may be considered as evidence tending 2630
to indicate that there is a likelihood that the person will 2631
engage in the future in one or more sexually violent offenses: 2632

(a) The person has been convicted two or more times, in 2633
separate criminal actions, of a sexually oriented offense or a 2634
child-victim oriented offense. For purposes of this division, 2635
convictions that result from or are connected with the same act 2636
or result from offenses committed at the same time are one 2637
conviction, and a conviction set aside pursuant to law is not a 2638
conviction. 2639

(b) The person has a documented history from childhood, 2640
into the juvenile developmental years, that exhibits sexually 2641
deviant behavior. 2642

(c) Available information or evidence suggests that the 2643
person chronically commits offenses with a sexual motivation. 2644

(d) The person has committed one or more offenses in which 2645
the person has tortured or engaged in ritualistic acts with one 2646
or more victims. 2647

(e) The person has committed one or more offenses in which 2648
one or more victims were physically harmed to the degree that 2649
the particular victim's life was in jeopardy. 2650

(f) Any other relevant evidence. 2651

(I) "Sexually violent predator specification" means a 2652

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

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

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

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

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

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

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

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

(A) A parent of a minor, when it is alleged in the

adoption petition and the court, after proper service of notice 2681
and hearing, finds by clear and convincing evidence that the 2682
parent has failed without justifiable cause to provide more than 2683
de minimis contact with the minor or to provide for the 2684
maintenance and support of the minor as required by law or 2685
judicial decree for a period of at least one year immediately 2686
preceding either the filing of the adoption petition or the 2687
placement of the minor in the home of the petitioner. 2688

(B) The putative father of a minor if either of the 2689
following applies: 2690

(1) The putative father fails to register as the minor's 2691
putative father with the putative father registry established 2692
under section 3107.062 of the Revised Code not later than 2693
fifteen days after the minor's birth; 2694

(2) The court finds, after proper service of notice and 2695
hearing, that any of the following are the case: 2696

(a) The putative father is not the father of the minor; 2697

(b) The putative father has willfully abandoned or failed 2698
to care for and support the minor; 2699

(c) The putative father has willfully abandoned the mother 2700
of the minor during her pregnancy and up to the time of her 2701
surrender of the minor, or the minor's placement in the home of 2702
the petitioner, whichever occurs first. 2703

(C) Except as provided in section 3107.071 of the Revised 2704
Code, a parent who has entered into a voluntary permanent 2705
custody surrender agreement under division (B) of section 2706
5103.15 of the Revised Code; 2707

(D) A parent whose parental rights have been terminated by 2708

order of a juvenile court under Chapter 2151. of the Revised 2709
Code; 2710

(E) A parent who is married to the petitioner and supports 2711
the adoption; 2712

(F) The father, putative father, or mother, of a minor if 2713
the minor is conceived as the result of the commission of rape 2714
or sexual battery by the father, putative father, or mother and 2715
the father, putative father, or mother is convicted of or pleads 2716
guilty to the commission of that offense. As used in this 2717
division, "rape" means a violation of section 2907.02 of the 2718
Revised Code or a similar law of another state and "sexual 2719
battery" means a violation of section 2907.03 of the Revised 2720
Code if the sexual activity involved is sexual conduct, or a 2721
similar law of another state. 2722

(G) A legal guardian or guardian ad litem of a parent 2723
judicially declared incompetent in a separate court proceeding 2724
who has failed to respond in writing to a request for consent, 2725
for a period of thirty days, or who, after examination of the 2726
written reasons for withholding consent, is found by the court 2727
to be withholding consent unreasonably; 2728

(H) Any legal guardian or lawful custodian of the person 2729
to be adopted, other than a parent, who has failed to respond in 2730
writing to a request for consent, for a period of thirty days, 2731
or who, after examination of the written reasons for withholding 2732
consent, is found by the court to be withholding consent 2733
unreasonably; 2734

(I) The spouse of the person to be adopted, if the failure 2735
of the spouse to consent to the adoption is found by the court 2736
to be by reason of prolonged unexplained absence, 2737

unavailability, incapacity, or circumstances that make it 2738
impossible or unreasonably difficult to obtain the consent or 2739
refusal of the spouse; 2740

(J) Any parent, legal guardian, or other lawful custodian 2741
in a foreign country, if the person to be adopted has been 2742
released for adoption pursuant to the laws of the country in 2743
which the person resides and the release of such person is in a 2744
form that satisfies the requirements of the immigration and 2745
naturalization service of the United States department of 2746
justice for purposes of immigration to the United States 2747
pursuant to section 101(b)(1)(F) of the "Immigration and 2748
Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2749
as amended or reenacted. 2750

(K) Except as provided in divisions (G) and (H) of this 2751
section, a juvenile court, agency, or person given notice of the 2752
petition pursuant to division (A)(1) of section 3107.11 of the 2753
Revised Code that fails to file an objection to the petition 2754
within fourteen days after proof is filed pursuant to division 2755
(B) of that section that the notice was given; 2756

(L) Any guardian, custodian, or other party who has 2757
temporary custody of the child. 2758

Sec. 3109.50. As used in sections 3109.501 to 3109.507 of 2759
the Revised Code: 2760

(A) "Parental rights" means parental rights and 2761
responsibilities, parenting time, or any other similar right 2762
established by the laws of this state with respect to a child. 2763
"Parental rights" does not include the parental duty of support 2764
for a child. 2765

(B) "Rape" means a violation of section 2907.02 of the 2766

Revised Code or similar law of another state. 2767

(C) "Sexual battery" means a violation of section 2907.03 2768
of the Revised Code if the sexual activity involved is sexual 2769
conduct, or similar law of another state. 2770

Sec. 3111.04. (A) (1) Except as provided in division (A) (2) 2771
of this section, an action to determine the existence or 2772
nonexistence of the father and child relationship may be brought 2773
by the child or the child's personal representative, the child's 2774
mother or her personal representative, a man alleged or alleging 2775
himself to be the child's father, the child support enforcement 2776
agency of the county in which the child resides if the child's 2777
mother, father, or alleged father is a recipient of public 2778
assistance or of services under Title IV-D of the "Social 2779
Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as 2780
amended, or the alleged father's personal representative. 2781

(2) A man alleged or alleging himself to be the child's 2782
father is not eligible to file an action under division (A) (1) 2783
of this section if the man was convicted of or pleaded guilty to 2784
rape or sexual battery, the victim of the rape or sexual battery 2785
was the child's mother, and the child was conceived as a result 2786
of the rape or sexual battery. 2787

(B) An agreement does not bar an action under this 2788
section. 2789

(C) If an action under this section is brought before the 2790
birth of the child and if the action is contested, all 2791
proceedings, except service of process and the taking of 2792
depositions to perpetuate testimony, may be stayed until after 2793
the birth. 2794

(D) A recipient of public assistance or of services under 2795

Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2796
42 U.S.C.A. 651, as amended, shall cooperate with the child 2797
support enforcement agency of the county in which a child 2798
resides to obtain an administrative determination pursuant to 2799
sections 3111.38 to 3111.54 of the Revised Code, or, if 2800
necessary, a court determination pursuant to sections 3111.01 to 2801
3111.18 of the Revised Code, of the existence or nonexistence of 2802
a parent and child relationship between the father and the 2803
child. If the recipient fails to cooperate, the agency may 2804
commence an action to determine the existence or nonexistence of 2805
a parent and child relationship between the father and the child 2806
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2807

(E) As used in this section: 2808

(1) "Public assistance" means both of the following: 2809

(a) Medicaid; 2810

(b) Ohio works first under Chapter 5107. of the Revised 2811
Code. 2812

(2) "Rape" means a violation of section 2907.02 of the 2813
Revised Code or similar law of another state. 2814

(3) "Sexual battery" means a violation of section 2907.03 2815
of the Revised Code if the sexual activity involved is sexual 2816
conduct, or similar law of another state. 2817

Sec. 4730.25. (A) The state medical board, by an 2818
affirmative vote of not fewer than six members, may revoke or 2819
may refuse to grant a license to practice as a physician 2820
assistant to a person found by the board to have committed 2821
fraud, misrepresentation, or deception in applying for or 2822
securing the license. 2823

(B) Except as provided in division (N) of this section, 2824
the board, by an affirmative vote of not fewer than six members, 2825
shall, to the extent permitted by law, limit, revoke, or suspend 2826
an individual's license to practice as a physician assistant or 2827
prescriber number, refuse to issue a license to an applicant, 2828
refuse to renew a license, refuse to reinstate a license, or 2829
reprimand or place on probation the holder of a license for any 2830
of the following reasons: 2831

(1) Failure to practice in accordance with the supervising 2832
physician's supervision agreement with the physician assistant, 2833
including, if applicable, the policies of the health care 2834
facility in which the supervising physician and physician 2835
assistant are practicing; 2836

(2) Failure to comply with the requirements of this 2837
chapter, Chapter 4731. of the Revised Code, or any rules adopted 2838
by the board; 2839

(3) Violating or attempting to violate, directly or 2840
indirectly, or assisting in or abetting the violation of, or 2841
conspiring to violate, any provision of this chapter, Chapter 2842
4731. of the Revised Code, or the rules adopted by the board; 2843

(4) Inability to practice according to acceptable and 2844
prevailing standards of care by reason of mental illness or 2845
physical illness, including physical deterioration that 2846
adversely affects cognitive, motor, or perceptive skills; 2847

(5) Impairment of ability to practice according to 2848
acceptable and prevailing standards of care because of habitual 2849
or excessive use or abuse of drugs, alcohol, or other substances 2850
that impair ability to practice; 2851

(6) Administering drugs for purposes other than those 2852

authorized under this chapter;	2853
(7) Willfully betraying a professional confidence;	2854
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.	2855 2856 2857 2858 2859 2860 2861
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.	2862 2863 2864 2865 2866 2867 2868 2869
(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	2870 2871 2872 2873
(10) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	2874 2875 2876
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	2877 2878 2879
(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was	2880 2881

committed;	2882
(13) A plea of guilty to, a judicial finding of guilt of,	2883
or a judicial finding of eligibility for intervention in lieu of	2884
conviction for, a misdemeanor committed in the course of	2885
practice;	2886
(14) A plea of guilty to, a judicial finding of guilt of,	2887
or a judicial finding of eligibility for intervention in lieu of	2888
conviction for, a misdemeanor involving moral turpitude;	2889
(15) Commission of an act in the course of practice that	2890
constitutes a misdemeanor in this state, regardless of the	2891
jurisdiction in which the act was committed;	2892
(16) Commission of an act involving moral turpitude that	2893
constitutes a misdemeanor in this state, regardless of the	2894
jurisdiction in which the act was committed;	2895
(17) A plea of guilty to, a judicial finding of guilt of,	2896
or a judicial finding of eligibility for intervention in lieu of	2897
conviction for violating any state or federal law regulating the	2898
possession, distribution, or use of any drug, including	2899
trafficking in drugs;	2900
(18) Any of the following actions taken by the state	2901
agency responsible for regulating the practice of physician	2902
assistants in another state, for any reason other than the	2903
nonpayment of fees: the limitation, revocation, or suspension of	2904
an individual's license to practice; acceptance of an	2905
individual's license surrender; denial of a license; refusal to	2906
renew or reinstate a license; imposition of probation; or	2907
issuance of an order of censure or other reprimand;	2908
(19) A departure from, or failure to conform to, minimal	2909
standards of care of similar physician assistants under the same	2910

or similar circumstances, regardless of whether actual injury to	2911
a patient is established;	2912
(20) Violation of the conditions placed by the board on a	2913
license to practice as a physician assistant;	2914
(21) Failure to use universal blood and body fluid	2915
precautions established by rules adopted under section 4731.051	2916
of the Revised Code;	2917
(22) Failure to cooperate in an investigation conducted by	2918
the board under section 4730.26 of the Revised Code, including	2919
failure to comply with a subpoena or order issued by the board	2920
or failure to answer truthfully a question presented by the	2921
board at a deposition or in written interrogatories, except that	2922
failure to cooperate with an investigation shall not constitute	2923
grounds for discipline under this section if a court of	2924
competent jurisdiction has issued an order that either quashes a	2925
subpoena or permits the individual to withhold the testimony or	2926
evidence in issue;	2927
(23) Assisting suicide, as defined in section 3795.01 of	2928
the Revised Code;	2929
(24) Prescribing any drug or device to perform or induce	2930
an abortion, or otherwise performing or inducing an abortion;	2931
(25) Failure to comply with section 4730.53 of the Revised	2932
Code, unless the board no longer maintains a drug database	2933
pursuant to section 4729.75 of the Revised Code;	2934
(26) Failure to comply with the requirements in section	2935
3719.061 of the Revised Code before issuing for a minor a	2936
prescription for an opioid analgesic, as defined in section	2937
3719.01 of the Revised Code;	2938

(27) Having certification by the national commission on 2939
certification of physician assistants or a successor 2940
organization expire, lapse, or be suspended or revoked; 2941

(28) The revocation, suspension, restriction, reduction, 2942
or termination of clinical privileges by the United States 2943
department of defense or department of veterans affairs or the 2944
termination or suspension of a certificate of registration to 2945
prescribe drugs by the drug enforcement administration of the 2946
United States department of justice; 2947

(29) Failure to comply with terms of a consult agreement 2948
entered into with a pharmacist pursuant to section 4729.39 of 2949
the Revised Code. 2950

(C) Disciplinary actions taken by the board under 2951
divisions (A) and (B) of this section shall be taken pursuant to 2952
an adjudication under Chapter 119. of the Revised Code, except 2953
that in lieu of an adjudication, the board may enter into a 2954
consent agreement with a physician assistant or applicant to 2955
resolve an allegation of a violation of this chapter or any rule 2956
adopted under it. A consent agreement, when ratified by an 2957
affirmative vote of not fewer than six members of the board, 2958
shall constitute the findings and order of the board with 2959
respect to the matter addressed in the agreement. If the board 2960
refuses to ratify a consent agreement, the admissions and 2961
findings contained in the consent agreement shall be of no force 2962
or effect. 2963

(D) For purposes of divisions (B) (12), (15), and (16) of 2964
this section, the commission of the act may be established by a 2965
finding by the board, pursuant to an adjudication under Chapter 2966
119. of the Revised Code, that the applicant or license holder 2967
committed the act in question. The board shall have no 2968

jurisdiction under these divisions in cases where the trial 2969
court renders a final judgment in the license holder's favor and 2970
that judgment is based upon an adjudication on the merits. The 2971
board shall have jurisdiction under these divisions in cases 2972
where the trial court issues an order of dismissal upon 2973
technical or procedural grounds. 2974

(E) The sealing or expungement of conviction records by 2975
any court shall have no effect upon a prior board order entered 2976
under the provisions of this section or upon the board's 2977
jurisdiction to take action under the provisions of this section 2978
if, based upon a plea of guilty, a judicial finding of guilt, or 2979
a judicial finding of eligibility for intervention in lieu of 2980
conviction, the board issued a notice of opportunity for a 2981
hearing prior to the court's order to seal or expunge the 2982
records. The board shall not be required to seal, destroy, 2983
redact, or otherwise modify its records to reflect the court's 2984
sealing or expungement of conviction records. 2985

(F) For purposes of this division, any individual who 2986
holds a license issued under this chapter, or applies for a 2987
license issued under this chapter, shall be deemed to have given 2988
consent to submit to a mental or physical examination when 2989
directed to do so in writing by the board and to have waived all 2990
objections to the admissibility of testimony or examination 2991
reports that constitute a privileged communication. 2992

(1) In enforcing division (B)(4) of this section, the 2993
board, upon a showing of a possible violation, may compel any 2994
individual who holds a license issued under this chapter or who 2995
has applied for a license pursuant to this chapter to submit to 2996
a mental examination, physical examination, including an HIV 2997
test, or both a mental and physical examination. The expense of 2998

the examination is the responsibility of the individual 2999
compelled to be examined. Failure to submit to a mental or 3000
physical examination or consent to an HIV test ordered by the 3001
board constitutes an admission of the allegations against the 3002
individual unless the failure is due to circumstances beyond the 3003
individual's control, and a default and final order may be 3004
entered without the taking of testimony or presentation of 3005
evidence. If the board finds a physician assistant unable to 3006
practice because of the reasons set forth in division (B)(4) of 3007
this section, the board shall require the physician assistant to 3008
submit to care, counseling, or treatment by physicians approved 3009
or designated by the board, as a condition for an initial, 3010
continued, reinstated, or renewed license. An individual 3011
affected under this division shall be afforded an opportunity to 3012
demonstrate to the board the ability to resume practicing in 3013
compliance with acceptable and prevailing standards of care. 3014

(2) For purposes of division (B)(5) of this section, if 3015
the board has reason to believe that any individual who holds a 3016
license issued under this chapter or any applicant for a license 3017
suffers such impairment, the board may compel the individual to 3018
submit to a mental or physical examination, or both. The expense 3019
of the examination is the responsibility of the individual 3020
compelled to be examined. Any mental or physical examination 3021
required under this division shall be undertaken by a treatment 3022
provider or physician qualified to conduct such examination and 3023
chosen by the board. 3024

Failure to submit to a mental or physical examination 3025
ordered by the board constitutes an admission of the allegations 3026
against the individual unless the failure is due to 3027
circumstances beyond the individual's control, and a default and 3028
final order may be entered without the taking of testimony or 3029

presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure, to submit to treatment.

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

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

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

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

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

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the

physician assistant. The monitoring shall include compliance 3059
with the written consent agreement entered into before 3060
reinstatement or with conditions imposed by board order after a 3061
hearing, and, upon termination of the consent agreement, 3062
submission to the board for at least two years of annual written 3063
progress reports made under penalty of falsification stating 3064
whether the physician assistant has maintained sobriety. 3065

~~(G)(G) (1) If either of the following circumstances occur,~~ 3066
the secretary and supervising member ~~determine may recommend~~ 3067
that the board suspend the individual's license without a prior 3068
hearing: 3069

(a) The secretary and supervising member determine that 3070
there is clear and convincing evidence that a physician 3071
assistant has violated division (B) of this section and that the 3072
individual's continued practice or prescribing presents a danger 3073
of immediate and serious harm to the public, ~~they may recommend~~ 3074
~~that the board suspend the individual's license without a prior~~ 3075
~~hearing;~~ 3076

(b) The board receives verifiable information that a 3077
licensee has been charged in any state or federal court with a 3078
crime classified as a felony under the charging court's law and 3079
the conduct charged constitutes a violation of division (B) of 3080
this section. ~~Written~~ 3081

(2) If a recommendation is made to suspend without a prior 3082
hearing pursuant to division (G) (1) of this section, written 3083
allegations shall be prepared for consideration by the board. 3084

The board, upon review of those allegations and by an 3085
affirmative vote of not fewer than six of its members, excluding 3086
the secretary and supervising member, may suspend a license 3087

without a prior hearing. A telephone conference call may be 3088
utilized for reviewing the allegations and taking the vote on 3089
the summary suspension. 3090

The board shall issue a written order of suspension by 3091
certified mail or in person in accordance with section 119.07 of 3092
the Revised Code. The order shall not be subject to suspension 3093
by the court during pendency of any appeal filed under section 3094
119.12 of the Revised Code. If the physician assistant requests 3095
an adjudicatory hearing by the board, the date set for the 3096
hearing shall be within fifteen days, but not earlier than seven 3097
days, after the physician assistant requests the hearing, unless 3098
otherwise agreed to by both the board and the license holder. 3099

(3) A summary suspension imposed under this division shall 3100
remain in effect, unless reversed on appeal, until a final 3101
adjudicative order issued by the board pursuant to this section 3102
and Chapter 119. of the Revised Code becomes effective. The 3103
board shall issue its final adjudicative order within sixty days 3104
after completion of its hearing. Failure to issue the order 3105
within sixty days shall result in dissolution of the summary 3106
suspension order, but shall not invalidate any subsequent, final 3107
adjudicative order. 3108

(H) If the board takes action under division (B) (11), 3109
(13), or (14) of this section, and the judicial finding of 3110
guilt, guilty plea, or judicial finding of eligibility for 3111
intervention in lieu of conviction is overturned on appeal, upon 3112
exhaustion of the criminal appeal, a petition for 3113
reconsideration of the order may be filed with the board along 3114
with appropriate court documents. Upon receipt of a petition and 3115
supporting court documents, the board shall reinstate the 3116
individual's license. The board may then hold an adjudication 3117

under Chapter 119. of the Revised Code to determine whether the 3118
individual committed the act in question. Notice of opportunity 3119
for hearing shall be given in accordance with Chapter 119. of 3120
the Revised Code. If the board finds, pursuant to an 3121
adjudication held under this division, that the individual 3122
committed the act, or if no hearing is requested, it may order 3123
any of the sanctions identified under division (B) of this 3124
section. 3125

(I) The license to practice issued to a physician 3126
assistant and the physician assistant's practice in this state 3127
are automatically suspended as of the date the physician 3128
assistant pleads guilty to, is found by a judge or jury to be 3129
guilty of, or is subject to a judicial finding of eligibility 3130
for intervention in lieu of conviction in this state or 3131
treatment or intervention in lieu of conviction in another state 3132
for any of the following criminal offenses in this state or a 3133
substantially equivalent criminal offense in another 3134
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3135
felonious assault, trafficking in persons, kidnapping, rape, 3136
sexual battery, gross sexual imposition, aggravated arson, 3137
aggravated robbery, or aggravated burglary. Continued practice 3138
after the suspension shall be considered practicing without a 3139
license. 3140

The board shall notify the individual subject to the 3141
suspension by certified mail or in person in accordance with 3142
section 119.07 of the Revised Code. If an individual whose 3143
license is suspended under this division fails to make a timely 3144
request for an adjudication under Chapter 119. of the Revised 3145
Code, the board shall enter a final order permanently revoking 3146
the individual's license to practice. 3147

(J) In any instance in which the board is required by 3148
Chapter 119. of the Revised Code to give notice of opportunity 3149
for hearing and the individual subject to the notice does not 3150
timely request a hearing in accordance with section 119.07 of 3151
the Revised Code, the board is not required to hold a hearing, 3152
but may adopt, by an affirmative vote of not fewer than six of 3153
its members, a final order that contains the board's findings. 3154
In that final order, the board may order any of the sanctions 3155
identified under division (A) or (B) of this section. 3156

(K) Any action taken by the board under division (B) of 3157
this section resulting in a suspension shall be accompanied by a 3158
written statement of the conditions under which the physician 3159
assistant's license may be reinstated. The board shall adopt 3160
rules in accordance with Chapter 119. of the Revised Code 3161
governing conditions to be imposed for reinstatement. 3162
Reinstatement of a license suspended pursuant to division (B) of 3163
this section requires an affirmative vote of not fewer than six 3164
members of the board. 3165

(L) When the board refuses to grant or issue to an 3166
applicant a license to practice as a physician assistant, 3167
revokes an individual's license, refuses to renew an 3168
individual's license, or refuses to reinstate an individual's 3169
license, the board may specify that its action is permanent. An 3170
individual subject to a permanent action taken by the board is 3171
forever thereafter ineligible to hold the license and the board 3172
shall not accept an application for reinstatement of the license 3173
or for issuance of a new license. 3174

(M) Notwithstanding any other provision of the Revised 3175
Code, all of the following apply: 3176

(1) The surrender of a license issued under this chapter 3177

is not effective unless or until accepted by the board. 3178

Reinstatement of a license surrendered to the board requires an 3179
affirmative vote of not fewer than six members of the board. 3180

(2) An application made under this chapter for a license 3181
may not be withdrawn without approval of the board. 3182

(3) Failure by an individual to renew a license in 3183
accordance with section 4730.14 of the Revised Code shall not 3184
remove or limit the board's jurisdiction to take disciplinary 3185
action under this section against the individual. 3186

(N) The board shall not refuse to issue a license to an 3187
applicant because of a conviction, plea of guilty, judicial 3188
finding of guilt, judicial finding of eligibility for 3189
intervention in lieu of conviction, or the commission of an act 3190
that constitutes a criminal offense, unless the refusal is in 3191
accordance with section 9.79 of the Revised Code. 3192

Sec. 4730.26. (A) The state medical board shall 3193
investigate evidence that appears to show that any person has 3194
violated this chapter or a rule adopted under it. In an 3195
investigation involving the practice or supervision of a 3196
physician assistant pursuant to the policies of a health care 3197
facility, the board may require that the health care facility 3198
provide any information the board considers necessary to 3199
identify either or both of the following: 3200

(1) The facility's policies for the practice of physician 3201
assistants within the facility; 3202

(2) The services that the facility has authorized a 3203
particular physician assistant to provide for the facility. 3204

(B) Any person may report to the board in a signed writing 3205
any information the person has that appears to show a violation 3206

of any provision of this chapter or rule adopted under it. In 3207
the absence of bad faith, a person who reports such information 3208
or testifies before the board in an adjudication conducted under 3209
Chapter 119. of the Revised Code shall not be liable for civil 3210
damages as a result of reporting the information or providing 3211
testimony. Each complaint or allegation of a violation received 3212
by the board shall be assigned a case number and be recorded by 3213
the board. 3214

(C) Investigations of alleged violations of this chapter 3215
or rules adopted under it shall be supervised by the supervising 3216
member elected by the board in accordance with section 4731.02 3217
of the Revised Code and by the secretary as provided in section 3218
4730.33 of the Revised Code. The president may designate another 3219
member of the board to supervise the investigation in place of 3220
the supervising member. Upon a vote of the majority of the board 3221
to authorize the addition of a consumer member in the 3222
supervision of any part of any investigation, the president 3223
shall designate a consumer member for supervision of 3224
investigations as determined by the president. The authorization 3225
of consumer member participation in investigation supervision 3226
may be rescinded by a majority vote of the board. A member of 3227
the board who supervises the investigation of a case shall not 3228
participate in further adjudication of the case. 3229

(D) In investigating a possible violation of this chapter 3230
or a rule adopted under it, the board may administer oaths, 3231
order the taking of depositions, issue subpoenas, and compel the 3232
attendance of witnesses and production of books, accounts, 3233
papers, records, documents, and testimony, except that a 3234
subpoena for patient record information or information, 3235
documents, and records from a peer review committee of a health 3236
care entity related to sexual misconduct or criminal conduct 3237

shall not be issued without consultation with the attorney 3238
general's office and approval of the secretary and supervising 3239
member of the board. Before issuance of a subpoena for patient 3240
record information or information, documents, and records from a 3241
peer review committee of a health care entity related to sexual 3242
misconduct or criminal conduct, the secretary and supervising 3243
member shall determine whether there is probable cause to 3244
believe that the complaint filed alleges a violation of this 3245
chapter or a rule adopted under it and that the records sought 3246
are relevant to the alleged violation and material to the 3247
investigation. The subpoena may apply only to records that cover 3248
a reasonable period of time surrounding the alleged violation. 3249

On failure to comply with any subpoena issued by the board 3250
and after reasonable notice to the person being subpoenaed, the 3251
board may move for an order compelling the production of persons 3252
or records pursuant to the Rules of Civil Procedure. 3253

A subpoena issued by the board may be served by a sheriff, 3254
the sheriff's deputy, or a board employee designated by the 3255
board. Service of a subpoena issued by the board may be made by 3256
delivering a copy of the subpoena to the person named therein, 3257
reading it to the person, or leaving it at the person's usual 3258
place of residence. When the person being served is a physician 3259
assistant, service of the subpoena may be made by certified 3260
mail, restricted delivery, return receipt requested, and the 3261
subpoena shall be deemed served on the date delivery is made or 3262
the date the person refuses to accept delivery. 3263

A sheriff's deputy who serves a subpoena shall receive the 3264
same fees as a sheriff. Each witness who appears before the 3265
board in obedience to a subpoena shall receive the fees and 3266
mileage provided for under section 119.094 of the Revised Code. 3267

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

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

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

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

admitted into evidence only in accordance with the Rules of 3298
Evidence, but the court shall require that appropriate measures 3299
are taken to ensure that confidentiality is maintained with 3300
respect to any part of the information that contains names or 3301
other identifying information about patients or complainants 3302
whose confidentiality was protected by the state medical board 3303
when the information was in the board's possession. Measures to 3304
ensure confidentiality that may be taken by the court include 3305
sealing its records or deleting specific information from its 3306
records. 3307

No person shall knowingly access, use, or disclose 3308
confidential investigatory information in a manner prohibited by 3309
law. 3310

(G) The state medical board shall develop requirements for 3311
and provide appropriate initial and continuing training for 3312
investigators employed by the board to carry out its duties 3313
under this chapter. The training and continuing education may 3314
include enrollment in courses operated or approved by the Ohio 3315
peace officer training commission that the board considers 3316
appropriate under conditions set forth in section 109.79 of the 3317
Revised Code. 3318

(H) On a quarterly basis, the board shall prepare a report 3319
that documents the disposition of all cases during the preceding 3320
three months. The report shall contain the following information 3321
for each case with which the board has completed its activities: 3322

(1) The case number assigned to the complaint or alleged 3323
violation; 3324

(2) The type of license, if any, held by the individual 3325
against whom the complaint is directed; 3326

(3) A description of the allegations contained in the complaint; 3327
3328

(4) Whether witnesses were interviewed; 3329

(5) Whether the individual against whom the complaint is directed is the subject of any pending complaints; 3330
3331

(6) The disposition of the case. 3332

The report shall state how many cases are still pending, 3333
and shall be prepared in a manner that protects the identity of 3334
each person involved in each case. The report shall be submitted 3335
to the physician assistant policy committee of the board and is 3336
a public record for purposes of section 149.43 of the Revised 3337
Code. 3338

(I) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity. 3339
3340
3341

Sec. 4730.32. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code. 3342
3343
3344

(B) (1) Within ~~sixty~~ thirty days after the imposition of 3345
any formal disciplinary action taken by a health care facility 3346
against any individual holding a valid license to practice as a 3347
physician assistant issued under this chapter, the chief 3348
administrator or executive officer of the facility shall report 3349
to the state medical board the name of the individual, the 3350
action taken by the facility, and a summary of the underlying 3351
facts leading to the action taken. Upon request, the board shall 3352
be provided certified copies of the patient records that were 3353
the basis for the facility's action. Prior to release to the 3354
board, the summary shall be approved by the peer review 3355

committee that reviewed the case or by the governing board of 3356
the facility. 3357

The filing of a report with the board or decision not to 3358
file a report, investigation by the board, or any disciplinary 3359
action taken by the board, does not preclude a health care 3360
facility from taking disciplinary action against a physician 3361
assistant. 3362

In the absence of fraud or bad faith, no individual or 3363
entity that provides patient records to the board shall be 3364
liable in damages to any person as a result of providing the 3365
records. 3366

(2) Within thirty days after commencing an investigation 3367
regarding criminal conduct or sexual misconduct against any 3368
individual holding a valid license to practice issued pursuant 3369
to this chapter, a health care facility, including a hospital, 3370
health care facility operated by a health insuring corporation, 3371
ambulatory surgical center, or similar facility, shall report to 3372
the board the name of the individual and a summary of the 3373
underlying facts related to the investigation being commenced. 3374

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 3375
~~of this section and subject to division (C)(3) of this section,~~ 3376
a physician assistant, professional association or society of 3377
physician assistants, physician, or professional association or 3378
society of physicians that believes a violation of any provision 3379
of this chapter, Chapter 4731. of the Revised Code, or rule of 3380
the board has occurred shall report to the board the information 3381
upon which the belief is based. 3382

(2) A physician assistant, professional association or 3383
society of physician assistants, physician, or professional 3384

association or society of physicians that believes that a 3385
violation of division (B) (5) of section 4730.25 of the Revised 3386
Code has occurred shall report the information upon which the 3387
belief is based to the monitoring organization conducting the 3388
program established by the board under section 4731.251 of the 3389
Revised Code. If any such report is made to the board, it shall 3390
be referred to the monitoring organization unless the board is 3391
aware that the individual who is the subject of the report does 3392
not meet the program eligibility requirements of section 3393
4731.252 of the Revised Code. 3394

(3) If any individual authorized to practice under this 3395
chapter or any professional association or society of such 3396
individuals knows or has reasonable cause to suspect based on 3397
facts that would cause a reasonable person in a similar position 3398
to suspect that an individual authorized to practice under this 3399
chapter has committed or participated in criminal conduct or 3400
sexual misconduct the information upon which the belief is based 3401
shall be reported to the board within thirty days. 3402

(4) In addition to the self-reporting of criminal offenses 3403
that is required for license renewal, an individual authorized 3404
to practice under this chapter shall report to the board 3405
criminal charges regarding criminal conduct, sexual misconduct, 3406
or any conduct involving the use of a motor vehicle while under 3407
the influence of alcohol or drugs, including offenses that are 3408
equivalent offenses under division (A) of section 4511.181 of 3409
the Revised Code, violations of division (D) of section 4511.194 3410
of the Revised Code, and violations of division (C) of section 3411
4511.79 of the Revised Code. Reports under this division shall 3412
be made within thirty days of the criminal charge being filed. 3413

~~(C)~~ (D) Any professional association or society composed 3414

primarily of physician assistants that suspends or revokes an 3415
individual's membership for violations of professional ethics, 3416
or for reasons of professional incompetence or professional 3417
malpractice, within ~~sixty~~thirty days after a final decision, 3418
shall report to the board, on forms prescribed and provided by 3419
the board, the name of the individual, the action taken by the 3420
professional organization, and a summary of the underlying facts 3421
leading to the action taken. 3422

The filing or nonfiling of a report with the board, 3423
investigation by the board, or any disciplinary action taken by 3424
the board, shall not preclude a professional organization from 3425
taking disciplinary action against a physician assistant. 3426

~~(D)~~(E) Any insurer providing professional liability 3427
insurance to any person holding a valid license to practice as a 3428
physician assistant issued under this chapter or any other 3429
entity that seeks to indemnify the professional liability of a 3430
physician assistant shall notify the board within thirty days 3431
after the final disposition of any written claim for damages 3432
where such disposition results in a payment exceeding twenty- 3433
five thousand dollars. The notice shall contain the following 3434
information: 3435

(1) The name and address of the person submitting the 3436
notification; 3437

(2) The name and address of the insured who is the subject 3438
of the claim; 3439

(3) The name of the person filing the written claim; 3440

(4) The date of final disposition; 3441

(5) If applicable, the identity of the court in which the 3442
final disposition of the claim took place. 3443

~~(E)~~ (F) The board may investigate possible violations of 3444
this chapter or the rules adopted under it that are brought to 3445
its attention as a result of the reporting requirements of this 3446
section, except that the board shall conduct an investigation if 3447
a possible violation involves repeated malpractice. As used in 3448
this division, "repeated malpractice" means three or more claims 3449
for malpractice within the previous five-year period, each 3450
resulting in a judgment or settlement in excess of twenty-five 3451
thousand dollars in favor of the claimant, and each involving 3452
negligent conduct by the physician assistant. 3453

~~(F)~~ (G) All summaries, reports, and records received and 3454
maintained by the board pursuant to this section shall be held 3455
~~in confidence and shall not be subject to discovery or~~ 3456
~~introduction in evidence in any federal or state civil action~~ 3457
~~involving a physician assistant, supervising physician, or~~ 3458
~~health care facility arising out of matters that are the subject~~ 3459
~~of the reporting required by this section. The board may use the~~ 3460
~~information obtained only as the basis for an investigation, as~~ 3461
~~evidence in a disciplinary hearing against a physician assistant~~ 3462
~~or supervising physician, or in any subsequent trial or appeal~~ 3463
~~of a board action or order.~~ 3464

