

**As Introduced**

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

**S. B. No. 322**

**Senator Hackett**

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**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. 14

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

**Section 1.** That sections 149.43, 2105.062, 2305.111, 15  
2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 16  
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 17  
3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 18  
4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 19  
4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 20

4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 21  
4778.14, 4778.18, and 4778.99 be amended and sections 4731.2210, 22  
4759.14, and 4778.171 of the Revised Code be enacted to read as 23  
follows: 24

**Sec. 149.43.** (A) As used in this section: 25

(1) "Public record" means records kept by any public 26  
office, including, but not limited to, state, county, city, 27  
village, township, and school district units, and records 28  
pertaining to the delivery of educational services by an 29  
alternative school in this state kept by the nonprofit or for- 30  
profit entity operating the alternative school pursuant to 31  
section 3313.533 of the Revised Code. "Public record" does not 32  
mean any of the following: 33

(a) Medical records; 34

(b) Records pertaining to probation and parole 35  
proceedings, to proceedings related to the imposition of 36  
community control sanctions and post-release control sanctions, 37  
or to proceedings related to determinations under section 38  
2967.271 of the Revised Code regarding the release or maintained 39  
incarceration of an offender to whom that section applies; 40

(c) Records pertaining to actions under section 2151.85 41  
and division (C) of section 2919.121 of the Revised Code and to 42  
appeals of actions arising under those sections; 43

(d) Records pertaining to adoption proceedings, including 44  
the contents of an adoption file maintained by the department of 45  
health under sections 3705.12 to 3705.124 of the Revised Code; 46

(e) Information in a record contained in the putative 47  
father registry established by section 3107.062 of the Revised 48  
Code, regardless of whether the information is held by the 49

department of job and family services or, pursuant to section	50
3111.69 of the Revised Code, the office of child support in the	51
department or a child support enforcement agency;	52
(f) Records specified in division (A) of section 3107.52	53
of the Revised Code;	54
(g) Trial preparation records;	55
(h) Confidential law enforcement investigatory records;	56
(i) Records containing information that is confidential	57
under section 2710.03 or 4112.05 of the Revised Code;	58
(j) DNA records stored in the DNA database pursuant to	59
section 109.573 of the Revised Code;	60
(k) Inmate records released by the department of	61
rehabilitation and correction to the department of youth	62
services or a court of record pursuant to division (E) of	63
section 5120.21 of the Revised Code;	64
(l) Records maintained by the department of youth services	65
pertaining to children in its custody released by the department	66
of youth services to the department of rehabilitation and	67
correction pursuant to section 5139.05 of the Revised Code;	68
(m) Intellectual property records;	69
(n) Donor profile records;	70
(o) Records maintained by the department of job and family	71
services pursuant to section 3121.894 of the Revised Code;	72
(p) Designated public service worker residential and	73
familial information;	74
(q) In the case of a county hospital operated pursuant to	75
Chapter 339. of the Revised Code or a municipal hospital	76

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

federal law;	106
(w) Proprietary information of or relating to any person	107
that is submitted to or compiled by the Ohio venture capital	108
authority created under section 150.01 of the Revised Code;	109
(x) Financial statements and data any person submits for	110
any purpose to the Ohio housing finance agency or the	111
controlling board in connection with applying for, receiving, or	112
accounting for financial assistance from the agency, and	113
information that identifies any individual who benefits directly	114
or indirectly from financial assistance from the agency;	115
(y) Records listed in section 5101.29 of the Revised Code;	116
(z) Discharges recorded with a county recorder under	117
section 317.24 of the Revised Code, as specified in division (B)	118
(2) of that section;	119
(aa) Usage information including names and addresses of	120
specific residential and commercial customers of a municipally	121
owned or operated public utility;	122
(bb) Records described in division (C) of section 187.04	123
of the Revised Code that are not designated to be made available	124
to the public as provided in that division;	125
(cc) Information and records that are made confidential,	126
privileged, and not subject to disclosure under divisions (B)	127
and (C) of section 2949.221 of the Revised Code;	128
(dd) Personal information, as defined in section 149.45 of	129
the Revised Code;	130
(ee) The confidential name, address, and other personally	131
identifiable information of a program participant in the address	132
confidentiality program established under sections 111.41 to	133

111.47 of the Revised Code, including the contents of any 134  
application for absent voter's ballots, absent voter's ballot 135  
identification envelope statement of voter, or provisional 136  
ballot affirmation completed by a program participant who has a 137  
confidential voter registration record, and records or portions 138  
of records pertaining to that program that identify the number 139  
of program participants that reside within a precinct, ward, 140  
township, municipal corporation, county, or any other geographic 141  
area smaller than the state. As used in this division, 142  
"confidential address" and "program participant" have the 143  
meaning defined in section 111.41 of the Revised Code. 144

(ff) Orders for active military service of an individual 145  
serving or with previous service in the armed forces of the 146  
United States, including a reserve component, or the Ohio 147  
organized militia, except that, such order becomes a public 148  
record on the day that is fifteen years after the published date 149  
or effective date of the call to order; 150

(gg) The name, address, contact information, or other 151  
personal information of an individual who is less than eighteen 152  
years of age that is included in any record related to a traffic 153  
accident involving a school vehicle in which the individual was 154  
an occupant at the time of the accident; 155

(hh) Protected health information, as defined in 45 C.F.R. 156  
160.103, that is in a claim for payment for a health care 157  
product, service, or procedure, as well as any other health 158  
claims data in another document that reveals the identity of an 159  
individual who is the subject of the data or could be used to 160  
reveal that individual's identity; 161

(ii) Any depiction by photograph, film, videotape, or 162  
printed or digital image under either of the following 163

circumstances:	164
(i) The depiction is that of a victim of an offense the	165
release of which would be, to a reasonable person of ordinary	166
sensibilities, an offensive and objectionable intrusion into the	167
victim's expectation of bodily privacy and integrity.	168
(ii) The depiction captures or depicts the victim of a	169
sexually oriented offense, as defined in section 2950.01 of the	170
Revised Code, at the actual occurrence of that offense.	171
(jj) Restricted portions of a body-worn camera or	172
dashboard camera recording;	173
(kk) In the case of a fetal-infant mortality review board	174
acting under sections 3707.70 to 3707.77 of the Revised Code,	175
records, documents, reports, or other information presented to	176
the board or a person abstracting such materials on the board's	177
behalf, statements made by review board members during board	178
meetings, all work products of the board, and data submitted by	179
the board to the department of health or a national infant death	180
review database, other than the report prepared pursuant to	181
section 3707.77 of the Revised Code.	182
(ll) Records, documents, reports, or other information	183
presented to the pregnancy-associated mortality review board	184
established under section 3738.01 of the Revised Code,	185
statements made by board members during board meetings, all work	186
products of the board, and data submitted by the board to the	187
department of health, other than the biennial reports prepared	188
under section 3738.08 of the Revised Code;	189
(mm) Except as otherwise provided in division (A) (1) (oo)	190
of this section, telephone numbers for a victim, as defined in	191
section 2930.01 of the Revised Code or a witness to a crime that	192

are listed on any law enforcement record or report.	193
(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised Code.	194 195 196 197 198 199 200
(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.	201 202 203 204 205 206 207
<u>(pp) License or certificate application or renewal responses and supporting documentation submitted to the state medical board regarding an applicant's, or a license or certificate holder's, inability to practice according to acceptable and prevailing standards of care by reason of a medical condition.</u>	208 209 210 211 212 213
A record that is not a public record under division (A) (1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the Revised Code, or any	214 215 216 217 218 219 220 221 222



record that is exempt from release or disclosure under section 223  
149.433 of the Revised Code. If the record is a birth 224  
certificate and a biological parent's name redaction request 225  
form has been accepted under section 3107.391 of the Revised 226  
Code, the name of that parent shall be redacted from the birth 227  
certificate before it is released under this paragraph. If any 228  
other section of the Revised Code establishes a time period for 229  
disclosure of a record that conflicts with the time period 230  
specified in this section, the time period in the other section 231  
prevails. 232

(2) "Confidential law enforcement investigatory record" 233  
means any record that pertains to a law enforcement matter of a 234  
criminal, quasi-criminal, civil, or administrative nature, but 235  
only to the extent that the release of the record would create a 236  
high probability of disclosure of any of the following: 237

(a) The identity of a suspect who has not been charged 238  
with the offense to which the record pertains, or of an 239  
information source or witness to whom confidentiality has been 240  
reasonably promised; 241

(b) Information provided by an information source or 242  
witness to whom confidentiality has been reasonably promised, 243  
which information would reasonably tend to disclose the source's 244  
or witness's identity; 245

(c) Specific confidential investigatory techniques or 246  
procedures or specific investigatory work product; 247

(d) Information that would endanger the life or physical 248  
safety of law enforcement personnel, a crime victim, a witness, 249  
or a confidential information source. 250

(3) "Medical record" means any document or combination of 251

documents, except births, deaths, and the fact of admission to 252  
or discharge from a hospital, that pertains to the medical 253  
history, diagnosis, prognosis, or medical condition of a patient 254  
and that is generated and maintained in the process of medical 255  
treatment. 256

(4) "Trial preparation record" means any record that 257  
contains information that is specifically compiled in reasonable 258  
anticipation of, or in defense of, a civil or criminal action or 259  
proceeding, including the independent thought processes and 260  
personal trial preparation of an attorney. 261

(5) "Intellectual property record" means a record, other 262  
than a financial or administrative record, that is produced or 263  
collected by or for faculty or staff of a state institution of 264  
higher learning in the conduct of or as a result of study or 265  
research on an educational, commercial, scientific, artistic, 266  
technical, or scholarly issue, regardless of whether the study 267  
or research was sponsored by the institution alone or in 268  
conjunction with a governmental body or private concern, and 269  
that has not been publicly released, published, or patented. 270

(6) "Donor profile record" means all records about donors 271  
or potential donors to a public institution of higher education 272  
except the names and reported addresses of the actual donors and 273  
the date, amount, and conditions of the actual donation. 274

(7) "Designated public service worker" means a peace 275  
officer, parole officer, probation officer, bailiff, prosecuting 276  
attorney, assistant prosecuting attorney, correctional employee, 277  
county or multicounty corrections officer, community-based 278  
correctional facility employee, designated Ohio national guard 279  
member, protective services worker, youth services employee, 280  
firefighter, EMT, medical director or member of a cooperating 281

physician advisory board of an emergency medical service 282  
organization, state board of pharmacy employee, investigator of 283  
the bureau of criminal identification and investigation, 284  
emergency service telecommunicator, forensic mental health 285  
provider, mental health evaluation provider, regional 286  
psychiatric hospital employee, judge, magistrate, or federal law 287  
enforcement officer. 288

(8) "Designated public service worker residential and 289  
familial information" means any information that discloses any 290  
of the following about a designated public service worker: 291

(a) The address of the actual personal residence of a 292  
designated public service worker, except for the following 293  
information: 294

(i) The address of the actual personal residence of a 295  
prosecuting attorney or judge; and 296

(ii) The state or political subdivision in which a 297  
designated public service worker resides. 298

(b) Information compiled from referral to or participation 299  
in an employee assistance program; 300

(c) The social security number, the residential telephone 301  
number, any bank account, debit card, charge card, or credit 302  
card number, or the emergency telephone number of, or any 303  
medical information pertaining to, a designated public service 304  
worker; 305

(d) The name of any beneficiary of employment benefits, 306  
including, but not limited to, life insurance benefits, provided 307  
to a designated public service worker by the designated public 308  
service worker's employer; 309

(e) The identity and amount of any charitable or 310  
employment benefit deduction made by the designated public 311  
service worker's employer from the designated public service 312  
worker's compensation, unless the amount of the deduction is 313  
required by state or federal law; 314

(f) The name, the residential address, the name of the 315  
employer, the address of the employer, the social security 316  
number, the residential telephone number, any bank account, 317  
debit card, charge card, or credit card number, or the emergency 318  
telephone number of the spouse, a former spouse, or any child of 319  
a designated public service worker; 320

(g) A photograph of a peace officer who holds a position 321  
or has an assignment that may include undercover or plain 322  
clothes positions or assignments as determined by the peace 323  
officer's appointing authority. 324

(9) As used in divisions (A) (7) and (15) to (17) of this 325  
section: 326

"Peace officer" has the meaning defined in section 109.71 327  
of the Revised Code and also includes the superintendent and 328  
troopers of the state highway patrol; it does not include the 329  
sheriff of a county or a supervisory employee who, in the 330  
absence of the sheriff, is authorized to stand in for, exercise 331  
the authority of, and perform the duties of the sheriff. 332

"Correctional employee" means any employee of the 333  
department of rehabilitation and correction who in the course of 334  
performing the employee's job duties has or has had contact with 335  
inmates and persons under supervision. 336

"County or multicounty corrections officer" means any 337  
corrections officer employed by any county or multicounty 338

correctional facility. 339

"Designated Ohio national guard member" means a member of 340  
the Ohio national guard who is participating in duties related 341  
to remotely piloted aircraft, including, but not limited to, 342  
pilots, sensor operators, and mission intelligence personnel, 343  
duties related to special forces operations, or duties related 344  
to cybersecurity, and is designated by the adjutant general as a 345  
designated public service worker for those purposes. 346

"Protective services worker" means any employee of a 347  
county agency who is responsible for child protective services, 348  
child support services, or adult protective services. 349