~~The board may disclose the summaries and reports it~~ 3465
~~receives under this section only to health care facility~~ 3466
~~committees within or outside this state that are involved in~~ 3467
~~credentialing or recredentialing a physician assistant or~~ 3468
~~supervising physician or reviewing their privilege to practice~~ 3469
~~within a particular facility. The board shall indicate whether~~ 3470
~~or not the information has been verified. Information~~ 3471
~~transmitted by the board shall be subject to the same~~ 3472
~~confidentiality provisions as when maintained by the~~ 3473
~~board~~ confidential pursuant to division (F) of section 4730.26 of 3474

the Revised Code. 3475

~~(G)~~ (H) Except for reports filed by an individual pursuant 3476
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 3477
send a copy of any reports or summaries it receives pursuant to 3478
this section to the physician assistant. The physician assistant 3479
shall have the right to file a statement with the board 3480
concerning the correctness or relevance of the information. The 3481
statement shall at all times accompany that part of the record 3482
in contention. 3483

~~(H)~~ (I) An individual or entity that reports to the board, 3484
reports to the monitoring organization described in section 3485
4731.251 of the Revised Code, or refers an impaired physician 3486
assistant to a treatment provider approved by the board under 3487
section 4731.25 of the Revised Code shall not be subject to suit 3488
for civil damages as a result of the report, referral, or 3489
provision of the information. 3490

~~(I)~~ (J) In the absence of fraud or bad faith, a 3491
professional association or society of physician assistants that 3492
sponsors a committee or program to provide peer assistance to a 3493
physician assistant with substance abuse problems, a 3494
representative or agent of such a committee or program, a 3495
representative or agent of the monitoring organization described 3496
in section 4731.251 of the Revised Code, and a member of the 3497
state medical board shall not be held liable in damages to any 3498
person by reason of actions taken to refer a physician assistant 3499
to a treatment provider approved under section 4731.25 of the 3500
Revised Code for examination or treatment. 3501

Sec. 4730.99. (A) Whoever violates section 4730.02 of the 3502
Revised Code is guilty of a misdemeanor of the first degree on a 3503
first offense; on each subsequent offense, the person is guilty 3504

of a felony of the fourth degree. 3505

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C)
(1), ~~or (C) (2)~~, (D), or (E) of section 4730.32 of the Revised 3506
Code is guilty of a minor misdemeanor on a first offense; on 3507
each subsequent offense the person is guilty of a misdemeanor of 3508
the fourth degree, except that an individual guilty of a 3509
subsequent offense shall not be subject to imprisonment, but to 3510
a fine alone of up to one thousand dollars for each offense. 3511
3512

(2) Whoever violates division (B) (2) or (C) (3) of section 3513
4730.32 of the Revised Code is guilty of failure to report 3514
criminal conduct or sexual misconduct, a misdemeanor of the 3515
fourth degree. If the offender has previously been convicted of 3516
a violation of this division, the failure to report is a 3517
misdemeanor of the first degree. 3518

(C) Whoever violates division (F) of section 4730.26 of 3519
the Revised Code is guilty of disclosing confidential 3520
investigatory information, a misdemeanor of the first degree. 3521

Sec. 4731.22. (A) The state medical board, by an 3522
affirmative vote of not fewer than six of its members, may 3523
limit, revoke, or suspend a license or certificate to practice 3524
or certificate to recommend, refuse to grant a license or 3525
certificate, refuse to renew a license or certificate, refuse to 3526
reinstate a license or certificate, or reprimand or place on 3527
probation the holder of a license or certificate if the 3528
individual applying for or holding the license or certificate is 3529
found by the board to have committed fraud during the 3530
administration of the examination for a license or certificate 3531
to practice or to have committed fraud, misrepresentation, or 3532
deception in applying for, renewing, or securing any license or 3533
certificate to practice or certificate to recommend issued by 3534

the board. 3535

(B) Except as provided in division (P) of this section, 3536
the board, by an affirmative vote of not fewer than six members, 3537
shall, to the extent permitted by law, limit, revoke, or suspend 3538
a license or certificate to practice or certificate to 3539
recommend, refuse to issue a license or certificate, refuse to 3540
renew a license or certificate, refuse to reinstate a license or 3541
certificate, or reprimand or place on probation the holder of a 3542
license or certificate for one or more of the following reasons: 3543

(1) Permitting one's name or one's license or certificate 3544
to practice to be used by a person, group, or corporation when 3545
the individual concerned is not actually directing the treatment 3546
given; 3547

(2) Failure to maintain minimal standards applicable to 3548
the selection or administration of drugs, or failure to employ 3549
acceptable scientific methods in the selection of drugs or other 3550
modalities for treatment of disease; 3551

(3) Except as provided in section 4731.97 of the Revised 3552
Code, selling, giving away, personally furnishing, prescribing, 3553
or administering drugs for other than legal and legitimate 3554
therapeutic purposes or a plea of guilty to, a judicial finding 3555
of guilt of, or a judicial finding of eligibility for 3556
intervention in lieu of conviction of, a violation of any 3557
federal or state law regulating the possession, distribution, or 3558
use of any drug; 3559

(4) Willfully betraying a professional confidence. 3560

For purposes of this division, "willfully betraying a 3561
professional confidence" does not include providing any 3562
information, documents, or reports under sections 307.621 to 3563

307.629 of the Revised Code to a child fatality review board; 3564
does not include providing any information, documents, or 3565
reports under sections 307.631 to 307.6410 of the Revised Code 3566
to a drug overdose fatality review committee, a suicide fatality 3567
review committee, or hybrid drug overdose fatality and suicide 3568
fatality review committee; does not include providing any 3569
information, documents, or reports under sections 307.651 to 3570
307.659 of the Revised Code to a domestic violence fatality 3571
review board; does not include providing any information, 3572
documents, or reports to the director of health pursuant to 3573
guidelines established under section 3701.70 of the Revised 3574
Code; does not include written notice to a mental health 3575
professional under section 4731.62 of the Revised Code; does not 3576
include making a report as described in division (F) of section 3577
2921.22 and section 4731.224 of the Revised Code; and does not 3578
include the making of a report of an employee's use of a drug of 3579
abuse, or a report of a condition of an employee other than one 3580
involving the use of a drug of abuse, to the employer of the 3581
employee as described in division (B) of section 2305.33 of the 3582
Revised Code. Nothing in this division affects the immunity from 3583
civil liability conferred by section 2305.33 or 4731.62 of the 3584
Revised Code upon a physician who makes a report in accordance 3585
with section 2305.33 or notifies a mental health professional in 3586
accordance with section 4731.62 of the Revised Code. As used in 3587
this division, "employee," "employer," and "physician" have the 3588
same meanings as in section 2305.33 of the Revised Code. 3589

(5) Making a false, fraudulent, deceptive, or misleading 3590
statement in the solicitation of or advertising for patients; in 3591
relation to the practice of medicine and surgery, osteopathic 3592
medicine and surgery, podiatric medicine and surgery, or a 3593
limited branch of medicine; or in securing or attempting to 3594

secure any license or certificate to practice issued by the 3595
board. 3596

As used in this division, "false, fraudulent, deceptive, 3597
or misleading statement" means a statement that includes a 3598
misrepresentation of fact, is likely to mislead or deceive 3599
because of a failure to disclose material facts, is intended or 3600
is likely to create false or unjustified expectations of 3601
favorable results, or includes representations or implications 3602
that in reasonable probability will cause an ordinarily prudent 3603
person to misunderstand or be deceived. 3604

(6) A departure from, or the failure to conform to, 3605
minimal standards of care of similar practitioners under the 3606
same or similar circumstances, whether or not actual injury to a 3607
patient is established; 3608

(7) Representing, with the purpose of obtaining 3609
compensation or other advantage as personal gain or for any 3610
other person, that an incurable disease or injury, or other 3611
incurable condition, can be permanently cured; 3612

(8) The obtaining of, or attempting to obtain, money or 3613
anything of value by fraudulent misrepresentations in the course 3614
of practice; 3615

(9) A plea of guilty to, a judicial finding of guilt of, 3616
or a judicial finding of eligibility for intervention in lieu of 3617
conviction for, a felony; 3618

(10) Commission of an act that constitutes a felony in 3619
this state, regardless of the jurisdiction in which the act was 3620
committed; 3621

(11) A plea of guilty to, a judicial finding of guilt of, 3622
or a judicial finding of eligibility for intervention in lieu of 3623

conviction for, a misdemeanor committed in the course of 3624
practice; 3625

(12) Commission of an act in the course of practice that 3626
constitutes a misdemeanor in this state, regardless of the 3627
jurisdiction in which the act was committed; 3628

(13) A plea of guilty to, a judicial finding of guilt of, 3629
or a judicial finding of eligibility for intervention in lieu of 3630
conviction for, a misdemeanor involving moral turpitude; 3631

(14) Commission of an act involving moral turpitude that 3632
constitutes a misdemeanor in this state, regardless of the 3633
jurisdiction in which the act was committed; 3634

(15) Violation of the conditions of limitation placed by 3635
the board upon a license or certificate to practice; 3636

(16) Failure to pay license renewal fees specified in this 3637
chapter; 3638

(17) Except as authorized in section 4731.31 of the 3639
Revised Code, engaging in the division of fees for referral of 3640
patients, or the receiving of a thing of value in return for a 3641
specific referral of a patient to utilize a particular service 3642
or business; 3643

(18) Subject to section 4731.226 of the Revised Code, 3644
violation of any provision of a code of ethics of the American 3645
medical association, the American osteopathic association, the 3646
American podiatric medical association, or any other national 3647
professional organizations that the board specifies by rule. The 3648
state medical board shall obtain and keep on file current copies 3649
of the codes of ethics of the various national professional 3650
organizations. The individual whose license or certificate is 3651
being suspended or revoked shall not be found to have violated 3652

any provision of a code of ethics of an organization not 3653
appropriate to the individual's profession. 3654

For purposes of this division, a "provision of a code of 3655
ethics of a national professional organization" does not include 3656
any provision that would preclude the making of a report by a 3657
physician of an employee's use of a drug of abuse, or of a 3658
condition of an employee other than one involving the use of a 3659
drug of abuse, to the employer of the employee as described in 3660
division (B) of section 2305.33 of the Revised Code. Nothing in 3661
this division affects the immunity from civil liability 3662
conferred by that section upon a physician who makes either type 3663
of report in accordance with division (B) of that section. As 3664
used in this division, "employee," "employer," and "physician" 3665
have the same meanings as in section 2305.33 of the Revised 3666
Code. 3667

(19) Inability to practice according to acceptable and 3668
prevailing standards of care by reason of mental illness or 3669
physical illness, including, but not limited to, physical 3670
deterioration that adversely affects cognitive, motor, or 3671
perceptive skills. 3672

In enforcing this division, the board, upon a showing of a 3673
possible violation, may compel any individual authorized to 3674
practice by this chapter or who has submitted an application 3675
pursuant to this chapter to submit to a mental examination, 3676
physical examination, including an HIV test, or both a mental 3677
and a physical examination. The expense of the examination is 3678
the responsibility of the individual compelled to be examined. 3679
Failure to submit to a mental or physical examination or consent 3680
to an HIV test ordered by the board constitutes an admission of 3681
the allegations against the individual unless the failure is due 3682

to circumstances beyond the individual's control, and a default 3683
and final order may be entered without the taking of testimony 3684
or presentation of evidence. If the board finds an individual 3685
unable to practice because of the reasons set forth in this 3686
division, the board shall require the individual to submit to 3687
care, counseling, or treatment by physicians approved or 3688
designated by the board, as a condition for initial, continued, 3689
reinstated, or renewed authority to practice. An individual 3690
affected under this division shall be afforded an opportunity to 3691
demonstrate to the board the ability to resume practice in 3692
compliance with acceptable and prevailing standards under the 3693
provisions of the individual's license or certificate. For the 3694
purpose of this division, any individual who applies for or 3695
receives a license or certificate to practice under this chapter 3696
accepts the privilege of practicing in this state and, by so 3697
doing, shall be deemed to have given consent to submit to a 3698
mental or physical examination when directed to do so in writing 3699
by the board, and to have waived all objections to the 3700
admissibility of testimony or examination reports that 3701
constitute a privileged communication. 3702

(20) Except as provided in division (F)(1)(b) of section 3703
4731.282 of the Revised Code or when civil penalties are imposed 3704
under section 4731.225 of the Revised Code, and subject to 3705
section 4731.226 of the Revised Code, violating or attempting to 3706
violate, directly or indirectly, or assisting in or abetting the 3707
violation of, or conspiring to violate, any provisions of this 3708
chapter or any rule promulgated by the board. 3709

This division does not apply to a violation or attempted 3710
violation of, assisting in or abetting the violation of, or a 3711
conspiracy to violate, any provision of this chapter or any rule 3712
adopted by the board that would preclude the making of a report 3713

by a physician of an employee's use of a drug of abuse, or of a 3714
condition of an employee other than one involving the use of a 3715
drug of abuse, to the employer of the employee as described in 3716
division (B) of section 2305.33 of the Revised Code. Nothing in 3717
this division affects the immunity from civil liability 3718
conferred by that section upon a physician who makes either type 3719
of report in accordance with division (B) of that section. As 3720
used in this division, "employee," "employer," and "physician" 3721
have the same meanings as in section 2305.33 of the Revised 3722
Code. 3723

(21) The violation of section 3701.79 of the Revised Code 3724
or of any abortion rule adopted by the director of health 3725
pursuant to section 3701.341 of the Revised Code; 3726

(22) Any of the following actions taken by an agency 3727
responsible for authorizing, certifying, or regulating an 3728
individual to practice a health care occupation or provide 3729
health care services in this state or another jurisdiction, for 3730
any reason other than the nonpayment of fees: the limitation, 3731
revocation, or suspension of an individual's license to 3732
practice; acceptance of an individual's license surrender; 3733
denial of a license; refusal to renew or reinstate a license; 3734
imposition of probation; or issuance of an order of censure or 3735
other reprimand; 3736

(23) The violation of section 2919.12 of the Revised Code 3737
or the performance or inducement of an abortion upon a pregnant 3738
woman with actual knowledge that the conditions specified in 3739
division (B) of section 2317.56 of the Revised Code have not 3740
been satisfied or with a heedless indifference as to whether 3741
those conditions have been satisfied, unless an affirmative 3742
defense as specified in division (H) (2) of that section would 3743

apply in a civil action authorized by division (H) (1) of that section; 3744
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(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice; 3746
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(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency; 3752
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(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. 3755
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For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications. 3759
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If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the 3768
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responsibility of the individual compelled to be examined. Any 3773
mental or physical examination required under this division 3774
shall be undertaken by a treatment provider or physician who is 3775
qualified to conduct the examination and who is chosen by the 3776
board. 3777

Failure to submit to a mental or physical examination 3778
ordered by the board constitutes an admission of the allegations 3779
against the individual unless the failure is due to 3780
circumstances beyond the individual's control, and a default and 3781
final order may be entered without the taking of testimony or 3782
presentation of evidence. If the board determines that the 3783
individual's ability to practice is impaired, the board shall 3784
suspend the individual's license or certificate or deny the 3785
individual's application and shall require the individual, as a 3786
condition for initial, continued, reinstated, or renewed 3787
licensure or certification to practice, to submit to treatment. 3788

Before being eligible to apply for reinstatement of a 3789
license or certificate suspended under this division, the 3790
impaired practitioner shall demonstrate to the board the ability 3791
to resume practice in compliance with acceptable and prevailing 3792
standards of care under the provisions of the practitioner's 3793
license or certificate. The demonstration shall include, but 3794
shall not be limited to, the following: 3795

(a) Certification from a treatment provider approved under 3796
section 4731.25 of the Revised Code that the individual has 3797
successfully completed any required inpatient treatment; 3798

(b) Evidence of continuing full compliance with an 3799
aftercare contract or consent agreement; 3800

(c) Two written reports indicating that the individual's 3801

ability to practice has been assessed and that the individual 3802
has been found capable of practicing according to acceptable and 3803
prevailing standards of care. The reports shall be made by 3804
individuals or providers approved by the board for making the 3805
assessments and shall describe the basis for their 3806
determination. 3807

The board may reinstate a license or certificate suspended 3808
under this division after that demonstration and after the 3809
individual has entered into a written consent agreement. 3810

When the impaired practitioner resumes practice, the board 3811
shall require continued monitoring of the individual. The 3812
monitoring shall include, but not be limited to, compliance with 3813
the written consent agreement entered into before reinstatement 3814
or with conditions imposed by board order after a hearing, and, 3815
upon termination of the consent agreement, submission to the 3816
board for at least two years of annual written progress reports 3817
made under penalty of perjury stating whether the individual has 3818
maintained sobriety. 3819

(27) A second or subsequent violation of section 4731.66 3820
or 4731.69 of the Revised Code; 3821

(28) Except as provided in division (N) of this section: 3822

(a) Waiving the payment of all or any part of a deductible 3823
or copayment that a patient, pursuant to a health insurance or 3824
health care policy, contract, or plan that covers the 3825
individual's services, otherwise would be required to pay if the 3826
waiver is used as an enticement to a patient or group of 3827
patients to receive health care services from that individual; 3828

(b) Advertising that the individual will waive the payment 3829
of all or any part of a deductible or copayment that a patient, 3830

pursuant to a health insurance or health care policy, contract, 3831
or plan that covers the individual's services, otherwise would 3832
be required to pay. 3833

(29) Failure to use universal blood and body fluid 3834
precautions established by rules adopted under section 4731.051 3835
of the Revised Code; 3836

(30) Failure to provide notice to, and receive 3837
acknowledgment of the notice from, a patient when required by 3838
section 4731.143 of the Revised Code prior to providing 3839
nonemergency professional services, or failure to maintain that 3840
notice in the patient's medical record; 3841

(31) Failure of a physician supervising a physician 3842
assistant to maintain supervision in accordance with the 3843
requirements of Chapter 4730. of the Revised Code and the rules 3844
adopted under that chapter; 3845

(32) Failure of a physician or podiatrist to enter into a 3846
standard care arrangement with a clinical nurse specialist, 3847
certified nurse-midwife, or certified nurse practitioner with 3848
whom the physician or podiatrist is in collaboration pursuant to 3849
section 4731.27 of the Revised Code or failure to fulfill the 3850
responsibilities of collaboration after entering into a standard 3851
care arrangement; 3852

(33) Failure to comply with the terms of a consult 3853
agreement entered into with a pharmacist pursuant to section 3854
4729.39 of the Revised Code; 3855

(34) Failure to cooperate in an investigation conducted by 3856
the board under division (F) of this section, including failure 3857
to comply with a subpoena or order issued by the board or 3858
failure to answer truthfully a question presented by the board 3859

in an investigative interview, an investigative office 3860
conference, at a deposition, or in written interrogatories, 3861
except that failure to cooperate with an investigation shall not 3862
constitute grounds for discipline under this section if a court 3863
of competent jurisdiction has issued an order that either 3864
quashes a subpoena or permits the individual to withhold the 3865
testimony or evidence in issue; 3866

(35) Failure to supervise an acupuncturist in accordance 3867
with Chapter 4762. of the Revised Code and the board's rules for 3868
providing that supervision; 3869

(36) Failure to supervise an anesthesiologist assistant in 3870
accordance with Chapter 4760. of the Revised Code and the 3871
board's rules for supervision of an anesthesiologist assistant; 3872

(37) Assisting suicide, as defined in section 3795.01 of 3873
the Revised Code; 3874

(38) Failure to comply with the requirements of section 3875
2317.561 of the Revised Code; 3876

(39) Failure to supervise a radiologist assistant in 3877
accordance with Chapter 4774. of the Revised Code and the 3878
board's rules for supervision of radiologist assistants; 3879

(40) Performing or inducing an abortion at an office or 3880
facility with knowledge that the office or facility fails to 3881
post the notice required under section 3701.791 of the Revised 3882
Code; 3883

(41) Failure to comply with the standards and procedures 3884
established in rules under section 4731.054 of the Revised Code 3885
for the operation of or the provision of care at a pain 3886
management clinic; 3887

(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	3888 3889 3890 3891
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	3892 3893 3894 3895
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	3896 3897 3898 3899 3900
(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	3901 3902 3903 3904 3905
(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;	3906 3907 3908 3909
(47) Failure to comply with any of the requirements regarding making or maintaining medical records or documents described in division (A) of section 2919.192, division (C) of section 2919.193, division (B) of section 2919.195, or division (A) of section 2919.196 of the Revised Code;	3910 3911 3912 3913 3914
(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a	3915 3916

prescription for an opioid analgesic, as defined in section 3917
3719.01 of the Revised Code; 3918

(49) Failure to comply with the requirements of section 3919
4731.30 of the Revised Code or rules adopted under section 3920
4731.301 of the Revised Code when recommending treatment with 3921
medical marijuana; 3922

(50) Practicing at a facility, clinic, or other location 3923
that is subject to licensure as a category III terminal 3924
distributor of dangerous drugs with an office-based opioid 3925
treatment classification unless the person operating that place 3926
has obtained and maintains the license with the classification; 3927

(51) Owning a facility, clinic, or other location that is 3928
subject to licensure as a category III terminal distributor of 3929
dangerous drugs with an office-based opioid treatment 3930
classification unless that place is licensed with the 3931
classification; 3932

(52) A pattern of continuous or repeated violations of 3933
division (E) (2) or (3) of section 3963.02 of the Revised Code; 3934

(53) Failure to fulfill the responsibilities of a 3935
collaboration agreement entered into with an athletic trainer as 3936
described in section 4755.621 of the Revised Code; 3937

(54) Failure to take the steps specified in section 3938
4731.911 of the Revised Code following an abortion or attempted 3939
abortion in an ambulatory surgical facility or other location 3940
that is not a hospital when a child is born alive. 3941

(C) Disciplinary actions taken by the board under 3942
divisions (A) and (B) of this section shall be taken pursuant to 3943
an adjudication under Chapter 119. of the Revised Code, except 3944
that in lieu of an adjudication, the board may enter into a 3945

consent agreement with an individual to resolve an allegation of 3946
a violation of this chapter or any rule adopted under it. A 3947
consent agreement, when ratified by an affirmative vote of not 3948
fewer than six members of the board, shall constitute the 3949
findings and order of the board with respect to the matter 3950
addressed in the agreement. If the board refuses to ratify a 3951
consent agreement, the admissions and findings contained in the 3952
consent agreement shall be of no force or effect. 3953

A telephone conference call may be utilized for 3954
ratification of a consent agreement that revokes or suspends an 3955
individual's license or certificate to practice or certificate 3956
to recommend. The telephone conference call shall be considered 3957
a special meeting under division (F) of section 121.22 of the 3958
Revised Code. 3959

If the board takes disciplinary action against an 3960
individual under division (B) of this section for a second or 3961
subsequent plea of guilty to, or judicial finding of guilt of, a 3962
violation of section 2919.123 or 2919.124 of the Revised Code, 3963
the disciplinary action shall consist of a suspension of the 3964
individual's license or certificate to practice for a period of 3965
at least one year or, if determined appropriate by the board, a 3966
more serious sanction involving the individual's license or 3967
certificate to practice. Any consent agreement entered into 3968
under this division with an individual that pertains to a second 3969
or subsequent plea of guilty to, or judicial finding of guilt 3970
of, a violation of that section shall provide for a suspension 3971
of the individual's license or certificate to practice for a 3972
period of at least one year or, if determined appropriate by the 3973
board, a more serious sanction involving the individual's 3974
license or certificate to practice. 3975

(D) For purposes of divisions (B) (10), (12), and (14) of 3976
this section, the commission of the act may be established by a 3977
finding by the board, pursuant to an adjudication under Chapter 3978
119. of the Revised Code, that the individual committed the act. 3979
The board does not have jurisdiction under those divisions if 3980
the trial court renders a final judgment in the individual's 3981
favor and that judgment is based upon an adjudication on the 3982
merits. The board has jurisdiction under those divisions if the 3983
trial court issues an order of dismissal upon technical or 3984
procedural grounds. 3985

(E) The sealing or expungement of conviction records by 3986
any court shall have no effect upon a prior board order entered 3987
under this section or upon the board's jurisdiction to take 3988
action under this section if, based upon a plea of guilty, a 3989
judicial finding of guilt, or a judicial finding of eligibility 3990
for intervention in lieu of conviction, the board issued a 3991
notice of opportunity for a hearing prior to the court's order 3992
to seal or expunge the records. The board shall not be required 3993
to seal, expunge, destroy, redact, or otherwise modify its 3994
records to reflect the court's sealing of conviction records. 3995

(F) (1) The board shall investigate evidence that appears 3996
to show that a person has violated any provision of this chapter 3997
or any rule adopted under it. Any person may report to the board 3998
in a signed writing any information that the person may have 3999
that appears to show a violation of any provision of this 4000
chapter or any rule adopted under it. In the absence of bad 4001
faith, any person who reports information of that nature or who 4002
testifies before the board in any adjudication conducted under 4003
Chapter 119. of the Revised Code shall not be liable in damages 4004
in a civil action as a result of the report or testimony. Each 4005
complaint or allegation of a violation received by the board 4006

shall be assigned a case number and shall be recorded by the board. 4007
4008

(2) Investigations of alleged violations of this chapter 4009
or any rule adopted under it shall be supervised by the 4010
supervising member elected by the board in accordance with 4011
section 4731.02 of the Revised Code and by the secretary as 4012
provided in section 4731.39 of the Revised Code. The president 4013
may designate another member of the board to supervise the 4014
investigation in place of the supervising member. Upon a vote of 4015
the majority of the board to authorize the addition of a 4016
consumer member in the supervision of any part of any 4017
investigation, the president shall designate a consumer member 4018
for supervision of investigations as determined by the 4019
president. The authorization of consumer member participation in 4020
investigation supervision may be rescinded by a majority vote of 4021
the board. No member of the board who supervises the 4022
investigation of a case shall participate in further 4023
adjudication of the case. 4024

(3) In investigating a possible violation of this chapter 4025
or any rule adopted under this chapter, or in conducting an 4026
inspection under division (E) of section 4731.054 of the Revised 4027
Code, the board may question witnesses, conduct interviews, 4028
administer oaths, order the taking of depositions, inspect and 4029
copy any books, accounts, papers, records, or documents, issue 4030
subpoenas, and compel the attendance of witnesses and production 4031
of books, accounts, papers, records, documents, and testimony, 4032
except that a subpoena for patient record information or 4033
information, documents, and records from a peer review committee 4034
of a health care entity related to sexual misconduct or criminal 4035
conduct shall not be issued without consultation with the 4036
attorney general's office and approval of the secretary and 4037

supervising member of the board. 4038

(a) Before issuance of a subpoena for patient record 4039
information or information, documents, and records from a peer 4040
review committee of a health care entity related to sexual 4041
misconduct or criminal conduct, the secretary and supervising 4042
member shall determine whether there is probable cause to 4043
believe that the complaint filed alleges a violation of this 4044
chapter or any rule adopted under it and that the records sought 4045
are relevant to the alleged violation and material to the 4046
investigation. The subpoena may apply only to records that cover 4047
a reasonable period of time surrounding the alleged violation. 4048

(b) On failure to comply with any subpoena issued by the 4049
board and after reasonable notice to the person being 4050
subpoenaed, the board may move for an order compelling the 4051
production of persons or records pursuant to the Rules of Civil 4052
Procedure. 4053

(c) A subpoena issued by the board may be served by a 4054
sheriff, the sheriff's deputy, or a board employee or agent 4055
designated by the board. Service of a subpoena issued by the 4056
board may be made by delivering a copy of the subpoena to the 4057
person named therein, reading it to the person, or leaving it at 4058
the person's usual place of residence, usual place of business, 4059
or address on file with the board. When serving a subpoena to an 4060
applicant for or the holder of a license or certificate issued 4061
under this chapter, service of the subpoena may be made by 4062
certified mail, return receipt requested, and the subpoena shall 4063
be deemed served on the date delivery is made or the date the 4064
person refuses to accept delivery. If the person being served 4065
refuses to accept the subpoena or is not located, service may be 4066
made to an attorney who notifies the board that the attorney is 4067

representing the person. 4068

(d) A sheriff's deputy who serves a subpoena shall receive 4069
the same fees as a sheriff. Each witness who appears before the 4070
board in obedience to a subpoena shall receive the fees and 4071
mileage provided for under section 119.094 of the Revised Code. 4072

(4) All ~~For purposes of section 2305.252 of the Revised~~ 4073
Code, all hearings, investigations, and inspections of the board 4074
shall be considered civil actions ~~for the purposes of section~~ 4075
2305.252 of the Revised Code, except those involving allegations 4076
of sexual misconduct or criminal conduct, as defined in that 4077
section. 4078

(5) A report required to be submitted to the board under 4079
this chapter, a complaint, or information received by the board 4080
pursuant to an investigation or pursuant to an inspection under 4081
division (E) of section 4731.054 of the Revised Code is 4082
confidential and not subject to discovery in any civil action. 4083

The board shall conduct all investigations or inspections 4084
and proceedings in a manner that protects the confidentiality of 4085
patients and persons who file complaints with the board. The 4086
board shall not make public the names or any other identifying 4087
information about patients or complainants unless proper consent 4088
is given or, in the case of a patient, a waiver of the patient 4089
privilege exists under division (B) of section 2317.02 of the 4090
Revised Code, except that consent or a waiver of that nature is 4091
not required if the board possesses reliable and substantial 4092
evidence that no bona fide physician-patient relationship 4093
exists. 4094

The board may share any information it receives pursuant 4095
to an investigation or inspection, including patient records and 4096

patient record information, with law enforcement agencies, other 4097
licensing boards, and other governmental agencies that are 4098
prosecuting, adjudicating, or investigating alleged violations 4099
of statutes or administrative rules. An agency or board that 4100
receives the information shall comply with the same requirements 4101
regarding confidentiality as those with which the state medical 4102
board must comply, notwithstanding any conflicting provision of 4103
the Revised Code or procedure of the agency or board that 4104
applies when it is dealing with other information in its 4105
possession. In a judicial proceeding, the information may be 4106
admitted into evidence only in accordance with the Rules of 4107
Evidence, but the court shall require that appropriate measures 4108
are taken to ensure that confidentiality is maintained with 4109
respect to any part of the information that contains names or 4110
other identifying information about patients or complainants 4111
whose confidentiality was protected by the state medical board 4112
when the information was in the board's possession. Measures to 4113
ensure confidentiality that may be taken by the court include 4114
sealing its records or deleting specific information from its 4115
records. 4116

No person shall knowingly access, use, or disclose 4117
confidential investigatory information in a manner prohibited by 4118
law. 4119

(6) On a quarterly basis, the board shall prepare a report 4120
that documents the disposition of all cases during the preceding 4121
three months. The report shall contain the following information 4122
for each case with which the board has completed its activities: 4123

(a) The case number assigned to the complaint or alleged 4124
violation; 4125

(b) The type of license or certificate to practice, if 4126

any, held by the individual against whom the complaint is 4127
directed; 4128

(c) A description of the allegations contained in the 4129
complaint; 4130

(d) Whether witnesses were interviewed; 4131

(e) Whether the individual against whom the complaint is 4132
directed is the subject of any pending complaints; 4133

(f) The disposition of the case. 4134

The report shall state how many cases are still pending 4135
and shall be prepared in a manner that protects the identity of 4136
each person involved in each case. The report shall be a public 4137
record under section 149.43 of the Revised Code. 4138

(7) The board may provide a status update regarding an 4139
investigation to a complaint on request if the board verifies 4140
the complainant's identity. 4141

~~(G)~~(G) (1) If either of the following circumstances occur, 4142
the secretary and supervising member ~~determine both of the~~ 4143
~~following, they~~ may recommend that the board suspend an 4144
individual's license or certificate to practice or certificate 4145
to recommend without a prior hearing: 4146

~~(1)~~(a) The secretary and supervising member determine 4147
both of the following: 4148

(i) That there is clear and convincing evidence that an 4149
individual has violated division (B) of this section; 4150

~~(2)~~(ii) That the individual's continued practice presents 4151
a danger of immediate and serious harm to the public. 4152

~~Written~~ (b) The board receives verifiable information that 4153

a licensee has been charged in any state or federal court with a 4154
crime classified as a felony under the charging court's law and 4155
the conduct constitutes a violation of division (B) of this 4156
section. 4157

(2) If a recommendation is made to suspend without a prior 4158
hearing pursuant to division (G)(1) of this section, written 4159
allegations shall be prepared for consideration by the board. 4160
The board, upon review of those allegations and by an 4161
affirmative vote of not fewer than six of its members, excluding 4162
the secretary and supervising member, may suspend a license or 4163
certificate without a prior hearing. A telephone conference call 4164
may be utilized for reviewing the allegations and taking the 4165
vote on the summary suspension. 4166

The board shall issue a written order of suspension by 4167
certified mail or in person in accordance with section 119.07 of 4168
the Revised Code. The order shall not be subject to suspension 4169
by the court during pendency of any appeal filed under section 4170
119.12 of the Revised Code. If the individual subject to the 4171
summary suspension requests an adjudicatory hearing by the 4172
board, the date set for the hearing shall be within fifteen 4173
days, but not earlier than seven days, after the individual 4174
requests the hearing, unless otherwise agreed to by both the 4175
board and the individual. 4176

(3) Any summary suspension imposed under this division 4177
shall remain in effect, unless reversed on appeal, until a final 4178
adjudicative order issued by the board pursuant to this section 4179
and Chapter 119. of the Revised Code becomes effective. The 4180
board shall issue its final adjudicative order within seventy- 4181
five days after completion of its hearing. A failure to issue 4182
the order within seventy-five days shall result in dissolution 4183

of the summary suspension order but shall not invalidate any 4184
subsequent, final adjudicative order. 4185

(H) If the board takes action under division (B) (9), (11), 4186
or (13) of this section and the judicial finding of guilt, 4187
guilty plea, or judicial finding of eligibility for intervention 4188
in lieu of conviction is overturned on appeal, upon exhaustion 4189
of the criminal appeal, a petition for reconsideration of the 4190
order may be filed with the board along with appropriate court 4191
documents. Upon receipt of a petition of that nature and 4192
supporting court documents, the board shall reinstate the 4193
individual's license or certificate to practice. The board may 4194
then hold an adjudication under Chapter 119. of the Revised Code 4195
to determine whether the individual committed the act in 4196
question. Notice of an opportunity for a hearing shall be given 4197
in accordance with Chapter 119. of the Revised Code. If the 4198
board finds, pursuant to an adjudication held under this 4199
division, that the individual committed the act or if no hearing 4200
is requested, the board may order any of the sanctions 4201
identified under division (B) of this section. 4202

(I) The license or certificate to practice issued to an 4203
individual under this chapter and the individual's practice in 4204
this state are automatically suspended as of the date of the 4205
individual's second or subsequent plea of guilty to, or judicial 4206
finding of guilt of, a violation of section 2919.123 or 2919.124 4207
of the Revised Code. In addition, the license or certificate to 4208
practice or certificate to recommend issued to an individual 4209
under this chapter and the individual's practice in this state 4210
are automatically suspended as of the date the individual pleads 4211
guilty to, is found by a judge or jury to be guilty of, or is 4212
subject to a judicial finding of eligibility for intervention in 4213
lieu of conviction in this state or treatment or intervention in 4214

lieu of conviction in another jurisdiction for any of the 4215
following criminal offenses in this state or a substantially 4216
equivalent criminal offense in another jurisdiction: aggravated 4217
murder, murder, voluntary manslaughter, felonious assault, 4218
trafficking in persons, kidnapping, rape, sexual battery, gross 4219
sexual imposition, aggravated arson, aggravated robbery, or 4220
aggravated burglary. Continued practice after suspension shall 4221
be considered practicing without a license or certificate. 4222

The board shall notify the individual subject to the 4223
suspension by certified mail or in person in accordance with 4224
section 119.07 of the Revised Code. If an individual whose 4225
license or certificate is automatically suspended under this 4226
division fails to make a timely request for an adjudication 4227
under Chapter 119. of the Revised Code, the board shall do 4228
whichever of the following is applicable: 4229

(1) If the automatic suspension under this division is for 4230
a second or subsequent plea of guilty to, or judicial finding of 4231
guilt of, a violation of section 2919.123 or 2919.124 of the 4232
Revised Code, the board shall enter an order suspending the 4233
individual's license or certificate to practice for a period of 4234
at least one year or, if determined appropriate by the board, 4235
imposing a more serious sanction involving the individual's 4236
license or certificate to practice. 4237

(2) In all circumstances in which division (I)(1) of this 4238
section does not apply, enter a final order permanently revoking 4239
the individual's license or certificate to practice. 4240

(J) If the board is required by Chapter 119. of the 4241
Revised Code to give notice of an opportunity for a hearing and 4242
if the individual subject to the notice does not timely request 4243
a hearing in accordance with section 119.07 of the Revised Code, 4244

the board is not required to hold a hearing, but may adopt, by 4245
an affirmative vote of not fewer than six of its members, a 4246
final order that contains the board's findings. In that final 4247
order, the board may order any of the sanctions identified under 4248
division (A) or (B) of this section. 4249

(K) Any action taken by the board under division (B) of 4250
this section resulting in a suspension from practice shall be 4251
accompanied by a written statement of the conditions under which 4252
the individual's license or certificate to practice may be 4253
reinstated. The board shall adopt rules governing conditions to 4254
be imposed for reinstatement. Reinstatement of a license or 4255
certificate suspended pursuant to division (B) of this section 4256
requires an affirmative vote of not fewer than six members of 4257
the board. 4258

(L) When the board refuses to grant or issue a license or 4259
certificate to practice to an applicant, revokes an individual's 4260
license or certificate to practice, refuses to renew an 4261
individual's license or certificate to practice, or refuses to 4262
reinstatement an individual's license or certificate to practice, 4263
the board may specify that its action is permanent. An 4264
individual subject to a permanent action taken by the board is 4265
forever thereafter ineligible to hold a license or certificate 4266
to practice and the board shall not accept an application for 4267
reinstatement of the license or certificate or for issuance of a 4268
new license or certificate. 4269

(M) Notwithstanding any other provision of the Revised 4270
Code, all of the following apply: 4271

(1) The surrender of a license or certificate issued under 4272
this chapter shall not be effective unless or until accepted by 4273
the board. A telephone conference call may be utilized for 4274

acceptance of the surrender of an individual's license or 4275
certificate to practice. The telephone conference call shall be 4276
considered a special meeting under division (F) of section 4277
121.22 of the Revised Code. Reinstatement of a license or 4278
certificate surrendered to the board requires an affirmative 4279
vote of not fewer than six members of the board. 4280

(2) An application for a license or certificate made under 4281
the provisions of this chapter may not be withdrawn without 4282
approval of the board. 4283

(3) Failure by an individual to renew a license or 4284
certificate to practice in accordance with this chapter or a 4285
certificate to recommend in accordance with rules adopted under 4286
section 4731.301 of the Revised Code shall not remove or limit 4287
the board's jurisdiction to take any disciplinary action under 4288
this section against the individual. 4289

(4) At the request of the board, a license or certificate 4290
holder shall immediately surrender to the board a license or 4291
certificate that the board has suspended, revoked, or 4292
permanently revoked. 4293

(N) Sanctions shall not be imposed under division (B) (28) 4294
of this section against any person who waives deductibles and 4295
copayments as follows: 4296

(1) In compliance with the health benefit plan that 4297
expressly allows such a practice. Waiver of the deductibles or 4298
copayments shall be made only with the full knowledge and 4299
consent of the plan purchaser, payer, and third-party 4300
administrator. Documentation of the consent shall be made 4301
available to the board upon request. 4302

(2) For professional services rendered to any other person 4303

authorized to practice pursuant to this chapter, to the extent 4304
allowed by this chapter and rules adopted by the board. 4305

(O) Under the board's investigative duties described in 4306
this section and subject to division (F) of this section, the 4307
board shall develop and implement a quality intervention program 4308
designed to improve through remedial education the clinical and 4309
communication skills of individuals authorized under this 4310
chapter to practice medicine and surgery, osteopathic medicine 4311
and surgery, and podiatric medicine and surgery. In developing 4312
and implementing the quality intervention program, the board may 4313
do all of the following: 4314

(1) Offer in appropriate cases as determined by the board 4315
an educational and assessment program pursuant to an 4316
investigation the board conducts under this section; 4317

(2) Select providers of educational and assessment 4318
services, including a quality intervention program panel of case 4319
reviewers; 4320

(3) Make referrals to educational and assessment service 4321
providers and approve individual educational programs 4322
recommended by those providers. The board shall monitor the 4323
progress of each individual undertaking a recommended individual 4324
educational program. 4325

(4) Determine what constitutes successful completion of an 4326
individual educational program and require further monitoring of 4327
the individual who completed the program or other action that 4328
the board determines to be appropriate; 4329

(5) Adopt rules in accordance with Chapter 119. of the 4330
Revised Code to further implement the quality intervention 4331
program. 4332

An individual who participates in an individual 4333
educational program pursuant to this division shall pay the 4334
financial obligations arising from that educational program. 4335

(P) The board shall not refuse to issue a license to an 4336
applicant because of a conviction, plea of guilty, judicial 4337
finding of guilt, judicial finding of eligibility for 4338
intervention in lieu of conviction, or the commission of an act 4339
that constitutes a criminal offense, unless the refusal is in 4340
accordance with section 9.79 of the Revised Code. 4341

(Q) A license or certificate to practice or certificate to 4342
recommend issued to an individual under this chapter and an 4343
individual's practice under this chapter in this state are 4344
automatically suspended if the individual's license or 4345
certificate to practice a health care occupation or provide 4346
health care services is suspended, revoked, or surrendered or 4347
relinquished in lieu of discipline by an agency responsible for 4348
authorizing, certifying, or regulating an individual to practice 4349
a health care occupation or provide health care services in this 4350
state or another jurisdiction. The automatic suspension begins 4351
immediately upon entry of the order by the agency and lasts for 4352
ninety days to permit the board to investigate the basis for the 4353
action under this chapter. Continued practice during the 4354
automatic suspension shall be considered practicing without a 4355
license or certificate. 4356

The board shall notify the individual subject to the 4357
automatic suspension by certified mail or in person in 4358
accordance with section 119.07 of the Revised Code. If an 4359
individual subject to an automatic suspension under this 4360
division fails to make a timely request for an adjudication 4361
under Chapter 119. of the Revised Code, the board is not 4362

required to hold a hearing, but may adopt, by an affirmative 4363
vote of not fewer than six of its members, a final order that 4364
contains the board's findings. In that final order, the board 4365
may order any of the sanctions identified under division (A) or 4366
(B) of this section. 4367

Sec. 4731.224. (A) As used in this section: 4368

(1) "Criminal conduct" means any conduct that would 4369
constitute a felony, a misdemeanor committed in the course of 4370
medical practice, an offense of violence, or a sexually oriented 4371
offense, as defined in section 2950.01 of the Revised Code, 4372
regardless of whether a criminal charge has been filed or the 4373
location in this state where the conduct occurred. 4374

(2) "Sexual misconduct" means conduct that exploits the 4375
licensee-patient relationship in a sexual way, whether verbal or 4376
physical, and may include the expression of thoughts, feelings, 4377
or gestures that are sexual or that reasonably may be construed 4378
by a patient as sexual. Sexual misconduct includes sexual 4379
impropriety, sexual contact, and sexual interaction as defined 4380
by the state medical board in rules adopted in accordance with 4381
Chapter 119. of the Revised Code. 4382

(B)(1) Within ~~sixty~~ thirty days after the imposition of 4383
any formal disciplinary action taken by any health care 4384
facility, including a hospital, health care facility operated by 4385
a health insuring corporation, ambulatory surgical center, or 4386
similar facility, against any individual holding a valid license 4387
or certificate to practice issued pursuant to this chapter, the 4388
chief administrator or executive officer of the facility shall 4389
report to the state medical board the name of the individual, 4390
the action taken by the facility, and a summary of the 4391
underlying facts leading to the action taken. Upon request, the 4392

board shall be provided certified copies of the patient records 4393
that were the basis for the facility's action. Prior to release 4394
to the board, the summary shall be approved by the peer review 4395
committee that reviewed the case or by the governing board of 4396
the facility. As used in this division, "formal disciplinary 4397
action" means any action resulting in the revocation, 4398
restriction, reduction, or termination of clinical privileges 4399
for violations of professional ethics, or for reasons of medical 4400
incompetence or medical malpractice. "Formal disciplinary 4401
action" includes a summary action, an action that takes effect 4402
notwithstanding any appeal rights that may exist, and an action 4403
that results in an individual surrendering clinical privileges 4404
while under investigation and during proceedings regarding the 4405
action being taken or in return for not being investigated or 4406
having proceedings held. "Formal disciplinary action" does not 4407
include any action taken for the sole reason of failure to 4408
maintain records on a timely basis or failure to attend staff or 4409
section meetings. 4410

The filing or nonfiling of a report with the board, 4411
investigation by the board, or any disciplinary action taken by 4412
the board, shall not preclude any action by a health care 4413
facility to suspend, restrict, or revoke the individual's 4414
clinical privileges. 4415

In the absence of fraud or bad faith, no individual or 4416
entity that provides patient records to the board shall be 4417
liable in damages to any person as a result of providing the 4418
records. 4419

(2) Within thirty days after commencing an investigation 4420
regarding criminal conduct or sexual misconduct against any 4421
individual holding a valid license or certificate to practice 4422

issued pursuant to this chapter, a health care facility, 4423
including a hospital, health care facility operated by a health 4424
insuring corporation, ambulatory surgical center, or similar 4425
facility, shall report to the board the name of the individual 4426
and a summary of the underlying facts related to the 4427
investigation being commenced. 4428

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 4429
of this section and subject to division (C) (3) of this section, 4430
if any individual authorized to practice under this chapter or 4431
any professional association or society of such individuals 4432
believes that a violation of any provision of this chapter, 4433
Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of 4434
the Revised Code, or any rule of the board has occurred, the 4435
individual, association, or society shall report to the board 4436
the information upon which the belief is based. 4437

(2) If any individual authorized to practice under this 4438
chapter or any professional association or society of such 4439
individuals believes that a violation of division (B) (26) of 4440
section 4731.22 of the Revised Code has occurred, the 4441
individual, association, or society shall report the information 4442
upon which the belief is based to the monitoring organization 4443
conducting the program established by the board under section 4444
4731.251 of the Revised Code. If any such report is made to the 4445
board, it shall be referred to the monitoring organization 4446
unless the board is aware that the individual who is the subject 4447
of the report does not meet the program eligibility requirements 4448
of section 4731.252 of the Revised Code. 4449

(3) If any individual authorized to practice under this 4450
chapter or any professional association or society of such 4451
individuals knows or has reasonable cause to suspect based on 4452

facts that would cause a reasonable person in a similar position 4453
to suspect that an individual authorized to practice under this 4454
chapter has committed or participated in criminal conduct or 4455
sexual misconduct the information upon which the belief is based 4456
shall be reported to the board within thirty days. 4457

(4) In addition to the self-reporting of criminal offenses 4458
that is required for license renewal, an individual authorized 4459
to practice under this chapter shall report to the board 4460
criminal charges regarding criminal conduct, sexual misconduct, 4461
or any conduct involving the use of a motor vehicle while under 4462
the influence of alcohol or drugs, including offenses that are 4463
equivalent offenses under division (A) of section 4511.181 of 4464
the Revised Code, violations of division (D) of section 4511.194 4465
of the Revised Code, and violations of division (C) of section 4466
4511.79 of the Revised Code. Reports under this division shall 4467
be made within thirty days of the criminal charge being filed. 4468

~~(C)~~ (D) Any professional association or society composed 4469
primarily of doctors of medicine and surgery, doctors of 4470
osteopathic medicine and surgery, doctors of podiatric medicine 4471
and surgery, or practitioners of limited branches of medicine 4472
that suspends or revokes an individual's membership for 4473
violations of professional ethics, or for reasons of 4474
professional incompetence or professional malpractice, within 4475
~~sixty~~ thirty days after a final decision shall report to the 4476
board, on forms prescribed and provided by the board, the name 4477
of the individual, the action taken by the professional 4478
organization, and a summary of the underlying facts leading to 4479
the action taken. 4480

The filing of a report with the board or decision not to 4481
file a report, investigation by the board, or any disciplinary 4482

action taken by the board, does not preclude a professional 4483
organization from taking disciplinary action against an 4484
individual. 4485

~~(D)~~ (E) Any insurer providing professional liability 4486
insurance to an individual authorized to practice under this 4487
chapter, or any other entity that seeks to indemnify the 4488
professional liability of such an individual, shall notify the 4489
board within thirty days after the final disposition of any 4490
written claim for damages where such disposition results in a 4491
payment exceeding twenty-five thousand dollars. The notice shall 4492
contain the following information: 4493

(1) The name and address of the person submitting the 4494
notification; 4495

(2) The name and address of the insured who is the subject 4496
of the claim; 4497

(3) The name of the person filing the written claim; 4498

(4) The date of final disposition; 4499

(5) If applicable, the identity of the court in which the 4500
final disposition of the claim took place. 4501

~~(E)~~ (F) The board may investigate possible violations of 4502
this chapter or the rules adopted under it that are brought to 4503
its attention as a result of the reporting requirements of this 4504
section, except that the board shall conduct an investigation if 4505
a possible violation involves repeated malpractice. As used in 4506
this division, "repeated malpractice" means three or more claims 4507
for medical malpractice within the previous five-year period, 4508
each resulting in a judgment or settlement in excess of twenty- 4509
five thousand dollars in favor of the claimant, and each 4510
involving negligent conduct by the practicing individual. 4511

~~(F)-(G)~~ All summaries, reports, and records received and 4512
maintained by the board pursuant to this section shall be held 4513
~~in confidence and shall not be subject to discovery or~~ 4514
~~introduction in evidence in any federal or state civil action~~ 4515
~~involving a health care professional or facility arising out of~~ 4516
~~matters that are the subject of the reporting required by this~~ 4517
~~section. The board may use the information obtained only as the~~ 4518
~~basis for an investigation, as evidence in a disciplinary~~ 4519
~~hearing against an individual whose practice is regulated under~~ 4520
~~this chapter, or in any subsequent trial or appeal of a board~~ 4521
~~action or order.~~ 4522

~~The board may disclose the summaries and reports it~~ 4523
~~receives under this section only to health care facility~~ 4524
~~committees within or outside this state that are involved in~~ 4525
~~credentialing or recredentialing the individual or in reviewing~~ 4526
~~the individual's clinical privileges. The board shall indicate~~ 4527
~~whether or not the information has been verified. Information~~ 4528
~~transmitted by the board shall be subject to the same~~ 4529
~~confidentiality provisions as when maintained by the~~ 4530
~~board~~confidential pursuant to division (F)(5) of section 4731.22 4531
of the Revised Code. 4532

~~(G)-(H)~~ Except for reports filed by an individual pursuant 4533
to division ~~(B)(B)(2)~~ (C) of this section, the board shall 4534
send a copy of any reports or summaries it receives pursuant to 4535
this section to the individual who is the subject of the reports 4536
or summaries. The individual shall have the right to file a 4537
statement with the board concerning the correctness or relevance 4538
of the information. The statement shall at all times accompany 4539
that part of the record in contention. 4540

~~(H)-(I)~~ An individual or entity that, pursuant to this 4541

section, reports to the board, reports to the monitoring 4542
organization described in section 4731.251 of the Revised Code, 4543
or refers an impaired practitioner to a treatment provider 4544
approved by the board under section 4731.25 of the Revised Code 4545
shall not be subject to suit for civil damages as a result of 4546
the report, referral, or provision of the information. 4547

~~(I)~~ (J) In the absence of fraud or bad faith, no 4548
professional association or society of individuals authorized to 4549
practice under this chapter that sponsors a committee or program 4550
to provide peer assistance to practitioners with substance abuse 4551
problems, no representative or agent of such a committee or 4552
program, no representative or agent of the monitoring 4553
organization described in section 4731.251 of the Revised Code, 4554
and no member of the state medical board shall be held liable in 4555
damages to any person by reason of actions taken to refer a 4556
practitioner to a treatment provider approved under section 4557
4731.25 of the Revised Code for examination or treatment. 4558

Sec. 4731.2210. (A) As used in this section: 4559

(1) "Key third party" means an individual closely involved 4560
in a patient's decision-making regarding health care services, 4561
including a patient's spouse or partner, parents, children, 4562
siblings, or guardians. An individual's status as a key third 4563
party ceases upon termination of a practitioner-patient 4564
relationship or termination of the relationship between a 4565
patient and the individual. 4566

(2) "Practitioner" means any of the following: 4567

(a) An individual authorized under this chapter to 4568
practice medicine and surgery, osteopathic medicine and surgery, 4569
podiatric medicine and surgery, or a limited branch of medicine; 4570

<u>(b) An individual licensed under Chapter 4730. of the</u>	4571
<u>Revised Code to practice as a physician assistant;</u>	4572
<u>(c) An individual authorized under Chapter 4759. of the</u>	4573
<u>Revised Code to practice as a dietitian;</u>	4574
<u>(d) An individual authorized under Chapter 4760. of the</u>	4575
<u>Revised Code to practice as an anesthesiologist assistant;</u>	4576
<u>(e) An individual authorized under Chapter 4761. of the</u>	4577
<u>Revised Code to practice respiratory care;</u>	4578
<u>(f) An individual authorized under Chapter 4762. of the</u>	4579
<u>Revised Code to practice as an acupuncturist or oriental</u>	4580
<u>medicine practitioner;</u>	4581
<u>(g) An individual authorized under Chapter 4774. of the</u>	4582
<u>Revised Code to practice as a radiologist assistant;</u>	4583
<u>(h) An individual licensed under Chapter 4778. of the</u>	4584
<u>Revised Code to practice as a genetic counselor.</u>	4585
<u>(3) "Sexual misconduct" has the same meaning as in section</u>	4586
<u>4731.224 of the Revised Code.</u>	4587
<u>(B) Except as provided in division (D) of this section,</u>	4588
<u>each practitioner that is subject to a probationary order of the</u>	4589
<u>state medical board that is made on or after the effective date</u>	4590
<u>of this section and that involves a circumstance described in</u>	4591
<u>division (C) of this section shall provide to each patient, or</u>	4592
<u>to the patient's guardian or a key third party, a written</u>	4593
<u>disclosure signed by the practitioner that includes all of the</u>	4594
<u>following:</u>	4595
<u>(1) The practitioner's probation status;</u>	4596
<u>(2) The total length of the probation;</u>	4597

- (3) The probation end date; 4598
- (4) Practice restrictions placed on the practitioner by 4599
the board; 4600
- (5) The board's telephone number; 4601
- (6) An explanation of how the patient can find additional 4602
information regarding the probation on the practitioner's 4603
profile page on the board's internet web site. 4604
- The written disclosure shall be provided before the 4605
patient's first visit following the probationary order of the 4606
board. The practitioner shall obtain a copy of the disclosure 4607
signed by the patient, or the patient's guardian or a key third 4608
party, and maintain the signed copy in the patient's medical 4609
record. The signed copy shall be made available to the board 4610
immediately upon request. 4611
- (C) The written disclosure required by division (B) of 4612
this section applies in both of the following circumstances: 4613
- (1) Issuance by the board of a final order, final 4614
adjudicative order under Chapter 119. of the Revised Code, or a 4615
consent agreement that is ratified by an affirmative vote of not 4616
fewer than six members of the board establishing any of the 4617
following: 4618
- (a) Commission of any act of sexual misconduct with a 4619
patient or key third party; 4620
- (b) Drug or alcohol abuse directly resulting in patient 4621
harm, or that impairs the ability of the practitioner to 4622
practice safely; 4623
- (c) Criminal conviction directly resulting in harm to 4624
patient health; 4625

(d) Inappropriate prescribing directly resulting in 4626
patient harm. 4627

(2) A statement of issues alleged that the practitioner 4628
committed any of the acts described in divisions (C) (1) (a) 4629
through (d) and, notwithstanding a lack of admission of guilt, a 4630
consent agreement ratified by an affirmative vote of not fewer 4631
than six members of the board includes express acknowledgement 4632
that the disclosure requirements of this section would serve to 4633
protect the public interest. 4634

(D) Written disclosure as described in this section is not 4635
required in the following circumstances: 4636

(1) The patient is unconscious or otherwise unable to 4637
comprehend the disclosure and sign it, and a guardian or a key 4638
third party is unavailable to comprehend and sign it; 4639

(2) The direct patient interaction occurs in an emergency 4640
department or otherwise occurs as an immediate result of a 4641
medical emergency; 4642

(3) The practitioner does not have a direct treatment 4643
relationship with the patient and does not have direct contact 4644
or direct communication with the patient. 4645

(E) The board shall provide the following information 4646
regarding practitioners on probation and those practicing under 4647
probationary status, in plain view on a practitioner's profile 4648
page on the board's internet web site: 4649

(1) Formal action documents detailing the citation, 4650
reports and recommendations, board order, and consent agreement; 4651

(2) The length of the probation and the end date; 4652

(3) Practice restrictions placed on the practitioner by 4653

the board. 4654

(F) The board shall provide a sample probation disclosure 4655
letter on its internet web site to be used by practitioners to 4656
comply with this section. 4657

Sec. 4731.251. (A) As used in this section and in sections 4658
4731.252 to 4731.254 of the Revised Code: 4659

(1) "Applicant" means an individual who has applied under 4660
Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4661
4778. of the Revised Code for a license, training or other 4662
certificate, limited permit, or other authority to practice as 4663
any one of the following practitioners: a physician assistant, 4664
physician, podiatrist, limited branch of medicine practitioner, 4665
dietitian, anesthesiologist assistant, respiratory care 4666
professional, acupuncturist, radiologist assistant, or genetic 4667
counselor. "Applicant" may include an individual who has been 4668
granted authority by the state medical board to practice as one 4669
type of practitioner, but has applied for authority to practice 4670
as another type of practitioner. 4671

(2) "Impaired" or "impairment" has the same meaning as in 4672
division (B) (5) of section 4730.25, division (B) (26) of section 4673
4731.22, division (A) (18) of section 4759.07, division (B) (6) of 4674
section 4760.13, division (A) (18) of section 4761.09, division 4675
(B) (6) of section 4762.13, division (B) (6) of section 4774.13, 4676
or division (B) (6) of section 4778.14 of the Revised Code. 4677

(3) "Practitioner" means any of the following: 4678

(a) An individual authorized under this chapter to 4679
practice medicine and surgery, osteopathic medicine and surgery, 4680
podiatric medicine and surgery, or a limited branch of medicine; 4681

(b) An individual licensed under Chapter 4730. of the 4682

Revised Code to practice as a physician assistant;	4683
(c) An individual authorized under Chapter 4759. of the Revised Code to practice as a dietitian;	4684
(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;	4685
(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;	4686
(f) An individual authorized under Chapter 4762. of the Revised Code to practice as an acupuncturist;	4687
(g) An individual authorized under Chapter 4774. of the Revised Code to practice as a radiologist assistant;	4688
(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.	4689
(B) The state medical board shall establish a confidential program for the treatment of impaired practitioners and applicants, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services.	4690
To be qualified to contract with the board under this section, an organization must meet all of the following requirements:	4691
(1) Be sponsored by one or more professional associations or societies of practitioners;	4692
(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;	4693
(3) Contract with or employ to serve as the organization's	4694

medical director an individual who is authorized under this 4710
chapter to practice medicine and surgery or osteopathic medicine 4711
and surgery and specializes or has training and expertise in 4712
addiction medicine; 4713

(4) Contract with or employ one or more of the following 4714
as necessary for the organization's operation: 4715

(a) An individual licensed under Chapter 4758. of the 4716
Revised Code as an independent chemical dependency counselor- 4717
clinical supervisor, independent chemical dependency counselor, 4718
chemical dependency counselor III, or chemical dependency 4719
counselor II; 4720

(b) An individual licensed under Chapter 4757. of the 4721
Revised Code as an independent social worker, social worker, 4722
licensed professional clinical counselor, or licensed 4723
professional counselor; 4724

(c) An individual licensed under Chapter 4732. of the 4725
Revised Code as a psychologist. 4726

(C) The monitoring organization shall do all of the 4727
following pursuant to the contract: 4728

(1) Receive any report of suspected practitioner 4729
impairment, including a report made under division ~~(B) (2)~~ (C) (2) 4730
of section 4730.32, division ~~(B) (2)~~ (C) (2) of section 4731.224, 4731
section 4759.13, division ~~(B) (2)~~ (C) (2) of section 4760.16, 4732
section 4761.19, division ~~(B) (2)~~ (C) (2) of section 4762.16, 4733
division ~~(B) (2)~~ (C) (2) of section 4774.16, or section 4778.17 of 4734
the Revised Code; 4735

(2) Notify a practitioner who is the subject of a report 4736
received under division (C) (1) of this section that the report 4737
has been made and that the practitioner may be eligible to 4738

participate in the program conducted under this section; 4739

(3) Receive from the board a referral regarding an 4740
applicant, as described in section 4731.253 of the Revised Code; 4741

(4) Evaluate the records of an applicant who is the 4742
subject of a referral received under division (C) (3) of this 4743
section, in particular records from another jurisdiction 4744
regarding the applicant's prior treatment for impairment or 4745
current monitoring; 4746

(5) Determine whether a practitioner reported or applicant 4747
referred to the monitoring organization is eligible to 4748
participate in the program and notify the practitioner or 4749
applicant of the determination; 4750

(6) In the case of a practitioner reported by a treatment 4751
provider, notify the treatment provider of the eligibility 4752
determination; 4753

(7) Report to the board any practitioner or applicant who 4754
is determined ineligible to participate in the program; 4755

(8) Refer an eligible practitioner who chooses to 4756
participate in the program for evaluation by a treatment 4757
provider approved by the board under section 4731.25 of the 4758
Revised Code, unless the report received by the monitoring 4759
organization was made by an approved treatment provider and the 4760
practitioner has already been evaluated by the treatment 4761
provider; 4762

(9) Monitor the evaluation of an eligible practitioner; 4763

(10) Refer an eligible practitioner who chooses to 4764
participate in the program to a treatment provider approved by 4765
the board under section 4731.25 of the Revised Code; 4766

(11) Establish, in consultation with the treatment 4767
provider to which a practitioner is referred, the terms and 4768
conditions with which the practitioner must comply for continued 4769
participation in and successful completion of the program; 4770

(12) Report to the board any practitioner who does not 4771
complete evaluation or treatment or does not comply with any of 4772
the terms and conditions established by the monitoring 4773
organization and the treatment provider; 4774

(13) Perform any other activities specified in the 4775
contract with the board or that the monitoring organization 4776
considers necessary to comply with this section and sections 4777
4731.252 to 4731.254 of the Revised Code. 4778

(D) The monitoring organization shall not disclose to the 4779
board the name of a practitioner or applicant or any records 4780
relating to a practitioner or applicant, unless any of the 4781
following occurs: 4782

(1) The practitioner or applicant is determined to be 4783
ineligible to participate in the program. 4784

(2) The practitioner or applicant requests the disclosure. 4785

(3) The practitioner or applicant is unwilling or unable 4786
to complete or comply with any part of the program, including 4787
evaluation, treatment, or monitoring. 4788

(4) The practitioner or applicant presents an imminent 4789
danger to the public or to the practitioner, as a result of the 4790
practitioner's or applicant's impairment. 4791

(5) The practitioner has relapsed or the practitioner's 4792
impairment has not been substantially alleviated by 4793
participation in the program. 4794

(E) (1) The monitoring organization shall develop	4795
procedures governing each of the following:	4796
(a) Receiving reports of practitioner impairment;	4797
(b) Notifying practitioners of reports and eligibility	4798
determinations;	4799
(c) Receiving applicant referrals as described in section	4800
4731.253 of the Revised Code;	4801
(d) Evaluating records of referred applicants, in	4802
particular records from other jurisdictions regarding prior	4803
treatment for impairment or continued monitoring;	4804
(e) Notifying applicants of eligibility determinations;	4805
(f) Referring eligible practitioners for evaluation or	4806
treatment;	4807
(g) Establishing individualized treatment plans for	4808
eligible practitioners, as recommended by treatment providers;	4809
(h) Establishing individualized terms and conditions with	4810
which eligible practitioners or applicants must comply for	4811
continued participation in and successful completion of the	4812
program.	4813
(2) The monitoring organization, in consultation with the	4814
board, shall develop procedures governing each of the following:	4815
(a) Providing reports to the board on a periodic basis on	4816
the total number of practitioners or applicants participating in	4817
the program, without disclosing the names or records of any	4818
program participants other than those about whom reports are	4819
required by this section;	4820
(b) Reporting to the board any practitioner or applicant	4821

who due to impairment presents an imminent danger to the public 4822
or to the practitioner or applicant; 4823

(c) Reporting to the board any practitioner or applicant 4824
who is unwilling or unable to complete or comply with any part 4825
of the program, including evaluation, treatment, or monitoring; 4826

(d) Reporting to the board any practitioner or applicant 4827
whose impairment was not substantially alleviated by 4828
participation in the program or who has relapsed. 4829

(F) The board may adopt any rules it considers necessary 4830
to implement this section and sections 4731.252 to 4731.254 of 4831
the Revised Code, including rules regarding the monitoring 4832
organization and treatment providers that provide treatment to 4833
practitioners referred by the monitoring organization. Any such 4834
rules shall be adopted in accordance with Chapter 119. of the 4835
Revised Code. 4836

Sec. 4731.99. (A) Whoever violates section 4731.41, 4837
4731.43, or 4731.60 of the Revised Code is guilty of a felony of 4838
the fifth degree on a first offense and a felony of the fourth 4839
degree on each subsequent offense. 4840

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 4841
of the Revised Code is guilty of a misdemeanor of the fourth 4842
degree on a first offense and a misdemeanor of the first degree 4843
on each subsequent offense. 4844

(C) Whoever violates section 4731.46 or 4731.47 of the 4845
Revised Code is guilty of a felony of the fifth degree. 4846

(D) Whoever violates section 4731.48 of the Revised Code 4847
is guilty of a misdemeanor of the fourth degree. 4848

~~(E)~~ (E) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 4849

(1), ~~or (C) (2), (D), or (E)~~ of section 4731.224 of the Revised Code is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B) (2) or (C) (3) of section 4731.224 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(F) Whoever violates section 4731.481 of the Revised Code is guilty of a misdemeanor of the first degree.