"Youth services employee" means any employee of the 350  
department of youth services who in the course of performing the 351  
employee's job duties has or has had contact with children 352  
committed to the custody of the department of youth services. 353

"Firefighter" means any regular, paid or volunteer, member 354  
of a lawfully constituted fire department of a municipal 355  
corporation, township, fire district, or village. 356

"EMT" means EMTs-basic, EMTs-I, and paramedics that 357  
provide emergency medical services for a public emergency 358  
medical service organization. "Emergency medical service 359  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 360  
meanings defined in section 4765.01 of the Revised Code. 361

"Investigator of the bureau of criminal identification and 362  
investigation" has the meaning defined in section 2903.11 of the 363  
Revised Code. 364

"Emergency service telecommunicator" has the meaning 365  
defined in section 4742.01 of the Revised Code. 366

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

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

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

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

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

(a) The address or telephone number of a person under the

age of eighteen or the address or telephone number of that	396
person's parent, guardian, custodian, or emergency contact	397
person;	398
(b) The social security number, birth date, or	399
photographic image of a person under the age of eighteen;	400
(c) Any medical record, history, or information pertaining	401
to a person under the age of eighteen;	402
(d) Any additional information sought or required about a	403
person under the age of eighteen for the purpose of allowing	404
that person to participate in any recreational activity	405
conducted or sponsored by a public office or to use or obtain	406
admission privileges to any recreational facility owned or	407
operated by a public office.	408
(11) "Community control sanction" has the meaning defined	409
in section 2929.01 of the Revised Code.	410
(12) "Post-release control sanction" has the meaning	411
defined in section 2967.01 of the Revised Code.	412
(13) "Redaction" means obscuring or deleting any	413
information that is exempt from the duty to permit public	414
inspection or copying from an item that otherwise meets the	415
definition of a "record" in section 149.011 of the Revised Code.	416
(14) "Designee," "elected official," and "future official"	417
have the meanings defined in section 109.43 of the Revised Code.	418
(15) "Body-worn camera" means a visual and audio recording	419
device worn on the person of a peace officer while the peace	420
officer is engaged in the performance of the peace officer's	421
duties.	422
(16) "Dashboard camera" means a visual and audio recording	423

device mounted on a peace officer's vehicle or vessel that is 424  
used while the peace officer is engaged in the performance of 425  
the peace officer's duties. 426

(17) "Restricted portions of a body-worn camera or 427  
dashboard camera recording" means any visual or audio portion of 428  
a body-worn camera or dashboard camera recording that shows, 429  
communicates, or discloses any of the following: 430

(a) The image or identity of a child or information that 431  
could lead to the identification of a child who is a primary 432  
subject of the recording when the law enforcement agency knows 433  
or has reason to know the person is a child based on the law 434  
enforcement agency's records or the content of the recording; 435

(b) The death of a person or a deceased person's body, 436  
unless the death was caused by a peace officer or, subject to 437  
division (H) (1) of this section, the consent of the decedent's 438  
executor or administrator has been obtained; 439

(c) The death of a peace officer, firefighter, paramedic, 440  
or other first responder, occurring while the decedent was 441  
engaged in the performance of official duties, unless, subject 442  
to division (H) (1) of this section, the consent of the 443  
decedent's executor or administrator has been obtained; 444

(d) Grievous bodily harm, unless the injury was effected 445  
by a peace officer or, subject to division (H) (1) of this 446  
section, the consent of the injured person or the injured 447  
person's guardian has been obtained; 448

(e) An act of severe violence against a person that 449  
results in serious physical harm to the person, unless the act 450  
and injury was effected by a peace officer or, subject to 451  
division (H) (1) of this section, the consent of the injured 452



person or the injured person's guardian has been obtained; 453

(f) Grievous bodily harm to a peace officer, firefighter, 454  
paramedic, or other first responder, occurring while the injured 455  
person was engaged in the performance of official duties, 456  
unless, subject to division (H)(1) of this section, the consent 457  
of the injured person or the injured person's guardian has been 458  
obtained; 459

(g) An act of severe violence resulting in serious 460  
physical harm against a peace officer, firefighter, paramedic, 461  
or other first responder, occurring while the injured person was 462  
engaged in the performance of official duties, unless, subject 463  
to division (H)(1) of this section, the consent of the injured 464  
person or the injured person's guardian has been obtained; 465

(h) A person's nude body, unless, subject to division (H) 466  
(1) of this section, the person's consent has been obtained; 467

(i) Protected health information, the identity of a person 468  
in a health care facility who is not the subject of a law 469  
enforcement encounter, or any other information in a health care 470  
facility that could identify a person who is not the subject of 471  
a law enforcement encounter; 472

(j) Information that could identify the alleged victim of 473  
a sex offense, menacing by stalking, or domestic violence; 474

(k) Information, that does not constitute a confidential 475  
law enforcement investigatory record, that could identify a 476  
person who provides sensitive or confidential information to a 477  
law enforcement agency when the disclosure of the person's 478  
identity or the information provided could reasonably be 479  
expected to threaten or endanger the safety or property of the 480  
person or another person; 481

(l) Personal information of a person who is not arrested,	482
cited, charged, or issued a written warning by a peace officer;	483
(m) Proprietary police contingency plans or tactics that	484
are intended to prevent crime and maintain public order and	485
safety;	486
(n) A personal conversation unrelated to work between	487
peace officers or between a peace officer and an employee of a	488
law enforcement agency;	489
(o) A conversation between a peace officer and a member of	490
the public that does not concern law enforcement activities;	491
(p) The interior of a residence, unless the interior of a	492
residence is the location of an adversarial encounter with, or a	493
use of force by, a peace officer;	494
(q) Any portion of the interior of a private business that	495
is not open to the public, unless an adversarial encounter with,	496
or a use of force by, a peace officer occurs in that location.	497
As used in division (A) (17) of this section:	498
"Grievous bodily harm" has the same meaning as in section	499
5924.120 of the Revised Code.	500
"Health care facility" has the same meaning as in section	501
1337.11 of the Revised Code.	502
"Protected health information" has the same meaning as in	503
45 C.F.R. 160.103.	504
"Law enforcement agency" has the same meaning as in	505
section 2925.61 of the Revised Code.	506
"Personal information" means any government-issued	507
identification number, date of birth, address, financial	508

information, or criminal justice information from the law 509  
enforcement automated data system or similar databases. 510

"Sex offense" has the same meaning as in section 2907.10 511  
of the Revised Code. 512

"Firefighter," "paramedic," and "first responder" have the 513  
same meanings as in section 4765.01 of the Revised Code. 514

(B) (1) Upon request by any person and subject to division 515  
(B) (8) of this section, all public records responsive to the 516  
request shall be promptly prepared and made available for 517  
inspection to the requester at all reasonable times during 518  
regular business hours. Subject to division (B) (8) of this 519  
section, upon request by any person, a public office or person 520  
responsible for public records shall make copies of the 521  
requested public record available to the requester at cost and 522  
within a reasonable period of time. If a public record contains 523  
information that is exempt from the duty to permit public 524  
inspection or to copy the public record, the public office or 525  
the person responsible for the public record shall make 526  
available all of the information within the public record that 527  
is not exempt. When making that public record available for 528  
public inspection or copying that public record, the public 529  
office or the person responsible for the public record shall 530  
notify the requester of any redaction or make the redaction 531  
plainly visible. A redaction shall be deemed a denial of a 532  
request to inspect or copy the redacted information, except if 533  
federal or state law authorizes or requires a public office to 534  
make the redaction. 535

(2) To facilitate broader access to public records, a 536  
public office or the person responsible for public records shall 537  
organize and maintain public records in a manner that they can 538

be made available for inspection or copying in accordance with 539  
division (B) of this section. A public office also shall have 540  
available a copy of its current records retention schedule at a 541  
location readily available to the public. If a requester makes 542  
an ambiguous or overly broad request or has difficulty in making 543  
a request for copies or inspection of public records under this 544  
section such that the public office or the person responsible 545  
for the requested public record cannot reasonably identify what 546  
public records are being requested, the public office or the 547  
person responsible for the requested public record may deny the 548  
request but shall provide the requester with an opportunity to 549  
revise the request by informing the requester of the manner in 550  
which records are maintained by the public office and accessed 551  
in the ordinary course of the public office's or person's 552  
duties. 553

(3) If a request is ultimately denied, in part or in 554  
whole, the public office or the person responsible for the 555  
requested public record shall provide the requester with an 556  
explanation, including legal authority, setting forth why the 557  
request was denied. If the initial request was provided in 558  
writing, the explanation also shall be provided to the requester 559  
in writing. The explanation shall not preclude the public office 560  
or the person responsible for the requested public record from 561  
relying upon additional reasons or legal authority in defending 562  
an action commenced under division (C) of this section. 563

(4) Unless specifically required or authorized by state or 564  
federal law or in accordance with division (B) of this section, 565  
no public office or person responsible for public records may 566  
limit or condition the availability of public records by 567  
requiring disclosure of the requester's identity or the intended 568  
use of the requested public record. Any requirement that the 569

requester disclose the requester's identity or the intended use 570  
of the requested public record constitutes a denial of the 571  
request. 572

(5) A public office or person responsible for public 573  
records may ask a requester to make the request in writing, may 574  
ask for the requester's identity, and may inquire about the 575  
intended use of the information requested, but may do so only 576  
after disclosing to the requester that a written request is not 577  
mandatory, that the requester may decline to reveal the 578  
requester's identity or the intended use, and when a written 579  
request or disclosure of the identity or intended use would 580  
benefit the requester by enhancing the ability of the public 581  
office or person responsible for public records to identify, 582  
locate, or deliver the public records sought by the requester. 583

(6) If any person requests a copy of a public record in 584  
accordance with division (B) of this section, the public office 585  
or person responsible for the public record may require the 586  
requester to pay in advance the cost involved in providing the 587  
copy of the public record in accordance with the choice made by 588  
the requester under this division. The public office or the 589  
person responsible for the public record shall permit the 590  
requester to choose to have the public record duplicated upon 591  
paper, upon the same medium upon which the public office or 592  
person responsible for the public record keeps it, or upon any 593  
other medium upon which the public office or person responsible 594  
for the public record determines that it reasonably can be 595  
duplicated as an integral part of the normal operations of the 596  
public office or person responsible for the public record. When 597  
the requester makes a choice under this division, the public 598  
office or person responsible for the public record shall provide 599  
a copy of it in accordance with the choice made by the 600

requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

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

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

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

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per

month, unless the person certifies to the office in writing that 631  
the person does not intend to use or forward the requested 632  
records, or the information contained in them, for commercial 633  
purposes; 634

(ii) A public office that chooses to provide some or all 635  
of its public records on a web site that is fully accessible to 636  
and searchable by members of the public at all times, other than 637  
during acts of God outside the public office's control or 638  
maintenance, and that charges no fee to search, access, 639  
download, or otherwise receive records provided on the web site, 640  
may limit to ten per month the number of records requested by a 641  
person that the office will deliver in a digital format, unless 642  
the requested records are not provided on the web site and 643  
unless the person certifies to the office in writing that the 644  
person does not intend to use or forward the requested records, 645  
or the information contained in them, for commercial purposes. 646

(iii) For purposes of division (B) (7) of this section, 647  
"commercial" shall be narrowly construed and does not include 648  
reporting or gathering news, reporting or gathering information 649  
to assist citizen oversight or understanding of the operation or 650  
activities of government, or nonprofit educational research. 651

(8) A public office or person responsible for public 652  
records is not required to permit a person who is incarcerated 653  
pursuant to a criminal conviction or a juvenile adjudication to 654  
inspect or to obtain a copy of any public record concerning a 655  
criminal investigation or prosecution or concerning what would 656  
be a criminal investigation or prosecution if the subject of the 657  
investigation or prosecution were an adult, unless the request 658  
to inspect or to obtain a copy of the record is for the purpose 659  
of acquiring information that is subject to release as a public 660

record under this section and the judge who imposed the sentence 661  
or made the adjudication with respect to the person, or the 662  
judge's successor in office, finds that the information sought 663  
in the public record is necessary to support what appears to be 664  
a justiciable claim of the person. 665

(9) (a) Upon written request made and signed by a 666  
journalist, a public office, or person responsible for public 667  
records, having custody of the records of the agency employing a 668  
specified designated public service worker shall disclose to the 669  
journalist the address of the actual personal residence of the 670  
designated public service worker and, if the designated public 671  
service worker's spouse, former spouse, or child is employed by 672  
a public office, the name and address of the employer of the 673  
designated public service worker's spouse, former spouse, or 674  
child. The request shall include the journalist's name and title 675  
and the name and address of the journalist's employer and shall 676  
state that disclosure of the information sought would be in the 677  
public interest. 678

(b) Division (B) (9) (a) of this section also applies to 679  
journalist requests for: 680

(i) Customer information maintained by a municipally owned 681  
or operated public utility, other than social security numbers 682  
and any private financial information such as credit reports, 683  
payment methods, credit card numbers, and bank account 684  
information; 685

(ii) Information about minors involved in a school vehicle 686  
accident as provided in division (A) (1) (gg) of this section, 687  
other than personal information as defined in section 149.45 of 688  
the Revised Code. 689



(c) As used in division (B) (9) of this section, 690  
"journalist" means a person engaged in, connected with, or 691  
employed by any news medium, including a newspaper, magazine, 692  
press association, news agency, or wire service, a radio or 693  
television station, or a similar medium, for the purpose of 694  
gathering, processing, transmitting, compiling, editing, or 695  
disseminating information for the general public. 696