(G) Whoever violates division (F) (5) of section 4731.22 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Sec. 4759.05. (A) The state medical board shall adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:

(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration or any other examination;

(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least

equivalent to the requirements adopted by the commission on dietetic registration;	4879 4880
(4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;	4881 4882 4883 4884
(5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.	4885 4886 4887 4888 4889 4890 4891 4892
(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;	4893 4894 4895 4896
(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics;	4897 4898 4899 4900
(8) Formulation of an application form for licensure or license renewal;	4901 4902
(9) Procedures for license renewal;	4903
(10) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.	4904 4905
(B) (1) The board shall investigate evidence that appears	4906

to show that a person has violated any provision of this chapter 4907
or any rule adopted under it. Any person may report to the board 4908
in a signed writing any information that the person may have 4909
that appears to show a violation of any provision of this 4910
chapter or any rule adopted under it. In the absence of bad 4911
faith, any person who reports information of that nature or who 4912
testifies before the board in any adjudication conducted under 4913
Chapter 119. of the Revised Code shall not be liable in damages 4914
in a civil action as a result of the report or testimony. Each 4915
complaint or allegation of a violation received by the board 4916
shall be assigned a case number and shall be recorded by the 4917
board. 4918

(2) Investigations of alleged violations of this chapter 4919
or any rule adopted under it shall be supervised by the 4920
supervising member elected by the board in accordance with 4921
section 4731.02 of the Revised Code and by the secretary as 4922
provided in section 4759.012 of the Revised Code. The president 4923
may designate another member of the board to supervise the 4924
investigation in place of the supervising member. Upon a vote of 4925
the majority of the board to authorize the addition of a 4926
consumer member in the supervision of any part of any 4927
investigation, the president shall designate a consumer member 4928
for supervision of investigations as determined by the 4929
president. The authorization of consumer member participation in 4930
investigation supervision may be rescinded by a majority vote of 4931
the board. No member of the board who supervises the 4932
investigation of a case shall participate in further 4933
adjudication of the case. 4934

(3) In investigating a possible violation of this chapter 4935
or any rule adopted under this chapter, the board may issue 4936
subpoenas, question witnesses, conduct interviews, administer 4937

oaths, order the taking of depositions, inspect and copy any 4938
books, accounts, papers, records, or documents, and compel the 4939
attendance of witnesses and the production of books, accounts, 4940
papers, records, documents, and testimony, except that a 4941
subpoena for patient record information or information, 4942
documents, and records from a peer review committee of a health 4943
care entity related to sexual misconduct or criminal conduct 4944
shall not be issued without consultation with the attorney 4945
general's office and approval of the secretary and supervising 4946
member of the board. 4947

Before issuance of a subpoena for patient record 4948
information or information, documents, and records from a peer 4949
review committee of a health care entity related to sexual 4950
misconduct or criminal conduct, the secretary and supervising 4951
member shall determine whether there is probable cause to 4952
believe that the complaint filed alleges a violation of this 4953
chapter or any rule adopted under it and that the records sought 4954
are relevant to the alleged violation and material to the 4955
investigation. The subpoena may apply only to records that cover 4956
a reasonable period of time surrounding the alleged violation. 4957

On failure to comply with any subpoena issued by the board 4958
and after reasonable notice to the person being subpoenaed, the 4959
board may move for an order compelling the production of persons 4960
or records pursuant to the Rules of Civil Procedure. 4961

A subpoena issued by the board may be served by a sheriff, 4962
the sheriff's deputy, or a board employee or agent designated by 4963
the board. Service of a subpoena issued by the board may be made 4964
by delivering a copy of the subpoena to the person named 4965
therein, reading it to the person, or leaving it at the person's 4966
usual place of residence, usual place of business, or address on 4967

file with the board. When serving a subpoena to an applicant for 4968
or the holder of a license or limited permit issued under this 4969
chapter, service of the subpoena may be made by certified mail, 4970
return receipt requested, and the subpoena shall be deemed 4971
served on the date delivery is made or the date the person 4972
refuses to accept delivery. If the person being served refuses 4973
to accept the subpoena or is not located, service may be made to 4974
an attorney who notifies the board that the attorney is 4975
representing the person. 4976

A sheriff's deputy who serves a subpoena shall receive the 4977
same fees as a sheriff. Each witness who appears before the 4978
board in obedience to a subpoena shall receive the fees and 4979
mileage provided for under section 119.094 of the Revised Code. 4980

(4) All ~~For purposes of section 2305.252 of the Revised~~ 4981
Code, all hearings, investigations, and inspections of the board 4982
shall be considered civil actions ~~for the purposes of section~~ 4983
2305.252 of the Revised Code, except those involving allegations 4984
of sexual misconduct or criminal conduct, as defined in that 4985
section. 4986

(5) A report required to be submitted to the board under 4987
this chapter, a complaint, or information received by the board 4988
pursuant to an investigation is confidential and not subject to 4989
discovery in any civil action. 4990

The board shall conduct all investigations or inspections 4991
and proceedings in a manner that protects the confidentiality of 4992
patients and persons who file complaints with the board. The 4993
board shall not make public the names or any other identifying 4994
information about patients or complainants unless proper consent 4995
is given. 4996

The board may share any information it receives pursuant 4997
to an investigation or inspection, including patient records and 4998
patient record information, with law enforcement agencies, other 4999
licensing boards, and other governmental agencies that are 5000
prosecuting, adjudicating, or investigating alleged violations 5001
of statutes or administrative rules. An agency or board that 5002
receives the information shall comply with the same requirements 5003
regarding confidentiality as those with which the state medical 5004
board must comply, notwithstanding any conflicting provision of 5005
the Revised Code or procedure of the agency or board that 5006
applies when it is dealing with other information in its 5007
possession. In a judicial proceeding, the information may be 5008
admitted into evidence only in accordance with the Rules of 5009
Evidence, but the court shall require that appropriate measures 5010
are taken to ensure that confidentiality is maintained with 5011
respect to any part of the information that contains names or 5012
other identifying information about patients or complainants 5013
whose confidentiality was protected by the state medical board 5014
when the information was in the board's possession. Measures to 5015
ensure confidentiality that may be taken by the court include 5016
sealing its records or deleting specific information from its 5017
records. 5018

No person shall knowingly access, use, or disclose 5019
confidential investigatory information in a manner prohibited by 5020
law. 5021

(6) On a quarterly basis, the board shall prepare a report 5022
that documents the disposition of all cases during the preceding 5023
three months. The report shall contain the following information 5024
for each case with which the board has completed its activities: 5025

(a) The case number assigned to the complaint or alleged 5026

violation;	5027
(b) The type of license, if any, held by the individual against whom the complaint is directed;	5028 5029
(c) A description of the allegations contained in the complaint;	5030 5031
(d) <u>Whether witnesses were interviewed;</u>	5032
<u>(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;</u>	5033 5034
<u>(f) The disposition of the case.</u>	5035
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.	5036 5037 5038 5039
<u>(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.</u>	5040 5041 5042
(C) The board shall keep records as are necessary to carry out the provisions of this chapter.	5043 5044
(D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.	5045 5046 5047
Sec. 4759.07. (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited	5048 5049 5050 5051 5052 5053

permit, refuse to reinstate a license or limited permit, or 5054
reprimand or place on probation the holder of a license or 5055
limited permit for one or more of the following reasons: 5056

(1) Except when civil penalties are imposed under section 5057
4759.071 of the Revised Code, violating or attempting to 5058
violate, directly or indirectly, or assisting in or abetting the 5059
violation of, or conspiring to violate, any provision of this 5060
chapter or the rules adopted by the board; 5061

(2) Making a false, fraudulent, deceptive, or misleading 5062
statement in the solicitation of or advertising for patients; in 5063
relation to the practice of dietetics; or in securing or 5064
attempting to secure any license or permit issued by the board 5065
under this chapter. 5066

As used in division (A)(2) of this section, "false, 5067
fraudulent, deceptive, or misleading statement" means a 5068
statement that includes a misrepresentation of fact, is likely 5069
to mislead or deceive because of a failure to disclose material 5070
facts, is intended or is likely to create false or unjustified 5071
expectations of favorable results, or includes representations 5072
or implications that in reasonable probability will cause an 5073
ordinarily prudent person to misunderstand or be deceived. 5074

(3) Committing fraud during the administration of the 5075
examination for a license to practice or committing fraud, 5076
misrepresentation, or deception in applying for, renewing, or 5077
securing any license or permit issued by the board; 5078

(4) A plea of guilty to, a judicial finding of guilt of, 5079
or a judicial finding of eligibility for intervention in lieu of 5080
conviction for, a felony; 5081

(5) Commission of an act that constitutes a felony in this 5082

state, regardless of the jurisdiction in which the act was 5083
committed; 5084

(6) A plea of guilty to, a judicial finding of guilt of, 5085
or a judicial finding of eligibility for intervention in lieu of 5086
conviction for, a misdemeanor committed in the course of 5087
practice; 5088

(7) Commission of an act in the course of practice that 5089
constitutes a misdemeanor in this state, regardless of the 5090
jurisdiction in which the act was committed; 5091

(8) A plea of guilty to, a judicial finding of guilt of, 5092
or a judicial finding of eligibility for intervention in lieu of 5093
conviction for, a misdemeanor involving moral turpitude; 5094

(9) Commission of an act involving moral turpitude that 5095
constitutes a misdemeanor in this state, regardless of the 5096
jurisdiction in which the act was committed; 5097

(10) A record of engaging in incompetent or negligent 5098
conduct in the practice of dietetics; 5099

(11) A departure from, or failure to conform to, minimal 5100
standards of care of similar practitioners under the same or 5101
similar circumstances, whether or not actual injury to a patient 5102
is established; 5103

(12) The obtaining of, or attempting to obtain, money or 5104
anything of value by fraudulent misrepresentations in the course 5105
of practice; 5106

(13) Violation of the conditions of limitation placed by 5107
the board on a license or permit; 5108

(14) Inability to practice according to acceptable and 5109
prevailing standards of care by reason of mental illness or 5110

physical illness, including, physical deterioration that 5111
adversely affects cognitive, motor, or perceptive skills; 5112

(15) Any of the following actions taken by an agency 5113
responsible for authorizing, certifying, or regulating an 5114
individual to practice a health care occupation or provide 5115
health care services in this state or another jurisdiction, for 5116
any reason other than the nonpayment of fees: the limitation, 5117
revocation, or suspension of an individual's license; acceptance 5118
of an individual's license surrender; denial of a license; 5119
refusal to renew or reinstate a license; imposition of 5120
probation; or issuance of an order of censure or other 5121
reprimand; 5122

(16) The revocation, suspension, restriction, reduction, 5123
or termination of practice privileges by the United States 5124
department of defense or department of veterans affairs; 5125

(17) Termination or suspension from participation in the 5126
medicare or medicaid programs by the department of health and 5127
human services or other responsible agency for any act or acts 5128
that also would constitute a violation of division (A) (11), 5129
(12), or (14) of this section; 5130

(18) Impairment of ability to practice according to 5131
acceptable and prevailing standards of care because of habitual 5132
or excessive use or abuse of drugs, alcohol, or other substances 5133
that impair ability to practice; 5134

(19) Failure to cooperate in an investigation conducted by 5135
the board under division (B) of section 4759.05 of the Revised 5136
Code, including failure to comply with a subpoena or order 5137
issued by the board or failure to answer truthfully a question 5138
presented by the board in an investigative interview, an 5139

investigative office conference, at a deposition, or in written 5140
interrogatories, except that failure to cooperate with an 5141
investigation shall not constitute grounds for discipline under 5142
this section if a court of competent jurisdiction has issued an 5143
order that either quashes a subpoena or permits the individual 5144
to withhold the testimony or evidence in issue; 5145

(20) Representing with the purpose of obtaining 5146
compensation or other advantage as personal gain or for any 5147
other person, that an incurable disease or injury, or other 5148
incurable condition, can be permanently cured. 5149

(B) The board shall not refuse to issue a license or 5150
limited permit to an applicant because of a plea of guilty to, a 5151
judicial finding of guilt of, or a judicial finding of 5152
eligibility for intervention in lieu of conviction for an 5153
offense unless the refusal is in accordance with section 9.79 of 5154
the Revised Code. 5155

(C) Any action taken by the board under division (A) of 5156
this section resulting in a suspension from practice shall be 5157
accompanied by a written statement of the conditions under which 5158
the individual's license or permit may be reinstated. The board 5159
shall adopt rules governing conditions to be imposed for 5160
reinstatement. Reinstatement of a license or permit suspended 5161
pursuant to division (A) of this section requires an affirmative 5162
vote of not fewer than six members of the board. 5163

(D) When the board refuses to grant or issue a license or 5164
permit to an applicant, revokes an individual's license or 5165
permit, refuses to renew an individual's license or permit, or 5166
refuses to reinstate an individual's license or permit, the 5167
board may specify that its action is permanent. An individual 5168
subject to a permanent action taken by the board is forever 5169

thereafter ineligible to hold a license or permit and the board 5170
shall not accept an application for reinstatement of the license 5171
or permit or for issuance of a new license or permit. 5172

(E) Disciplinary actions taken by the board under division 5173
(A) of this section shall be taken pursuant to an adjudication 5174
under Chapter 119. of the Revised Code, except that in lieu of 5175
an adjudication, the board may enter into a consent agreement 5176
with an individual to resolve an allegation of a violation of 5177
this chapter or any rule adopted under it. A consent agreement, 5178
when ratified by an affirmative vote of not fewer than six 5179
members of the board, shall constitute the findings and order of 5180
the board with respect to the matter addressed in the agreement. 5181
If the board refuses to ratify a consent agreement, the 5182
admissions and findings contained in the consent agreement shall 5183
be of no force or effect. 5184

A telephone conference call may be utilized for 5185
ratification of a consent agreement that revokes or suspends an 5186
individual's license or permit. The telephone conference call 5187
shall be considered a special meeting under division (F) of 5188
section 121.22 of the Revised Code. 5189

(F) In enforcing division (A)(14) of this section, the 5190
board, upon a showing of a possible violation, may compel any 5191
individual authorized to practice by this chapter or who has 5192
submitted an application pursuant to this chapter to submit to a 5193
mental examination, physical examination, including an HIV test, 5194
or both a mental and a physical examination. The expense of the 5195
examination is the responsibility of the individual compelled to 5196
be examined. Failure to submit to a mental or physical 5197
examination or consent to an HIV test ordered by the board 5198
constitutes an admission of the allegations against the 5199

individual unless the failure is due to circumstances beyond the 5200
individual's control, and a default and final order may be 5201
entered without the taking of testimony or presentation of 5202
evidence. If the board finds an individual unable to practice 5203
because of the reasons set forth in division (A)(14) of this 5204
section, the board shall require the individual to submit to 5205
care, counseling, or treatment by physicians approved or 5206
designated by the board, as a condition for initial, continued, 5207
reinstated, or renewed authority to practice. An individual 5208
affected under this division shall be afforded an opportunity to 5209
demonstrate to the board the ability to resume practice in 5210
compliance with acceptable and prevailing standards under the 5211
provisions of the individual's license or permit. For the 5212
purpose of division (A)(14) of this section, any individual who 5213
applies for or receives a license or permit under this chapter 5214
accepts the privilege of practicing in this state and, by so 5215
doing, shall be deemed to have given consent to submit to a 5216
mental or physical examination when directed to do so in writing 5217
by the board, and to have waived all objections to the 5218
admissibility of testimony or examination reports that 5219
constitute a privileged communication. 5220

(G) For the purposes of division (A)(18) of this section, 5221
any individual authorized to practice by this chapter accepts 5222
the privilege of practicing in this state subject to supervision 5223
by the board. By filing an application for or holding a license 5224
or permit under this chapter, an individual shall be deemed to 5225
have given consent to submit to a mental or physical examination 5226
when ordered to do so by the board in writing, and to have 5227
waived all objections to the admissibility of testimony or 5228
examination reports that constitute privileged communications. 5229

If it has reason to believe that any individual authorized 5230

to practice by this chapter or any applicant for a license or 5231
permit suffers such impairment, the board may compel the 5232
individual to submit to a mental or physical examination, or 5233
both. The expense of the examination is the responsibility of 5234
the individual compelled to be examined. Any mental or physical 5235
examination required under this division shall be undertaken by 5236
a treatment provider or physician who is qualified to conduct 5237
the examination and who is chosen by the board. 5238

Failure to submit to a mental or physical examination 5239
ordered by the board constitutes an admission of the allegations 5240
against the individual unless the failure is due to 5241
circumstances beyond the individual's control, and a default and 5242
final order may be entered without the taking of testimony or 5243
presentation of evidence. If the board determines that the 5244
individual's ability to practice is impaired, the board shall 5245
suspend the individual's license or permit or deny the 5246
individual's application and shall require the individual, as a 5247
condition for an initial, continued, reinstated, or renewed 5248
license or permit, to submit to treatment. 5249

Before being eligible to apply for reinstatement of a 5250
license or permit suspended under this division, the impaired 5251
practitioner shall demonstrate to the board the ability to 5252
resume practice in compliance with acceptable and prevailing 5253
standards of care under the provisions of the practitioner's 5254
license or permit. The demonstration shall include, but shall 5255
not be limited to, the following: 5256

(1) Certification from a treatment provider approved under 5257
section 4731.25 of the Revised Code that the individual has 5258
successfully completed any required inpatient treatment; 5259

(2) Evidence of continuing full compliance with an 5260

aftercare contract or consent agreement; 5261

(3) Two written reports indicating that the individual's 5262
ability to practice has been assessed and that the individual 5263
has been found capable of practicing according to acceptable and 5264
prevailing standards of care. The reports shall be made by 5265
individuals or providers approved by the board for making the 5266
assessments and shall describe the basis for their 5267
determination. 5268

The board may reinstate a license or permit suspended 5269
under this division after that demonstration and after the 5270
individual has entered into a written consent agreement. 5271

When the impaired practitioner resumes practice, the board 5272
shall require continued monitoring of the individual. The 5273
monitoring shall include, but not be limited to, compliance with 5274
the written consent agreement entered into before reinstatement 5275
or with conditions imposed by board order after a hearing, and, 5276
upon termination of the consent agreement, submission to the 5277
board for at least two years of annual written progress reports 5278
made under penalty of perjury stating whether the individual has 5279
maintained sobriety. 5280

~~(H)~~(H) (1) If either of the following circumstances occur, 5281
the secretary and supervising member ~~determine both of the~~ 5282
~~following, they~~ may recommend that the board suspend an 5283
individual's license or permit without a prior hearing: 5284

~~(1)~~(a) The secretary and supervising member determine 5285
both of the following: 5286

(i) That there is clear and convincing evidence that an 5287
individual has violated division (A) of this section; 5288

~~(2)~~(ii) That the individual's continued practice presents 5289

a danger of immediate and serious harm to the public. 5290

~~Written~~ (b) The board receives verifiable information that 5291
a licensee has been charged in any state or federal court for a 5292
crime classified as a felony under the charging court's law and 5293
the conduct charged constitutes a violation of division (A) of 5294
this section. 5295

(2) If a recommendation is made to suspend without a prior 5296
hearing pursuant to division (H) (1) of this section, written 5297
allegations shall be prepared for consideration by the board. 5298
The board, upon review of those allegations and by an 5299
affirmative vote of not fewer than six of its members, excluding 5300
the secretary and supervising member, may suspend a license or 5301
permit without a prior hearing. A telephone conference call may 5302
be utilized for reviewing the allegations and taking the vote on 5303
the summary suspension. 5304

The board shall issue a written order of suspension by 5305
certified mail or in person in accordance with section 119.07 of 5306
the Revised Code. The order shall not be subject to suspension 5307
by the court during pendency of any appeal filed under section 5308
119.12 of the Revised Code. If the individual subject to the 5309
summary suspension requests an adjudicatory hearing by the 5310
board, the date set for the hearing shall be within fifteen 5311
days, but not earlier than seven days, after the individual 5312
requests the hearing, unless otherwise agreed to by both the 5313
board and the individual. 5314

(3) Any summary suspension imposed under this division 5315
shall remain in effect, unless reversed on appeal, until a final 5316
adjudicative order issued by the board pursuant to this section 5317
and Chapter 119. of the Revised Code becomes effective. The 5318
board shall issue its final adjudicative order within seventy- 5319

five days after completion of its hearing. A failure to issue 5320
the order within seventy-five days shall result in dissolution 5321
of the summary suspension order but shall not invalidate any 5322
subsequent, final adjudicative order. 5323

(I) If the board is required by Chapter 119. of the 5324
Revised Code to give notice of an opportunity for a hearing and 5325
if the individual subject to the notice does not timely request 5326
a hearing in accordance with section 119.07 of the Revised Code, 5327
the board is not required to hold a hearing, but may adopt, by 5328
an affirmative vote of not fewer than six of its members, a 5329
final order that contains the board's findings. In the final 5330
order, the board may order any of the sanctions identified under 5331
division (A) of this section. 5332

(J) For purposes of divisions (A) (5), (7), and (9) of this 5333
section, the commission of the act may be established by a 5334
finding by the board, pursuant to an adjudication under Chapter 5335
119. of the Revised Code, that the individual committed the act. 5336
The board does not have jurisdiction under those divisions if 5337
the trial court renders a final judgment in the individual's 5338
favor and that judgment is based upon an adjudication on the 5339
merits. The board has jurisdiction under those divisions if the 5340
trial court issues an order of dismissal upon technical or 5341
procedural grounds. 5342

(K) The sealing or expungement of conviction records by 5343
any court shall have no effect upon a prior board order entered 5344
under this section or upon the board's jurisdiction to take 5345
action under this section if, based upon a plea of guilty, a 5346
judicial finding of guilt, or a judicial finding of eligibility 5347
for intervention in lieu of conviction, the board issued a 5348
notice of opportunity for a hearing prior to the court's order 5349

to seal or expunge the records. The board shall not be required 5350
to seal, destroy, redact, or otherwise modify its records to 5351
reflect the court's sealing or expungement of conviction 5352
records. 5353

(L) If the board takes action under division (A) (4), (6), 5354
or (8) of this section, and the judicial finding of guilt, 5355
guilty plea, or judicial finding of eligibility for intervention 5356
in lieu of conviction is overturned on appeal, upon exhaustion 5357
of the criminal appeal, a petition for reconsideration of the 5358
order may be filed with the board along with appropriate court 5359
documents. Upon receipt of a petition for reconsideration and 5360
supporting court documents, the board shall reinstate the 5361
individual's license or permit. The board may then hold an 5362
adjudication under Chapter 119. of the Revised Code to determine 5363
whether the individual committed the act in question. Notice of 5364
an opportunity for a hearing shall be given in accordance with 5365
Chapter 119. of the Revised Code. If the board finds, pursuant 5366
to an adjudication held under this division, that the individual 5367
committed the act or if no hearing is requested, the board may 5368
order any of the sanctions identified under division (A) of this 5369
section. 5370

(M) The license or permit issued to an individual under 5371
this chapter and the individual's practice in this state are 5372
automatically suspended as of the date the individual pleads 5373
guilty to, is found by a judge or jury to be guilty of, or is 5374
subject to a judicial finding of eligibility for intervention in 5375
lieu of conviction in this state or treatment or intervention in 5376
lieu of conviction in another jurisdiction for any of the 5377
following criminal offenses in this state or a substantially 5378
equivalent criminal offense in another jurisdiction: aggravated 5379
murder, murder, voluntary manslaughter, felonious assault, 5380

trafficking in persons, kidnapping, rape, sexual battery, gross 5381
sexual imposition, aggravated arson, aggravated robbery, or 5382
aggravated burglary. Continued practice after suspension shall 5383
be considered practicing without a license or permit. 5384

The board shall notify the individual subject to the 5385
suspension by certified mail or in person in accordance with 5386
section 119.07 of the Revised Code. If an individual whose 5387
license or permit is automatically suspended under this division 5388
fails to make a timely request for an adjudication under Chapter 5389
119. of the Revised Code, the board shall enter a final order 5390
permanently revoking the individual's license or permit. 5391

(N) Notwithstanding any other provision of the Revised 5392
Code, all of the following apply: 5393

(1) The surrender of a license or permit issued under this 5394
chapter shall not be effective unless or until accepted by the 5395
board. A telephone conference call may be utilized for 5396
acceptance of the surrender of an individual's license or 5397
permit. The telephone conference call shall be considered a 5398
special meeting under division (F) of section 121.22 of the 5399
Revised Code. Reinstatement of a license or permit surrendered 5400
to the board requires an affirmative vote of not fewer than six 5401
members of the board. 5402

(2) An application for a license or permit made under the 5403
provisions of this chapter may not be withdrawn without approval 5404
of the board. 5405

(3) Failure by an individual to renew a license or permit 5406
in accordance with this chapter shall not remove or limit the 5407
board's jurisdiction to take any disciplinary action under this 5408
section against the individual. 5409

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

Sec. 4759.14. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B) (1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

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

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

equivalent offenses under division (A) of section 4511.181 of 5440
the Revised Code, violations of division (D) of section 4511.194 5441
of the Revised Code, and violations of division (C) of section 5442
4511.79 of the Revised Code. Reports under this division shall 5443
be made within thirty days of the criminal charge being filed. 5444

Sec. 4759.99. Whoever violates section 4759.02 of the 5445
Revised Code is guilty of a minor misdemeanor. If the offender 5446
has been previously convicted once of a violation of the 5447
section, then the violation is a misdemeanor of the fourth 5448
degree. If the offender has been previously convicted more than 5449
once of a violation of the section, then the violation is a 5450
misdemeanor of the first degree. 5451

Whoever violates division (B) (1) or (2) of section 4759.14 5452
of the Revised Code is guilty of failure to report criminal 5453
conduct or sexual misconduct, a misdemeanor of the fourth 5454
degree. If the offender has previously been convicted of a 5455
violation of this division, the failure to report is a 5456
misdemeanor of the first degree. 5457

Whoever violates division (B) of section 4759.05 of the 5458
Revised Code is guilty of disclosing confidential investigatory 5459
information, a misdemeanor of the first degree. 5460

Sec. 4760.13. (A) The state medical board, by an 5461
affirmative vote of not fewer than six members, may revoke or 5462
may refuse to grant a license to practice as an anesthesiologist 5463
assistant to a person found by the board to have committed 5464
fraud, misrepresentation, or deception in applying for or 5465
securing the license. 5466

(B) The board, by an affirmative vote of not fewer than 5467
six members, shall, except as provided in division (C) of this 5468

section, and to the extent permitted by law, limit, revoke, or 5469
suspend an individual's license to practice as an 5470
anesthesiologist assistant, refuse to issue a license to an 5471
applicant, refuse to renew a license, refuse to reinstate a 5472
license, or reprimand or place on probation the holder of a 5473
license for any of the following reasons: 5474

(1) Permitting the holder's name or license to be used by 5475
another person; 5476

(2) Failure to comply with the requirements of this 5477
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5478
by the board; 5479

(3) Violating or attempting to violate, directly or 5480
indirectly, or assisting in or abetting the violation of, or 5481
conspiring to violate, any provision of this chapter, Chapter 5482
4731. of the Revised Code, or the rules adopted by the board; 5483

(4) A departure from, or failure to conform to, minimal 5484
standards of care of similar practitioners under the same or 5485
similar circumstances whether or not actual injury to the 5486
patient is established; 5487

(5) Inability to practice according to acceptable and 5488
prevailing standards of care by reason of mental illness or 5489
physical illness, including physical deterioration that 5490
adversely affects cognitive, motor, or perceptive skills; 5491

(6) Impairment of ability to practice according to 5492
acceptable and prevailing standards of care because of habitual 5493
or excessive use or abuse of drugs, alcohol, or other substances 5494
that impair ability to practice; 5495

(7) Willfully betraying a professional confidence; 5496

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as an anesthesiologist assistant. 5497
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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. 5500
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(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice; 5508
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(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony; 5511
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(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 5514
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(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice; 5517
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(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 5521
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(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the 5524
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jurisdiction in which the act was committed; 5526

(15) Commission of an act involving moral turpitude that 5527
constitutes a misdemeanor in this state, regardless of the 5528
jurisdiction in which the act was committed; 5529

(16) A plea of guilty to, a judicial finding of guilt of, 5530
or a judicial finding of eligibility for intervention in lieu of 5531
conviction for violating any state or federal law regulating the 5532
possession, distribution, or use of any drug, including 5533
trafficking in drugs; 5534

(17) Any of the following actions taken by the state 5535
agency responsible for regulating the practice of 5536
anesthesiologist assistants in another jurisdiction, for any 5537
reason other than the nonpayment of fees: the limitation, 5538
revocation, or suspension of an individual's license to 5539
practice; acceptance of an individual's license surrender; 5540
denial of a license; refusal to renew or reinstate a license; 5541
imposition of probation; or issuance of an order of censure or 5542
other reprimand; 5543

(18) Violation of the conditions placed by the board on a 5544
license to practice; 5545

(19) Failure to use universal blood and body fluid 5546
precautions established by rules adopted under section 4731.051 5547
of the Revised Code; 5548

(20) Failure to cooperate in an investigation conducted by 5549
the board under section 4760.14 of the Revised Code, including 5550
failure to comply with a subpoena or order issued by the board 5551
or failure to answer truthfully a question presented by the 5552
board at a deposition or in written interrogatories, except that 5553
failure to cooperate with an investigation shall not constitute 5554

grounds for discipline under this section if a court of 5555
competent jurisdiction has issued an order that either quashes a 5556
subpoena or permits the individual to withhold the testimony or 5557
evidence in issue; 5558

(21) Failure to comply with any code of ethics established 5559
by the national commission for the certification of 5560
anesthesiologist assistants; 5561

(22) Failure to notify the state medical board of the 5562
revocation or failure to maintain certification from the 5563
national commission for certification of anesthesiologist 5564
assistants. 5565

(C) The board shall not refuse to issue a certificate to 5566
an applicant because of a plea of guilty to, a judicial finding 5567
of guilt of, or a judicial finding of eligibility for 5568
intervention in lieu of conviction for an offense unless the 5569
refusal is in accordance with section 9.79 of the Revised Code. 5570

(D) Disciplinary actions taken by the board under 5571
divisions (A) and (B) of this section shall be taken pursuant to 5572
an adjudication under Chapter 119. of the Revised Code, except 5573
that in lieu of an adjudication, the board may enter into a 5574
consent agreement with an anesthesiologist assistant or 5575
applicant to resolve an allegation of a violation of this 5576
chapter or any rule adopted under it. A consent agreement, when 5577
ratified by an affirmative vote of not fewer than six members of 5578
the board, shall constitute the findings and order of the board 5579
with respect to the matter addressed in the agreement. If the 5580
board refuses to ratify a consent agreement, the admissions and 5581
findings contained in the consent agreement shall be of no force 5582
or effect. 5583

(E) For purposes of divisions (B) (11), (14), and (15) of 5584
this section, the commission of the act may be established by a 5585
finding by the board, pursuant to an adjudication under Chapter 5586
119. of the Revised Code, that the applicant or license holder 5587
committed the act in question. The board shall have no 5588
jurisdiction under these divisions in cases where the trial 5589
court renders a final judgment in the license holder's favor and 5590
that judgment is based upon an adjudication on the merits. The 5591
board shall have jurisdiction under these divisions in cases 5592
where the trial court issues an order of dismissal on technical 5593
or procedural grounds. 5594

(F) The sealing or expungement of conviction records by 5595
any court shall have no effect on a prior board order entered 5596
under the provisions of this section or on the board's 5597
jurisdiction to take action under the provisions of this section 5598
if, based upon a plea of guilty, a judicial finding of guilt, or 5599
a judicial finding of eligibility for intervention in lieu of 5600
conviction, the board issued a notice of opportunity for a 5601
hearing prior to the court's order to seal or expunge the 5602
records. The board shall not be required to seal, destroy, 5603
redact, or otherwise modify its records to reflect the court's 5604
sealing or expungement of conviction records. 5605

(G) For purposes of this division, any individual who 5606
holds a license to practice issued under this chapter, or 5607
applies for a license to practice, shall be deemed to have given 5608
consent to submit to a mental or physical examination when 5609
directed to do so in writing by the board and to have waived all 5610
objections to the admissibility of testimony or examination 5611
reports that constitute a privileged communication. 5612

(1) In enforcing division (B) (5) of this section, the 5613

board, on a showing of a possible violation, may compel any 5614
individual who holds a license to practice issued under this 5615
chapter or who has applied for a license to practice pursuant to 5616
this chapter to submit to a mental or physical examination, or 5617
both. A physical examination may include an HIV test. The 5618
expense of the examination is the responsibility of the 5619
individual compelled to be examined. Failure to submit to a 5620
mental or physical examination or consent to an HIV test ordered 5621
by the board constitutes an admission of the allegations against 5622
the individual unless the failure is due to circumstances beyond 5623
the individual's control, and a default and final order may be 5624
entered without the taking of testimony or presentation of 5625
evidence. If the board finds an anesthesiologist assistant 5626
unable to practice because of the reasons set forth in division 5627
(B) (5) of this section, the board shall require the 5628
anesthesiologist assistant to submit to care, counseling, or 5629
treatment by physicians approved or designated by the board, as 5630
a condition for an initial, continued, reinstated, or renewed 5631
license to practice. An individual affected by this division 5632
shall be afforded an opportunity to demonstrate to the board the 5633
ability to resume practicing in compliance with acceptable and 5634
prevailing standards of care. 5635

(2) For purposes of division (B) (6) of this section, if 5636
the board has reason to believe that any individual who holds a 5637
license to practice issued under this chapter or any applicant 5638
for a license to practice suffers such impairment, the board may 5639
compel the individual to submit to a mental or physical 5640
examination, or both. The expense of the examination is the 5641
responsibility of the individual compelled to be examined. Any 5642
mental or physical examination required under this division 5643
shall be undertaken by a treatment provider or physician 5644

qualified to conduct such examination and chosen by the board. 5645

Failure to submit to a mental or physical examination 5646
ordered by the board constitutes an admission of the allegations 5647
against the individual unless the failure is due to 5648
circumstances beyond the individual's control, and a default and 5649
final order may be entered without the taking of testimony or 5650
presentation of evidence. If the board determines that the 5651
individual's ability to practice is impaired, the board shall 5652
suspend the individual's license or deny the individual's 5653
application and shall require the individual, as a condition for 5654
an initial, continued, reinstated, or renewed license to 5655
practice, to submit to treatment. 5656

Before being eligible to apply for reinstatement of a 5657
license suspended under this division, the anesthesiologist 5658
assistant shall demonstrate to the board the ability to resume 5659
practice in compliance with acceptable and prevailing standards 5660
of care. The demonstration shall include the following: 5661

(a) Certification from a treatment provider approved under 5662
section 4731.25 of the Revised Code that the individual has 5663
successfully completed any required inpatient treatment; 5664

(b) Evidence of continuing full compliance with an 5665
aftercare contract or consent agreement; 5666

(c) Two written reports indicating that the individual's 5667
ability to practice has been assessed and that the individual 5668
has been found capable of practicing according to acceptable and 5669
prevailing standards of care. The reports shall be made by 5670
individuals or providers approved by the board for making such 5671
assessments and shall describe the basis for their 5672
determination. 5673

The board may reinstate a license suspended under this 5674
division after such demonstration and after the individual has 5675
entered into a written consent agreement. 5676

When the impaired anesthesiologist assistant resumes 5677
practice, the board shall require continued monitoring of the 5678
anesthesiologist assistant. The monitoring shall include 5679
monitoring of compliance with the written consent agreement 5680
entered into before reinstatement or with conditions imposed by 5681
board order after a hearing, and, on termination of the consent 5682
agreement, submission to the board for at least two years of 5683
annual written progress reports made under penalty of 5684
falsification stating whether the anesthesiologist assistant has 5685
maintained sobriety. 5686

~~(H)~~ (H) (1) If either of the following circumstances occur, 5687
the secretary and supervising member ~~determine may recommend~~ 5688
that the board suspend the individual's license without a prior 5689
hearing: 5690

(a) The secretary and supervising member determine that 5691
there is clear and convincing evidence that an anesthesiologist 5692
assistant has violated division (B) of this section and that the 5693
individual's continued practice presents a danger of immediate 5694
and serious harm to the public, ~~they may recommend that the~~ 5695
~~board suspend the individual's license without a prior hearing;~~ 5696

(b) The board receives verifiable information that a 5697
licensee has been charged in any state or federal court for a 5698
crime classified as a felony under the charging court's law and 5699
the conduct charged constitutes a violation of division (B) of 5700
this section. ~~Written~~ 5701

(2) If a recommendation is made to suspend without a prior 5702

hearing pursuant to division (H) (1) of this section, written 5703
allegations shall be prepared for consideration by the board. 5704

The board, on review of the allegations and by an 5705
affirmative vote of not fewer than six of its members, excluding 5706
the secretary and supervising member, may suspend a license 5707
without a prior hearing. A telephone conference call may be 5708
utilized for reviewing the allegations and taking the vote on 5709
the summary suspension. 5710

The board shall issue a written order of suspension by 5711
certified mail or in person in accordance with section 119.07 of 5712
the Revised Code. The order shall not be subject to suspension 5713
by the court during pendency of any appeal filed under section 5714
119.12 of the Revised Code. If the anesthesiologist assistant 5715
requests an adjudicatory hearing by the board, the date set for 5716
the hearing shall be within fifteen days, but not earlier than 5717
seven days, after the anesthesiologist assistant requests the 5718
hearing, unless otherwise agreed to by both the board and the 5719
license holder. 5720

(3) A summary suspension imposed under this division shall 5721
remain in effect, unless reversed on appeal, until a final 5722
adjudicative order issued by the board pursuant to this section 5723
and Chapter 119. of the Revised Code becomes effective. The 5724
board shall issue its final adjudicative order within sixty days 5725
after completion of its hearing. Failure to issue the order 5726
within sixty days shall result in dissolution of the summary 5727
suspension order, but shall not invalidate any subsequent, final 5728
adjudicative order. 5729

(I) If the board takes action under division (B) (11), 5730
(13), or (14) of this section, and the judicial finding of 5731
guilt, guilty plea, or judicial finding of eligibility for 5732

intervention in lieu of conviction is overturned on appeal, on 5733
exhaustion of the criminal appeal, a petition for 5734
reconsideration of the order may be filed with the board along 5735
with appropriate court documents. On receipt of a petition and 5736
supporting court documents, the board shall reinstate the 5737
license to practice. The board may then hold an adjudication 5738
under Chapter 119. of the Revised Code to determine whether the 5739
individual committed the act in question. Notice of opportunity 5740
for hearing shall be given in accordance with Chapter 119. of 5741
the Revised Code. If the board finds, pursuant to an 5742
adjudication held under this division, that the individual 5743
committed the act, or if no hearing is requested, it may order 5744
any of the sanctions specified in division (B) of this section. 5745

(J) The license to practice of an anesthesiologist 5746
assistant and the assistant's practice in this state are 5747
automatically suspended as of the date the anesthesiologist 5748
assistant pleads guilty to, is found by a judge or jury to be 5749
guilty of, or is subject to a judicial finding of eligibility 5750
for intervention in lieu of conviction in this state or 5751
treatment of intervention in lieu of conviction in another 5752
jurisdiction for any of the following criminal offenses in this 5753
state or a substantially equivalent criminal offense in another 5754
jurisdiction: aggravated murder, murder, voluntary manslaughter, 5755
felonious assault, trafficking in persons, kidnapping, rape, 5756
sexual battery, gross sexual imposition, aggravated arson, 5757
aggravated robbery, or aggravated burglary. Continued practice 5758
after the suspension shall be considered practicing without a 5759
license. 5760