(10) Upon a request made by a victim, victim's attorney, 697  
or victim's representative, as that term is used in section 698  
2930.02 of the Revised Code, a public office or person 699  
responsible for public records shall transmit a copy of a 700  
depiction of the victim as described in division (A) (1) (ii) of 701  
this section to the victim, victim's attorney, or victim's 702  
representative. 703

(C) (1) If a person allegedly is aggrieved by the failure 704  
of a public office or the person responsible for public records 705  
to promptly prepare a public record and to make it available to 706  
the person for inspection in accordance with division (B) of 707  
this section or by any other failure of a public office or the 708  
person responsible for public records to comply with an 709  
obligation in accordance with division (B) of this section, the 710  
person allegedly aggrieved may do only one of the following, and 711  
not both: 712

(a) File a complaint with the clerk of the court of claims 713  
or the clerk of the court of common pleas under section 2743.75 714  
of the Revised Code; 715

(b) Commence a mandamus action to obtain a judgment that 716  
orders the public office or the person responsible for the 717  
public record to comply with division (B) of this section, that 718  
awards court costs and reasonable attorney's fees to the person 719

that instituted the mandamus action, and, if applicable, that 720  
includes an order fixing statutory damages under division (C) (2) 721  
of this section. The mandamus action may be commenced in the 722  
court of common pleas of the county in which division (B) of 723  
this section allegedly was not complied with, in the supreme 724  
court pursuant to its original jurisdiction under Section 2 of 725  
Article IV, Ohio Constitution, or in the court of appeals for 726  
the appellate district in which division (B) of this section 727  
allegedly was not complied with pursuant to its original 728  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 729

(2) If a requester transmits a written request by hand 730  
delivery, electronic submission, or certified mail to inspect or 731  
receive copies of any public record in a manner that fairly 732  
describes the public record or class of public records to the 733  
public office or person responsible for the requested public 734  
records, except as otherwise provided in this section, the 735  
requester shall be entitled to recover the amount of statutory 736  
damages set forth in this division if a court determines that 737  
the public office or the person responsible for public records 738  
failed to comply with an obligation in accordance with division 739  
(B) of this section. 740

The amount of statutory damages shall be fixed at one 741  
hundred dollars for each business day during which the public 742  
office or person responsible for the requested public records 743  
failed to comply with an obligation in accordance with division 744  
(B) of this section, beginning with the day on which the 745  
requester files a mandamus action to recover statutory damages, 746  
up to a maximum of one thousand dollars. The award of statutory 747  
damages shall not be construed as a penalty, but as compensation 748  
for injury arising from lost use of the requested information. 749  
The existence of this injury shall be conclusively presumed. The 750

award of statutory damages shall be in addition to all other 751  
remedies authorized by this section. 752

The court may reduce an award of statutory damages or not 753  
award statutory damages if the court determines both of the 754  
following: 755

(a) That, based on the ordinary application of statutory 756  
law and case law as it existed at the time of the conduct or 757  
threatened conduct of the public office or person responsible 758  
for the requested public records that allegedly constitutes a 759  
failure to comply with an obligation in accordance with division 760  
(B) of this section and that was the basis of the mandamus 761  
action, a well-informed public office or person responsible for 762  
the requested public records reasonably would believe that the 763  
conduct or threatened conduct of the public office or person 764  
responsible for the requested public records did not constitute 765  
a failure to comply with an obligation in accordance with 766  
division (B) of this section; 767

(b) That a well-informed public office or person 768  
responsible for the requested public records reasonably would 769  
believe that the conduct or threatened conduct of the public 770  
office or person responsible for the requested public records 771  
would serve the public policy that underlies the authority that 772  
is asserted as permitting that conduct or threatened conduct. 773

(3) In a mandamus action filed under division (C) (1) of 774  
this section, the following apply: 775

(a) (i) If the court orders the public office or the person 776  
responsible for the public record to comply with division (B) of 777  
this section, the court shall determine and award to the relator 778  
all court costs, which shall be construed as remedial and not 779

punitive. 780

(ii) If the court makes a determination described in 781  
division (C) (3) (b) (iii) of this section, the court shall 782  
determine and award to the relator all court costs, which shall 783  
be construed as remedial and not punitive. 784

(b) If the court renders a judgment that orders the public 785  
office or the person responsible for the public record to comply 786  
with division (B) of this section or if the court determines any 787  
of the following, the court may award reasonable attorney's fees 788  
to the relator, subject to division (C) (4) of this section: 789

(i) The public office or the person responsible for the 790  
public records failed to respond affirmatively or negatively to 791  
the public records request in accordance with the time allowed 792  
under division (B) of this section. 793

(ii) The public office or the person responsible for the 794  
public records promised to permit the relator to inspect or 795  
receive copies of the public records requested within a 796  
specified period of time but failed to fulfill that promise 797  
within that specified period of time. 798

(iii) The public office or the person responsible for the 799  
public records acted in bad faith when the office or person 800  
voluntarily made the public records available to the relator for 801  
the first time after the relator commenced the mandamus action, 802  
but before the court issued any order concluding whether or not 803  
the public office or person was required to comply with division 804  
(B) of this section. No discovery may be conducted on the issue 805  
of the alleged bad faith of the public office or person 806  
responsible for the public records. This division shall not be 807  
construed as creating a presumption that the public office or 808

the person responsible for the public records acted in bad faith 809  
when the office or person voluntarily made the public records 810  
available to the relator for the first time after the relator 811  
commenced the mandamus action, but before the court issued any 812  
order described in this division. 813

(c) The court shall not award attorney's fees to the 814  
relator if the court determines both of the following: 815

(i) That, based on the ordinary application of statutory 816  
law and case law as it existed at the time of the conduct or 817  
threatened conduct of the public office or person responsible 818  
for the requested public records that allegedly constitutes a 819  
failure to comply with an obligation in accordance with division 820  
(B) of this section and that was the basis of the mandamus 821  
action, a well-informed public office or person responsible for 822  
the requested public records reasonably would believe that the 823  
conduct or threatened conduct of the public office or person 824  
responsible for the requested public records did not constitute 825  
a failure to comply with an obligation in accordance with 826  
division (B) of this section; 827

(ii) That a well-informed public office or person 828  
responsible for the requested public records reasonably would 829  
believe that the conduct or threatened conduct of the public 830  
office or person responsible for the requested public records 831  
would serve the public policy that underlies the authority that 832  
is asserted as permitting that conduct or threatened conduct. 833

(4) All of the following apply to any award of reasonable 834  
attorney's fees awarded under division (C) (3) (b) of this 835  
section: 836

(a) The fees shall be construed as remedial and not 837

punitive. 838

(b) The fees awarded shall not exceed the total of the 839  
reasonable attorney's fees incurred before the public record was 840  
made available to the relator and the fees described in division 841  
(C) (4) (c) of this section. 842

(c) Reasonable attorney's fees shall include reasonable 843  
fees incurred to produce proof of the reasonableness and amount 844  
of the fees and to otherwise litigate entitlement to the fees. 845

(d) The court may reduce the amount of fees awarded if the 846  
court determines that, given the factual circumstances involved 847  
with the specific public records request, an alternative means 848  
should have been pursued to more effectively and efficiently 849  
resolve the dispute that was subject to the mandamus action 850  
filed under division (C) (1) of this section. 851

(5) If the court does not issue a writ of mandamus under 852  
division (C) of this section and the court determines at that 853  
time that the bringing of the mandamus action was frivolous 854  
conduct as defined in division (A) of section 2323.51 of the 855  
Revised Code, the court may award to the public office all court 856  
costs, expenses, and reasonable attorney's fees, as determined 857  
by the court. 858

(D) Chapter 1347. of the Revised Code does not limit the 859  
provisions of this section. 860

(E) (1) To ensure that all employees of public offices are 861  
appropriately educated about a public office's obligations under 862  
division (B) of this section, all elected officials or their 863  
appropriate designees shall attend training approved by the 864  
attorney general as provided in section 109.43 of the Revised 865  
Code. A future official may satisfy the requirements of this 866

division by attending the training before taking office, 867  
provided that the future official may not send a designee in the 868  
future official's place. 869

(2) All public offices shall adopt a public records policy 870  
in compliance with this section for responding to public records 871  
requests. In adopting a public records policy under this 872  
division, a public office may obtain guidance from the model 873  
public records policy developed and provided to the public 874  
office by the attorney general under section 109.43 of the 875  
Revised Code. Except as otherwise provided in this section, the 876  
policy may not limit the number of public records that the 877  
public office will make available to a single person, may not 878  
limit the number of public records that it will make available 879  
during a fixed period of time, and may not establish a fixed 880  
period of time before it will respond to a request for 881  
inspection or copying of public records, unless that period is 882  
less than eight hours. 883

The public office shall distribute the public records 884  
policy adopted by the public office under this division to the 885  
employee of the public office who is the records custodian or 886  
records manager or otherwise has custody of the records of that 887  
office. The public office shall require that employee to 888  
acknowledge receipt of the copy of the public records policy. 889  
The public office shall create a poster that describes its 890  
public records policy and shall post the poster in a conspicuous 891  
place in the public office and in all locations where the public 892  
office has branch offices. The public office may post its public 893  
records policy on the internet web site of the public office if 894  
the public office maintains an internet web site. A public 895  
office that has established a manual or handbook of its general 896  
policies and procedures for all employees of the public office 897

shall include the public records policy of the public office in 898  
the manual or handbook. 899

(F) (1) The bureau of motor vehicles may adopt rules 900  
pursuant to Chapter 119. of the Revised Code to reasonably limit 901  
the number of bulk commercial special extraction requests made 902  
by a person for the same records or for updated records during a 903  
calendar year. The rules may include provisions for charges to 904  
be made for bulk commercial special extraction requests for the 905  
actual cost of the bureau, plus special extraction costs, plus 906  
ten per cent. The bureau may charge for expenses for redacting 907  
information, the release of which is prohibited by law. 908

(2) As used in division (F) (1) of this section: 909

(a) "Actual cost" means the cost of depleted supplies, 910  
records storage media costs, actual mailing and alternative 911  
delivery costs, or other transmitting costs, and any direct 912  
equipment operating and maintenance costs, including actual 913  
costs paid to private contractors for copying services. 914

(b) "Bulk commercial special extraction request" means a 915  
request for copies of a record for information in a format other 916  
than the format already available, or information that cannot be 917  
extracted without examination of all items in a records series, 918  
class of records, or database by a person who intends to use or 919  
forward the copies for surveys, marketing, solicitation, or 920  
resale for commercial purposes. "Bulk commercial special 921  
extraction request" does not include a request by a person who 922  
gives assurance to the bureau that the person making the request 923  
does not intend to use or forward the requested copies for 924  
surveys, marketing, solicitation, or resale for commercial 925  
purposes. 926



(c) "Commercial" means profit-seeking production, buying, 927  
or selling of any good, service, or other product. 928

(d) "Special extraction costs" means the cost of the time 929  
spent by the lowest paid employee competent to perform the task, 930  
the actual amount paid to outside private contractors employed 931  
by the bureau, or the actual cost incurred to create computer 932  
programs to make the special extraction. "Special extraction 933  
costs" include any charges paid to a public agency for computer 934  
or records services. 935

(3) For purposes of divisions (F) (1) and (2) of this 936  
section, "surveys, marketing, solicitation, or resale for 937  
commercial purposes" shall be narrowly construed and does not 938  
include reporting or gathering news, reporting or gathering 939  
information to assist citizen oversight or understanding of the 940  
operation or activities of government, or nonprofit educational 941  
research. 942

(G) A request by a defendant, counsel of a defendant, or 943  
any agent of a defendant in a criminal action that public 944  
records related to that action be made available under this 945  
section shall be considered a demand for discovery pursuant to 946  
the Criminal Rules, except to the extent that the Criminal Rules 947  
plainly indicate a contrary intent. The defendant, counsel of 948  
the defendant, or agent of the defendant making a request under 949  
this division shall serve a copy of the request on the 950  
prosecuting attorney, director of law, or other chief legal 951  
officer responsible for prosecuting the action. 952

(H) (1) Any portion of a body-worn camera or dashboard 953  
camera recording described in divisions (A) (17) (b) to (h) of 954  
this section may be released by consent of the subject of the 955  
recording or a representative of that person, as specified in 956

those divisions, only if either of the following applies: 957

(a) The recording will not be used in connection with any 958  
probable or pending criminal proceedings; 959

(b) The recording has been used in connection with a 960  
criminal proceeding that was dismissed or for which a judgment 961  
has been entered pursuant to Rule 32 of the Rules of Criminal 962  
Procedure, and will not be used again in connection with any 963  
probable or pending criminal proceedings. 964

(2) If a public office denies a request to release a 965  
restricted portion of a body-worn camera or dashboard camera 966  
recording, as defined in division (A)(17) of this section, any 967  
person may file a mandamus action pursuant to this section or a 968  
complaint with the clerk of the court of claims pursuant to 969  
section 2743.75 of the Revised Code, requesting the court to 970  
order the release of all or portions of the recording. If the 971  
court considering the request determines that the filing 972  
articulates by clear and convincing evidence that the public 973  
interest in the recording substantially outweighs privacy 974  
interests and other interests asserted to deny release, the 975  
court shall order the public office to release the recording. 976