The board shall notify the individual subject to the 5761
suspension by certified mail or in person in accordance with 5762
section 119.07 of the Revised Code. If an individual whose 5763

license is suspended under this division fails to make a timely 5764
request for an adjudication under Chapter 119. of the Revised 5765
Code, the board shall enter a final order permanently revoking 5766
the individual's license to practice. 5767

(K) In any instance in which the board is required by 5768
Chapter 119. of the Revised Code to give notice of opportunity 5769
for hearing and the individual subject to the notice does not 5770
timely request a hearing in accordance with section 119.07 of 5771
the Revised Code, the board is not required to hold a hearing, 5772
but may adopt, by an affirmative vote of not fewer than six of 5773
its members, a final order that contains the board's findings. 5774
In the final order, the board may order any of the sanctions 5775
identified under division (A) or (B) of this section. 5776

(L) Any action taken by the board under division (B) of 5777
this section resulting in a suspension shall be accompanied by a 5778
written statement of the conditions under which the 5779
anesthesiologist assistant's license may be reinstated. The 5780
board shall adopt rules in accordance with Chapter 119. of the 5781
Revised Code governing conditions to be imposed for 5782
reinstatement. Reinstatement of a license suspended pursuant to 5783
division (B) of this section requires an affirmative vote of not 5784
fewer than six members of the board. 5785

(M) When the board refuses to grant or issue a license to 5786
practice as an anesthesiologist assistant to an applicant, 5787
revokes an individual's license, refuses to renew an 5788
individual's license, or refuses to reinstate an individual's 5789
license, the board may specify that its action is permanent. An 5790
individual subject to a permanent action taken by the board is 5791
forever thereafter ineligible to hold a license to practice as 5792
an anesthesiologist assistant and the board shall not accept an 5793

application for reinstatement of the license or for issuance of 5794
a new license. 5795

(N) Notwithstanding any other provision of the Revised 5796
Code, all of the following apply: 5797

(1) The surrender of a license to practice issued under 5798
this chapter is not effective unless or until accepted by the 5799
board. Reinstatement of a license surrendered to the board 5800
requires an affirmative vote of not fewer than six members of 5801
the board. 5802

(2) An application made under this chapter for a license 5803
to practice may not be withdrawn without approval of the board. 5804

(3) Failure by an individual to renew a license to 5805
practice in accordance with section 4760.06 of the Revised Code 5806
shall not remove or limit the board's jurisdiction to take 5807
disciplinary action under this section against the individual. 5808

Sec. 4760.14. (A) The state medical board shall 5809
investigate evidence that appears to show that any person has 5810
violated this chapter or the rules adopted under it. Any person 5811
may report to the board in a signed writing any information the 5812
person has that appears to show a violation of any provision of 5813
this chapter or the rules adopted under it. In the absence of 5814
bad faith, a person who reports such information or testifies 5815
before the board in an adjudication conducted under Chapter 119. 5816
of the Revised Code shall not be liable for civil damages as a 5817
result of reporting the information or providing testimony. Each 5818
complaint or allegation of a violation received by the board 5819
shall be assigned a case number and be recorded by the board. 5820

(B) Investigations of alleged violations of this chapter 5821
or rules adopted under it shall be supervised by the supervising 5822

member elected by the board in accordance with section 4731.02 5823
of the Revised Code and by the secretary as provided in section 5824
4760.15 of the Revised Code. The board's president may designate 5825
another member of the board to supervise the investigation in 5826
place of the supervising member. Upon a vote of the majority of 5827
the board to authorize the addition of a consumer member in the 5828
supervision of any part of any investigation, the president 5829
shall designate a consumer member for supervision of 5830
investigations as determined by the president. The authorization 5831
of consumer member participation in investigation supervision 5832
may be rescinded by a majority vote of the board. A member of 5833
the board who supervises the investigation of a case shall not 5834
participate in further adjudication of the case. 5835

(C) In investigating a possible violation of this chapter 5836
or the rules adopted under it, the board may administer oaths, 5837
order the taking of depositions, issue subpoenas, and compel the 5838
attendance of witnesses and production of books, accounts, 5839
papers, records, documents, and testimony, except that a 5840
subpoena for patient record information or information, 5841
documents, and records from a peer review committee of a health 5842
care entity related to sexual misconduct or criminal conduct 5843
shall not be issued without consultation with the attorney 5844
general's office and approval of the secretary and supervising 5845
member of the board. Before issuance of a subpoena for patient 5846
record information or information, documents, and records from a 5847
peer review committee of a health care entity related to sexual 5848
misconduct or criminal conduct, the secretary and supervising 5849
member shall determine whether there is probable cause to 5850
believe that the complaint filed alleges a violation of this 5851
chapter or the rules adopted under it and that the records 5852
sought are relevant to the alleged violation and material to the 5853

investigation. The subpoena may apply only to records that cover 5854
a reasonable period of time surrounding the alleged violation. 5855

On failure to comply with any subpoena issued by the board 5856
and after reasonable notice to the person being subpoenaed, the 5857
board may move for an order compelling the production of persons 5858
or records pursuant to the Rules of Civil Procedure. 5859

A subpoena issued by the board may be served by a sheriff, 5860
the sheriff's deputy, or a board employee designated by the 5861
board. Service of a subpoena issued by the board may be made by 5862
delivering a copy of the subpoena to the person named therein, 5863
reading it to the person, or leaving it at the person's usual 5864
place of residence. When the person being served is an 5865
anesthesiologist assistant, service of the subpoena may be made 5866
by certified mail, restricted delivery, return receipt 5867
requested, and the subpoena shall be deemed served on the date 5868
delivery is made or the date the person refuses to accept 5869
delivery. 5870

A sheriff's deputy who serves a subpoena shall receive the 5871
same fees as a sheriff. Each witness who appears before the 5872
board in obedience to a subpoena shall receive the fees and 5873
mileage provided for under section 119.094 of the Revised Code. 5874

(D) All For purposes of section 2305.252 of the Revised 5875
Code, all hearings and investigations of the board shall be 5876
considered civil actions ~~for the purposes of section 2305.252 of~~ 5877
~~the Revised Code, except those involving allegations of sexual~~ 5878
misconduct or criminal conduct, as defined in that section. 5879

(E) Information received by the board pursuant to an 5880
investigation is confidential and not subject to discovery in 5881
any civil action. 5882

The board shall conduct all investigations and proceedings 5883
in a manner that protects the confidentiality of patients and 5884
persons who file complaints with the board. The board shall not 5885
make public the names or any other identifying information about 5886
patients or complainants unless proper consent is given. 5887

The board may share any information it receives pursuant 5888
to an investigation, including patient records and patient 5889
record information, with law enforcement agencies, other 5890
licensing boards, and other governmental agencies that are 5891
prosecuting, adjudicating, or investigating alleged violations 5892
of statutes or administrative rules. An agency or board that 5893
receives the information shall comply with the same requirements 5894
regarding confidentiality as those with which the state medical 5895
board must comply, notwithstanding any conflicting provision of 5896
the Revised Code or procedure of the agency or board that 5897
applies when it is dealing with other information in its 5898
possession. In a judicial proceeding, the information may be 5899
admitted into evidence only in accordance with the Rules of 5900
Evidence, but the court shall require that appropriate measures 5901
are taken to ensure that confidentiality is maintained with 5902
respect to any part of the information that contains names or 5903
other identifying information about patients or complainants 5904
whose confidentiality was protected by the state medical board 5905
when the information was in the board's possession. Measures to 5906
ensure confidentiality that may be taken by the court include 5907
sealing its records or deleting specific information from its 5908
records. 5909

No person shall knowingly access, use, or disclose 5910
confidential investigatory information in a manner prohibited by 5911
law. 5912

(F) The state medical board shall develop requirements for 5913
and provide appropriate initial training and continuing 5914
education for investigators employed by the board to carry out 5915
its duties under this chapter. The training and continuing 5916
education may include enrollment in courses operated or approved 5917
by the Ohio peace officer training commission that the board 5918
considers appropriate under conditions set forth in section 5919
109.79 of the Revised Code. 5920

(G) On a quarterly basis, the board shall prepare a report 5921
that documents the disposition of all cases during the preceding 5922
three months. The report shall contain the following information 5923
for each case with which the board has completed its activities: 5924

(1) The case number assigned to the complaint or alleged 5925
violation; 5926

(2) The type of license to practice, if any, held by the 5927
individual against whom the complaint is directed; 5928

(3) A description of the allegations contained in the 5929
complaint; 5930

(4) Whether witnesses were interviewed; 5931

(5) Whether the individual against whom the complaint is 5932
directed is the subject of any pending complaints; 5933

(6) The disposition of the case. 5934

The report shall state how many cases are still pending, 5935
and shall be prepared in a manner that protects the identity of 5936
each person involved in each case. The report is a public record 5937
for purposes of section 149.43 of the Revised Code. 5938

(H) The board may provide a status update regarding an 5939
investigation to a complainant on request if the board verifies 5940

the complainant's identity. 5941

Sec. 4760.16. (A) As used in this section, "criminal 5942
conduct" and "sexual misconduct" have the same meanings as in 5943
section 4731.224 of the Revised Code. 5944

(B) (1) Within ~~sixty~~-thirty days after the imposition of 5945
any formal disciplinary action taken by any health care 5946
facility, including a hospital, health care facility operated by 5947
a health insuring corporation, ambulatory surgical facility, or 5948
similar facility, against any individual holding a valid license 5949
to practice as an anesthesiologist assistant, the chief 5950
administrator or executive officer of the facility shall report 5951
to the state medical board the name of the individual, the 5952
action taken by the facility, and a summary of the underlying 5953
facts leading to the action taken. On request, the board shall 5954
be provided certified copies of the patient records that were 5955
the basis for the facility's action. Prior to release to the 5956
board, the summary shall be approved by the peer review 5957
committee that reviewed the case or by the governing board of 5958
the facility. 5959

The filing of a report with the board or decision not to 5960
file a report, investigation by the board, or any disciplinary 5961
action taken by the board, does not preclude a health care 5962
facility from taking disciplinary action against an 5963
anesthesiologist assistant. 5964

In the absence of fraud or bad faith, no individual or 5965
entity that provides patient records to the board shall be 5966
liable in damages to any person as a result of providing the 5967
records. 5968

(2) Within thirty days after commencing an investigation 5969

regarding criminal conduct or sexual misconduct against any 5970
individual holding a valid license to practice issued pursuant 5971
to this chapter, a health care facility, including a hospital, 5972
health care facility operated by a health insuring corporation, 5973
ambulatory surgical center, or similar facility, shall report to 5974
the board the name of the individual and a summary of the 5975
underlying facts related to the investigation being commenced. 5976

~~(B) (1)~~ ~~(C) (1)~~ Except as provided in division ~~(B) (2)~~ ~~(C) (2)~~ 5977
of this section and subject to division (C) (3) of this section, 5978
an anesthesiologist assistant, professional association or 5979
society of anesthesiologist assistants, physician, or 5980
professional association or society of physicians that believes 5981
a violation of any provision of this chapter, Chapter 4731. of 5982
the Revised Code, or rule of the board has occurred shall report 5983
to the board the information on which the belief is based. 5984

(2) An anesthesiologist assistant, professional 5985
association or society of anesthesiologist assistants, 5986
physician, or professional association or society of physicians 5987
that believes that a violation of division (B) (6) of section 5988
4760.13 of the Revised Code has occurred shall report the 5989
information upon which the belief is based to the monitoring 5990
organization conducting the program established by the board 5991
under section 4731.251 of the Revised Code. If any such report 5992
is made to the board, it shall be referred to the monitoring 5993
organization unless the board is aware that the individual who 5994
is the subject of the report does not meet the program 5995
eligibility requirements of section 4731.252 of the Revised 5996
Code. 5997

(3) If any individual authorized to practice under this 5998
chapter or any professional association or society of such 5999

individuals knows or has reasonable cause to suspect based on 6000
facts that would cause a reasonable person in a similar position 6001
to suspect that an individual authorized to practice under this 6002
chapter has committed or participated in criminal conduct or 6003
sexual misconduct the information upon which the belief is based 6004
shall be reported to the board within thirty days. 6005

(4) In addition to the self-reporting of criminal offenses 6006
that is required for license renewal, an individual authorized 6007
to practice under this chapter shall report to the board 6008
criminal charges regarding criminal conduct, sexual misconduct, 6009
or any conduct involving the use of a motor vehicle while under 6010
the influence of alcohol or drugs, including offenses that are 6011
equivalent offenses under division (A) of section 4511.181 of 6012
the Revised Code, violations of division (D) of section 4511.194 6013
of the Revised Code, and violations of division (C) of section 6014
4511.79 of the Revised Code. Reports under this division shall 6015
be made within thirty days of the criminal charge being filed. 6016

~~(C)~~ (D) Any professional association or society composed 6017
primarily of anesthesiologist assistants that suspends or 6018
revokes an individual's membership for violations of 6019
professional ethics, or for reasons of professional incompetence 6020
or professional malpractice, within ~~sixty~~ thirty days after a 6021
final decision, shall report to the board, on forms prescribed 6022
and provided by the board, the name of the individual, the 6023
action taken by the professional organization, and a summary of 6024
the underlying facts leading to the action taken. 6025

The filing of a report with the board or decision not to 6026
file a report, investigation by the board, or any disciplinary 6027
action taken by the board, does not preclude a professional 6028
organization from taking disciplinary action against an 6029

anesthesiologist assistant. 6030

~~(D)~~ (E) Any insurer providing professional liability 6031
insurance to any person holding a valid license to practice as 6032
an anesthesiologist assistant or any other entity that seeks to 6033
indemnify the professional liability of an anesthesiologist 6034
assistant shall notify the board within thirty days after the 6035
final disposition of any written claim for damages where such 6036
disposition results in a payment exceeding twenty-five thousand 6037
dollars. The notice shall contain the following information: 6038

(1) The name and address of the person submitting the 6039
notification; 6040

(2) The name and address of the insured who is the subject 6041
of the claim; 6042

(3) The name of the person filing the written claim; 6043

(4) The date of final disposition; 6044

(5) If applicable, the identity of the court in which the 6045
final disposition of the claim took place. 6046

~~(E)~~ (F) The board may investigate possible violations of 6047
this chapter or the rules adopted under it that are brought to 6048
its attention as a result of the reporting requirements of this 6049
section, except that the board shall conduct an investigation if 6050
a possible violation involves repeated malpractice. As used in 6051
this division, "repeated malpractice" means three or more claims 6052
for malpractice within the previous five-year period, each 6053
resulting in a judgment or settlement in excess of twenty-five 6054
thousand dollars in favor of the claimant, and each involving 6055
negligent conduct by the anesthesiologist assistant. 6056

~~(F)~~ (G) All summaries, reports, and records received and 6057

maintained by the board pursuant to this section shall be held- 6058
~~in confidence and shall not be subject to discovery or~~ 6059
~~introduction in evidence in any federal or state civil action~~ 6060
~~involving an anesthesiologist assistant, supervising physician,~~ 6061
~~or health care facility arising out of matters that are the~~ 6062
~~subject of the reporting required by this section. The board may~~ 6063
~~use the information obtained only as the basis for an~~ 6064
~~investigation, as evidence in a disciplinary hearing against an~~ 6065
~~anesthesiologist assistant or supervising physician, or in any~~ 6066
~~subsequent trial or appeal of a board action or order.~~ 6067

~~The board may disclose the summaries and reports it~~ 6068
~~receives under this section only to health care facility~~ 6069
~~committees within or outside this state that are involved in~~ 6070
~~credentialing or recredentialing an anesthesiologist assistant~~ 6071
~~or supervising physician or reviewing their privilege to~~ 6072
~~practice within a particular facility. The board shall indicate~~ 6073
~~whether or not the information has been verified. Information~~ 6074
~~transmitted by the board shall be subject to the same~~ 6075
~~confidentiality provisions as when maintained by the~~ 6076
~~board~~confidential pursuant to division (E) of section 4760.14 of 6077
the Revised Code. 6078

~~(G)~~(H) Except for reports filed by an individual pursuant 6079
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 6080
send a copy of any reports or summaries it receives pursuant to 6081
this section to the anesthesiologist assistant. The 6082
anesthesiologist assistant shall have the right to file a 6083
statement with the board concerning the correctness or relevance 6084
of the information. The statement shall at all times accompany 6085
that part of the record in contention. 6086

~~(H)~~(I) An individual or entity that reports to the board, 6087

reports to the monitoring organization described in section 6088
4731.251 of the Revised Code, or refers an impaired 6089
anesthesiologist assistant to a treatment provider approved by 6090
the board under section 4731.25 of the Revised Code shall not be 6091
subject to suit for civil damages as a result of the report, 6092
referral, or provision of the information. 6093

~~(I)~~ (J) In the absence of fraud or bad faith, a 6094
professional association or society of anesthesiologist 6095
assistants that sponsors a committee or program to provide peer 6096
assistance to an anesthesiologist assistant with substance abuse 6097
problems, a representative or agent of such a committee or 6098
program, a representative or agent of the monitoring 6099
organization described in section 4731.251 of the Revised Code, 6100
and a member of the state medical board shall not be held liable 6101
in damages to any person by reason of actions taken to refer an 6102
anesthesiologist assistant to a treatment provider approved 6103
under section 4731.25 of the Revised Code for examination or 6104
treatment. 6105

Sec. 4760.99. (A) Whoever violates section 4760.02 of the 6106
Revised Code is guilty of a misdemeanor of the first degree on a 6107
first offense; on each subsequent offense, the person is guilty 6108
of a felony of the fourth degree. 6109

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 6110
(1), ~~or (C) (2)~~, (D), or (E) of section 4760.16 of the Revised 6111
Code is guilty of a minor misdemeanor on a first offense; on 6112
each subsequent offense the person is guilty of a misdemeanor of 6113
the fourth degree, except that an individual guilty of a 6114
subsequent offense shall not be subject to imprisonment, but to 6115
a fine alone of up to one thousand dollars for each offense. 6116

(2) Whoever violates division (B) (2) or (C) (3) of section 6117

4760.16 of the Revised Code is guilty of failure to report 6118
criminal conduct or sexual misconduct, a misdemeanor of the 6119
fourth degree. If the offender has previously been convicted of 6120
a violation of this division, the failure to report is a 6121
misdemeanor of the first degree. 6122

(C) Whoever violates division (E) of section 4760.14 of 6123
the Revised Code is guilty of disclosing confidential 6124
investigatory information, a misdemeanor of the first degree. 6125

Sec. 4761.03. (A) The state medical board shall regulate 6126
the practice of respiratory care in this state and the persons 6127
to whom the board issues licenses and limited permits under this 6128
chapter. Rules adopted under this chapter that deal with the 6129
provision of respiratory care in a hospital, other than rules 6130
regulating the issuance of licenses or limited permits, shall be 6131
consistent with the conditions for participation under medicare, 6132
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 6133
42 U.S.C.A. 1395, as amended, and with the respiratory care 6134
accreditation standards of the joint commission or the American 6135
osteopathic association. 6136

(B) The board shall adopt, and may rescind or amend, rules 6137
in accordance with Chapter 119. of the Revised Code to carry out 6138
the purposes of this chapter, including rules prescribing the 6139
following: 6140

(1) The form and manner for filing applications under 6141
sections 4761.05 and 4761.06 of the Revised Code; 6142

(2) Standards for the approval of examinations and 6143
reexaminations administered by national organizations for 6144
licensure, license renewal, and license reinstatement; 6145

(3) Standards for the approval of educational programs 6146

required to qualify for licensure and approval of continuing education programs required for license renewal; 6147
6148

(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country; 6149
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(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees; 6156
6157
6158

(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code; 6159
6160
6161
6162
6163

(7) Standards of ethical conduct for the practice of respiratory care; 6164
6165

(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code; 6166
6167
6168
6169

(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code. 6170
6171

(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit. 6172
6173
6174
6175

(D) The board shall determine the respiratory care 6176
educational programs that are acceptable for fulfilling the 6177
requirements of division (A) of section 4761.04 of the Revised 6178
Code. 6179

(E) (1) The board shall investigate evidence that appears 6180
to show that a person has violated any provision of this chapter 6181
or any rule adopted under it. Any person may report to the board 6182
in a signed writing any information that the person may have 6183
that appears to show a violation of any provision of this 6184
chapter or any rule adopted under it. In the absence of bad 6185
faith, any person who reports information of that nature or who 6186
testifies before the board in any adjudication conducted under 6187
Chapter 119. of the Revised Code shall not be liable in damages 6188
in a civil action as a result of the report or testimony. Each 6189
complaint or allegation of a violation received by the board 6190
shall be assigned a case number and shall be recorded by the 6191
board. 6192

(2) Investigations of alleged violations of this chapter 6193
or any rule adopted under it shall be supervised by the 6194
supervising member elected by the board in accordance with 6195
section 4731.02 of the Revised Code and by the secretary as 6196
provided in section 4761.012 of the Revised Code. The president 6197
may designate another member of the board to supervise the 6198
investigation in place of the supervising member. Upon a vote of 6199
the majority of the board to authorize the addition of a 6200
consumer member in the supervision of any part of any 6201
investigation, the president shall designate a consumer member 6202
for supervision of investigations as determined by the 6203
president. The authorization of consumer member participation in 6204
investigation supervision may be rescinded by a majority vote of 6205
the board. No member of the board who supervises the 6206

investigation of a case shall participate in further 6207
adjudication of the case. 6208

(3) In investigating a possible violation of this chapter 6209
or any rule adopted under it, the board may issue subpoenas, 6210
administer oaths, question witnesses, conduct interviews, order 6211
the taking of depositions, inspect and copy any books, accounts, 6212
papers, records, or documents, and compel the attendance of 6213
witnesses and production of books, accounts, papers, records, 6214
documents, and testimony, except that a subpoena for patient 6215
record information or information, documents, and records from a 6216
peer review committee of a health care entity related to sexual 6217
misconduct or criminal conduct shall not be issued without 6218
consultation with the attorney general's office and approval of 6219
the secretary and supervising member of the board. 6220

Before issuance of a subpoena for patient record 6221
information or information, documents, and records from a peer 6222
review committee of a health care entity related to sexual 6223
misconduct or criminal conduct, the secretary and supervising 6224
member shall determine whether there is probable cause to 6225
believe that the complaint filed alleges a violation of this 6226
chapter or any rule adopted under it and that the records sought 6227
are relevant to the alleged violation and material to the 6228
investigation. The subpoena may apply only to records that cover 6229
a reasonable period of time surrounding the alleged violation. 6230

On failure to comply with any subpoena issued by the board 6231
and after reasonable notice to the person being subpoenaed, the 6232
board may move for an order compelling the production of persons 6233
or records pursuant to the Rules of Civil Procedure. 6234

A subpoena issued by the board may be served by a sheriff, 6235
the sheriff's deputy, or a board employee or agent designated by 6236

the board. Service of a subpoena issued by the board may be made 6237
by delivering a copy of the subpoena to the person named 6238
therein, reading it to the person, or leaving it at the person's 6239
usual place of residence, usual place of business, or address on 6240
file with the board. When serving a subpoena to an applicant for 6241
or the holder of a license or limited permit issued under this 6242
chapter, service of the subpoena may be made by certified mail, 6243
return receipt requested, and the subpoena shall be deemed 6244
served on the date delivery is made or the date the person 6245
refuses to accept delivery. If the person being served refuses 6246
to accept the subpoena or is not located, service may be made to 6247
an attorney who notifies the board that the attorney is 6248
representing the person. 6249

A sheriff's deputy who serves a subpoena shall receive the 6250
same fees as a sheriff. Each witness who appears before the 6251
board in obedience to a subpoena shall receive the fees and 6252
mileage provided for under section 119.094 of the Revised Code. 6253

(4) All For purposes of section 2305.252 of the Revised 6254
Code, all hearings, investigations, and inspections of the board 6255
shall be considered civil actions ~~for the purposes of section~~ 6256
~~2305.252 of the Revised Code, except those involving allegations~~ 6257
of sexual misconduct or criminal conduct, as defined in that 6258
section. 6259

(5) A report required to be submitted to the board under 6260
this chapter, a complaint, or information received by the board 6261
pursuant to an investigation is confidential and not subject to 6262
discovery in any civil action. 6263

The board shall conduct all investigations or inspections 6264
and proceedings in a manner that protects the confidentiality of 6265
patients and persons who file complaints with the board. The 6266

board shall not make public the names or any other identifying 6267
information about patients or complainants unless proper consent 6268
is given. 6269

The board may share any information it receives pursuant 6270
to an investigation or inspection, including patient records and 6271
patient record information, with law enforcement agencies, other 6272
licensing boards, and other governmental agencies that are 6273
prosecuting, adjudicating, or investigating alleged violations 6274
of statutes or administrative rules. An agency or board that 6275
receives the information shall comply with the same requirements 6276
regarding confidentiality as those with which the state medical 6277
board must comply, notwithstanding any conflicting provision of 6278
the Revised Code or procedure of the agency or board that 6279
applies when it is dealing with other information in its 6280
possession. In a judicial proceeding, the information may be 6281
admitted into evidence only in accordance with the Rules of 6282
Evidence, but the court shall require that appropriate measures 6283
are taken to ensure that confidentiality is maintained with 6284
respect to any part of the information that contains names or 6285
other identifying information about patients or complainants 6286
whose confidentiality was protected by the state medical board 6287
when the information was in the board's possession. Measures to 6288
ensure confidentiality that may be taken by the court include 6289
sealing its records or deleting specific information from its 6290
records. 6291

No person shall knowingly access, use, or disclose 6292
confidential investigatory information in a manner prohibited by 6293
law. 6294

(6) On a quarterly basis, the board shall prepare a report 6295
that documents the disposition of all cases during the preceding 6296

three months. The report shall contain the following information 6297
for each case with which the board has completed its activities: 6298

(a) The case number assigned to the complaint or alleged 6299
violation; 6300

(b) The type of license or limited permit, if any, held by 6301
the individual against whom the complaint is directed; 6302

(c) A description of the allegations contained in the 6303
complaint; 6304

(d) Whether witnesses were interviewed; 6305

(e) Whether the individual against whom the complaint is 6306
directed is the subject of any pending complaints; 6307

(f) The disposition of the case. 6308

The report shall state how many cases are still pending 6309
and shall be prepared in a manner that protects the identity of 6310
each person involved in each case. The report shall be a public 6311
record under section 149.43 of the Revised Code. 6312

(7) The board may provide a status update regarding an 6313
investigation to a complainant on request if the board verifies 6314
the complainant's identity. 6315

(F) The board shall keep records of its proceedings and do 6316
other things as are necessary and proper to carry out and 6317
enforce the provisions of this chapter. 6318

(G) The board shall maintain and publish on its internet 6319
web site all of the following: 6320

(1) The requirements for the issuance of licenses and 6321
limited permits under this chapter and rules adopted by the 6322
board; 6323

(2) A list of the names and locations of the institutions 6324
that each year granted degrees or certificates of completion in 6325
respiratory care. 6326

Sec. 4761.09. (A) The state medical board, by an 6327
affirmative vote of not fewer than six members, shall, except as 6328
provided in division (B) of this section, and to the extent 6329
permitted by law, limit, revoke, or suspend an individual's 6330
license or limited permit, refuse to issue a license or limited 6331
permit to an individual, refuse to renew a license or limited 6332
permit, refuse to reinstate a license or limited permit, or 6333
reprimand or place on probation the holder of a license or 6334
limited permit for one or more of the following reasons: 6335

(1) A plea of guilty to, a judicial finding of guilt of, 6336
or a judicial finding of eligibility for intervention in lieu of 6337
conviction for, a felony; 6338

(2) Commission of an act that constitutes a felony in this 6339
state, regardless of the jurisdiction in which the act was 6340
committed; 6341

(3) A plea of guilty to, a judicial finding of guilt of, 6342
or a judicial finding of eligibility for intervention in lieu of 6343
conviction for, a misdemeanor committed in the course of 6344
practice; 6345

(4) Commission of an act in the course of practice that 6346
constitutes a misdemeanor in this state, regardless of the 6347
jurisdiction in which the act was committed; 6348

(5) A plea of guilty to, a judicial finding of guilt of, 6349
or a judicial finding of eligibility for intervention in lieu of 6350
conviction for, a misdemeanor involving moral turpitude; 6351

(6) Commission of an act involving moral turpitude that 6352

constitutes a misdemeanor in this state, regardless of the 6353
jurisdiction in which the act was committed; 6354

(7) Except when civil penalties are imposed under section 6355
4761.091 of the Revised Code, violating or attempting to 6356
violate, directly or indirectly, or assisting in or abetting the 6357
violation of, or conspiring to violate, any provision of this 6358
chapter or the rules adopted by the board; 6359

(8) Making a false, fraudulent, deceptive, or misleading 6360
statement in the solicitation of or advertising for patients; in 6361
relation to the practice of respiratory care; or in securing or 6362
attempting to secure any license or permit issued by the board 6363
under this chapter. 6364

As used in division (A) (8) of this section, "false, 6365
fraudulent, deceptive, or misleading statement" means a 6366
statement that includes a misrepresentation of fact, is likely 6367
to mislead or deceive because of a failure to disclose material 6368
facts, is intended or is likely to create false or unjustified 6369
expectations of favorable results, or includes representations 6370
or implications that in reasonable probability will cause an 6371
ordinarily prudent person to misunderstand or be deceived. 6372

(9) Committing fraud during the administration of the 6373
examination for a license to practice or committing fraud, 6374
misrepresentation, or deception in applying for, renewing, or 6375
securing any license or permit issued by the board; 6376

(10) A departure from, or failure to conform to, minimal 6377
standards of care of similar practitioners under the same or 6378
similar circumstances, whether or not actual injury to a patient 6379
is established; 6380

(11) Violating the standards of ethical conduct adopted by 6381

the board, in the practice of respiratory care; 6382

(12) The obtaining of, or attempting to obtain, money or 6383
anything of value by fraudulent misrepresentations in the course 6384
of practice; 6385

(13) Violation of the conditions of limitation placed by 6386
the board upon a license or permit; 6387

(14) Inability to practice according to acceptable and 6388
prevailing standards of care by reason of mental illness or 6389
physical illness, including physical deterioration that 6390
adversely affects cognitive, motor, or perceptive skills; 6391

(15) Any of the following actions taken by an agency 6392
responsible for authorizing, certifying, or regulating an 6393
individual to practice a health care occupation or provide 6394
health care services in this state or another jurisdiction, for 6395
any reason other than the nonpayment of fees: the limitation, 6396
revocation, or suspension of an individual's license; acceptance 6397
of an individual's license surrender; denial of a license; 6398
refusal to renew or reinstate a license; imposition of 6399
probation; or issuance of an order of censure or other 6400
reprimand; 6401

(16) The revocation, suspension, restriction, reduction, 6402
or termination of practice privileges by the United States 6403
department of defense or department of veterans affairs; 6404

(17) Termination or suspension from participation in the 6405
medicare or medicaid programs by the department of health and 6406
human services or other responsible agency for any act or acts 6407
that also would constitute a violation of division (A) (10), 6408
(12), or (14) of this section; 6409

(18) Impairment of ability to practice according to 6410

acceptable and prevailing standards of care because of habitual 6411
or excessive use or abuse of drugs, alcohol, or other substances 6412
that impair ability to practice; 6413

(19) Failure to cooperate in an investigation conducted by 6414
the board under division (E) of section 4761.03 of the Revised 6415
Code, including failure to comply with a subpoena or order 6416
issued by the board or failure to answer truthfully a question 6417
presented by the board in an investigative interview, an 6418
investigative office conference, at a deposition, or in written 6419
interrogatories, except that failure to cooperate with an 6420
investigation shall not constitute grounds for discipline under 6421
this section if a court of competent jurisdiction has issued an 6422
order that either quashes a subpoena or permits the individual 6423
to withhold the testimony or evidence in issue; 6424

(20) Practicing in an area of respiratory care for which 6425
the person is clearly untrained or incompetent or practicing in 6426
a manner that conflicts with section 4761.17 of the Revised 6427
Code; 6428

(21) Employing, directing, or supervising a person who is 6429
not authorized to practice respiratory care under this chapter 6430
in the performance of respiratory care procedures; 6431

(22) Misrepresenting educational attainments or authorized 6432
functions for the purpose of obtaining some benefit related to 6433
the practice of respiratory care; 6434

(23) Assisting suicide as defined in section 3795.01 of 6435
the Revised Code; 6436

(24) Representing, with the purpose of obtaining 6437
compensation or other advantage as personal gain or for any 6438
other person, that an incurable disease or injury, or other 6439

incurable condition, can be permanently cured. 6440

Disciplinary actions taken by the board under division (A) 6441
of this section shall be taken pursuant to an adjudication under 6442
Chapter 119. of the Revised Code, except that in lieu of an 6443
adjudication, the board may enter into a consent agreement with 6444
an individual to resolve an allegation of a violation of this 6445
chapter or any rule adopted under it. A consent agreement, when 6446
ratified by an affirmative vote of not fewer than six members of 6447
the board, shall constitute the findings and order of the board 6448
with respect to the matter addressed in the agreement. If the 6449
board refuses to ratify a consent agreement, the admissions and 6450
findings contained in the consent agreement shall be of no 6451
effect. 6452

A telephone conference call may be utilized for 6453
ratification of a consent agreement that revokes or suspends an 6454
individual's license or permit. The telephone conference call 6455
shall be considered a special meeting under division (F) of 6456
section 121.22 of the Revised Code. 6457

(B) The board shall not refuse to issue a license or 6458
limited permit to an applicant because of a plea of guilty to, a 6459
judicial finding of guilt of, or a judicial finding of 6460
eligibility for intervention in lieu of conviction for an 6461
offense unless the refusal is in accordance with section 9.79 of 6462
the Revised Code. 6463

(C) Any action taken by the board under division (A) of 6464
this section resulting in a suspension from practice shall be 6465
accompanied by a written statement of the conditions under which 6466
the individual's license or permit may be reinstated. The board 6467
shall adopt rules governing conditions to be imposed for 6468
reinstatement. Reinstatement of a license or permit suspended 6469

pursuant to division (A) of this section requires an affirmative 6470
vote of not fewer than six members of the board. 6471

(D) When the board refuses to grant or issue a license or 6472
permit to an applicant, revokes an individual's license or 6473
permit, refuses to renew an individual's license or permit, or 6474
refuses to reinstate an individual's license or permit, the 6475
board may specify that its action is permanent. An individual 6476
subject to a permanent action taken by the board is forever 6477
thereafter ineligible to hold a license or permit and the board 6478
shall not accept an application for reinstatement of the license 6479
or permit or for issuance of a new license or permit. 6480

(E) If the board is required by Chapter 119. of the 6481
Revised Code to give notice of an opportunity for a hearing and 6482
if the individual subject to the notice does not timely request 6483
a hearing in accordance with section 119.07 of the Revised Code, 6484
the board is not required to hold a hearing, but may adopt, by 6485
an affirmative vote of not fewer than six of its members, a 6486
final order that contains the board's findings. In the final 6487
order, the board may order any of the sanctions identified under 6488
division (A) of this section. 6489