**Sec. 2105.062.** As used in this section, "relative" 977  
includes a parent, grandparent, great-grandparent, stepparent, 978  
child, grandchild, aunt, uncle, cousin, sibling, and half 979  
sibling. 980

The parent, or a relative of the parent, of a child who 981  
was conceived as the result of the parent's violation of section 982  
2907.02 of the Revised Code, or violation of section 2907.03 of 983  
the Revised Code if the sexual activity involved is sexual 984  
conduct, shall not inherit the real property, personal property, 985

or inheritance of the child or the child's lineal descendants as 986  
provided under section 2105.06 of the Revised Code. 987

**Sec. 2305.111.** (A) As used in this section: 988

(1) "Childhood sexual abuse" means any conduct that 989  
constitutes any of the violations identified in division (A)(1) 990  
(a) or (b) of this section and would constitute a criminal 991  
offense under the specified section ~~or division~~ of the Revised 992  
Code, if the victim of the violation is at the time of the 993  
violation a child under eighteen years of age or a child with a 994  
developmental disability or physical impairment under twenty-one 995  
years of age. The court need not find that any person has been 996  
convicted of or pleaded guilty to the offense under the 997  
specified section ~~or division~~ of the Revised Code in order for 998  
the conduct that is the violation constituting the offense to be 999  
childhood sexual abuse for purposes of this division. This 1000  
division applies to any of the following violations committed in 1001  
the following specified circumstances: 1002

(a) A violation of section 2907.02 or ~~of division (A)(1),~~ 1003  
~~(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03~~ 1004  
of the Revised Code; 1005

(b) A violation of section 2907.05 or 2907.06 of the 1006  
Revised Code if, at the time of the violation, any of the 1007  
following apply: 1008

(i) The actor is the victim's natural parent, adoptive 1009  
parent, or stepparent or the guardian, custodian, or person in 1010  
loco parentis of the victim. 1011

(ii) The victim is in custody of law or a patient in a 1012  
hospital or other institution, and the actor has supervisory or 1013  
disciplinary authority over the victim. 1014

(iii) The actor is a teacher, administrator, coach, or 1015  
other person in authority employed by or serving in a school for 1016  
which the state board of education prescribes minimum standards 1017  
pursuant to division (D) of section 3301.07 of the Revised Code, 1018  
the victim is enrolled in or attends that school, and the actor 1019  
is not enrolled in and does not attend that school. 1020

(iv) The actor is a teacher, administrator, coach, or 1021  
other person in authority employed by or serving in an 1022  
institution of higher education, and the victim is enrolled in 1023  
or attends that institution. 1024

(v) The actor is the victim's athletic or other type of 1025  
coach, is the victim's instructor, is the leader of a scouting 1026  
troop of which the victim is a member, or is a person with 1027  
temporary or occasional disciplinary control over the victim. 1028

(vi) The actor is a mental health professional, the victim 1029  
is a mental health client or patient of the actor, and the actor 1030  
induces the victim to submit by falsely representing to the 1031  
victim that the sexual contact involved in the violation is 1032  
necessary for mental health treatment purposes. 1033

(vii) The actor is a licensed medical professional, the 1034  
victim is a patient of the actor, and the sexual contact occurs 1035  
in the course of medical treatment. 1036

(viii) The victim is confined in a detention facility, and 1037  
the actor is an employee of that detention facility. 1038

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 1039  
member of, or attends, the church or congregation served by the 1040  
cleric. 1041

(2) "Cleric" has the same meaning as in section 2317.02 of 1042  
the Revised Code. 1043

(3) <u>"Licensed medical professional" has the same meaning</u>	1044
<u>as in section 2907.01 of the Revised Code.</u>	1045
(4) <u>"Mental health client or patient" has the same meaning</u>	1046
<u>as in section 2305.51 of the Revised Code.</u>	1047
<del>(4)</del> -(5) <u>"Mental health professional" has the same meaning</u>	1048
<u>as in section 2305.115 of the Revised Code.</u>	1049
<del>(5)</del> -(6) <u>"Sexual contact" has the same meaning as in</u>	1050
<u>section 2907.01 of the Revised Code.</u>	1051
<del>(6)</del> -(7) <u>"Victim" means, except as provided in division (B)</u>	1052
<u>of this section, a victim of childhood sexual abuse.</u>	1053
(B) Except as provided in section 2305.115 of the Revised	1054
Code and subject to division (C) of this section, an action for	1055
assault or battery shall be brought within one year after the	1056
cause of the action accrues. For purposes of this section, a	1057
cause of action for assault or battery accrues upon the later of	1058
the following:	1059
(1) The date on which the alleged assault or battery	1060
occurred;	1061
(2) If the plaintiff did not know the identity of the	1062
person who allegedly committed the assault or battery on the	1063
date on which it allegedly occurred, the earlier of the	1064
following dates:	1065
(a) The date on which the plaintiff learns the identity of	1066
that person;	1067
(b) The date on which, by the exercise of reasonable	1068
diligence, the plaintiff should have learned the identity of	1069
that person.	1070

(C) An action for assault or battery brought by a victim 1071  
of childhood sexual abuse based on childhood sexual abuse, or an 1072  
action brought by a victim of childhood sexual abuse asserting 1073  
any claim resulting from childhood sexual abuse, shall be 1074  
brought within twelve years after the cause of action accrues. 1075  
For purposes of this section, a cause of action for assault or 1076  
battery based on childhood sexual abuse, or a cause of action 1077  
for a claim resulting from childhood sexual abuse, accrues upon 1078  
the date on which the victim reaches the age of majority. If the 1079  
defendant in an action brought by a victim of childhood sexual 1080  
abuse asserting a claim resulting from childhood sexual abuse 1081  
that occurs on or after August 3, 2006, has fraudulently 1082  
concealed from the plaintiff facts that form the basis of the 1083  
claim, the running of the limitations period with regard to that 1084  
claim is tolled until the time when the plaintiff discovers or 1085  
in the exercise of due diligence should have discovered those 1086  
facts. 1087

**Sec. 2305.252.** ~~(A) Proceedings~~ (A) (1) Except as required 1088  
to comply with a subpoena issued by the state medical board for 1089  
the production of information, documents, or records related to 1090  
an allegation of sexual misconduct or criminal conduct, 1091  
proceedings and records within the scope of a peer review 1092  
committee of a health care entity shall be held in confidence 1093  
and shall not be subject to discovery or introduction in 1094  
evidence in any civil action against a health care entity or 1095  
health care provider, including both individuals who provide 1096  
health care and entities that provide health care, arising out 1097  
of matters that are the subject of evaluation and review by the 1098  
peer review committee. No individual who attends a meeting of a 1099  
peer review committee, serves as a member of a peer review 1100  
committee, works for or on behalf of a peer review committee, or 1101

provides information to a peer review committee shall be 1102  
permitted or required to testify in any civil action as to any 1103  
evidence or other matters produced or presented during the 1104  
proceedings of the peer review committee or as to any finding, 1105  
recommendation, evaluation, opinion, or other action of the 1106  
committee or a member thereof. 1107

Information, documents, or records otherwise available 1108  
from original sources are not to be construed as being 1109  
unavailable for discovery or for use in any civil action merely 1110  
because they were produced or presented during proceedings of a 1111  
peer review committee, but the information, documents, or 1112  
records are available only from the original sources and cannot 1113  
be obtained from the peer review committee's proceedings or 1114  
records. 1115

The release of any information, documents, or records that 1116  
were produced or presented during proceedings of a peer review 1117  
committee or created to document the proceedings does not affect 1118  
the confidentiality of any other information, documents, or 1119  
records produced or presented during those proceedings or 1120  
created to document them. Only the information, documents, or 1121  
records actually released cease to be privileged under this 1122  
section. 1123

Nothing in this section precludes health care entities 1124  
from sharing information, documents, or records that were 1125  
produced or presented during proceedings of a peer review 1126  
committee or created to document them as long as the 1127  
information, documents, or records are used only for peer review 1128  
purposes. Health care entities shall provide information, 1129  
documents, or records related to allegations of sexual 1130  
misconduct or criminal conduct of individuals licensed by the 1131

state medical board that were produced or presented during the 1132  
proceedings of a peer review committee or were created to 1133  
document the proceedings, to the state medical board pursuant to 1134  
a subpoena issued by the board. 1135

An individual who testifies before a peer review 1136  
committee, serves as a representative of a peer review 1137  
committee, serves as a member of a peer review committee, works 1138  
for or on behalf of a peer review committee, or provides 1139  
information to a peer review committee shall not be prevented 1140  
from testifying as to matters within the individual's knowledge, 1141  
but the individual cannot be asked about the individual's 1142  
testimony before the peer review committee, information the 1143  
individual provided to the peer review committee, or any opinion 1144  
the individual formed as a result of the peer review committee's 1145  
activities. 1146

An order by a court to produce for discovery or for use at 1147  
trial the proceedings or records described in this section is a 1148  
final order. 1149

(2) As used in division (A) (1) of this section: 1150

(a) "Criminal conduct" means any conduct that would 1151  
constitute a felony, a misdemeanor committed in the course of 1152  
medical practice, an offense of violence, or a sexually oriented 1153  
offense, as defined in section 2950.01 of the Revised Code, 1154  
regardless of whether a criminal charge has been filed or the 1155  
location in this state where the conduct occurred. 1156

(b) "Sexual misconduct" means conduct that exploits the 1157  
licensee-patient relationship in a sexual way, whether verbal or 1158  
physical, and may include the expression of thoughts, feelings, 1159  
or gestures that are sexual or that reasonably may be construed 1160



by the patient as sexual. "Sexual misconduct" includes sexual 1161  
impropriety, sexual contact, and sexual interaction as defined 1162  
by the state medical board in rules adopted in accordance with 1163  
Chapter 119. of the Revised Code. 1164

(B) Division (A) of this section applies to a peer review 1165  
committee of the bureau of workers' compensation that is 1166  
responsible for reviewing the professional qualifications and 1167  
the performance of providers certified by the bureau to 1168  
participate in the health partnership program created under 1169  
sections 4121.44 and 4121.441 of the Revised Code, except that 1170  
the proceedings and records within the scope of the peer review 1171  
committee are subject to discovery or court subpoena and may be 1172  
admitted into evidence in any criminal action or administrative 1173  
or civil action initiated, prosecuted, or adjudicated by the 1174  
bureau involving an alleged violation of applicable statutes or 1175  
administrative rules. The bureau may share proceedings and 1176  
records within the scope of the peer review committee, including 1177  
claimant records and claim file information, with law 1178  
enforcement agencies, licensing boards, and other governmental 1179  
agencies that are prosecuting, adjudicating, or investigating 1180  
alleged violations of applicable statutes or administrative 1181  
rules. If the bureau shares proceedings or records with a law 1182  
enforcement agency, licensing board, or another governmental 1183  
agency pursuant to this division, that sharing does not affect 1184  
the confidentiality of the record. Recipients of claimant 1185  
records and claim file information provided by the bureau 1186  
pursuant to this division shall take appropriate measures to 1187  
maintain the confidentiality of the information. 1188

**Sec. 2907.01.** As used in sections 2907.01 to 2907.38 and 1189  
2917.211 of the Revised Code: 1190

(A) "Sexual conduct" means vaginal intercourse between a 1191  
male and female; anal intercourse, fellatio, and cunnilingus 1192  
between persons regardless of sex; and, without privilege to do 1193  
so, the insertion, however slight, of any part of the body or 1194  
any instrument, apparatus, or other object into the vaginal or 1195  
anal opening of another. Penetration, however slight, is 1196  
sufficient to complete vaginal or anal intercourse. 1197

(B) "Sexual contact" means any touching of an erogenous 1198  
zone of another, including without limitation the thigh, 1199  
genitals, buttock, pubic region, or, if the person is a female, 1200  
a breast, for the purpose of sexually arousing or gratifying 1201  
either person. 1202

(C) "Sexual activity" means sexual conduct or sexual 1203  
contact, or both. 1204

(D) "Prostitute" means a male or female who promiscuously 1205  
engages in sexual activity for hire, regardless of whether the 1206  
hire is paid to the prostitute or to another. 1207

(E) "Harmful to juveniles" means that quality of any 1208  
material or performance describing or representing nudity, 1209  
sexual conduct, sexual excitement, or sado-masochistic abuse in 1210  
any form to which all of the following apply: 1211

(1) The material or performance, when considered as a 1212  
whole, appeals to the prurient interest of juveniles in sex. 1213

(2) The material or performance is patently offensive to 1214  
prevailing standards in the adult community as a whole with 1215  
respect to what is suitable for juveniles. 1216

(3) The material or performance, when considered as a 1217  
whole, lacks serious literary, artistic, political, and 1218  
scientific value for juveniles. 1219

(F) When considered as a whole, and judged with reference 1220  
to ordinary adults or, if it is designed for sexual deviates or 1221  
other specially susceptible group, judged with reference to that 1222  
group, any material or performance is "obscene" if any of the 1223  
following apply: 1224

(1) Its dominant appeal is to prurient interest; 1225

(2) Its dominant tendency is to arouse lust by displaying 1226  
or depicting sexual activity, masturbation, sexual excitement, 1227  
or nudity in a way that tends to represent human beings as mere 1228  
objects of sexual appetite; 1229

(3) Its dominant tendency is to arouse lust by displaying 1230  
or depicting bestiality or extreme or bizarre violence, cruelty, 1231  
or brutality; 1232

(4) Its dominant tendency is to appeal to scatological 1233  
interest by displaying or depicting human bodily functions of 1234  
elimination in a way that inspires disgust or revulsion in 1235  
persons with ordinary sensibilities, without serving any genuine 1236  
scientific, educational, sociological, moral, or artistic 1237  
purpose; 1238

(5) It contains a series of displays or descriptions of 1239  
sexual activity, masturbation, sexual excitement, nudity, 1240  
bestiality, extreme or bizarre violence, cruelty, or brutality, 1241  
or human bodily functions of elimination, the cumulative effect 1242  
of which is a dominant tendency to appeal to prurient or 1243  
scatological interest, when the appeal to such an interest is 1244  
primarily for its own sake or for commercial exploitation, 1245  
rather than primarily for a genuine scientific, educational, 1246  
sociological, moral, or artistic purpose. 1247

(G) "Sexual excitement" means the condition of human male 1248

or female genitals when in a state of sexual stimulation or 1249  
arousal. 1250

(H) "Nudity" means the showing, representation, or 1251  
depiction of human male or female genitals, pubic area, or 1252  
buttocks with less than a full, opaque covering, or of a female 1253  
breast with less than a full, opaque covering of any portion 1254  
thereof below the top of the nipple, or of covered male genitals 1255  
in a discernibly turgid state. 1256

(I) "Juvenile" means an unmarried person under the age of 1257  
eighteen. 1258

(J) "Material" means any book, magazine, newspaper, 1259  
pamphlet, poster, print, picture, figure, image, description, 1260  
motion picture film, phonographic record, or tape, or other 1261  
tangible thing capable of arousing interest through sight, 1262  
sound, or touch and includes an image or text appearing on a 1263  
computer monitor, television screen, liquid crystal display, or 1264  
similar display device or an image or text recorded on a 1265  
computer hard disk, computer floppy disk, compact disk, magnetic 1266  
tape, or similar data storage device. 1267

(K) "Performance" means any motion picture, preview, 1268  
trailer, play, show, skit, dance, or other exhibition performed 1269  
before an audience. 1270

(L) "Spouse" means a person married to an offender at the 1271  
time of an alleged offense, except that such person shall not be 1272  
considered the spouse when any of the following apply: 1273

(1) When the parties have entered into a written 1274  
separation agreement authorized by section 3103.06 of the 1275  
Revised Code; 1276

(2) During the pendency of an action between the parties 1277

for annulment, divorce, dissolution of marriage, or legal separation;	1278 1279
(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.	1280 1281
(M) "Minor" means a person under the age of eighteen.	1282
(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	1283 1284
(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	1285 1286
(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.	1287 1288 1289
<u>(Q) "Licensed medical professional" means any of the following medical professionals:</u>	1290 1291
<u>(1) A physician assistant licensed under Chapter 4730. of the Revised Code;</u>	1292 1293
<u>(2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	1294 1295 1296
<u>(3) A massage therapist licensed under Chapter 4731. of the Revised Code.</u>	1297 1298
<b>Sec. 2907.02.</b> (A) (1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:	1299 1300 1301 1302
(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by	1303 1304

administering any drug, intoxicant, or controlled substance to 1305  
the other person surreptitiously or by force, threat of force, 1306  
or deception. 1307

(b) The other person is less than thirteen years of age, 1308  
whether or not the offender knows the age of the other person. 1309

(c) The other person's ability to resist or consent is 1310  
substantially impaired because of a mental or physical condition 1311  
or because of advanced age, and the offender knows or has 1312  
reasonable cause to believe that the other person's ability to 1313  
resist or consent is substantially impaired because of a mental 1314  
or physical condition or because of advanced age. 1315

(d) The offender knows that the judgment or control of the 1316  
other person is substantially impaired as a result of the 1317  
influence of any drug or intoxicant administered to the other 1318  
person with the other person's consent for the purpose of any 1319  
kind of medical or dental examination, treatment, or surgery. 1320

(2) No person shall engage in sexual conduct with another 1321  
when the offender purposely compels the other person to submit 1322  
by force or threat of force. 1323

(B) Whoever violates this section is guilty of rape, a 1324  
felony of the first degree. If the offender under division (A) 1325  
(1) (a) of this section substantially impairs the other person's 1326  
judgment or control by administering any controlled substance, 1327  
as defined in section 3719.01 of the Revised Code, to the other 1328  
person surreptitiously or by force, threat of force, or 1329  
deception, the prison term imposed upon the offender shall be 1330  
one of the definite prison terms prescribed for a felony of the 1331  
first degree in division (A) (1) (b) of section 2929.14 of the 1332  
Revised Code that is not less than five years, except that if 1333

the violation is committed on or after March 22, 2019, the court 1334  
shall impose as the minimum prison term for the offense a 1335  
mandatory prison term that is one of the minimum terms 1336  
prescribed for a felony of the first degree in division (A) (1) 1337  
(a) of section 2929.14 of the Revised Code that is not less than 1338  
five years. Except as otherwise provided in this division, 1339  
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 1340  
an offender under division (A) (1) (b) of this section shall be 1341  
sentenced to a prison term or term of life imprisonment pursuant 1342  
to section 2971.03 of the Revised Code. If an offender is 1343  
convicted of or pleads guilty to a violation of division (A) (1) 1344  
(b) of this section, if the offender was less than sixteen years 1345  
of age at the time the offender committed the violation of that 1346  
division, and if the offender during or immediately after the 1347  
commission of the offense did not cause serious physical harm to 1348  
the victim, the victim was ten years of age or older at the time 1349  
of the commission of the violation, and the offender has not 1350  
previously been convicted of or pleaded guilty to a violation of 1351  
this section or a substantially similar existing or former law 1352  
of this state, another state, or the United States, the court 1353  
shall not sentence the offender to a prison term or term of life 1354  
imprisonment pursuant to section 2971.03 of the Revised Code, 1355  
and instead the court shall sentence the offender as otherwise 1356  
provided in this division. If an offender under division (A) (1) 1357  
(b) of this section previously has been convicted of or pleaded 1358  
guilty to violating division (A) (1) (b) of this section or to 1359  
violating an existing or former law of this state, another 1360  
state, or the United States that is substantially similar to 1361  
division (A) (1) (b) of this section, if the offender during or 1362  
immediately after the commission of the offense caused serious 1363  
physical harm to the victim, or if the victim under division (A) 1364  
(1) (b) of this section is less than ten years of age, in lieu of 1365

sentencing the offender to a prison term or term of life 1366  
imprisonment pursuant to section 2971.03 of the Revised Code, 1367  
except as otherwise provided in this division, the court may 1368  
impose upon the offender a term of life without parole. If the 1369  
court imposes a term of life without parole pursuant to this 1370  
division, division (F) of section 2971.03 of the Revised Code 1371  
applies, and the offender automatically is classified a tier III 1372  
sex offender/child-victim offender, as described in that 1373  
division. A court shall not impose a term of life without parole 1374  
on an offender for rape if the offender was under eighteen years 1375  
of age at the time of the offense. 1376

(C) A victim need not prove physical resistance to the 1377  
offender in prosecutions under this section. 1378

(D) Evidence of specific instances of the victim's sexual 1379  
activity, opinion evidence of the victim's sexual activity, and 1380  
reputation evidence of the victim's sexual activity shall not be 1381  
admitted under this section unless it involves evidence of the 1382  
origin of semen, pregnancy, or disease, or the victim's past 1383  
sexual activity with the offender, and only to the extent that 1384  
the court finds that the evidence is material to a fact at issue 1385  
in the case and that its inflammatory or prejudicial nature does 1386  
not outweigh its probative value. 1387

Evidence of specific instances of the defendant's sexual 1388  
activity, opinion evidence of the defendant's sexual activity, 1389  
and reputation evidence of the defendant's sexual activity shall 1390  
not be admitted under this section unless it involves evidence 1391  
of the origin of semen, pregnancy, or disease, the defendant's 1392  
past sexual activity with the victim, or is admissible against 1393  
the defendant under section 2945.59 of the Revised Code, and 1394  
only to the extent that the court finds that the evidence is 1395



material to a fact at issue in the case and that its 1396  
inflammatory or prejudicial nature does not outweigh its 1397  
probative value. 1398

(E) Prior to taking testimony or receiving evidence of any 1399  
sexual activity of the victim or the defendant in a proceeding 1400  
under this section, the court shall resolve the admissibility of 1401  
the proposed evidence in a hearing in chambers, which shall be 1402  
held at or before preliminary hearing and not less than three 1403  
days before trial, or for good cause shown during the trial. 1404

(F) Upon approval by the court, the victim may be 1405  
represented by counsel in any hearing in chambers or other 1406  
proceeding to resolve the admissibility of evidence. If the 1407  
victim is indigent or otherwise is unable to obtain the services 1408  
of counsel, the court, upon request, may appoint counsel to 1409  
represent the victim without cost to the victim. 1410

(G) It is not a defense to a charge under division (A) (2) 1411  
of this section that the offender and the victim were married or 1412  
were cohabiting at the time of the commission of the offense. 1413

**Sec. 2907.03.** (A) No person shall engage in sexual ~~conduct~~ 1414  
activity with another, not the spouse of the offender; ~~cause~~ 1415  
another, not the spouse of the offender, to engage in sexual 1416  
activity with the offender; or cause two or more other persons 1417  
to engage in sexual activity when any of the following apply: 1418

(1) The offender knowingly coerces the other person, or 1419  
one of the other persons, to submit by any means that would 1420  
prevent resistance by a person of ordinary resolution. 1421

(2) The offender knows that the other person's, or one of 1422  
the other person's, ability to appraise the nature of or control 1423  
the other person's own conduct is substantially impaired. 1424

(3) The offender knows that the other person, or one of 1425  
the other persons, submits because the other person is unaware 1426  
that the act is being committed. 1427

(4) The offender knows that the other person, or one of 1428  
the other persons, submits because the other person mistakenly 1429  
identifies the offender as the other person's spouse. 1430

(5) The offender is the other person's, or one of the 1431  
other person's, natural or adoptive parent, or a stepparent, or 1432  
guardian, custodian, or person in loco parentis of the other 1433  
person. 1434

(6) The other person, or one of the other persons, is in 1435  
custody of law or a patient in a hospital or other institution, 1436  
and the offender has supervisory or disciplinary authority over 1437  
the other person. 1438

(7) The offender is a teacher, administrator, coach, or 1439  
other person in authority employed by or serving in a school for 1440  
which the state board of education prescribes minimum standards 1441  
pursuant to division (D) of section 3301.07 of the Revised Code, 1442  
the other person, or one of the other persons, is enrolled in or 1443  
attends that school, and the offender is not enrolled in and 1444  
does not attend that school. 1445

(8) The other person, or one of the other persons, is a 1446  
minor, the offender is a teacher, administrator, coach, or other 1447  
person in authority employed by or serving in an institution of 1448  
higher education, and the other person is enrolled in or attends 1449  
that institution. 1450

(9) The other person, or one of the other persons, is a 1451  
minor, and the offender is the other person's athletic or other 1452  
type of coach, is the other person's instructor, is the leader 1453

of a scouting troop of which the other person is a member, or is 1454  
a person with temporary or occasional disciplinary control over 1455  
the other person. 1456

(10) The offender is a mental health professional, the 1457  
other person, or one of the other persons, is a mental health 1458  
client or patient of the offender, and the offender induces the 1459  
other person to submit by falsely representing to the other 1460  
person that the sexual conduct is necessary for mental health 1461  
treatment purposes. 1462

(11) The offender is a licensed medical professional, the 1463  
other person, or one of the other persons, is a patient of the 1464  
offender, and the sexual activity occurs in the course of 1465  
medical treatment. 1466

(12) The other person, or one of the other persons, is 1467  
confined in a detention facility, and the offender is an 1468  
employee of that detention facility. 1469

~~(12)~~ (13) The other person, or one of the other persons, 1470  
is a minor, the offender is a cleric, and the other person is a 1471  
member of, or attends, the church or congregation served by the 1472  
cleric. 1473

~~(13)~~ (14) The other person, or one of the other persons, 1474  
is a minor, the offender is a peace officer, and the offender is 1475  
more than two years older than the other person. 1476

(B) Whoever violates this section is guilty of sexual 1477  
battery. 1478

~~Except~~ (1) If the sexual activity involved is sexual 1479  
conduct, except as otherwise provided in this division, sexual 1480  
battery is a felony of the third degree. If the other person, or 1481  
one of the other persons, is less than thirteen years of age or 1482

over and less than eighteen years of age, sexual battery is a 1483  
felony of the second degree, and the court shall impose upon the 1484  
offender a mandatory prison term equal to one of the definite 1485  
prison terms prescribed in division (A) (2) (b) of section 2929.14 1486  
of the Revised Code for a felony of the second degree, except 1487  
that if the violation is committed on or after ~~the effective~~ 1488  
~~date of this amendment~~ March 22, 2019, the court shall impose as 1489  
the minimum prison term for the offense a mandatory prison term 1490  
that is one of the minimum terms prescribed in division (A) (2) 1491  
(a) of that section for a felony of the second degree. 1492

(2) If the sexual activity involved is sexual contact, 1493  
except as otherwise provided in this division, sexual battery is 1494  
a felony of the fifth degree. If the other person, or one of the 1495  
other persons, is less than eighteen years of age, sexual 1496  
battery is a felony of the fourth degree. 1497