(F) In enforcing division (A)(14) of this section, the 6490
board, upon a showing of a possible violation, may compel any 6491
individual authorized to practice by this chapter or who has 6492
submitted an application pursuant to this chapter to submit to a 6493
mental examination, physical examination, including an HIV test, 6494
or both a mental and a physical examination. The expense of the 6495
examination is the responsibility of the individual compelled to 6496
be examined. Failure to submit to a mental or physical 6497
examination or consent to an HIV test ordered by the board 6498
constitutes an admission of the allegations against the 6499

individual unless the failure is due to circumstances beyond the 6500
individual's control, and a default and final order may be 6501
entered without the taking of testimony or presentation of 6502
evidence. If the board finds an individual unable to practice 6503
because of the reasons set forth in division (A)(14) of this 6504
section, the board shall require the individual to submit to 6505
care, counseling, or treatment by physicians approved or 6506
designated by the board, as a condition for initial, continued, 6507
reinstated, or renewed authority to practice. An individual 6508
affected under this division shall be afforded an opportunity to 6509
demonstrate to the board the ability to resume practice in 6510
compliance with acceptable and prevailing standards under the 6511
provisions of the individual's license or permit. For the 6512
purpose of division (A)(14) of this section, any individual who 6513
applies for or receives a license or permit to practice under 6514
this chapter accepts the privilege of practicing in this state 6515
and, by so doing, shall be deemed to have given consent to 6516
submit to a mental or physical examination when directed to do 6517
so in writing by the board, and to have waived all objections to 6518
the admissibility of testimony or examination reports that 6519
constitute a privileged communication. 6520

(G) For the purposes of division (A)(18) of this section, 6521
any individual authorized to practice by this chapter accepts 6522
the privilege of practicing in this state subject to supervision 6523
by the board. By filing an application for or holding a license 6524
or permit under this chapter, an individual shall be deemed to 6525
have given consent to submit to a mental or physical examination 6526
when ordered to do so by the board in writing, and to have 6527
waived all objections to the admissibility of testimony or 6528
examination reports that constitute privileged communications. 6529

If it has reason to believe that any individual authorized 6530

to practice by this chapter or any applicant for a license or 6531
permit suffers such impairment, the board may compel the 6532
individual to submit to a mental or physical examination, or 6533
both. The expense of the examination is the responsibility of 6534
the individual compelled to be examined. Any mental or physical 6535
examination required under this division shall be undertaken by 6536
a treatment provider or physician who is qualified to conduct 6537
the examination and who is chosen by the board. 6538

Failure to submit to a mental or physical examination 6539
ordered by the board constitutes an admission of the allegations 6540
against the individual unless the failure is due to 6541
circumstances beyond the individual's control, and a default and 6542
final order may be entered without the taking of testimony or 6543
presentation of evidence. If the board determines that the 6544
individual's ability to practice is impaired, the board shall 6545
suspend the individual's license or permit or deny the 6546
individual's application and shall require the individual, as a 6547
condition for an initial, continued, reinstated, or renewed 6548
license or permit, to submit to treatment. 6549

Before being eligible to apply for reinstatement of a 6550
license or permit suspended under this division, the impaired 6551
practitioner shall demonstrate to the board the ability to 6552
resume practice in compliance with acceptable and prevailing 6553
standards of care under the provisions of the practitioner's 6554
license or permit. The demonstration shall include, but shall 6555
not be limited to, the following: 6556

(1) Certification from a treatment provider approved under 6557
section 4731.25 of the Revised Code that the individual has 6558
successfully completed any required inpatient treatment; 6559

(2) Evidence of continuing full compliance with an 6560

aftercare contract or consent agreement; 6561

(3) Two written reports indicating that the individual's 6562
ability to practice has been assessed and that the individual 6563
has been found capable of practicing according to acceptable and 6564
prevailing standards of care. The reports shall be made by 6565
individuals or providers approved by the board for making the 6566
assessments and shall describe the basis for their 6567
determination. 6568

The board may reinstate a license or permit suspended 6569
under this division after that demonstration and after the 6570
individual has entered into a written consent agreement. 6571

When the impaired practitioner resumes practice, the board 6572
shall require continued monitoring of the individual. The 6573
monitoring shall include, but not be limited to, compliance with 6574
the written consent agreement entered into before reinstatement 6575
or with conditions imposed by board order after a hearing, and, 6576
upon termination of the consent agreement, submission to the 6577
board for at least two years of annual written progress reports 6578
made under penalty of perjury stating whether the individual has 6579
maintained sobriety. 6580

~~(H)~~(H) (1) If either of the following circumstances occur, 6581
the secretary and supervising member ~~determine both of the~~ 6582
~~following, they may~~ recommend that the board suspend an 6583
individual's license or permit without a prior hearing: 6584

~~(1)~~(a) The secretary and supervising member determine 6585
both of the following: 6586

(i) That there is clear and convincing evidence that an 6587
individual has violated division (A) of this section; 6588

~~(2)~~(ii) That the individual's continued practice presents 6589

a danger of immediate and serious harm to the public. 6590

~~Written~~ (b) The board receives verifiable information that 6591
a licensee has been charged in any state or federal court for a 6592
crime classified as a felony under the charging court's law and 6593
the conduct charged constitutes a violation of division (A) of 6594
this section. 6595

(2) If a recommendation is made to suspend without a prior 6596
hearing pursuant to division (H) (1) of this section, written 6597
allegations shall be prepared for consideration by the board. 6598
The board, upon review of those allegations and by an 6599
affirmative vote of not fewer than six of its members, excluding 6600
the secretary and supervising member, may suspend a license or 6601
permit without a prior hearing. A telephone conference call may 6602
be utilized for reviewing the allegations and taking the vote on 6603
the summary suspension. 6604

The board shall issue a written order of suspension by 6605
certified mail or in person in accordance with section 119.07 of 6606
the Revised Code. The order shall not be subject to suspension 6607
by the court during pendency of any appeal filed under section 6608
119.12 of the Revised Code. If the individual subject to the 6609
summary suspension requests an adjudicatory hearing by the 6610
board, the date set for the hearing shall be within fifteen 6611
days, but not earlier than seven days, after the individual 6612
requests the hearing, unless otherwise agreed to by both the 6613
board and the individual. 6614

(3) Any summary suspension imposed under this division 6615
shall remain in effect, unless reversed on appeal, until a final 6616
adjudicative order issued by the board pursuant to this section 6617
and Chapter 119. of the Revised Code becomes effective. The 6618
board shall issue its final adjudicative order within seventy- 6619

five days after completion of its hearing. A failure to issue 6620
the order within seventy-five days shall result in dissolution 6621
of the summary suspension order but shall not invalidate any 6622
subsequent, final adjudicative order. 6623

(I) For purposes of divisions (A) (2), (4), and (6) of this 6624
section, the commission of the act may be established by a 6625
finding by the board, pursuant to an adjudication under Chapter 6626
119. of the Revised Code, that the individual committed the act. 6627
The board does not have jurisdiction under those divisions if 6628
the trial court renders a final judgment in the individual's 6629
favor and that judgment is based upon an adjudication on the 6630
merits. The board has jurisdiction under those divisions if the 6631
trial court issues an order of dismissal upon technical or 6632
procedural grounds. 6633

(J) The sealing or expungement of conviction records by 6634
any court shall have no effect upon a prior board order entered 6635
under this section or upon the board's jurisdiction to take 6636
action under this section if, based upon a plea of guilty, a 6637
judicial finding of guilt, or a judicial finding of eligibility 6638
for intervention in lieu of conviction, the board issued a 6639
notice of opportunity for a hearing prior to the court's order 6640
to seal or expunge the records. The board shall not be required 6641
to seal, destroy, redact, or otherwise modify its records to 6642
reflect the court's sealing or expungement of conviction 6643
records. 6644

(K) If the board takes action under division (A) (1), (3), 6645
or (5) of this section, and the judicial finding of guilt, 6646
guilty plea, or judicial finding of eligibility for intervention 6647
in lieu of conviction is overturned on appeal, upon exhaustion 6648
of the criminal appeal, a petition for reconsideration of the 6649

order may be filed with the board along with appropriate court documents. Upon receipt of a petition for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (A) of this section.

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

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or permit is automatically suspended under this division fails to make a timely request for an adjudication under Chapter

119. of the Revised Code, the board shall enter a final order 6681
permanently revoking the individual's license or permit. 6682

(M) Notwithstanding any other provision of the Revised 6683
Code, all of the following apply: 6684

(1) The surrender of a license or permit issued under this 6685
chapter shall not be effective unless or until accepted by the 6686
board. A telephone conference call may be utilized for 6687
acceptance of the surrender of an individual's license or 6688
permit. The telephone conference call shall be considered a 6689
special meeting under division (F) of section 121.22 of the 6690
Revised Code. Reinstatement of a license or permit surrendered 6691
to the board requires an affirmative vote of not fewer than six 6692
members of the board. 6693

(2) An application for a license or permit made under the 6694
provisions of this chapter may not be withdrawn without approval 6695
of the board. 6696

(3) Failure by an individual to renew a license or permit 6697
in accordance with this chapter shall not remove or limit the 6698
board's jurisdiction to take any disciplinary action under this 6699
section against the individual. 6700

(4) At the request of the board, a license or permit 6701
holder shall immediately surrender to the board a license or 6702
permit that the board has suspended, revoked, or permanently 6703
revoked. 6704

Sec. 4761.14. (A) As used in this section, "criminal 6705
conduct" and "sexual misconduct" have the same meanings as in 6706
section 4731.224 of the Revised Code. 6707

(B) (1) An employer that disciplines or terminates the 6708
employment of a respiratory care professional or individual 6709

holding a limited permit issued under this chapter because of 6710
conduct that would be grounds for disciplinary action under 6711
section 4761.09 of the Revised Code shall, not later than ~~sixty-~~ 6712
thirty days after the discipline or termination, report the 6713
action to the state medical board. The report shall state the 6714
name of the respiratory care professional or individual holding 6715
the limited permit and the reason the employer took the action. 6716
If an employer fails to report to the board, the board may seek 6717
an order from the Franklin county court of common pleas, or any 6718
other court of competent jurisdiction, compelling submission of 6719
the report. 6720

(2) Within thirty days after commencing an investigation 6721
regarding criminal conduct or sexual misconduct against any 6722
individual holding a valid license or limited permit issued 6723
pursuant to this chapter, a health care facility, including a 6724
hospital, health care facility operated by a health insuring 6725
corporation, ambulatory surgical center, or similar facility or 6726
employer, shall report to the board the name of the individual 6727
and a summary of the underlying facts related to the 6728
investigation being commenced. 6729

(C) If any individual authorized to practice under this 6730
chapter or any professional association or society of such 6731
individuals knows or has reasonable cause to suspect based on 6732
facts that would cause a reasonable person in a similar position 6733
to suspect that an individual authorized to practice under this 6734
chapter has committed or participated in criminal conduct or 6735
sexual misconduct the information upon which the belief is based 6736
shall be reported to the board within thirty days. 6737

(D) In addition to the self-reporting of criminal offenses 6738
that is required for license renewal, an individual authorized 6739

to practice under this chapter shall report to the board 6740
criminal charges regarding criminal conduct, sexual misconduct, 6741
or any conduct involving the use of a motor vehicle while under 6742
the influence of alcohol or drugs, including offenses that are 6743
equivalent offenses under division (A) of section 4511.181 of 6744
the Revised Code, violations of division (D) of section 4511.194 6745
of the Revised Code, and violations of division (C) of section 6746
4511.79 of the Revised Code. Reports under this division shall 6747
be made within thirty days of the criminal charge being filed. 6748

Sec. 4761.99. Whoever violates division (A) of section 6749
4761.10 of the Revised Code is guilty of a minor misdemeanor on 6750
a first offense. On a second offense, the person is guilty of a 6751
misdemeanor of the fourth degree. On each subsequent offense, 6752
the person is guilty of a misdemeanor of the first degree. 6753

Whoever violates division (B)(2) or (C) of section 4761.14 6754
of the Revised Code is guilty of failure to report criminal 6755
conduct or sexual misconduct, a misdemeanor of the fourth 6756
degree. If the offender has previously been convicted of a 6757
violation of this division, the failure to report is a 6758
misdemeanor of the first degree. 6759

Whoever violates division (E)(5) of section 4761.03 of the 6760
Revised Code is guilty of disclosing confidential investigatory 6761
information, a misdemeanor of the first degree. 6762

Sec. 4762.13. (A) The state medical board, by an 6763
affirmative vote of not fewer than six members, may revoke or 6764
may refuse to grant a license to practice as an oriental 6765
medicine practitioner or license to practice as an acupuncturist 6766
to a person found by the board to have committed fraud, 6767
misrepresentation, or deception in applying for or securing the 6768
license. 6769

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

(1) Permitting the holder's name or license to be used by another person;

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

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

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

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

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

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist.

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

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

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

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

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

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

practice; 6828

(14) A plea of guilty to, a judicial finding of guilt of, 6829
or a judicial finding of eligibility for intervention in lieu of 6830
conviction for, a misdemeanor involving moral turpitude; 6831

(15) Commission of an act in the course of practice that 6832
constitutes a misdemeanor in this state, regardless of the 6833
jurisdiction in which the act was committed; 6834

(16) Commission of an act involving moral turpitude that 6835
constitutes a misdemeanor in this state, regardless of the 6836
jurisdiction in which the act was committed; 6837

(17) A plea of guilty to, a judicial finding of guilt of, 6838
or a judicial finding of eligibility for intervention in lieu of 6839
conviction for violating any state or federal law regulating the 6840
possession, distribution, or use of any drug, including 6841
trafficking in drugs; 6842

(18) Any of the following actions taken by the state 6843
agency responsible for regulating the practice of oriental 6844
medicine or acupuncture in another jurisdiction, for any reason 6845
other than the nonpayment of fees: the limitation, revocation, 6846
or suspension of an individual's license to practice; acceptance 6847
of an individual's license surrender; denial of a license; 6848
refusal to renew or reinstate a license; imposition of 6849
probation; or issuance of an order of censure or other 6850
reprimand; 6851

(19) Violation of the conditions placed by the board on a 6852
license to practice as an oriental medicine practitioner or 6853
license to practice as an acupuncturist; 6854

(20) Failure to use universal blood and body fluid 6855
precautions established by rules adopted under section 4731.051 6856

of the Revised Code; 6857

(21) Failure to cooperate in an investigation conducted by 6858
the board under section 4762.14 of the Revised Code, including 6859
failure to comply with a subpoena or order issued by the board 6860
or failure to answer truthfully a question presented by the 6861
board at a deposition or in written interrogatories, except that 6862
failure to cooperate with an investigation shall not constitute 6863
grounds for discipline under this section if a court of 6864
competent jurisdiction has issued an order that either quashes a 6865
subpoena or permits the individual to withhold the testimony or 6866
evidence in issue; 6867

(22) Failure to comply with the standards of the national 6868
certification commission for acupuncture and oriental medicine 6869
regarding professional ethics, commitment to patients, 6870
commitment to the profession, and commitment to the public; 6871

(23) Failure to have adequate professional liability 6872
insurance coverage in accordance with section 4762.22 of the 6873
Revised Code; 6874

(24) Failure to maintain a current and active designation 6875
as a diplomate in oriental medicine, diplomate of acupuncture 6876
and Chinese herbology, or diplomate in acupuncture, as 6877
applicable, from the national certification commission for 6878
acupuncture and oriental medicine, including revocation by the 6879
commission of the individual's designation, failure by the 6880
individual to meet the commission's requirements for 6881
redesignation, or failure to notify the board that the 6882
appropriate designation has not been maintained. 6883

(C) The board shall not refuse to issue a certificate to 6884
an applicant because of a plea of guilty to, a judicial finding 6885

of guilt of, or a judicial finding of eligibility for 6886
intervention in lieu of conviction for an offense unless the 6887
refusal is in accordance with section 9.79 of the Revised Code. 6888

(D) Disciplinary actions taken by the board under 6889
divisions (A) and (B) of this section shall be taken pursuant to 6890
an adjudication under Chapter 119. of the Revised Code, except 6891
that in lieu of an adjudication, the board may enter into a 6892
consent agreement with an oriental medicine practitioner or 6893
acupuncturist or applicant to resolve an allegation of a 6894
violation of this chapter or any rule adopted under it. A 6895
consent agreement, when ratified by an affirmative vote of not 6896
fewer than six members of the board, shall constitute the 6897
findings and order of the board with respect to the matter 6898
addressed in the agreement. If the board refuses to ratify a 6899
consent agreement, the admissions and findings contained in the 6900
consent agreement shall be of no force or effect. 6901

(E) For purposes of divisions (B) (12), (15), and (16) of 6902
this section, the commission of the act may be established by a 6903
finding by the board, pursuant to an adjudication under Chapter 6904
119. of the Revised Code, that the applicant or license holder 6905
committed the act in question. The board shall have no 6906
jurisdiction under these divisions in cases where the trial 6907
court renders a final judgment in the license holder's favor and 6908
that judgment is based upon an adjudication on the merits. The 6909
board shall have jurisdiction under these divisions in cases 6910
where the trial court issues an order of dismissal upon 6911
technical or procedural grounds. 6912

(F) The sealing or expungement of conviction records by 6913
any court shall have no effect upon a prior board order entered 6914
under the provisions of this section or upon the board's 6915

jurisdiction to take action under the provisions of this section 6916
if, based upon a plea of guilty, a judicial finding of guilt, or 6917
a judicial finding of eligibility for intervention in lieu of 6918
conviction, the board issued a notice of opportunity for a 6919
hearing or entered into a consent agreement prior to the court's 6920
order to seal or expunge the records. The board shall not be 6921
required to seal, destroy, redact, or otherwise modify its 6922
records to reflect the court's sealing or expungement of 6923
conviction records. 6924

(G) For purposes of this division, any individual who 6925
holds a license to practice issued under this chapter, or 6926
applies for a license to practice, shall be deemed to have given 6927
consent to submit to a mental or physical examination when 6928
directed to do so in writing by the board and to have waived all 6929
objections to the admissibility of testimony or examination 6930
reports that constitute a privileged communication. 6931

(1) In enforcing division (B) (5) of this section, the 6932
board, upon a showing of a possible violation, may compel any 6933
individual who holds a license to practice issued under this 6934
chapter or who has applied for a license pursuant to this 6935
chapter to submit to a mental examination, physical examination, 6936
including an HIV test, or both a mental and physical 6937
examination. The expense of the examination is the 6938
responsibility of the individual compelled to be examined. 6939
Failure to submit to a mental or physical examination or consent 6940
to an HIV test ordered by the board constitutes an admission of 6941
the allegations against the individual unless the failure is due 6942
to circumstances beyond the individual's control, and a default 6943
and final order may be entered without the taking of testimony 6944
or presentation of evidence. If the board finds an oriental 6945
medicine practitioner or acupuncturist unable to practice 6946

because of the reasons set forth in division (B) (5) of this 6947
section, the board shall require the individual to submit to 6948
care, counseling, or treatment by physicians approved or 6949
designated by the board, as a condition for an initial, 6950
continued, reinstated, or renewed license to practice. An 6951
individual affected by this division shall be afforded an 6952
opportunity to demonstrate to the board the ability to resume 6953
practicing in compliance with acceptable and prevailing 6954
standards of care. 6955

(2) For purposes of division (B) (6) of this section, if 6956
the board has reason to believe that any individual who holds a 6957
license to practice issued under this chapter or any applicant 6958
for a license suffers such impairment, the board may compel the 6959
individual to submit to a mental or physical examination, or 6960
both. The expense of the examination is the responsibility of 6961
the individual compelled to be examined. Any mental or physical 6962
examination required under this division shall be undertaken by 6963
a treatment provider or physician qualified to conduct such 6964
examination and chosen by the board. 6965

Failure to submit to a mental or physical examination 6966
ordered by the board constitutes an admission of the allegations 6967
against the individual unless the failure is due to 6968
circumstances beyond the individual's control, and a default and 6969
final order may be entered without the taking of testimony or 6970
presentation of evidence. If the board determines that the 6971
individual's ability to practice is impaired, the board shall 6972
suspend the individual's license or deny the individual's 6973
application and shall require the individual, as a condition for 6974
an initial, continued, reinstated, or renewed license, to submit 6975
to treatment. 6976

Before being eligible to apply for reinstatement of a 6977
license suspended under this division, the oriental medicine 6978
practitioner or acupuncturist shall demonstrate to the board the 6979
ability to resume practice in compliance with acceptable and 6980
prevailing standards of care. The demonstration shall include 6981
the following: 6982

(a) Certification from a treatment provider approved under 6983
section 4731.25 of the Revised Code that the individual has 6984
successfully completed any required inpatient treatment; 6985

(b) Evidence of continuing full compliance with an 6986
aftercare contract or consent agreement; 6987

(c) Two written reports indicating that the individual's 6988
ability to practice has been assessed and that the individual 6989
has been found capable of practicing according to acceptable and 6990
prevailing standards of care. The reports shall be made by 6991
individuals or providers approved by the board for making such 6992
assessments and shall describe the basis for their 6993
determination. 6994

The board may reinstate a license suspended under this 6995
division after such demonstration and after the individual has 6996
entered into a written consent agreement. 6997

When the impaired individual resumes practice, the board 6998
shall require continued monitoring of the individual. The 6999
monitoring shall include monitoring of compliance with the 7000
written consent agreement entered into before reinstatement or 7001
with conditions imposed by board order after a hearing, and, 7002
upon termination of the consent agreement, submission to the 7003
board for at least two years of annual written progress reports 7004
made under penalty of falsification stating whether the 7005

individual has maintained sobriety. 7006

~~(H)~~(H) (1) If either of the following circumstances occur, 7007
the secretary and supervising member ~~determine both of the~~ 7008
~~following, they may~~ recommend that the board suspend an 7009
individual's license to practice without a prior hearing: 7010

~~(1)~~(a) The secretary and supervising member determine 7011
both of the following: 7012

(i) That there is clear and convincing evidence that an 7013
oriental medicine practitioner or acupuncturist has violated 7014
division (B) of this section; 7015

~~(2)~~(ii) That the individual's continued practice presents 7016
a danger of immediate and serious harm to the public. 7017

~~Written~~(b) The board receives verifiable information that 7018
a licensee has been charged in any state or federal court for a 7019
crime classified as a felony under the charging court's law and 7020
the conduct charged constitutes a violation of division (B) of 7021
this section. 7022

(2) If a recommendation is made to suspend without a prior 7023
hearing pursuant to division (H) (1) of this section, written 7024
allegations shall be prepared for consideration by the board. 7025
The board, upon review of the allegations and by an affirmative 7026
vote of not fewer than six of its members, excluding the 7027
secretary and supervising member, may suspend a license without 7028
a prior hearing. A telephone conference call may be utilized for 7029
reviewing the allegations and taking the vote on the summary 7030
suspension. 7031

The board shall issue a written order of suspension by 7032
certified mail or in person in accordance with section 119.07 of 7033
the Revised Code. The order shall not be subject to suspension 7034

by the court during pendency of any appeal filed under section 7035
119.12 of the Revised Code. If the oriental medicine 7036
practitioner or acupuncturist requests an adjudicatory hearing 7037
by the board, the date set for the hearing shall be within 7038
fifteen days, but not earlier than seven days, after the hearing 7039
is requested, unless otherwise agreed to by both the board and 7040
the license holder. 7041

(3) A summary suspension imposed under this division shall 7042
remain in effect, unless reversed on appeal, until a final 7043
adjudicative order issued by the board pursuant to this section 7044
and Chapter 119. of the Revised Code becomes effective. The 7045
board shall issue its final adjudicative order within sixty days 7046
after completion of its hearing. Failure to issue the order 7047
within sixty days shall result in dissolution of the summary 7048
suspension order, but shall not invalidate any subsequent, final 7049
adjudicative order. 7050

(I) If the board takes action under division (B) (11), 7051
(13), or (14) of this section, and the judicial finding of 7052
guilt, guilty plea, or judicial finding of eligibility for 7053
intervention in lieu of conviction is overturned on appeal, upon 7054
exhaustion of the criminal appeal, a petition for 7055
reconsideration of the order may be filed with the board along 7056
with appropriate court documents. Upon receipt of a petition and 7057
supporting court documents, the board shall reinstate the 7058
license. The board may then hold an adjudication under Chapter 7059
119. of the Revised Code to determine whether the individual 7060
committed the act in question. Notice of opportunity for hearing 7061
shall be given in accordance with Chapter 119. of the Revised 7062
Code. If the board finds, pursuant to an adjudication held under 7063
this division, that the individual committed the act, or if no 7064
hearing is requested, it may order any of the sanctions 7065

specified in division (B) of this section. 7066

(J) The license to practice of an oriental medicine 7067
practitioner or acupuncturist and the practitioner's or 7068
acupuncturist's practice in this state are automatically 7069
suspended as of the date the practitioner or acupuncturist 7070
pleads guilty to, is found by a judge or jury to be guilty of, 7071
or is subject to a judicial finding of eligibility for 7072
intervention in lieu of conviction in this state or treatment or 7073
intervention in lieu of conviction in another jurisdiction for 7074
any of the following criminal offenses in this state or a 7075
substantially equivalent criminal offense in another 7076
jurisdiction: aggravated murder, murder, voluntary manslaughter, 7077
felonious assault, trafficking in persons, kidnapping, rape, 7078
sexual battery, gross sexual imposition, aggravated arson, 7079
aggravated robbery, or aggravated burglary. Continued practice 7080
after the suspension shall be considered practicing without a 7081
license. 7082

The board shall notify the individual subject to the 7083
suspension by certified mail or in person in accordance with 7084
section 119.07 of the Revised Code. If an individual whose 7085
license is suspended under this division fails to make a timely 7086
request for an adjudication under Chapter 119. of the Revised 7087
Code, the board shall enter a final order permanently revoking 7088
the individual's license. 7089

(K) In any instance in which the board is required by 7090
Chapter 119. of the Revised Code to give notice of opportunity 7091
for hearing and the individual subject to the notice does not 7092
timely request a hearing in accordance with section 119.07 of 7093
the Revised Code, the board is not required to hold a hearing, 7094
but may adopt, by an affirmative vote of not fewer than six of 7095

its members, a final order that contains the board's findings. 7096
In the final order, the board may order any of the sanctions 7097
identified under division (A) or (B) of this section. 7098

(L) Any action taken by the board under division (B) of 7099
this section resulting in a suspension shall be accompanied by a 7100
written statement of the conditions under which the license may 7101
be reinstated. The board shall adopt rules in accordance with 7102
Chapter 119. of the Revised Code governing conditions to be 7103
imposed for reinstatement. Reinstatement of a license suspended 7104
pursuant to division (B) of this section requires an affirmative 7105
vote of not fewer than six members of the board. 7106

(M) When the board refuses to grant or issue a license to 7107
an applicant, revokes an individual's license, refuses to renew 7108
an individual's license, or refuses to reinstate an individual's 7109
license, the board may specify that its action is permanent. An 7110
individual subject to a permanent action taken by the board is 7111
forever thereafter ineligible to hold a license to practice as 7112
an oriental medicine practitioner or license to practice as an 7113
acupuncturist and the board shall not accept an application for 7114
reinstatement of the license or for issuance of a new license. 7115

(N) Notwithstanding any other provision of the Revised 7116
Code, all of the following apply: 7117

(1) The surrender of a license to practice as an oriental 7118
medicine practitioner or license to practice as an acupuncturist 7119
issued under this chapter is not effective unless or until 7120
accepted by the board. Reinstatement of a license surrendered to 7121
the board requires an affirmative vote of not fewer than six 7122
members of the board. 7123

(2) An application made under this chapter for a license 7124

may not be withdrawn without approval of the board. 7125

(3) Failure by an individual to renew a license in 7126
accordance with section 4762.06 of the Revised Code shall not 7127
remove or limit the board's jurisdiction to take disciplinary 7128
action under this section against the individual. 7129

Sec. 4762.14. (A) The state medical board shall 7130
investigate evidence that appears to show that any person has 7131
violated this chapter or the rules adopted under it. Any person 7132
may report to the board in a signed writing any information the 7133
person has that appears to show a violation of any provision of 7134
this chapter or the rules adopted under it. In the absence of 7135
bad faith, a person who reports such information or testifies 7136
before the board in an adjudication conducted under Chapter 119. 7137
of the Revised Code shall not be liable for civil damages as a 7138
result of reporting the information or providing testimony. Each 7139
complaint or allegation of a violation received by the board 7140
shall be assigned a case number and be recorded by the board. 7141

(B) Investigations of alleged violations of this chapter 7142
or rules adopted under it shall be supervised by the supervising 7143
member elected by the board in accordance with section 4731.02 7144
of the Revised Code and by the secretary as provided in section 7145
4762.17 of the Revised Code. The board's president may designate 7146
another member of the board to supervise the investigation in 7147
place of the supervising member. Upon a vote of the majority of 7148
the board to authorize the addition of a consumer member in the 7149
supervision of any part of any investigation, the president 7150
shall designate a consumer member for supervision of 7151
investigations as determined by the president. The authorization 7152
of consumer member participation in investigation supervision 7153
may be rescinded by a majority vote of the board. A member of 7154

the board who supervises the investigation of a case shall not 7155
participate in further adjudication of the case. 7156

(C) In investigating a possible violation of this chapter 7157
or the rules adopted under it, the board may administer oaths, 7158
order the taking of depositions, issue subpoenas, and compel the 7159
attendance of witnesses and production of books, accounts, 7160
papers, records, documents, and testimony, except that a 7161
subpoena for patient record information or information, 7162
documents, and records from a peer review committee of a health 7163
care entity related to sexual misconduct or criminal conduct 7164
shall not be issued without consultation with the attorney 7165
general's office and approval of the secretary and supervising 7166
member of the board. Before issuance of a subpoena for patient 7167
record information or information, documents, and records from a 7168
peer review committee of a health care entity related to sexual 7169
misconduct or criminal conduct, the secretary and supervising 7170
member shall determine whether there is probable cause to 7171
believe that the complaint filed alleges a violation of this 7172
chapter or the rules adopted under it and that the records 7173
sought are relevant to the alleged violation and material to the 7174
investigation. The subpoena may apply only to records that cover 7175
a reasonable period of time surrounding the alleged violation. 7176

On failure to comply with any subpoena issued by the board 7177
and after reasonable notice to the person being subpoenaed, the 7178
board may move for an order compelling the production of persons 7179
or records pursuant to the Rules of Civil Procedure. 7180

A subpoena issued by the board may be served by a sheriff, 7181
the sheriff's deputy, or a board employee designated by the 7182
board. Service of a subpoena issued by the board may be made by 7183
delivering a copy of the subpoena to the person named therein, 7184

reading it to the person, or leaving it at the person's usual 7185
place of residence. When the person being served is an oriental 7186
medicine practitioner or acupuncturist, service of the subpoena 7187
may be made by certified mail, restricted delivery, return 7188
receipt requested, and the subpoena shall be deemed served on 7189
the date delivery is made or the date the person refuses to 7190
accept delivery. 7191

A sheriff's deputy who serves a subpoena shall receive the 7192
same fees as a sheriff. Each witness who appears before the 7193
board in obedience to a subpoena shall receive the fees and 7194
mileage provided for under section 119.094 of the Revised Code. 7195

(D) All For purposes of section 2305.252 of the Revised 7196
Code, all hearings and investigations of the board shall be 7197
considered civil actions for the purposes of section 2305.252 of 7198
the Revised Code, except those involving allegations of sexual 7199
misconduct or criminal conduct, as defined in that section. 7200

(E) Information received by the board pursuant to an 7201
investigation is confidential and not subject to discovery in 7202
any civil action. 7203

The board shall conduct all investigations and proceedings 7204
in a manner that protects the confidentiality of patients and 7205
persons who file complaints with the board. The board shall not 7206
make public the names or any other identifying information about 7207
patients or complainants unless proper consent is given. 7208

The board may share any information it receives pursuant 7209
to an investigation, including patient records and patient 7210
record information, with law enforcement agencies, other 7211
licensing boards, and other governmental agencies that are 7212
prosecuting, adjudicating, or investigating alleged violations 7213

of statutes or administrative rules. An agency or board that 7214
receives the information shall comply with the same requirements 7215
regarding confidentiality as those with which the state medical 7216
board must comply, notwithstanding any conflicting provision of 7217
the Revised Code or procedure of the agency or board that 7218
applies when it is dealing with other information in its 7219
possession. In a judicial proceeding, the information may be 7220
admitted into evidence only in accordance with the Rules of 7221
Evidence, but the court shall require that appropriate measures 7222
are taken to ensure that confidentiality is maintained with 7223
respect to any part of the information that contains names or 7224
other identifying information about patients or complainants 7225
whose confidentiality was protected by the state medical board 7226
when the information was in the board's possession. Measures to 7227
ensure confidentiality that may be taken by the court include 7228
sealing its records or deleting specific information from its 7229
records. 7230

No person shall knowingly access, use, or disclose 7231
confidential investigatory information in a manner prohibited by 7232
law. 7233

(F) The state medical board shall develop requirements for 7234
and provide appropriate initial training and continuing 7235
education for investigators employed by the board to carry out 7236
its duties under this chapter. The training and continuing 7237
education may include enrollment in courses operated or approved 7238
by the Ohio peace officer training commission that the board 7239
considers appropriate under conditions set forth in section 7240
109.79 of the Revised Code. 7241

(G) On a quarterly basis, the board shall prepare a report 7242
that documents the disposition of all cases during the preceding 7243

three months. The report shall contain the following information 7244
for each case with which the board has completed its activities: 7245

(1) The case number assigned to the complaint or alleged 7246
violation; 7247

(2) The type of license, if any, held by the individual 7248
against whom the complaint is directed; 7249

(3) A description of the allegations contained in the 7250
complaint; 7251

(4) Whether witnesses were interviewed; 7252

(5) Whether the individual against whom the complaint is 7253
directed is the subject of any pending complaints; 7254

(6) The disposition of the case. 7255

The report shall state how many cases are still pending, 7256
and shall be prepared in a manner that protects the identity of 7257
each person involved in each case. The report is a public record 7258
for purposes of section 149.43 of the Revised Code. 7259

(H) The board may provide a status update regarding an 7260
investigation to a complainant on request if the board verifies 7261
the complainant's identity. 7262

Sec. 4762.16. (A) As used in this section, "criminal 7263
conduct" and "sexual misconduct" have the same meanings as in 7264
section 4731.224 of the Revised Code. 7265

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7266
any formal disciplinary action taken by any health care 7267
facility, including a hospital, health care facility operated by 7268
a health insuring corporation, ambulatory surgical center, or 7269
similar facility, against any individual holding a valid license 7270

to practice as an oriental medicine practitioner or valid 7271
license to practice as an acupuncturist, the chief administrator 7272
or executive officer of the facility shall report to the state 7273
medical board the name of the individual, the action taken by 7274
the facility, and a summary of the underlying facts leading to 7275
the action taken. Upon request, the board shall be provided 7276
certified copies of the patient records that were the basis for 7277
the facility's action. Prior to release to the board, the 7278
summary shall be approved by the peer review committee that 7279
reviewed the case or by the governing board of the facility. 7280

The filing of a report with the board or decision not to 7281
file a report, investigation by the board, or any disciplinary 7282
action taken by the board, does not preclude a health care 7283
facility from taking disciplinary action against an oriental 7284
medicine practitioner or acupuncturist. 7285