(C) As used in this section: 1498

(1) "Cleric" has the same meaning as in section 2317.02 of 1499  
the Revised Code. 1500

(2) "Detention facility" has the same meaning as in 1501  
section 2921.01 of the Revised Code. 1502

(3) "Institution of higher education" means a state 1503  
institution of higher education defined in section 3345.011 of 1504  
the Revised Code, a private nonprofit college or university 1505  
located in this state that possesses a certificate of 1506  
authorization issued by the Ohio board of regents pursuant to 1507  
Chapter 1713. of the Revised Code, or a school certified under 1508  
Chapter 3332. of the Revised Code. 1509

(4) "Peace officer" has the same meaning as in section 1510  
2935.01 of the Revised Code. 1511

(5) "Medical treatment" means in-person examination, 1512  
consultation, health care, treatment, procedure, surgery, or 1513  
other in-person services provided by a licensed medical 1514  
professional under the legal authority conferred by a license or 1515  
certificate. 1516

**Sec. 2907.06.** (A) No person shall have sexual contact with 1517  
another, not the spouse of the offender; cause another, not the 1518  
spouse of the offender, to have sexual contact with the 1519  
offender; or cause two or more other persons to have sexual 1520  
contact when ~~any of the following applies:~~ 1521

~~(1) The~~ the offender knows that the sexual contact is 1522  
offensive to the other person, or one of the other persons, or 1523  
is reckless in that regard. 1524

~~(2) The offender knows that the other person's, or one of~~ 1525  
~~the other person's, ability to appraise the nature of or control~~ 1526  
~~the offender's or touching person's conduct is substantially~~ 1527  
~~impaired.~~ 1528

~~(3) The offender knows that the other person, or one of~~ 1529  
~~the other persons, submits because of being unaware of the~~ 1530  
~~sexual contact.~~ 1531

~~(4) The other person, or one of the other persons, is~~ 1532  
~~thirteen years of age or older but less than sixteen years of~~ 1533  
~~age, whether or not the offender knows the age of such person,~~ 1534  
~~and the offender is at least eighteen years of age and four or~~ 1535  
~~more years older than such other person.~~ 1536

~~(5) The offender is a mental health professional, the~~ 1537  
~~other person or one of the other persons is a mental health~~ 1538  
~~client or patient of the offender, and the offender induces the~~ 1539  
~~other person who is the client or patient to submit by falsely~~ 1540

~~representing to the other person who is the client or patient~~ 1541  
~~that the sexual contact is necessary for mental health treatment~~ 1542  
~~purposes.~~ 1543

(B) No person shall be convicted of a violation of this 1544  
section solely upon the victim's testimony unsupported by other 1545  
evidence. 1546

(C) Whoever violates this section is guilty of sexual 1547  
imposition, a misdemeanor of the third degree. If the offender 1548  
previously has been convicted of or pleaded guilty to a 1549  
violation of this section or of section 2907.02, 2907.03, 1550  
2907.04, or 2907.05, or former section 2907.12 of the Revised 1551  
Code, a violation of this section is a misdemeanor of the first 1552  
degree. If the offender previously has been convicted of or 1553  
pleaded guilty to three or more violations of this section or 1554  
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 1555  
2907.12 of the Revised Code, or of any combination of those 1556  
sections, a violation of this section is a misdemeanor of the 1557  
first degree and, notwithstanding the range of jail terms 1558  
prescribed in section 2929.24 of the Revised Code, the court may 1559  
impose on the offender a definite jail term of not more than one 1560  
year. 1561

**Sec. 2907.17.** If a mental health professional or a 1562  
licensed medical professional is indicted or charged and bound 1563  
over to the court of common pleas for trial for an alleged 1564  
violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1565  
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1566  
whichever is applicable, the prosecuting attorney handling the 1567  
case shall send written notice of the indictment or the charge 1568  
and bind over to the regulatory or licensing board or agency, if 1569  
any, that has the administrative authority to suspend or revoke 1570

the mental health professional's or licensed medical 1571  
professional's professional license, certification, 1572  
registration, or authorization. 1573

**Sec. 2907.18.** If a mental health professional or a 1574  
licensed medical professional is convicted of or pleads guilty 1575  
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1576  
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1577  
whichever is applicable, the court shall transmit a certified 1578  
copy of the judgment entry of conviction to the regulatory or 1579  
licensing board or agency, if any, that has the administrative 1580  
authority to suspend or revoke the mental health professional's 1581  
or licensed medical professional's professional license, 1582  
certification, registration, or authorization. 1583

**Sec. 2921.22.** (A) (1) Except as provided in division (A) (2) 1584  
of this section, no person, knowing that a felony has been or is 1585  
being committed, shall knowingly fail to report such information 1586  
to law enforcement authorities. 1587

(2) No person, knowing that a violation of division (B) of 1588  
section 2913.04 of the Revised Code has been, or is being 1589  
committed or that the person has received information derived 1590  
from such a violation, shall knowingly fail to report the 1591  
violation to law enforcement authorities. 1592

(B) Except for conditions that are within the scope of 1593  
division (E) of this section, no person giving aid to a sick or 1594  
injured person shall negligently fail to report to law 1595  
enforcement authorities any gunshot or stab wound treated or 1596  
observed by the person, or any serious physical harm to persons 1597  
that the person knows or has reasonable cause to believe 1598  
resulted from an offense of violence. 1599

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

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

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

(a) Second or third degree burns;

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

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

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

(2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other



medical facility, attends or treats a person who has sustained a 1629  
burn injury that is inflicted by an explosion or other 1630  
incendiary device or that shows evidence of having been 1631  
inflicted in a violent, malicious, or criminal manner shall fail 1632  
to report the burn injury immediately to the local arson, or 1633  
fire and explosion investigation, bureau, if there is a bureau 1634  
of this type in the jurisdiction in which the person is attended 1635  
or treated, or otherwise to local law enforcement authorities. 1636

(3) No manager, superintendent, or other person in charge 1637  
of a hospital, sanitarium, or other medical facility in which a 1638  
person is attended or treated for any burn injury that is 1639  
inflicted by an explosion or other incendiary device or that 1640  
shows evidence of having been inflicted in a violent, malicious, 1641  
or criminal manner shall fail to report the burn injury 1642  
immediately to the local arson, or fire and explosion 1643  
investigation, bureau, if there is a bureau of this type in the 1644  
jurisdiction in which the person is attended or treated, or 1645  
otherwise to local law enforcement authorities. 1646

(4) No person who is required to report any burn injury 1647  
under division (E) (2) or (3) of this section shall fail to file, 1648  
within three working days after attending or treating the 1649  
victim, a written report of the burn injury with the office of 1650  
the state fire marshal. The report shall comply with the uniform 1651  
standard developed by the state fire marshal pursuant to 1652  
division (A) (15) of section 3737.22 of the Revised Code. 1653

(5) Anyone participating in the making of reports under 1654  
division (E) of this section or anyone participating in a 1655  
judicial proceeding resulting from the reports is immune from 1656  
any civil or criminal liability that otherwise might be incurred 1657  
or imposed as a result of such actions. Notwithstanding section 1658

4731.22 of the Revised Code, the physician-patient relationship 1659  
or advanced practice registered nurse-patient relationship is 1660  
not a ground for excluding evidence regarding a person's burn 1661  
injury or the cause of the burn injury in any judicial 1662  
proceeding resulting from a report submitted under division (E) 1663  
of this section. 1664

(F) (1) No person who knows, or has reasonable cause to 1665  
suspect based on facts that would cause a reasonable person in a 1666  
similar position to suspect, that a licensed medical 1667  
professional has committed an offense under Chapter 2907. of the 1668  
Revised Code, a violation of a municipal ordinance that is 1669  
substantially equivalent to such offense, or a substantially 1670  
equivalent criminal offense in another jurisdiction, against a 1671  
patient of the licensed medical professional shall fail to 1672  
report such knowledge or reasonable cause to suspect to law 1673  
enforcement authorities within thirty days of obtaining the 1674  
knowledge or reasonable cause to suspect. 1675

(2) Except for a self-report or participation in the 1676  
offense or violation being reported, any person who makes a 1677  
report within the thirty-day period provided in division (F) (1) 1678  
of this section or any person who participates in a judicial 1679  
proceeding that results from such report is immune from civil or 1680  
criminal liability that otherwise might be incurred or imposed 1681  
as a result of making that report or participating in that 1682  
proceeding so long as the person is acting in good faith without 1683  
fraud or malice. 1684

(3) The physician-patient relationship or physician 1685  
assistant-patient relationship is not a ground for excluding 1686  
evidence regarding the person's knowledge of, or reasonable 1687  
cause to suspect, a licensed medical professional's commission 1688

of an offense or violation reported under division (F) (1) of 1689  
this section, against that licensed medical professional in any 1690  
judicial proceeding resulting from a report made under that 1691  
division. 1692

(4) As used in division (F) of this section, "licensed 1693  
medical professional" has the same meaning as in section 2907.01 1694  
of the Revised Code. 1695

(G) Any doctor of medicine or osteopathic medicine, 1696  
hospital intern or resident, nurse, psychologist, social worker, 1697  
independent social worker, social work assistant, licensed 1698  
professional clinical counselor, licensed professional 1699  
counselor, independent marriage and family therapist, or 1700  
marriage and family therapist who knows or has reasonable cause 1701  
to believe that a patient or client has been the victim of 1702  
domestic violence, as defined in section 3113.31 of the Revised 1703  
Code, shall note that knowledge or belief and the basis for it 1704  
in the patient's or client's records. 1705

(2) Notwithstanding section 4731.22 of the Revised Code, 1706  
the physician-patient privilege or advanced practice registered 1707  
nurse-patient privilege shall not be a ground for excluding any 1708  
information regarding the report containing the knowledge or 1709  
belief noted under division ~~(F) (1)~~ (G) (1) of this section, and 1710  
the information may be admitted as evidence in accordance with 1711  
the Rules of Evidence. 1712

~~(G)~~ (H) Divisions (A) and (D) of this section do not 1713  
require disclosure of information, when any of the following 1714  
applies: 1715

(1) The information is privileged by reason of the 1716  
relationship between attorney and client; physician and patient; 1717

advanced practice registered nurse and patient; licensed 1718  
psychologist or licensed school psychologist and client; 1719  
licensed professional clinical counselor, licensed professional 1720  
counselor, independent social worker, social worker, independent 1721  
marriage and family therapist, or marriage and family therapist 1722  
and client; member of the clergy, rabbi, minister, or priest and 1723  
any person communicating information confidentially to the 1724  
member of the clergy, rabbi, minister, or priest for a religious 1725  
counseling purpose of a professional character; husband and 1726  
wife; or a communications assistant and those who are a party to 1727  
a telecommunications relay service call. 1728

(2) The information would tend to incriminate a member of 1729  
the actor's immediate family. 1730

(3) Disclosure of the information would amount to 1731  
revealing a news source, privileged under section 2739.04 or 1732  
2739.12 of the Revised Code. 1733

(4) Disclosure of the information would amount to 1734  
disclosure by a member of the ordained clergy of an organized 1735  
religious body of a confidential communication made to that 1736  
member of the clergy in that member's capacity as a member of 1737  
the clergy by a person seeking the aid or counsel of that member 1738  
of the clergy. 1739

(5) Disclosure would amount to revealing information 1740  
acquired by the actor in the course of the actor's duties in 1741  
connection with a bona fide program of treatment or services for 1742  
drug dependent persons or persons in danger of drug dependence, 1743  
which program is maintained or conducted by a hospital, clinic, 1744  
person, agency, or community addiction services provider whose 1745  
alcohol and drug addiction services are certified pursuant to 1746  
section 5119.36 of the Revised Code. 1747

(6) Disclosure would amount to revealing information 1748  
acquired by the actor in the course of the actor's duties in 1749  
connection with a bona fide program for providing counseling 1750  
services to victims of crimes that are violations of section 1751  
2907.02 or 2907.05 of the Revised Code or to victims of 1752  
felonious sexual penetration in violation of former section 1753  
2907.12 of the Revised Code. As used in this division, 1754  
"counseling services" include services provided in an informal 1755  
setting by a person who, by education or experience, is 1756  
competent to provide those services. 1757

~~(H)~~ (I) No disclosure of information pursuant to this 1758  
section gives rise to any liability or recrimination for a 1759  
breach of privilege or confidence. 1760

~~(I)~~ (J) Whoever violates division (A) ~~or, (B), or (F) (1)~~ 1761  
of this section is guilty of failure to report a crime. 1762  
Violation of division (A) (1) or (F) (1) of this section is a 1763  
misdemeanor of the fourth degree. Violation of division (A) (2) 1764  
or (B) of this section is a misdemeanor of the second degree. 1765

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1766  
section is guilty of failure to report knowledge of a death, a 1767  
misdemeanor of the fourth degree. 1768

~~(K) (1)~~ (L) (1) Whoever negligently violates division (E) of 1769  
this section is guilty of a minor misdemeanor. 1770

(2) Whoever knowingly violates division (E) of this 1771  
section is guilty of a misdemeanor of the second degree. 1772

~~(I)~~ (M) As used in this section, "nurse" includes an 1773  
advanced practice registered nurse, registered nurse, and 1774  
licensed practical nurse. 1775

**Sec. 2929.42.** (A) The prosecutor in any case against any 1776

person licensed, certified, registered, or otherwise authorized 1777  
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1778  
4731., 4734., ~~or~~ 4741., 4759., 4760., 4761., 4762., 4774., or 1779  
4778. of the Revised Code shall notify the appropriate licensing 1780  
board, on forms provided by the board, of any of the following 1781  
regarding the person: 1782