In the absence of fraud or bad faith, no individual or 7286
entity that provides patient records to the board shall be 7287
liable in damages to any person as a result of providing the 7288
records. 7289

(2) Within thirty days after commencing an investigation 7290
regarding criminal conduct or sexual misconduct against any 7291
individual holding a valid license to practice issued pursuant 7292
to this chapter, a health care facility, including a hospital, 7293
health care facility operated by a health insuring corporation, 7294
ambulatory surgical center, or similar facility, shall report to 7295
the board the name of the individual and a summary of the 7296
underlying facts related to the investigation being commenced. 7297

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 7298
of this section and subject to division (C) (3) of this section, 7299
an oriental medicine practitioner or acupuncturist, professional 7300

association or society of oriental medicine practitioners or 7301
acupuncturists, physician, or professional association or 7302
society of physicians that believes a violation of any provision 7303
of this chapter, Chapter 4731. of the Revised Code, or rule of 7304
the board has occurred shall report to the board the information 7305
upon which the belief is based. 7306

(2) An oriental medicine practitioner or acupuncturist, 7307
professional association or society of oriental medicine 7308
practitioners or acupuncturists, physician, or professional 7309
association or society of physicians that believes a violation 7310
of division (B) (6) of section 4762.13 of the Revised Code has 7311
occurred shall report the information upon which the belief is 7312
based to the monitoring organization conducting the program 7313
established by the board under section 4731.251 of the Revised 7314
Code. If any such report is made to the board, it shall be 7315
referred to the monitoring organization unless the board is 7316
aware that the individual who is the subject of the report does 7317
not meet the program eligibility requirements of section 7318
4731.252 of the Revised Code. 7319

(3) If any individual authorized to practice under this 7320
chapter or any professional association or society of such 7321
individuals knows or has reasonable cause to suspect based on 7322
facts that would cause a reasonable person in a similar position 7323
to suspect that an individual authorized to practice under this 7324
chapter has committed or participated in criminal conduct or 7325
sexual misconduct the information upon which the belief is based 7326
shall be reported to the board within thirty days. 7327

(4) In addition to the self-reporting of criminal offenses 7328
that is required for license renewal, an individual authorized 7329
to practice under this chapter shall report to the board 7330

criminal charges regarding criminal conduct, sexual misconduct, 7331
or any conduct involving the use of a motor vehicle while under 7332
the influence of alcohol or drugs, including offenses that are 7333
equivalent offenses under division (A) of section 4511.181 of 7334
the Revised Code, violations of division (D) of section 4511.194 7335
of the Revised Code, and violations of division (C) of section 7336
4511.79 of the Revised Code. Reports under this division shall 7337
be made within thirty days of the criminal charge being filed. 7338

~~(C)~~(D) Any professional association or society composed 7339
primarily of oriental medicine practitioners or acupuncturists 7340
that suspends or revokes an individual's membership for 7341
violations of professional ethics, or for reasons of 7342
professional incompetence or professional malpractice, within 7343
~~sixty~~thirty days after a final decision, shall report to the 7344
board, on forms prescribed and provided by the board, the name 7345
of the individual, the action taken by the professional 7346
organization, and a summary of the underlying facts leading to 7347
the action taken. 7348

The filing of a report with the board or decision not to 7349
file a report, investigation by the board, or any disciplinary 7350
action taken by the board, does not preclude a professional 7351
organization from taking disciplinary action against an 7352
individual. 7353

~~(D)~~(E) Any insurer providing professional liability 7354
insurance to any person holding a valid license to practice as 7355
an oriental medicine practitioner or valid license to practice 7356
as an acupuncturist or any other entity that seeks to indemnify 7357
the professional liability of an oriental medicine practitioner 7358
or acupuncturist shall notify the board within thirty days after 7359
the final disposition of any written claim for damages where 7360

such disposition results in a payment exceeding twenty-five 7361
thousand dollars. The notice shall contain the following 7362
information: 7363

(1) The name and address of the person submitting the 7364
notification; 7365

(2) The name and address of the insured who is the subject 7366
of the claim; 7367

(3) The name of the person filing the written claim; 7368

(4) The date of final disposition; 7369

(5) If applicable, the identity of the court in which the 7370
final disposition of the claim took place. 7371

~~(E)~~ (F) The board may investigate possible violations of 7372
this chapter or the rules adopted under it that are brought to 7373
its attention as a result of the reporting requirements of this 7374
section, except that the board shall conduct an investigation if 7375
a possible violation involves repeated malpractice. As used in 7376
this division, "repeated malpractice" means three or more claims 7377
for malpractice within the previous five-year period, each 7378
resulting in a judgment or settlement in excess of twenty-five 7379
thousand dollars in favor of the claimant, and each involving 7380
negligent conduct by the oriental medicine practitioner or 7381
acupuncturist. 7382

~~(F)~~ (G) All summaries, reports, and records received and 7383
maintained by the board pursuant to this section shall be held 7384
~~in confidence and shall not be subject to discovery or~~ 7385
~~introduction in evidence in any federal or state civil action~~ 7386
~~involving an oriental medicine practitioner, acupuncturist,~~ 7387
~~supervising physician, or health care facility arising out of~~ 7388
~~matters that are the subject of the reporting required by this~~ 7389

~~section. The board may use the information obtained only as the~~ 7390
~~basis for an investigation, as evidence in a disciplinary~~ 7391
~~hearing against an oriental medicine practitioner,~~ 7392
~~acupuncturist, or supervising physician, or in any subsequent~~ 7393
~~trial or appeal of a board action or order.~~ 7394

~~The board may disclose the summaries and reports it~~ 7395
~~receives under this section only to health care facility~~ 7396
~~committees within or outside this state that are involved in~~ 7397
~~credentialing or recredentialing an oriental medicine~~ 7398
~~practitioner, acupuncturist, or supervising physician or~~ 7399
~~reviewing their privilege to practice within a particular~~ 7400
~~facility. The board shall indicate whether or not the~~ 7401
~~information has been verified. Information transmitted by the~~ 7402
~~board shall be subject to the same confidentiality provisions as~~ 7403
~~when maintained by the board~~confidential pursuant to division 7404
(E) of section 4762.14 of the Revised Code. 7405

~~(G)~~(H) Except for reports filed by an individual pursuant 7406
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 7407
send a copy of any reports or summaries it receives pursuant to 7408
this section to the acupuncturist. The oriental medicine 7409
practitioner or acupuncturist shall have the right to file a 7410
statement with the board concerning the correctness or relevance 7411
of the information. The statement shall at all times accompany 7412
that part of the record in contention. 7413

~~(H)~~(I) An individual or entity that reports to the board, 7414
reports to the monitoring organization described in section 7415
4731.251 of the Revised Code, or refers an impaired oriental 7416
medicine practitioner or impaired acupuncturist to a treatment 7417
provider approved by the board under section 4731.25 of the 7418
Revised Code shall not be subject to suit for civil damages as a 7419

result of the report, referral, or provision of the information. 7420

~~(I)~~ (J) In the absence of fraud or bad faith, a 7421
professional association or society of oriental medicine 7422
practitioners or acupuncturists that sponsors a committee or 7423
program to provide peer assistance to an oriental medicine 7424
practitioner or acupuncturist with substance abuse problems, a 7425
representative or agent of such a committee or program, a 7426
representative or agent of the monitoring organization described 7427
in section 4731.251 of the Revised Code, and a member of the 7428
state medical board shall not be held liable in damages to any 7429
person by reason of actions taken to refer an oriental medicine 7430
practitioner or acupuncturist to a treatment provider approved 7431
under section 4731.25 of the Revised Code for examination or 7432
treatment. 7433

Sec. 4762.99. (A) Whoever violates section 4762.02 of the 7434
Revised Code is guilty of a misdemeanor of the first degree on a 7435
first offense; on each subsequent offense, the person is guilty 7436
of a felony of the fourth degree. 7437

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7438
(1), ~~or (C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7439
Code is guilty of a minor misdemeanor on a first offense; on 7440
each subsequent offense the person is guilty of a misdemeanor of 7441
the fourth degree, except that an individual guilty of a 7442
subsequent offense shall not be subject to imprisonment, but to 7443
a fine alone of up to one thousand dollars for each offense. 7444

(2) Whoever violates division (B) (2) or (C) (3) of section 7445
4762.16 of the Revised Code is guilty of failure to report 7446
criminal conduct or sexual misconduct, a misdemeanor of the 7447
fourth degree. If the offender has previously been convicted of 7448
a violation of this division, the failure to report is a 7449

misdemeanor of the first degree. 7450

(C) Whoever violates division (E) of section 4762.14 of 7451
the Revised Code is guilty of disclosing confidential 7452
investigatory information, a misdemeanor of the first degree. 7453

Sec. 4774.13. (A) The state medical board, by an 7454
affirmative vote of not fewer than six members, may revoke or 7455
may refuse to grant a license to practice as a radiologist 7456
assistant to an individual found by the board to have committed 7457
fraud, misrepresentation, or deception in applying for or 7458
securing the license. 7459

(B) The board, by an affirmative vote of not fewer than 7460
six members, shall, except as provided in division (C) of this 7461
section, and to the extent permitted by law, limit, revoke, or 7462
suspend an individual's license to practice as a radiologist 7463
assistant, refuse to issue a license to an applicant, refuse to 7464
renew a license, refuse to reinstate a license, or reprimand or 7465
place on probation the holder of a license for any of the 7466
following reasons: 7467

(1) Permitting the holder's name or license to be used by 7468
another person; 7469

(2) Failure to comply with the requirements of this 7470
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7471
by the board; 7472

(3) Violating or attempting to violate, directly or 7473
indirectly, or assisting in or abetting the violation of, or 7474
conspiring to violate, any provision of this chapter, Chapter 7475
4731. of the Revised Code, or the rules adopted by the board; 7476

(4) A departure from, or failure to conform to, minimal 7477
standards of care of similar practitioners under the same or 7478

similar circumstances whether or not actual injury to the 7479
patient is established; 7480

(5) Inability to practice according to acceptable and 7481
prevailing standards of care by reason of mental illness or 7482
physical illness, including physical deterioration that 7483
adversely affects cognitive, motor, or perceptive skills; 7484

(6) Impairment of ability to practice according to 7485
acceptable and prevailing standards of care because of habitual 7486
or excessive use or abuse of drugs, alcohol, or other substances 7487
that impair ability to practice; 7488

(7) Willfully betraying a professional confidence; 7489

(8) Making a false, fraudulent, deceptive, or misleading 7490
statement in securing or attempting to secure a license to 7491
practice as a radiologist assistant. 7492

As used in this division, "false, fraudulent, deceptive, 7493
or misleading statement" means a statement that includes a 7494
misrepresentation of fact, is likely to mislead or deceive 7495
because of a failure to disclose material facts, is intended or 7496
is likely to create false or unjustified expectations of 7497
favorable results, or includes representations or implications 7498
that in reasonable probability will cause an ordinarily prudent 7499
person to misunderstand or be deceived. 7500

(9) The obtaining of, or attempting to obtain, money or a 7501
thing of value by fraudulent misrepresentations in the course of 7502
practice; 7503

(10) A plea of guilty to, a judicial finding of guilt of, 7504
or a judicial finding of eligibility for intervention in lieu of 7505
conviction for, a felony; 7506

(11) Commission of an act that constitutes a felony in 7507
this state, regardless of the jurisdiction in which the act was 7508
committed; 7509

(12) A plea of guilty to, a judicial finding of guilt of, 7510
or a judicial finding of eligibility for intervention in lieu of 7511
conviction for, a misdemeanor committed in the course of 7512
practice; 7513

(13) A plea of guilty to, a judicial finding of guilt of, 7514
or a judicial finding of eligibility for intervention in lieu of 7515
conviction for, a misdemeanor involving moral turpitude; 7516

(14) Commission of an act in the course of practice that 7517
constitutes a misdemeanor in this state, regardless of the 7518
jurisdiction in which the act was committed; 7519

(15) Commission of an act involving moral turpitude that 7520
constitutes a misdemeanor in this state, regardless of the 7521
jurisdiction in which the act was committed; 7522

(16) A plea of guilty to, a judicial finding of guilt of, 7523
or a judicial finding of eligibility for intervention in lieu of 7524
conviction for violating any state or federal law regulating the 7525
possession, distribution, or use of any drug, including 7526
trafficking in drugs; 7527

(17) Any of the following actions taken by the state 7528
agency responsible for regulating the practice of radiologist 7529
assistants in another jurisdiction, for any reason other than 7530
the nonpayment of fees: the limitation, revocation, or 7531
suspension of an individual's license to practice; acceptance of 7532
an individual's license surrender; denial of a license; refusal 7533
to renew or reinstate a license; imposition of probation; or 7534
issuance of an order of censure or other reprimand; 7535

- (18) Violation of the conditions placed by the board on a license to practice as a radiologist assistant; 7536
7537
- (19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code; 7538
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7540
- (20) Failure to cooperate in an investigation conducted by the board under section 4774.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue; 7541
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- (21) Failure to maintain a license as a radiographer under Chapter 4773. of the Revised Code; 7551
7552
- (22) Failure to maintain certification as a registered radiologist assistant from the American registry of radiologic technologists, including revocation by the registry of the assistant's certification or failure by the assistant to meet the registry's requirements for annual registration, or failure to notify the board that the certification as a registered radiologist assistant has not been maintained; 7553
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- (23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American registry of radiologic technologists, as those rules apply to an individual who holds the registry's certification as a registered radiologist assistant. 7560
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(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

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

(E) For purposes of divisions (B) (11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(F) The sealing or expungement of conviction records by

any court shall have no effect on a prior board order entered 7595
under the provisions of this section or on the board's 7596
jurisdiction to take action under the provisions of this section 7597
if, based upon a plea of guilty, a judicial finding of guilt, or 7598
a judicial finding of eligibility for intervention in lieu of 7599
conviction, the board issued a notice of opportunity for a 7600
hearing prior to the court's order to seal or expunge the 7601
records. The board shall not be required to seal, destroy, 7602
redact, or otherwise modify its records to reflect the court's 7603
sealing or expungement of conviction records. 7604

(G) For purposes of this division, any individual who 7605
holds a license to practice as a radiologist assistant issued 7606
under this chapter, or applies for a license, shall be deemed to 7607
have given consent to submit to a mental or physical examination 7608
when directed to do so in writing by the board and to have 7609
waived all objections to the admissibility of testimony or 7610
examination reports that constitute a privileged communication. 7611

(1) In enforcing division (B)(5) of this section, the 7612
board, on a showing of a possible violation, may compel any 7613
individual who holds a license to practice as a radiologist 7614
assistant issued under this chapter or who has applied for a 7615
license to submit to a mental or physical examination, or both. 7616
A physical examination may include an HIV test. The expense of 7617
the examination is the responsibility of the individual 7618
compelled to be examined. Failure to submit to a mental or 7619
physical examination or consent to an HIV test ordered by the 7620
board constitutes an admission of the allegations against the 7621
individual unless the failure is due to circumstances beyond the 7622
individual's control, and a default and final order may be 7623
entered without the taking of testimony or presentation of 7624
evidence. If the board finds a radiologist assistant unable to 7625

practice because of the reasons set forth in division (B) (5) of 7626
this section, the board shall require the radiologist assistant 7627
to submit to care, counseling, or treatment by physicians 7628
approved or designated by the board, as a condition for an 7629
initial, continued, reinstated, or renewed license. An 7630
individual affected by this division shall be afforded an 7631
opportunity to demonstrate to the board the ability to resume 7632
practicing in compliance with acceptable and prevailing 7633
standards of care. 7634

(2) For purposes of division (B) (6) of this section, if 7635
the board has reason to believe that any individual who holds a 7636
license to practice as a radiologist assistant issued under this 7637
chapter or any applicant for a license suffers such impairment, 7638
the board may compel the individual to submit to a mental or 7639
physical examination, or both. The expense of the examination is 7640
the responsibility of the individual compelled to be examined. 7641
Any mental or physical examination required under this division 7642
shall be undertaken by a treatment provider or physician 7643
qualified to conduct such examination and chosen by the board. 7644

Failure to submit to a mental or physical examination 7645
ordered by the board constitutes an admission of the allegations 7646
against the individual unless the failure is due to 7647
circumstances beyond the individual's control, and a default and 7648
final order may be entered without the taking of testimony or 7649
presentation of evidence. If the board determines that the 7650
individual's ability to practice is impaired, the board shall 7651
suspend the individual's license or deny the individual's 7652
application and shall require the individual, as a condition for 7653
an initial, continued, reinstated, or renewed license to 7654
practice, to submit to treatment. 7655

Before being eligible to apply for reinstatement of a 7656
license suspended under this division, the radiologist assistant 7657
shall demonstrate to the board the ability to resume practice in 7658
compliance with acceptable and prevailing standards of care. The 7659
demonstration shall include the following: 7660

(a) Certification from a treatment provider approved under 7661
section 4731.25 of the Revised Code that the individual has 7662
successfully completed any required inpatient treatment; 7663

(b) Evidence of continuing full compliance with an 7664
aftercare contract or consent agreement; 7665

(c) Two written reports indicating that the individual's 7666
ability to practice has been assessed and that the individual 7667
has been found capable of practicing according to acceptable and 7668
prevailing standards of care. The reports shall be made by 7669
individuals or providers approved by the board for making such 7670
assessments and shall describe the basis for their 7671
determination. 7672

The board may reinstate a license suspended under this 7673
division after such demonstration and after the individual has 7674
entered into a written consent agreement. 7675

When the impaired radiologist assistant resumes practice, 7676
the board shall require continued monitoring of the radiologist 7677
assistant. The monitoring shall include monitoring of compliance 7678
with the written consent agreement entered into before 7679
reinstatement or with conditions imposed by board order after a 7680
hearing, and, on termination of the consent agreement, 7681
submission to the board for at least two years of annual written 7682
progress reports made under penalty of falsification stating 7683
whether the radiologist assistant has maintained sobriety. 7684

~~(H)~~(H) (1) If either of the following circumstances occur, 7685
the secretary and supervising member ~~determine may recommend~~ 7686
that the board suspend the individual's license to practice 7687
without a prior hearing: 7688

(a) The secretary and supervising member determine that 7689
there is clear and convincing evidence that a radiologist 7690
assistant has violated division (B) of this section and that the 7691
individual's continued practice presents a danger of immediate 7692
and serious harm to the public, ~~they may recommend that the~~ 7693
~~board suspend the individual's license to practice without a~~ 7694
~~prior hearing;~~ 7695

(b) The board receives verifiable information that a 7696
licensee has been charged in any state or federal court for a 7697
crime classified as a felony under the charging court's law and 7698
the conduct charged constitutes a violation of division (B) of 7699
this section. ~~Written~~ 7700

(2) If a recommendation is made to suspend without a prior 7701
hearing pursuant to division (H) (1) of this section, written 7702
allegations shall be prepared for consideration by the board. 7703

The board, on review of the allegations and by an 7704
affirmative vote of not fewer than six of its members, excluding 7705
the secretary and supervising member, may suspend a license 7706
without a prior hearing. A telephone conference call may be 7707
utilized for reviewing the allegations and taking the vote on 7708
the summary suspension. 7709

The board shall issue a written order of suspension by 7710
certified mail or in person in accordance with section 119.07 of 7711
the Revised Code. The order shall not be subject to suspension 7712
by the court during pendency of any appeal filed under section 7713

119.12 of the Revised Code. If the radiologist assistant 7714
requests an adjudicatory hearing by the board, the date set for 7715
the hearing shall be within fifteen days, but not earlier than 7716
seven days, after the radiologist assistant requests the 7717
hearing, unless otherwise agreed to by both the board and the 7718
license holder. 7719

(3) A summary suspension imposed under this division shall 7720
remain in effect, unless reversed on appeal, until a final 7721
adjudicative order issued by the board pursuant to this section 7722
and Chapter 119. of the Revised Code becomes effective. The 7723
board shall issue its final adjudicative order within sixty days 7724
after completion of its hearing. Failure to issue the order 7725
within sixty days shall result in dissolution of the summary 7726
suspension order, but shall not invalidate any subsequent, final 7727
adjudicative order. 7728

(I) If the board takes action under division (B) (10), 7729
(12), or (13) of this section, and the judicial finding of 7730
guilt, guilty plea, or judicial finding of eligibility for 7731
intervention in lieu of conviction is overturned on appeal, on 7732
exhaustion of the criminal appeal, a petition for 7733
reconsideration of the order may be filed with the board along 7734
with appropriate court documents. On receipt of a petition and 7735
supporting court documents, the board shall reinstate the 7736
license to practice as a radiologist assistant. The board may 7737
then hold an adjudication under Chapter 119. of the Revised Code 7738
to determine whether the individual committed the act in 7739
question. Notice of opportunity for hearing shall be given in 7740
accordance with Chapter 119. of the Revised Code. If the board 7741
finds, pursuant to an adjudication held under this division, 7742
that the individual committed the act, or if no hearing is 7743
requested, it may order any of the sanctions specified in 7744

division (B) of this section. 7745

(J) The license to practice of a radiologist assistant and 7746
the assistant's practice in this state are automatically 7747
suspended as of the date the radiologist assistant pleads guilty 7748
to, is found by a judge or jury to be guilty of, or is subject 7749
to a judicial finding of eligibility for intervention in lieu of 7750
conviction in this state or treatment of intervention in lieu of 7751
conviction in another jurisdiction for any of the following 7752
criminal offenses in this state or a substantially equivalent 7753
criminal offense in another jurisdiction: aggravated murder, 7754
murder, voluntary manslaughter, felonious assault, trafficking 7755
in persons, kidnapping, rape, sexual battery, gross sexual 7756
imposition, aggravated arson, aggravated robbery, or aggravated 7757
burglary. Continued practice after the suspension shall be 7758
considered practicing without a license. 7759

The board shall notify the individual subject to the 7760
suspension by certified mail or in person in accordance with 7761
section 119.07 of the Revised Code. If an individual whose 7762
license is suspended under this division fails to make a timely 7763
request for an adjudication under Chapter 119. of the Revised 7764
Code, the board shall enter a final order permanently revoking 7765
the individual's license. 7766

(K) In any instance in which the board is required by 7767
Chapter 119. of the Revised Code to give notice of opportunity 7768
for hearing and the individual subject to the notice does not 7769
timely request a hearing in accordance with section 119.07 of 7770
the Revised Code, the board is not required to hold a hearing, 7771
but may adopt, by an affirmative vote of not fewer than six of 7772
its members, a final order that contains the board's findings. 7773
In the final order, the board may order any of the sanctions 7774

identified under division (A) or (B) of this section. 7775

(L) Any action taken by the board under division (B) of 7776
this section resulting in a suspension shall be accompanied by a 7777
written statement of the conditions under which the radiologist 7778
assistant's license may be reinstated. The board shall adopt 7779
rules in accordance with Chapter 119. of the Revised Code 7780
governing conditions to be imposed for reinstatement. 7781
Reinstatement of a license suspended pursuant to division (B) of 7782
this section requires an affirmative vote of not fewer than six 7783
members of the board. 7784

(M) When the board refuses to grant or issue a license to 7785
practice as a radiologist assistant to an applicant, revokes an 7786
individual's license, refuses to renew an individual's license, 7787
or refuses to reinstate an individual's license, the board may 7788
specify that its action is permanent. An individual subject to a 7789
permanent action taken by the board is forever thereafter 7790
ineligible to hold a license to practice as a radiologist 7791
assistant and the board shall not accept an application for 7792
reinstatement of the license or for issuance of a new license. 7793

(N) Notwithstanding any other provision of the Revised 7794
Code, all of the following apply: 7795

(1) The surrender of a license to practice as a 7796
radiologist assistant issued under this chapter is not effective 7797
unless or until accepted by the board. Reinstatement of a 7798
license surrendered to the board requires an affirmative vote of 7799
not fewer than six members of the board. 7800

(2) An application made under this chapter for a license 7801
to practice may not be withdrawn without approval of the board. 7802

(3) Failure by an individual to renew a license to 7803

practice in accordance with section 4774.06 of the Revised Code 7804
shall not remove or limit the board's jurisdiction to take 7805
disciplinary action under this section against the individual. 7806

Sec. 4774.14. (A) The state medical board shall 7807
investigate evidence that appears to show that any person has 7808
violated this chapter or the rules adopted under it. Any person 7809
may report to the board in a signed writing any information the 7810
person has that appears to show a violation of any provision of 7811
this chapter or the rules adopted under it. In the absence of 7812
bad faith, a person who reports such information or testifies 7813
before the board in an adjudication conducted under Chapter 119. 7814
of the Revised Code shall not be liable for civil damages as a 7815
result of reporting the information or providing testimony. Each 7816
complaint or allegation of a violation received by the board 7817
shall be assigned a case number and be recorded by the board. 7818

(B) Investigations of alleged violations of this chapter 7819
or rules adopted under it shall be supervised by the supervising 7820
member elected by the board in accordance with section 4731.02 7821
of the Revised Code and by the secretary as provided in section 7822
4774.17 of the Revised Code. The board's president may designate 7823
another member of the board to supervise the investigation in 7824
place of the supervising member. Upon a vote of the majority of 7825
the board to authorize the addition of a consumer member in the 7826
supervision of any part of any investigation, the president 7827
shall designate a consumer member for supervision of 7828
investigations as determined by the president. The authorization 7829
of consumer member participation in investigation supervision 7830
may be rescinded by a majority vote of the board. A member of 7831
the board who supervises the investigation of a case shall not 7832
participate in further adjudication of the case. 7833

(C) In investigating a possible violation of this chapter 7834
or the rules adopted under it, the board may administer oaths, 7835
order the taking of depositions, issue subpoenas, and compel the 7836
attendance of witnesses and production of books, accounts, 7837
papers, records, documents, and testimony, except that a 7838
subpoena for patient record information or information, 7839
documents, and records from a peer review committee of a health 7840
care entity related to sexual misconduct or criminal conduct 7841
shall not be issued without consultation with the attorney 7842
general's office and approval of the secretary and supervising 7843
member of the board. Before issuance of a subpoena for patient 7844
record information or information, documents, and records from a 7845
peer review committee of a health care entity related to sexual 7846
misconduct or criminal conduct, the secretary and supervising 7847
member shall determine whether there is probable cause to 7848
believe that the complaint filed alleges a violation of this 7849
chapter or the rules adopted under it and that the records 7850
sought are relevant to the alleged violation and material to the 7851
investigation. The subpoena may apply only to records that cover 7852
a reasonable period of time surrounding the alleged violation. 7853

On failure to comply with any subpoena issued by the board 7854
and after reasonable notice to the person being subpoenaed, the 7855
board may move for an order compelling the production of persons 7856
or records pursuant to the Rules of Civil Procedure. 7857

A subpoena issued by the board may be served by a sheriff, 7858
the sheriff's deputy, or a board employee designated by the 7859
board. Service of a subpoena issued by the board may be made by 7860
delivering a copy of the subpoena to the person named therein, 7861
reading it to the person, or leaving it at the person's usual 7862
place of residence. When the person being served is a 7863
radiologist assistant, service of the subpoena may be made by 7864

certified mail, restricted delivery, return receipt requested, 7865
and the subpoena shall be deemed served on the date delivery is 7866
made or the date the person refuses to accept delivery. 7867

A sheriff's deputy who serves a subpoena shall receive the 7868
same fees as a sheriff. Each witness who appears before the 7869
board in obedience to a subpoena shall receive the fees and 7870
mileage provided for witnesses in civil cases in the courts of 7871
common pleas. 7872

(D) ~~All~~ For purposes of section 2305.252 of the Revised 7873
Code, all hearings and investigations of the board shall be 7874
considered civil actions ~~for the purposes of section 2305.252 of~~ 7875
~~the Revised Code, except those involving allegations of sexual~~ 7876
~~misconduct or criminal conduct, as defined in that section.~~ 7877

(E) Information received by the board pursuant to an 7878
investigation is confidential and not subject to discovery in 7879
any civil action. 7880

The board shall conduct all investigations and proceedings 7881
in a manner that protects the confidentiality of patients and 7882
persons who file complaints with the board. The board shall not 7883
make public the names or any other identifying information about 7884
patients or complainants unless proper consent is given. 7885

The board may share any information it receives pursuant 7886
to an investigation, including patient records and patient 7887
record information, with law enforcement agencies, other 7888
licensing boards, and other governmental agencies that are 7889
prosecuting, adjudicating, or investigating alleged violations 7890
of statutes or administrative rules. An agency or board that 7891
receives the information shall comply with the same requirements 7892
regarding confidentiality as those with which the state medical 7893

board must comply, notwithstanding any conflicting provision of 7894
the Revised Code or procedure of the agency or board that 7895
applies when it is dealing with other information in its 7896
possession. In a judicial proceeding, the information may be 7897
admitted into evidence only in accordance with the Rules of 7898
Evidence, but the court shall require that appropriate measures 7899
are taken to ensure that confidentiality is maintained with 7900
respect to any part of the information that contains names or 7901
other identifying information about patients or complainants 7902
whose confidentiality was protected by the state medical board 7903
when the information was in the board's possession. Measures to 7904
ensure confidentiality that may be taken by the court include 7905
sealing its records or deleting specific information from its 7906
records. 7907

No person shall knowingly access, use, or disclose 7908
confidential investigatory information in a manner prohibited by 7909
law. 7910

(F) The state medical board shall develop requirements for 7911
and provide appropriate initial training and continuing 7912
education for investigators employed by the board to carry out 7913
its duties under this chapter. The training and continuing 7914
education may include enrollment in courses operated or approved 7915
by the Ohio peace officer training commission that the board 7916
considers appropriate under conditions set forth in section 7917
109.79 of the Revised Code. 7918

(G) On a quarterly basis, the board shall prepare a report 7919
that documents the disposition of all cases during the preceding 7920
three months. The report shall contain the following information 7921
for each case with which the board has completed its activities: 7922

(1) The case number assigned to the complaint or alleged 7923

violation; 7924

(2) The type of license, if any, held by the individual 7925
against whom the complaint is directed; 7926

(3) A description of the allegations contained in the 7927
complaint; 7928

(4) Whether witnesses were interviewed; 7929

(5) Whether the individual against whom the complaint is 7930
directed is the subject of any pending complaints; 7931

(6) The disposition of the case. 7932

The report shall state how many cases are still pending, 7933
and shall be prepared in a manner that protects the identity of 7934
each person involved in each case. The report is a public record 7935
for purposes of section 149.43 of the Revised Code. 7936

(H) The board may provide a status update regarding an 7937
investigation to a complainant on request if the board verifies 7938
the complainant's identity. 7939

Sec. 4774.16. (A) As used in this section, "criminal 7940
conduct" and "sexual misconduct" have the same meanings as in 7941
section 4731.224 of the Revised Code. 7942

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7943
any formal disciplinary action taken by any health care 7944
facility, including a hospital, health care facility operated by 7945
a health insuring corporation, ambulatory surgical facility, or 7946
similar facility, against any individual holding a valid license 7947
to practice as a radiologist assistant, the chief administrator 7948
or executive officer of the facility shall report to the state 7949
medical board the name of the individual, the action taken by 7950
the facility, and a summary of the underlying facts leading to 7951

the action taken. On request, the board shall be provided 7952
certified copies of the patient records that were the basis for 7953
the facility's action. Prior to release to the board, the 7954
summary shall be approved by the peer review committee that 7955
reviewed the case or by the governing board of the facility. 7956

The filing of a report with the board or decision not to 7957
file a report, investigation by the board, or any disciplinary 7958
action taken by the board, does not preclude a health care 7959
facility from taking disciplinary action against a radiologist 7960
assistant. 7961

In the absence of fraud or bad faith, no individual or 7962
entity that provides patient records to the board shall be 7963
liable in damages to any person as a result of providing the 7964
records. 7965

(2) Within thirty days after commencing an investigation 7966
regarding criminal conduct or sexual misconduct against any 7967
individual holding a valid license to practice issued pursuant 7968
to this chapter, a health care facility, including a hospital, 7969
health care facility operated by a health insuring corporation, 7970
ambulatory surgical center, or similar facility, shall report to 7971
the board the name of the individual and a summary of the 7972
underlying facts related to the investigation being commenced. 7973

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 7974
of this section and subject to division (C)(3) of this section, 7975
a radiologist assistant, professional association or society of 7976
radiologist assistants, physician, or professional association 7977
or society of physicians that believes a violation of any 7978
provision of this chapter, Chapter 4731. of the Revised Code, or 7979
rule of the board has occurred shall report to the board the 7980
information on which the belief is based. 7981

(2) A radiologist assistant, professional association or 7982
society of radiologist assistants, physician, or professional 7983
association or society of physicians that believes a violation 7984
of division (B) (6) of section 4774.13 of the Revised Code has 7985
occurred shall report the information upon which the belief is 7986
based to the monitoring organization conducting the program 7987
established by the board under section 4731.251 of the Revised 7988
Code. If any such report is made to the board, it shall be 7989
referred to the monitoring organization unless the board is 7990
aware that the individual who is the subject of the report does 7991
not meet the program eligibility requirements of section 7992
4731.252 of the Revised Code. 7993

(3) If any individual authorized to practice under this 7994
chapter or any professional association or society of such 7995
individuals knows or has reasonable cause to suspect based on 7996
facts that would cause a reasonable person in a similar position 7997
to suspect that an individual authorized to practice under this 7998
chapter has committed or participated in criminal conduct or 7999
sexual misconduct the information upon which the belief is based 8000
shall be reported to the board within thirty days. 8001

(4) In addition to the self-reporting of criminal offenses 8002
that is required for license renewal, an individual authorized 8003
to practice under this chapter shall report to the board 8004
criminal charges regarding criminal conduct, sexual misconduct, 8005
or any conduct involving the use of a motor vehicle while under 8006
the influence of alcohol or drugs, including offenses that are 8007
equivalent offenses under division (A) of section 4511.181 of 8008
the Revised Code, violations of division (D) of section 4511.194 8009
of the Revised Code, and violations of division (C) of section 8010
4511.79 of the Revised Code. Reports under this division shall 8011
be made within thirty days of the criminal charge being filed. 8012

~~(C)~~ (D) Any professional association or society composed 8013
primarily of radiologist assistants that suspends or revokes an 8014
individual's membership for violations of professional ethics, 8015
or for reasons of professional incompetence or professional 8016
malpractice, within ~~sixty~~ thirty days after a final decision, 8017
shall report to the board, on forms prescribed and provided by 8018
the board, the name of the individual, the action taken by the 8019
professional organization, and a summary of the underlying facts 8020
leading to the action taken. 8021

The filing of a report with the board or decision not to 8022
file a report, investigation by the board, or any disciplinary 8023
action taken by the board, does not preclude a professional 8024
organization from taking disciplinary action against a 8025
radiologist assistant. 8026

~~(D)~~ (E) Any insurer providing professional liability 8027
insurance to any person holding a valid license to practice as a 8028
radiologist assistant or any other entity that seeks to 8029
indemnify the professional liability of a radiologist assistant 8030
shall notify the board within thirty days after the final 8031
disposition of any written claim for damages where such 8032
disposition results in a payment exceeding twenty-five thousand 8033
dollars. The notice shall contain the following information: 8034

(1) The name and address of the person submitting the 8035
notification; 8036

(2) The name and address of the insured who is the subject 8037
of the claim; 8038

(3) The name of the person filing the written claim; 8039

(4) The date of final disposition; 8040

(5) If applicable, the identity of the court in which the 8041

final disposition of the claim took place. 8042

~~(E)~~ (F) The board may investigate possible violations of 8043
this chapter or the rules adopted under it that are brought to 8044
its attention as a result of the reporting requirements of this 8045
section, except that the board shall conduct an investigation if 8046
a possible violation involves repeated malpractice. As used in 8047
this division, "repeated malpractice" means three or more claims 8048
for malpractice within the previous five-year period, each 8049
resulting in a judgment or settlement in excess of twenty-five 8050
thousand dollars in favor of the claimant, and each involving 8051
negligent conduct by the radiologist assistant. 8052

~~(F)~~ (G) All summaries, reports, and records received and 8053
maintained by the board pursuant to this section shall be ~~held~~ 8054
~~in confidence and shall not be subject to discovery or~~ 8055
~~introduction in evidence in any federal or state civil action~~ 8056
~~involving a radiologist assistant, supervising physician, or~~ 8057
~~health care facility arising out of matters that are the subject~~ 8058
~~of the reporting required by this section. The board may use the~~ 8059
~~information obtained only as the basis for an investigation, as~~ 8060
~~evidence in a disciplinary hearing against a radiologist~~ 8061
~~assistant or supervising radiologist, or in any subsequent trial~~ 8062
~~or appeal of a board action or order.~~ 8063

The board may disclose the summaries and reports it 8064
receives under this section only to health care facility 8065
committees within or outside this state that are involved in 8066
credentialing or recredentialing a radiologist assistant or 8067
supervising radiologist or reviewing their privilege to practice 8068
within a particular facility. The board shall indicate whether 8069
or not the information has been verified. Information 8070
transmitted by the board shall be subject to the same 8071

~~confidentiality provisions as when maintained by the~~ 8072
~~board~~confidential pursuant to division (E) of section 4774.14 of 8073
the Revised Code. 8074

~~(G)~~(H) Except for reports filed by an individual pursuant 8075
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 8076
send a copy of any reports or summaries it receives pursuant to 8077
this section to the radiologist assistant. The radiologist 8078
assistant shall have the right to file a statement with the 8079
board concerning the correctness or relevance of the 8080
information. The statement shall at all times accompany that 8081
part of the record in contention. 8082

~~(H)~~(I) An individual or entity that reports to the board, 8083
reports to the monitoring organization described in section 8084
4731.251 of the Revised Code, or refers an impaired radiologist 8085
assistant to a treatment provider approved by the board under 8086
section 4731.25 of the Revised Code shall not be subject to suit 8087
for civil damages as a result of the report, referral, or 8088
provision of the information. 8089

~~(I)~~(J) In the absence of fraud or bad faith, a 8090
professional association or society of radiologist assistants 8091
that sponsors a committee or program to provide peer assistance 8092
to a radiologist assistant with substance abuse problems, a 8093
representative or agent of such a committee or program, a 8094
representative or agent of the monitoring organization described 8095
in section 4731.251 of the Revised Code, and a member of the 8096
state medical board shall not be held liable in damages to any 8097
person by reason of actions taken to refer a radiologist 8098
assistant to a treatment provider approved under section 4731.25 8099
of the Revised Code for examination or treatment. 8100

Sec. 4774.99. (A) Whoever violates division (A) (1) or (2) 8101

of section 4774.02 of the Revised Code is guilty of a 8102
misdemeanor of the first degree on a first offense; on each 8103
subsequent offense, the person is guilty of a felony of the 8104
fourth degree. 8105

~~(B)(1)~~ Whoever violates division ~~(A)~~, ~~(B)(1)~~, ~~(C)(C)~~ 8106
~~(1)~~, ~~or (C)(2)~~, (D), or (E) of section 4774.16 of the Revised 8107
Code is guilty of a minor misdemeanor on a first offense; on 8108
each subsequent offense the person is guilty of a misdemeanor of 8109
the fourth degree, except that an individual guilty of a 8110
subsequent offense shall not be subject to imprisonment, but to 8111
a fine alone of up to one thousand dollars for each offense. 8112

(2) Whoever violates division (B)(2) or (C)(3) of section 8113
4774.16 of the Revised Code is guilty of failure to report 8114
criminal conduct or sexual misconduct, a misdemeanor of the 8115
fourth degree. If the offender has previously been convicted of 8116
a violation of this division, the failure to report is a 8117
misdemeanor of the first degree. 8118

(C) Whoever violates division (E) of section 4774.14 of 8119
the Revised Code is guilty of disclosing confidential 8120
investigatory information, a misdemeanor of the first degree. 8121

Sec. 4778.14. (A) The state medical board, by an 8122
affirmative vote of not fewer than six members, may revoke or 8123
may refuse to grant a license to practice as a genetic counselor 8124
to an individual found by the board to have committed fraud, 8125
misrepresentation, or deception in applying for or securing the 8126
license. 8127

(B) The board, by an affirmative vote of not fewer than 8128
six members, shall, except as provided in division (C) of this 8129
section, and to the extent permitted by law, limit, revoke, or 8130

suspend an individual's license to practice as a genetic counselor, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

(1) Permitting the holder's name or license to be used by another person;

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

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

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

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

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

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading

statement in securing or attempting to secure a license to 8159
practice as a genetic counselor. 8160

As used in this division, "false, fraudulent, deceptive, 8161
or misleading statement" means a statement that includes a 8162
misrepresentation of fact, is likely to mislead or deceive 8163
because of a failure to disclose material facts, is intended or 8164
is likely to create false or unjustified expectations of 8165
favorable results, or includes representations or implications 8166
that in reasonable probability will cause an ordinarily prudent 8167
person to misunderstand or be deceived. 8168

(9) The obtaining of, or attempting to obtain, money or a 8169
thing of value by fraudulent misrepresentations in the course of 8170
practice; 8171

(10) A plea of guilty to, a judicial finding of guilt of, 8172
or a judicial finding of eligibility for intervention in lieu of 8173
conviction for, a felony; 8174

(11) Commission of an act that constitutes a felony in 8175
this state, regardless of the jurisdiction in which the act was 8176
committed; 8177

(12) A plea of guilty to, a judicial finding of guilt of, 8178
or a judicial finding of eligibility for intervention in lieu of 8179
conviction for, a misdemeanor committed in the course of 8180
practice; 8181

(13) A plea of guilty to, a judicial finding of guilt of, 8182
or a judicial finding of eligibility for intervention in lieu of 8183
conviction for, a misdemeanor involving moral turpitude; 8184

(14) Commission of an act in the course of practice that 8185
constitutes a misdemeanor in this state, regardless of the 8186
jurisdiction in which the act was committed; 8187

(15) Commission of an act involving moral turpitude that 8188
constitutes a misdemeanor in this state, regardless of the 8189
jurisdiction in which the act was committed; 8190

(16) A plea of guilty to, a judicial finding of guilt of, 8191
or a judicial finding of eligibility for intervention in lieu of 8192
conviction for violating any state or federal law regulating the 8193
possession, distribution, or use of any drug, including 8194
trafficking in drugs; 8195

(17) Any of the following actions taken by an agency 8196
responsible for authorizing, certifying, or regulating an 8197
individual to practice a health care occupation or provide 8198
health care services in this state or in another jurisdiction, 8199
for any reason other than the nonpayment of fees: the 8200
limitation, revocation, or suspension of an individual's license 8201
to practice; acceptance of an individual's license surrender; 8202
denial of a license; refusal to renew or reinstate a license; 8203
imposition of probation; or issuance of an order of censure or 8204
other reprimand; 8205

(18) Violation of the conditions placed by the board on a 8206
license to practice as a genetic counselor; 8207

(19) Failure to cooperate in an investigation conducted by 8208
the board under section 4778.18 of the Revised Code, including 8209
failure to comply with a subpoena or order issued by the board 8210
or failure to answer truthfully a question presented by the 8211
board at a deposition or in written interrogatories, except that 8212
failure to cooperate with an investigation shall not constitute 8213
grounds for discipline under this section if a court of 8214
competent jurisdiction has issued an order that either quashes a 8215
subpoena or permits the individual to withhold the testimony or 8216
evidence in issue; 8217

(20) Failure to maintain the individual's status as a certified genetic counselor; 8218
8219

(21) Failure to comply with the code of ethics established by the national society of genetic counselors. 8220
8221

(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code. 8222
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(D) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a genetic counselor or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect. 8227
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A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. 8240
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(E) For purposes of divisions (B) (11), (14), and (15) of this section, the commission of the act may be established by a 8245
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finding by the board, pursuant to an adjudication under Chapter 8247
119. of the Revised Code, that the applicant or license holder 8248
committed the act in question. The board shall have no 8249
jurisdiction under these divisions in cases where the trial 8250
court renders a final judgment in the license holder's favor and 8251
that judgment is based upon an adjudication on the merits. The 8252
board shall have jurisdiction under these divisions in cases 8253
where the trial court issues an order of dismissal on technical 8254
or procedural grounds. 8255

(F) The sealing or expungement of conviction records by 8256
any court shall have no effect on a prior board order entered 8257
under the provisions of this section or on the board's 8258
jurisdiction to take action under the provisions of this section 8259
if, based upon a plea of guilty, a judicial finding of guilt, or 8260
a judicial finding of eligibility for intervention in lieu of 8261
conviction, the board issued a notice of opportunity for a 8262
hearing or took other formal action under Chapter 119. of the 8263
Revised Code prior to the court's order to seal or expunge the 8264
records. The board shall not be required to seal, destroy, 8265
redact, or otherwise modify its records to reflect the court's 8266
sealing or expungement of conviction records. 8267

(G) For purposes of this division, any individual who 8268
holds a license to practice as a genetic counselor, or applies 8269
for a license, shall be deemed to have given consent to submit 8270
to a mental or physical examination when directed to do so in 8271
writing by the board and to have waived all objections to the 8272
admissibility of testimony or examination reports that 8273
constitute a privileged communication. 8274

(1) In enforcing division (B)(5) of this section, the 8275
board, on a showing of a possible violation, may compel any 8276

individual who holds a license to practice as a genetic 8277
counselor or who has applied for a license to practice as a 8278
genetic counselor to submit to a mental or physical examination, 8279
or both. A physical examination may include an HIV test. The 8280
expense of the examination is the responsibility of the 8281
individual compelled to be examined. Failure to submit to a 8282
mental or physical examination or consent to an HIV test ordered 8283
by the board constitutes an admission of the allegations against 8284
the individual unless the failure is due to circumstances beyond 8285
the individual's control, and a default and final order may be 8286
entered without the taking of testimony or presentation of 8287
evidence. If the board finds a genetic counselor unable to 8288
practice because of the reasons set forth in division (B) (5) of 8289
this section, the board shall require the genetic counselor to 8290
submit to care, counseling, or treatment by physicians approved 8291
or designated by the board, as a condition for an initial, 8292
continued, reinstated, or renewed license to practice. An 8293
individual affected by this division shall be afforded an 8294
opportunity to demonstrate to the board the ability to resume 8295
practicing in compliance with acceptable and prevailing 8296
standards of care. 8297

(2) For purposes of division (B) (6) of this section, if 8298
the board has reason to believe that any individual who holds a 8299
license to practice as a genetic counselor or any applicant for 8300
a license suffers such impairment, the board may compel the 8301
individual to submit to a mental or physical examination, or 8302
both. The expense of the examination is the responsibility of 8303
the individual compelled to be examined. Any mental or physical 8304
examination required under this division shall be undertaken by 8305
a treatment provider or physician qualified to conduct such 8306
examination and chosen by the board. 8307

Failure to submit to a mental or physical examination 8308
ordered by the board constitutes an admission of the allegations 8309
against the individual unless the failure is due to 8310
circumstances beyond the individual's control, and a default and 8311
final order may be entered without the taking of testimony or 8312
presentation of evidence. If the board determines that the 8313
individual's ability to practice is impaired, the board shall 8314
suspend the individual's license or deny the individual's 8315
application and shall require the individual, as a condition for 8316
an initial, continued, reinstated, or renewed license, to submit 8317
to treatment. 8318

Before being eligible to apply for reinstatement of a 8319
license suspended under this division, the genetic counselor 8320
shall demonstrate to the board the ability to resume practice in 8321
compliance with acceptable and prevailing standards of care. The 8322
demonstration shall include the following: 8323

(a) Certification from a treatment provider approved under 8324
section 4731.25 of the Revised Code that the individual has 8325
successfully completed any required inpatient treatment; 8326

(b) Evidence of continuing full compliance with an 8327
aftercare contract or consent agreement; 8328

(c) Two written reports indicating that the individual's 8329
ability to practice has been assessed and that the individual 8330
has been found capable of practicing according to acceptable and 8331
prevailing standards of care. The reports shall be made by 8332
individuals or providers approved by the board for making such 8333
assessments and shall describe the basis for their 8334
determination. 8335

The board may reinstate a license suspended under this 8336

division after such demonstration and after the individual has 8337
entered into a written consent agreement. 8338

When the impaired genetic counselor resumes practice, the 8339
board shall require continued monitoring of the genetic 8340
counselor. The monitoring shall include monitoring of compliance 8341
with the written consent agreement entered into before 8342
reinstatement or with conditions imposed by board order after a 8343
hearing, and, on termination of the consent agreement, 8344
submission to the board for at least two years of annual written 8345
progress reports made under penalty of falsification stating 8346
whether the genetic counselor has maintained sobriety. 8347

~~(H)~~(H) (1) If either of the following circumstances occur, 8348
the secretary and supervising member ~~determine both of the~~ 8349
~~following, they~~ may recommend that the board suspend an 8350
individual's license to practice without a prior hearing: 8351

~~(1)~~(a) The secretary and supervising member determine 8352
both of the following: 8353

(i) That there is clear and convincing evidence that a 8354
genetic counselor has violated division (B) of this section; 8355

~~(2)~~(ii) That the individual's continued practice presents 8356
a danger of immediate and serious harm to the public. 8357

~~Written~~(b) The board receives verifiable information that 8358
a licensee has been charged in any state or federal court for a 8359
crime classified as a felony under the charging court's law and 8360
the conduct charged constitutes a violation of division (B) of 8361
this section. 8362

(2) If a recommendation is made to suspend without a prior 8363
hearing pursuant to division (H) (1) of this section, written 8364
allegations shall be prepared for consideration by the board. 8365

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

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

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

(I) If the board takes action under division (B) (10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along

with appropriate court documents. On receipt of a petition and 8396
supporting court documents, the board shall reinstate the 8397
license to practice as a genetic counselor. The board may then 8398
hold an adjudication under Chapter 119. of the Revised Code to 8399
determine whether the individual committed the act in question. 8400
Notice of opportunity for hearing shall be given in accordance 8401
with Chapter 119. of the Revised Code. If the board finds, 8402
pursuant to an adjudication held under this division, that the 8403
individual committed the act, or if no hearing is requested, it 8404
may order any of the sanctions specified in division (B) of this 8405
section. 8406

(J) The license to practice as a genetic counselor and the 8407
counselor's practice in this state are automatically suspended 8408
as of the date the genetic counselor pleads guilty to, is found 8409
by a judge or jury to be guilty of, or is subject to a judicial 8410
finding of eligibility for intervention in lieu of conviction in 8411
this state or treatment of intervention in lieu of conviction in 8412
another jurisdiction for any of the following criminal offenses 8413
in this state or a substantially equivalent criminal offense in 8414
another jurisdiction: aggravated murder, murder, voluntary 8415
manslaughter, felonious assault, trafficking in persons, 8416
kidnapping, rape, sexual battery, gross sexual imposition, 8417
aggravated arson, aggravated robbery, or aggravated burglary. 8418
Continued practice after the suspension shall be considered 8419
practicing without a license. 8420

The board shall notify the individual subject to the 8421
suspension by certified mail or in person in accordance with 8422
section 119.07 of the Revised Code. If an individual whose 8423
license is suspended under this division fails to make a timely 8424
request for an adjudication under Chapter 119. of the Revised 8425
Code, the board shall enter a final order permanently revoking 8426

the individual's license to practice. 8427

(K) In any instance in which the board is required by 8428
Chapter 119. of the Revised Code to give notice of opportunity 8429
for hearing and the individual subject to the notice does not 8430
timely request a hearing in accordance with section 119.07 of 8431
the Revised Code, the board is not required to hold a hearing, 8432
but may adopt, by an affirmative vote of not fewer than six of 8433
its members, a final order that contains the board's findings. 8434
In the final order, the board may order any of the sanctions 8435
identified under division (A) or (B) of this section. 8436

(L) Any action taken by the board under division (B) of 8437
this section resulting in a suspension shall be accompanied by a 8438
written statement of the conditions under which the license of 8439
the genetic counselor may be reinstated. The board shall adopt 8440
rules in accordance with Chapter 119. of the Revised Code 8441
governing conditions to be imposed for reinstatement. 8442
Reinstatement of a license suspended pursuant to division (B) of 8443
this section requires an affirmative vote of not fewer than six 8444
members of the board. 8445

(M) When the board refuses to grant or issue a license to 8446
practice as a genetic counselor to an applicant, revokes an 8447
individual's license, refuses to renew an individual's license, 8448
or refuses to reinstate an individual's license, the board may 8449
specify that its action is permanent. An individual subject to a 8450
permanent action taken by the board is forever thereafter 8451
ineligible to hold a license to practice as a genetic counselor 8452
and the board shall not accept an application for reinstatement 8453
of the license or for issuance of a new license. 8454

(N) Notwithstanding any other provision of the Revised 8455
Code, all of the following apply: 8456

(1) The surrender of a license to practice as a genetic counselor is not effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a license in accordance with section 4778.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4778.171. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B) (1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on

facts that would cause a reasonable person in a similar position 8486
to suspect that an individual authorized to practice under this 8487
chapter has committed or participated in criminal conduct or 8488
sexual misconduct the information upon which the belief is based 8489
shall be reported to the board within thirty days. 8490

(3) In addition to the self-reporting of criminal offenses 8491
that is required for license renewal, an individual authorized 8492
to practice under this chapter shall report to the board 8493
criminal charges regarding criminal conduct, sexual misconduct, 8494
or any conduct involving the use of a motor vehicle while under 8495
the influence of alcohol or drugs, including offenses that are 8496
equivalent offenses under division (A) of section 4511.181 of 8497
the Revised Code, violations of division (D) of section 4511.194 8498
of the Revised Code, and violations of division (C) of section 8499
4511.79 of the Revised Code. Reports under this division shall 8500
be made within thirty days of the criminal charge being filed. 8501

Sec. 4778.18. (A) The state medical board shall 8502
investigate evidence that appears to show that any individual 8503
has violated this chapter or the rules adopted under it. Any 8504
person may report to the board in a signed writing any 8505
information the person has that appears to show a violation of 8506
this chapter or rules adopted under it. In the absence of bad 8507
faith, a person who reports such information or testifies before 8508
the board in an adjudication conducted under Chapter 119. of the 8509
Revised Code shall not be liable for civil damages as a result 8510
of reporting the information or providing testimony. Each 8511
complaint or allegation of a violation received by the board 8512
shall be assigned a case number and be recorded by the board. 8513

(B) Investigations of alleged violations of this chapter 8514
or rules adopted under it shall be supervised by the supervising 8515

member elected by the board in accordance with section 4731.02 8516
of the Revised Code and by the board's secretary, pursuant to 8517
section 4778.20 of the Revised Code. The board's president may 8518
designate another member of the board to supervise the 8519
investigation in place of the supervising member. Upon a vote of 8520
the majority of the board to authorize the addition of a 8521
consumer member in the supervision of any part of any 8522
investigation, the president shall designate a consumer member 8523
for supervision of investigations as determined by the 8524
president. The authorization of consumer member participation in 8525
investigation supervision may be rescinded by a majority vote of 8526
the board. A member of the board who supervises the 8527
investigation of a case shall not participate in further 8528
adjudication of the case. 8529

(C) In investigating a possible violation of this chapter 8530
or the rules adopted under it, the board may administer oaths, 8531
order the taking of depositions, inspect and copy any books, 8532
accounts, papers, records, or documents, issue subpoenas, and 8533
compel the attendance of witnesses and production of books, 8534
accounts, papers, records, documents, and testimony, except that 8535
a subpoena for patient record information or information, 8536
documents, and records from a peer review committee of a health 8537
care entity related to sexual misconduct or criminal conduct 8538
shall not be issued without consultation with the attorney 8539
general's office and approval of the secretary and supervising 8540
member of the board. Before issuance of a subpoena for patient 8541
record information or information, documents, and records from a 8542
peer review committee of a health care entity related to sexual 8543
misconduct or criminal conduct, the secretary and supervising 8544
member shall determine whether there is probable cause to 8545
believe that the complaint filed alleges a violation of this 8546

chapter or the rules adopted under it and that the records 8547
sought are relevant to the alleged violation and material to the 8548
investigation. The subpoena may apply only to records that cover 8549
a reasonable period of time surrounding the alleged violation. 8550

On failure to comply with any subpoena issued by the board 8551
and after reasonable notice to the person being subpoenaed, the 8552
board may move for an order compelling the production of persons 8553
or records pursuant to the Rules of Civil Procedure. 8554

A subpoena issued by the board may be served by a sheriff, 8555
the sheriff's deputy, or a board employee designated by the 8556
board. Service of a subpoena issued by the board may be made by 8557
delivering a copy of the subpoena to the person named therein, 8558
reading it to the person, or leaving it at the person's usual 8559
place of residence. When the person being served is a genetic 8560
counselor, service of the subpoena may be made by certified 8561
mail, restricted delivery, return receipt requested, and the 8562
subpoena shall be deemed served on the date delivery is made or 8563
the date the person refuses to accept delivery. 8564

A sheriff's deputy who serves a subpoena shall receive the 8565
same fees as a sheriff. Each witness who appears before the 8566
board in obedience to a subpoena shall receive the fees and 8567
mileage provided for witnesses in civil cases in the courts of 8568
common pleas. 8569

(D) All ~~For purposes of section 2305.252 of the Revised~~ 8570
Code, all hearings and investigations of the board shall be 8571
considered civil actions ~~for the purposes of section 2305.252 of~~ 8572
~~the Revised Code, except those involving allegations of sexual~~ 8573
misconduct or criminal conduct, as defined in that section. 8574

(E) Information received by the board pursuant to an 8575

investigation is confidential and not subject to discovery in 8576
any civil action. 8577

The board shall conduct all investigations and proceedings 8578
in a manner that protects the confidentiality of patients and 8579
persons who file complaints with the board. The board shall not 8580
make public the names or any other identifying information about 8581
patients or complainants unless proper consent is given. 8582

The board may share any information it receives pursuant 8583
to an investigation, including patient records and patient 8584
record information, with law enforcement agencies, other 8585
licensing boards, and other governmental agencies that are 8586
prosecuting, adjudicating, or investigating alleged violations 8587
of statutes or administrative rules. An agency or board that 8588
receives the information shall comply with the same requirements 8589
regarding confidentiality as those with which the state medical 8590
board must comply, notwithstanding any conflicting provision of 8591
the Revised Code or procedure of the agency or board that 8592
applies when it is dealing with other information in its 8593
possession. In a judicial proceeding, the information may be 8594
admitted into evidence only in accordance with the Rules of 8595
Evidence, but the court shall require that appropriate measures 8596
are taken to ensure that confidentiality is maintained with 8597
respect to any part of the information that contains names or 8598
other identifying information about patients or complainants 8599
whose confidentiality was protected by the state medical board 8600
when the information was in the board's possession. Measures to 8601
ensure confidentiality that may be taken by the court include 8602
sealing its records or deleting specific information from its 8603
records. 8604

No person shall knowingly access, use, or disclose 8605

confidential investigatory information in a manner prohibited by 8606
law. 8607

(F) The state medical board shall develop requirements for 8608
and provide appropriate initial training and continuing 8609
education for investigators employed by the board to carry out 8610
its duties under this chapter. The training and continuing 8611
education may include enrollment in courses operated or approved 8612
by the Ohio peace officer training commission that the board 8613
considers appropriate under conditions set forth in section 8614
109.79 of the Revised Code. 8615

(G) On a quarterly basis, the board shall prepare a report 8616
that documents the disposition of all cases during the preceding 8617
three months. The report shall contain the following information 8618
for each case with which the board has completed its activities: 8619

(1) The case number assigned to the complaint or alleged 8620
violation; 8621

(2) The type of license, if any, held by the individual 8622
against whom the complaint is directed; 8623

(3) A description of the allegations contained in the 8624
complaint; 8625

(4) Whether witnesses were interviewed; 8626

(5) Whether the individual against whom the complaint is 8627
directed is the subject of any pending complaints; 8628

(6) The disposition of the case. 8629

The report shall state how many cases are still pending, 8630
and shall be prepared in a manner that protects the identity of 8631
each individual involved in each case. The report is a public 8632
record for purposes of section 149.43 of the Revised Code. 8633

(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity. 8634
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Sec. 4778.99. Whoever violates section 4778.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and felony of the fifth degree on each subsequent offense. 8637
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Whoever violates division (B) (1) or (2) of section 4778.171 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree. 8641
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Whoever violates division (E) of section 4778.18 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree. 8647
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Section 2. That existing sections 149.43, 2105.062, 2305.111, 2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 4778.18, and 4778.99 of the Revised Code are hereby repealed. 8650
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Section 3. That the version of section 4759.05 of the Revised Code that is scheduled to take effect December 29, 2023, be amended to read as follows: 8659
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Sec. 4759.05. (A) Except as provided in division (E) of 8662

this section, the state medical board shall adopt, amend, or 8663
rescind rules pursuant to Chapter 119. of the Revised Code to 8664
carry out the provisions of this chapter, including rules 8665
governing the following: 8666

(1) Selection and approval of a dietitian licensure 8667
examination offered by the commission on dietetic registration 8668
or any other examination; 8669

(2) The examination of applicants for licensure as a 8670
dietitian, as required under division (A) of section 4759.06 of 8671
the Revised Code; 8672

(3) Requirements for pre-professional dietetic experience 8673
of applicants for licensure as a dietitian that are at least 8674
equivalent to the requirements adopted by the commission on 8675
dietetic registration; 8676

(4) Requirements for a person holding a limited permit 8677
under division (G) of section 4759.06 of the Revised Code, 8678
including the duration of validity of a limited permit and 8679
procedures for renewal; 8680

(5) Continuing education requirements for renewal of a 8681
license, including rules providing for pro rata reductions by 8682
month of the number of hours of continuing education that must 8683
be completed for license holders who have been disabled by 8684
illness or accident or have been absent from the country. Rules 8685
adopted under this division shall be consistent with the 8686
continuing education requirements adopted by the commission on 8687
dietetic registration. 8688

(6) Any additional education requirements the board 8689
considers necessary, for applicants who have not practiced 8690
dietetics within five years of the initial date of application 8691

for licensure; 8692

(7) Standards of professional responsibility and practice 8693
for persons licensed under this chapter that are consistent with 8694
those standards of professional responsibility and practice 8695
adopted by the academy of nutrition and dietetics; 8696

(8) Formulation of an application form for licensure or 8697
license renewal; 8698

(9) Procedures for license renewal; 8699

(10) Requirements for criminal records checks of 8700
applicants under section 4776.03 of the Revised Code. 8701

(B) (1) The board shall investigate evidence that appears 8702
to show that a person has violated any provision of this chapter 8703
or any rule adopted under it. Any person may report to the board 8704
in a signed writing any information that the person may have 8705
that appears to show a violation of any provision of this 8706
chapter or any rule adopted under it. In the absence of bad 8707
faith, any person who reports information of that nature or who 8708
testifies before the board in any adjudication conducted under 8709
Chapter 119. of the Revised Code shall not be liable in damages 8710
in a civil action as a result of the report or testimony. Each 8711
complaint or allegation of a violation received by the board 8712
shall be assigned a case number and shall be recorded by the 8713
board. 8714

(2) Investigations of alleged violations of this chapter 8715
or any rule adopted under it shall be supervised by the 8716
supervising member elected by the board in accordance with 8717
section 4731.02 of the Revised Code and by the secretary as 8718
provided in section 4759.012 of the Revised Code. The president 8719
may designate another member of the board to supervise the 8720

investigation in place of the supervising member. Upon a vote of 8721
the majority of the board to authorize the addition of a 8722
consumer member in the supervision of any part of any 8723
investigation, the president shall designate a consumer member 8724
for supervision of investigations as determined by the 8725
president. The authorization of consumer member participation in 8726
investigation supervision may be rescinded by a majority vote of 8727
the board. No member of the board who supervises the 8728
investigation of a case shall participate in further 8729
adjudication of the case. 8730

(3) In investigating a possible violation of this chapter 8731
or any rule adopted under this chapter, the board may issue 8732
subpoenas, question witnesses, conduct interviews, administer 8733
oaths, order the taking of depositions, inspect and copy any 8734
books, accounts, papers, records, or documents, and compel the 8735
attendance of witnesses and the production of books, accounts, 8736
papers, records, documents, and testimony, except that a 8737
subpoena for patient record information or information, 8738
documents, and records from a peer review committee of a health 8739
care entity related to sexual misconduct or criminal conduct 8740
shall not be issued without consultation with the attorney 8741
general's office and approval of the secretary and supervising 8742
member of the board. 8743

Before issuance of a subpoena for patient record 8744
information or information, documents, and records from a peer 8745
review committee of a health care entity related to sexual 8746
misconduct or criminal conduct, the secretary and supervising 8747
member shall determine whether there is probable cause to 8748
believe that the complaint filed alleges a violation of this 8749
chapter or any rule adopted under it and that the records sought 8750
are relevant to the alleged violation and material to the 8751

investigation. The subpoena may apply only to records that cover 8752
a reasonable period of time surrounding the alleged violation. 8753

On failure to comply with any subpoena issued by the board 8754
and after reasonable notice to the person being subpoenaed, the 8755
board may move for an order compelling the production of persons 8756
or records pursuant to the Rules of Civil Procedure. 8757

A subpoena issued by the board may be served by a sheriff, 8758
the sheriff's deputy, or a board employee or agent designated by 8759
the board. Service of a subpoena issued by the board may be made 8760
by delivering a copy of the subpoena to the person named 8761
therein, reading it to the person, or leaving it at the person's 8762
usual place of residence, usual place of business, or address on 8763
file with the board. When serving a subpoena to an applicant for 8764
or the holder of a license or limited permit issued under this 8765
chapter, service of the subpoena may be made by certified mail, 8766
return receipt requested, and the subpoena shall be deemed 8767
served on the date delivery is made or the date the person 8768
refuses to accept delivery. If the person being served refuses 8769
to accept the subpoena or is not located, service may be made to 8770
an attorney who notifies the board that the attorney is 8771
representing the person. 8772

A sheriff's deputy who serves a subpoena shall receive the 8773
same fees as a sheriff. Each witness who appears before the 8774
board in obedience to a subpoena shall receive the fees and 8775
mileage provided for under section 119.094 of the Revised Code. 8776

(4) All For purposes of section 2305.252 of the Revised 8777
Code, all hearings, investigations, and inspections of the board 8778
shall be considered civil actions for the purposes of section 8779
2305.252 of the Revised Code, except those involving allegations 8780
of sexual misconduct or criminal conduct, as defined in that 8781

section. 8782

(5) A report required to be submitted to the board under 8783
this chapter, a complaint, or information received by the board 8784
pursuant to an investigation is confidential and not subject to 8785
discovery in any civil action. 8786

The board shall conduct all investigations or inspections 8787
and proceedings in a manner that protects the confidentiality of 8788
patients and persons who file complaints with the board. The 8789
board shall not make public the names or any other identifying 8790
information about patients or complainants unless proper consent 8791
is given. 8792

The board may share any information it receives pursuant 8793
to an investigation or inspection, including patient records and 8794
patient record information, with law enforcement agencies, other 8795
licensing boards, and other governmental agencies that are 8796
prosecuting, adjudicating, or investigating alleged violations 8797
of statutes or administrative rules. An agency or board that 8798
receives the information shall comply with the same requirements 8799
regarding confidentiality as those with which the state medical 8800
board must comply, notwithstanding any conflicting provision of 8801
the Revised Code or procedure of the agency or board that 8802
applies when it is dealing with other information in its 8803
possession. In a judicial proceeding, the information may be 8804
admitted into evidence only in accordance with the Rules of 8805
Evidence, but the court shall require that appropriate measures 8806
are taken to ensure that confidentiality is maintained with 8807
respect to any part of the information that contains names or 8808
other identifying information about patients or complainants 8809
whose confidentiality was protected by the state medical board 8810
when the information was in the board's possession. Measures to 8811

ensure confidentiality that may be taken by the court include 8812
sealing its records or deleting specific information from its 8813
records. 8814

No person shall knowingly access, use, or disclose 8815
confidential investigatory information in a manner prohibited by 8816
law. 8817

(6) On a quarterly basis, the board shall prepare a report 8818
that documents the disposition of all cases during the preceding 8819
three months. The report shall contain the following information 8820
for each case with which the board has completed its activities: 8821

(a) The case number assigned to the complaint or alleged 8822
violation; 8823

(b) The type of license, if any, held by the individual 8824
against whom the complaint is directed; 8825

(c) A description of the allegations contained in the 8826
complaint; 8827

(d) Whether witnesses were interviewed; 8828

(e) Whether the individual against whom the complaint is 8829
directed is the subject of any pending complaints; 8830

(f) The disposition of the case. 8831

The report shall state how many cases are still pending 8832
and shall be prepared in a manner that protects the identity of 8833
each person involved in each case. The report shall be a public 8834
record under section 149.43 of the Revised Code. 8835

(7) The board may provide a status update regarding an 8836
investigation to a complainant on request if the board verifies 8837
the complainant's identity. 8838

(C) The board shall keep records as are necessary to carry 8839
out the provisions of this chapter. 8840

(D) The board shall maintain and publish on its internet 8841
web site the board's rules and requirements for licensure 8842
adopted under division (A) of this section. 8843

(E) The board shall issue a license or limited permit to 8844
practice dietetics in accordance with Chapter 4796. of the 8845
Revised Code to an applicant if either of the following apply: 8846

(1) The applicant holds a license or permit in another 8847
state. 8848

(2) The applicant has satisfactory work experience, a 8849
government certification, or a private certification as 8850
described in that chapter as a dietitian in a state that does 8851
not issue that license. 8852

Section 4. That the existing version of section 4759.05 of 8853
the Revised Code that is scheduled to take effect December 29, 8854
2023, is hereby repealed. 8855

Section 5. Sections 3 and 4 of this act take effect 8856
December 29, 2023. 8857

Section 6. The General Assembly, applying the principle 8858
stated in division (B) of section 1.52 of the Revised Code that 8859
amendments are to be harmonized if reasonably capable of 8860
simultaneous operation, finds that the following sections, 8861
presented in this act as composites of the sections as amended 8862
by the acts indicated, are the resulting versions of the 8863
sections in effect prior to the effective date of the sections 8864
as presented in this act: 8865

Section 149.43 of the Revised Code as amended by H.B. 45, 8866

H.B. 99, H.B. 254, H.B. 343, H.B. 558, and S.B. 288, all of the	8867
134th General Assembly.	8868
Section 3107.07 of the Revised Code as amended by both	8869
S.B. 207 and S.B. 250 of the 130th General Assembly.	8870
Section 4731.22 of the Revised Code as amended by both	8871
H.B. 254 and S.B. 288 of the 134th General Assembly.	8872