(1) A plea of guilty to, or a conviction of, a felony, or 1783  
a court order dismissing a felony charge on technical or 1784  
procedural grounds; 1785

(2) A plea of guilty to, or a conviction of, a misdemeanor 1786  
committed in the course of practice or in the course of 1787  
business, or a court order dismissing such a misdemeanor charge 1788  
on technical or procedural grounds; 1789

(3) A plea of guilty to, or a conviction of, a misdemeanor 1790  
involving moral turpitude, or a court order dismissing such a 1791  
charge on technical or procedural grounds. 1792

(B) The report required by division (A) of this section 1793  
shall include the name and address of the person, the nature of 1794  
the offense, and certified copies of court entries in the 1795  
action. 1796

**Sec. 2950.01.** As used in this chapter, unless the context 1797  
clearly requires otherwise: 1798

(A) "Sexually oriented offense" means any of the following 1799  
violations or offenses committed by a person, regardless of the 1800  
person's age: 1801

(1) A violation of section 2907.02, 2907.03, 2907.05, 1802  
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1803  
2907.322, or 2907.323 of the Revised Code; 1804

(2) A violation of section 2907.04 of the Revised Code 1805  
when the offender is less than four years older than the other 1806  
person with whom the offender engaged in sexual conduct, the 1807  
other person did not consent to the sexual conduct, and the 1808  
offender previously has not been convicted of or pleaded guilty 1809  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1810  
Revised Code or a violation of former section 2907.12 of the 1811  
Revised Code; 1812

(3) A violation of section 2907.04 of the Revised Code 1813  
when the offender is at least four years older than the other 1814  
person with whom the offender engaged in sexual conduct or when 1815  
the offender is less than four years older than the other person 1816  
with whom the offender engaged in sexual conduct and the 1817  
offender previously has been convicted of or pleaded guilty to a 1818  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1819  
Code or a violation of former section 2907.12 of the Revised 1820  
Code; 1821

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1822  
the Revised Code when the violation was committed with a sexual 1823  
motivation; 1824

(5) A violation of division (A) of section 2903.04 of the 1825  
Revised Code when the offender committed or attempted to commit 1826  
the felony that is the basis of the violation with a sexual 1827  
motivation; 1828

(6) A violation of division (A)(3) of section 2903.211 of 1829  
the Revised Code; 1830

(7) A violation of division (A)(1), (2), (3), or (5) of 1831  
section 2905.01 of the Revised Code when the offense is 1832  
committed with a sexual motivation; 1833

(8) A violation of division (A) (4) of section 2905.01 of 1834  
the Revised Code; 1835

(9) A violation of division (B) of section 2905.01 of the 1836  
Revised Code when the victim of the offense is under eighteen 1837  
years of age and the offender is not a parent of the victim of 1838  
the offense; 1839

(10) A violation of division (B) of section 2903.03, of 1840  
division (B) of section 2905.02, of division (B) of section 1841  
2905.03, of division (B) of section 2905.05, or of division (B) 1842  
(5) of section 2919.22 of the Revised Code; 1843

(11) A violation of section 2905.32 of the Revised Code 1844  
when either of the following applies: 1845

(a) The violation is a violation of division (A) (1) of 1846  
that section and the offender knowingly recruited, lured, 1847  
enticed, isolated, harbored, transported, provided, obtained, or 1848  
maintained, or knowingly attempted to recruit, lure, entice, 1849  
isolate, harbor, transport, provide, obtain, or maintain, 1850  
another person knowing that the person would be compelled to 1851  
engage in sexual activity for hire, engage in a performance that 1852  
was obscene, sexually oriented, or nudity oriented, or be a 1853  
model or participant in the production of material that was 1854  
obscene, sexually oriented, or nudity oriented. 1855

(b) The violation is a violation of division (A) (2) of 1856  
that section and the offender knowingly recruited, lured, 1857  
enticed, isolated, harbored, transported, provided, obtained, or 1858  
maintained, or knowingly attempted to recruit, lure, entice, 1859  
isolate, harbor, transport, provide, obtain, or maintain a 1860  
person who is less than eighteen years of age or is a person 1861  
with a developmental disability whom the offender knows or has 1862



reasonable cause to believe is a person with a developmental 1863  
disability for any purpose listed in divisions (A) (2) (a) to (c) 1864  
of that section. 1865

(12) A violation of division (B) (4) of section 2907.09 of 1866  
the Revised Code if the sentencing court classifies the offender 1867  
as a tier I sex offender/child-victim offender relative to that 1868  
offense pursuant to division (D) of that section; 1869

(13) A violation of any former law of this state, any 1870  
existing or former municipal ordinance or law of another state 1871  
or the United States, any existing or former law applicable in a 1872  
military court or in an Indian tribal court, or any existing or 1873  
former law of any nation other than the United States that is or 1874  
was substantially equivalent to any offense listed in division 1875  
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1876  
(12) of this section; 1877

(14) Any attempt to commit, conspiracy to commit, or 1878  
complicity in committing any offense listed in division (A) (1), 1879  
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1880  
(13) of this section. 1881

(B) (1) "Sex offender" means, subject to division (B) (2) of 1882  
this section, a person who is convicted of, pleads guilty to, 1883  
has been convicted of, has pleaded guilty to, is adjudicated a 1884  
delinquent child for committing, or has been adjudicated a 1885  
delinquent child for committing any sexually oriented offense. 1886

(2) "Sex offender" does not include a person who is 1887  
convicted of, pleads guilty to, has been convicted of, has 1888  
pleaded guilty to, is adjudicated a delinquent child for 1889  
committing, or has been adjudicated a delinquent child for 1890  
committing a sexually oriented offense if the offense involves 1891

consensual sexual conduct or consensual sexual contact and 1892  
either of the following applies: 1893

(a) The victim of the sexually oriented offense was 1894  
eighteen years of age or older and at the time of the sexually 1895  
oriented offense was not under the custodial authority of the 1896  
person who is convicted of, pleads guilty to, has been convicted 1897  
of, has pleaded guilty to, is adjudicated a delinquent child for 1898  
committing, or has been adjudicated a delinquent child for 1899  
committing the sexually oriented offense. 1900

(b) The victim of the offense was thirteen years of age or 1901  
older, and the person who is convicted of, pleads guilty to, has 1902  
been convicted of, has pleaded guilty to, is adjudicated a 1903  
delinquent child for committing, or has been adjudicated a 1904  
delinquent child for committing the sexually oriented offense is 1905  
not more than four years older than the victim. 1906

(c) "Child-victim oriented offense" means any of the 1907  
following violations or offenses committed by a person, 1908  
regardless of the person's age, when the victim is under 1909  
eighteen years of age and is not a child of the person who 1910  
commits the violation: 1911

(1) A violation of division (A)(1), (2), (3), or (5) of 1912  
section 2905.01 of the Revised Code when the violation is not 1913  
included in division (A)(7) of this section; 1914

(2) A violation of division (A) of section 2905.02, 1915  
division (A) of section 2905.03, or division (A) of section 1916  
2905.05 of the Revised Code; 1917

(3) A violation of any former law of this state, any 1918  
existing or former municipal ordinance or law of another state 1919  
or the United States, any existing or former law applicable in a 1920

military court or in an Indian tribal court, or any existing or 1921  
former law of any nation other than the United States that is or 1922  
was substantially equivalent to any offense listed in division 1923  
(C) (1) or (2) of this section; 1924

(4) Any attempt to commit, conspiracy to commit, or 1925  
complicity in committing any offense listed in division (C) (1), 1926  
(2), or (3) of this section. 1927

(D) "Child-victim offender" means a person who is 1928  
convicted of, pleads guilty to, has been convicted of, has 1929  
pleaded guilty to, is adjudicated a delinquent child for 1930  
committing, or has been adjudicated a delinquent child for 1931  
committing any child-victim oriented offense. 1932

(E) "Tier I sex offender/child-victim offender" means any 1933  
of the following: 1934

(1) A sex offender who is convicted of, pleads guilty to, 1935  
has been convicted of, or has pleaded guilty to any of the 1936  
following sexually oriented offenses: 1937

(a) A violation of section 2907.06, 2907.07, 2907.08, 1938  
2907.22, or 2907.32 of the Revised Code; 1939

(b) A violation of section 2907.04 of the Revised Code 1940  
when the offender is less than four years older than the other 1941  
person with whom the offender engaged in sexual conduct, the 1942  
other person did not consent to the sexual conduct, and the 1943  
offender previously has not been convicted of or pleaded guilty 1944  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1945  
Revised Code or a violation of former section 2907.12 of the 1946  
Revised Code; 1947

(c) A violation of division (A) (1), (2), (3), or (5) of 1948  
section 2907.05 of the Revised Code; 1949

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code; 1950  
1951

(e) A violation of division (A) (3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code; 1952  
1953  
1954

(f) A violation of division (B) (4) of section 2907.09 of the Revised Code if the sentencing court classifies the offender as a tier I sex offender/child-victim offender relative to that offense pursuant to division (D) of that section; 1955  
1956  
1957  
1958

(g) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E) (1) (a), (b), (c), (d), (e), or (f) of this section; 1959  
1960  
1961  
1962  
1963  
1964  
1965

(h) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E) (1) (a), (b), (c), (d), (e), (f), or (g) of this section. 1966  
1967  
1968

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F) (2) or (G) (2) of this section. 1969  
1970  
1971  
1972  
1973

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child- 1974  
1975  
1976  
1977  
1978

victim offender relative to the offense. 1979

(4) A child-victim offender who is adjudicated a 1980  
delinquent child for committing or has been adjudicated a 1981  
delinquent child for committing any child-victim oriented 1982  
offense and who a juvenile court, pursuant to section 2152.82, 1983  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 1984  
tier I sex offender/child-victim offender relative to the 1985  
offense. 1986

(F) "Tier II sex offender/child-victim offender" means any 1987  
of the following: 1988

(1) A sex offender who is convicted of, pleads guilty to, 1989  
has been convicted of, or has pleaded guilty to any of the 1990  
following sexually oriented offenses: 1991

(a) A violation of section 2907.21, 2907.321, or 2907.322 1992  
of the Revised Code; 1993

(b) A violation of section 2907.04 of the Revised Code 1994  
when the offender is at least four years older than the other 1995  
person with whom the offender engaged in sexual conduct, or when 1996  
the offender is less than four years older than the other person 1997  
with whom the offender engaged in sexual conduct and the 1998  
offender previously has been convicted of or pleaded guilty to a 1999  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 2000  
Code or former section 2907.12 of the Revised Code; 2001

(c) A violation of section 2907.03 of the Revised Code if 2002  
the sexual activity involved is sexual contact; 2003

(d) A violation of division (A) (4) of section 2907.05 or 2004  
of division (A) (1) or (2) of section 2907.323 of the Revised 2005  
Code; 2006

<del>(d)</del> <u>(e)</u> A violation of division (A) (1), (2), (3), or (5)	2007
of section 2905.01 of the Revised Code when the offense is	2008
committed with a sexual motivation;	2009
<del>(e)</del> <u>(f)</u> A violation of division (A) (4) of section 2905.01	2010
of the Revised Code when the victim of the offense is eighteen	2011
years of age or older;	2012
<del>(f)</del> <u>(g)</u> A violation of division (B) of section 2905.02 or	2013
of division (B) (5) of section 2919.22 of the Revised Code;	2014
<del>(g)</del> <u>(h)</u> A violation of section 2905.32 of the Revised Code	2015
that is described in division (A) (11) (a) or (b) of this section;	2016
<del>(h)</del> <u>(i)</u> A violation of any former law of this state, any	2017
existing or former municipal ordinance or law of another state	2018
or the United States, any existing or former law applicable in a	2019
military court or in an Indian tribal court, or any existing or	2020
former law of any nation other than the United States that is or	2021
was substantially equivalent to any offense listed in division	2022
(F) (1) (a), (b), (c), (d), (e), (f), <del>or (g)</del> , <u>or (h)</u> of this	2023
section;	2024
<del>(i)</del> <u>(j)</u> Any attempt to commit, conspiracy to commit, or	2025
complicity in committing any offense listed in division (F) (1)	2026
(a), (b), (c), (d), (e), (f), (g), <del>or (h)</del> , <u>or (i)</u> of this	2027
section;	2028
<del>(j)</del> <u>(k)</u> Any sexually oriented offense that is committed	2029
after the sex offender previously has been convicted of, pleaded	2030
guilty to, or has been adjudicated a delinquent child for	2031
committing any sexually oriented offense or child-victim	2032
oriented offense for which the offender was classified a tier I	2033
sex offender/child-victim offender.	2034
(2) A child-victim offender who is convicted of, pleads	2035

guilty to, has been convicted of, or has pleaded guilty to any 2036  
child-victim oriented offense when the child-victim oriented 2037  
offense is committed after the child-victim offender previously 2038  
has been convicted of, pleaded guilty to, or been adjudicated a 2039  
delinquent child for committing any sexually oriented offense or 2040  
child-victim oriented offense for which the offender was 2041  
classified a tier I sex offender/child-victim offender. 2042

(3) A sex offender who is adjudicated a delinquent child 2043  
for committing or has been adjudicated a delinquent child for 2044  
committing any sexually oriented offense and who a juvenile 2045  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2046  
of the Revised Code, classifies a tier II sex offender/child- 2047  
victim offender relative to the offense. 2048

(4) A child-victim offender who is adjudicated a 2049  
delinquent child for committing or has been adjudicated a 2050  
delinquent child for committing any child-victim oriented 2051  
offense and whom a juvenile court, pursuant to section 2152.82, 2052  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2053  
tier II sex offender/child-victim offender relative to the 2054  
current offense. 2055

(5) A sex offender or child-victim offender who is not in 2056  
any category of tier II sex offender/child-victim offender set 2057  
forth in division (F)(1), (2), (3), or (4) of this section, who 2058  
prior to January 1, 2008, was adjudicated a delinquent child for 2059  
committing a sexually oriented offense or child-victim oriented 2060  
offense, and who prior to that date was determined to be a 2061  
habitual sex offender or determined to be a habitual child- 2062  
victim offender, unless either of the following applies: 2063

(a) The sex offender or child-victim offender is 2064  
reclassified pursuant to section 2950.031 or 2950.032 of the 2065

Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

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

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

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

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

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

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

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

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

(f) A violation of division (B) of section 2905.01 of the



Revised Code when the victim of the offense is under eighteen 2094  
years of age and the offender is not a parent of the victim of 2095  
the offense; 2096

(g) A violation of division (B) of section 2903.03 of the 2097  
Revised Code; 2098

(h) A violation of any former law of this state, any 2099  
existing or former municipal ordinance or law of another state 2100  
or the United States, any existing or former law applicable in a 2101  
military court or in an Indian tribal court, or any existing or 2102  
former law of any nation other than the United States that is or 2103  
was substantially equivalent to any offense listed in division 2104  
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 2105

(i) Any attempt to commit, conspiracy to commit, or 2106  
complicity in committing any offense listed in division (G) (1) 2107  
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 2108

(j) Any sexually oriented offense that is committed after 2109  
the sex offender previously has been convicted of, pleaded 2110  
guilty to, or been adjudicated a delinquent child for committing 2111  
any sexually oriented offense or child-victim oriented offense 2112  
for which the offender was classified a tier II sex 2113  
offender/child-victim offender or a tier III sex offender/child- 2114  
victim offender. 2115

(2) A child-victim offender who is convicted of, pleads 2116  
guilty to, has been convicted of, or has pleaded guilty to any 2117  
child-victim oriented offense when the child-victim oriented 2118  
offense is committed after the child-victim offender previously 2119  
has been convicted of, pleaded guilty to, or been adjudicated a 2120  
delinquent child for committing any sexually oriented offense or 2121  
child-victim oriented offense for which the offender was 2122

classified a tier II sex offender/child-victim offender or a 2123  
tier III sex offender/child-victim offender. 2124

(3) A sex offender who is adjudicated a delinquent child 2125  
for committing or has been adjudicated a delinquent child for 2126  
committing any sexually oriented offense and who a juvenile 2127  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2128  
of the Revised Code, classifies a tier III sex offender/child- 2129  
victim offender relative to the offense. 2130

(4) A child-victim offender who is adjudicated a 2131  
delinquent child for committing or has been adjudicated a 2132  
delinquent child for committing any child-victim oriented 2133  
offense and whom a juvenile court, pursuant to section 2152.82, 2134  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2135  
tier III sex offender/child-victim offender relative to the 2136  
current offense. 2137

(5) A sex offender or child-victim offender who is not in 2138  
any category of tier III sex offender/child-victim offender set 2139  
forth in division (G) (1), (2), (3), or (4) of this section, who 2140  
prior to January 1, 2008, was convicted of or pleaded guilty to 2141  
a sexually oriented offense or child-victim oriented offense or 2142  
was adjudicated a delinquent child for committing a sexually 2143  
oriented offense or child-victim oriented offense and classified 2144  
a juvenile offender registrant, and who prior to that date was 2145  
adjudicated a sexual predator or adjudicated a child-victim 2146  
predator, unless either of the following applies: 2147

(a) The sex offender or child-victim offender is 2148  
reclassified pursuant to section 2950.031 or 2950.032 of the 2149  
Revised Code as a tier I sex offender/child-victim offender or a 2150  
tier II sex offender/child-victim offender relative to the 2151  
offense. 2152

(b) The sex offender or child-victim offender is a 2153  
delinquent child, and a juvenile court, pursuant to section 2154  
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2155  
classifies the child a tier I sex offender/child-victim offender 2156  
or a tier II sex offender/child-victim offender relative to the 2157  
offense. 2158

(6) A sex offender who is convicted of, pleads guilty to, 2159  
was convicted of, or pleaded guilty to a sexually oriented 2160  
offense, if the sexually oriented offense and the circumstances 2161  
in which it was committed are such that division (F) of section 2162  
2971.03 of the Revised Code automatically classifies the 2163  
offender as a tier III sex offender/child-victim offender; 2164

(7) A sex offender or child-victim offender who is 2165  
convicted of, pleads guilty to, was convicted of, pleaded guilty 2166  
to, is adjudicated a delinquent child for committing, or was 2167  
adjudicated a delinquent child for committing a sexually 2168  
oriented offense or child-victim offense in another state, in a 2169  
federal court, military court, or Indian tribal court, or in a 2170  
court in any nation other than the United States if both of the 2171  
following apply: 2172

(a) Under the law of the jurisdiction in which the 2173  
offender was convicted or pleaded guilty or the delinquent child 2174  
was adjudicated, the offender or delinquent child is in a 2175  
category substantially equivalent to a category of tier III sex 2176  
offender/child-victim offender described in division (G) (1), 2177  
(2), (3), (4), (5), or (6) of this section. 2178

(b) Subsequent to the conviction, plea of guilty, or 2179  
adjudication in the other jurisdiction, the offender or 2180  
delinquent child resides, has temporary domicile, attends school 2181  
or an institution of higher education, is employed, or intends 2182

to reside in this state in any manner and for any period of time 2183  
that subjects the offender or delinquent child to a duty to 2184  
register or provide notice of intent to reside under section 2185  
2950.04 or 2950.041 of the Revised Code. 2186

(H) "Confinement" includes, but is not limited to, a 2187  
community residential sanction imposed pursuant to section 2188  
2929.16 or 2929.26 of the Revised Code. 2189

(I) "Prosecutor" has the same meaning as in section 2190  
2935.01 of the Revised Code. 2191

(J) "Supervised release" means a release of an offender 2192  
from a prison term, a term of imprisonment, or another type of 2193  
confinement that satisfies either of the following conditions: 2194

(1) The release is on parole, a conditional pardon, under 2195  
a community control sanction, under transitional control, or 2196  
under a post-release control sanction, and it requires the 2197  
person to report to or be supervised by a parole officer, 2198  
probation officer, field officer, or another type of supervising 2199  
officer. 2200

(2) The release is any type of release that is not 2201  
described in division (J)(1) of this section and that requires 2202  
the person to report to or be supervised by a probation officer, 2203  
a parole officer, a field officer, or another type of 2204  
supervising officer. 2205

(K) "Sexually violent predator specification," "sexually 2206  
violent predator," "sexually violent offense," "sexual 2207  
motivation specification," "designated homicide, assault, or 2208  
kidnapping offense," and "violent sex offense" have the same 2209  
meanings as in section 2971.01 of the Revised Code. 2210

(L) "Post-release control sanction" and "transitional 2211

control" have the same meanings as in section 2967.01 of the Revised Code.

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

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

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

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

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 2242  
the Revised Code that was committed with a purpose to gratify 2243  
the sexual needs or desires of the child; 2244

(c) A violation of division (B) of section 2903.03 of the 2245  
Revised Code. 2246

(2) The person was fourteen, fifteen, sixteen, or 2247  
seventeen years of age at the time of committing the act. 2248

(3) A juvenile court judge, pursuant to an order issued 2249  
under section 2152.86 of the Revised Code, classifies the person 2250  
a juvenile offender registrant, specifies the person has a duty 2251  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2252  
Revised Code, and classifies the person a public registry- 2253  
qualified juvenile offender registrant, and the classification 2254  
of the person as a public registry-qualified juvenile offender 2255  
registrant has not been terminated pursuant to division (D) of 2256  
section 2152.86 of the Revised Code. 2257

(O) "Secure facility" means any facility that is designed 2258  
and operated to ensure that all of its entrances and exits are 2259  
locked and under the exclusive control of its staff and to 2260  
ensure that, because of that exclusive control, no person who is 2261  
institutionalized or confined in the facility may leave the 2262  
facility without permission or supervision. 2263

(P) "Out-of-state juvenile offender registrant" means a 2264  
person who is adjudicated a delinquent child in a court in 2265  
another state, in a federal court, military court, or Indian 2266  
tribal court, or in a court in any nation other than the United 2267  
States for committing a sexually oriented offense or a child- 2268  
victim oriented offense, who on or after January 1, 2002, moves 2269  
to and resides in this state or temporarily is domiciled in this 2270

state for more than five days, and who has a duty under section 2271  
2950.04 or 2950.041 of the Revised Code to register in this 2272  
state and the duty to otherwise comply with that applicable 2273  
section and sections 2950.05 and 2950.06 of the Revised Code. 2274  
"Out-of-state juvenile offender registrant" includes a person 2275  
who prior to January 1, 2008, was an "out-of-state juvenile 2276  
offender registrant" under the definition of the term in 2277  
existence prior to January 1, 2008, and a person who prior to 2278  
July 31, 2003, was an "out-of-state juvenile sex offender 2279  
registrant" under the former definition of that former term. 2280

(Q) "Juvenile court judge" includes a magistrate to whom 2281  
the juvenile court judge confers duties pursuant to division (A) 2282  
(15) of section 2151.23 of the Revised Code. 2283

(R) "Adjudicated a delinquent child for committing a 2284  
sexually oriented offense" includes a child who receives a 2285  
serious youthful offender dispositional sentence under section 2286  
2152.13 of the Revised Code for committing a sexually oriented 2287  
offense. 2288

(S) "School" and "school premises" have the same meanings 2289  
as in section 2925.01 of the Revised Code. 2290

(T) "Residential premises" means the building in which a 2291  
residential unit is located and the grounds upon which that 2292  
building stands, extending to the perimeter of the property. 2293  
"Residential premises" includes any type of structure in which a 2294  
residential unit is located, including, but not limited to, 2295  
multi-unit buildings and mobile and manufactured homes. 2296

(U) "Residential unit" means a dwelling unit for 2297  
residential use and occupancy, and includes the structure or 2298  
part of a structure that is used as a home, residence, or 2299

sleeping place by one person who maintains a household or two or more persons who maintain a common household. "Residential unit" does not include a halfway house or a community-based correctional facility.

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

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

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

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

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

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



(b) The sentencing court imposed a community control 2329  
sanction or combination of community control sanctions instead 2330  
of a prison term and the offender has fulfilled every condition 2331  
of every community control sanction imposed by the sentencing 2332  
court; 2333

(c) The offender was under twenty-one years of age at the 2334  
time of committing the offense; 2335

(d) The offender has not otherwise been convicted of or 2336  
pleaded guilty to another violation of section 2907.04 of the 2337  
Revised Code or any sexually oriented offense or child-victim 2338  
oriented offense other than the violation of section 2907.04 of 2339  
the Revised Code; 2340

(e) The minor with whom the offender engaged in sexual 2341  
conduct was at least fourteen years of age at the time of the 2342  
offense and consented to the sexual conduct, with no evidence of 2343  
coercion, force, or threat of force; 2344

(f) The offender was not in a position of authority, 2345  
including a position of a type described in divisions ~~(A) (5) to~~ 2346  
~~(13)~~ (A) (5) to (14) of section 2907.03 of the Revised Code, over 2347  
the minor with whom the offender engaged in sexual conduct. 2348

(2) An offender who was convicted of or pleaded guilty to 2349  
a violation of any former law of this state, any existing or 2350  
former municipal ordinance or law of another state or the United 2351  
States, any existing or former law applicable in a military 2352  
court or in an Indian trial court, or any existing or former law 2353  
of any nation other than the United States that is or was 2354  
substantially equivalent to a violation of section 2907.04 of 2355  
the Revised Code and to whom all of the factors described in 2356  
divisions (A) (1) (a) to (f) of this section apply. For purposes 2357

of this division: 2358

(a) The reference in division (A) (1) (b) of this section to 2359  
a community control sanction shall be construed as including ~~non-~~ 2360  
~~prison~~ nonprison sanctions under the law of the jurisdiction in 2361  
which the offender was convicted of or pleaded guilty to the 2362  
violation that is or was substantially equivalent to a violation 2363  
of section 2907.04 of the Revised Code; 2364

(b) The reference in division (A) (1) (d) of this section to 2365  
the violations specified in that division shall be construed as 2366  
including substantially equivalent violations under the law of 2367  
the jurisdiction in which the offender was convicted of or 2368  
pleaded guilty to the violation that is or was substantially 2369  
equivalent to a violation of section 2907.04 of the Revised 2370  
Code. 2371

(B) Upon completion of all community control sanctions 2372  
imposed by the sentencing court for the violation of section 2373  
2907.04 of the Revised Code or the violation of the 2374  
substantially equivalent law or ordinance, whichever is 2375  
applicable, an eligible offender may petition the appropriate 2376  
court specified in division (C) of this section to review the 2377  
effectiveness of the offender's participation in community 2378  
control sanctions and to determine whether to terminate the 2379  
offender's duty to comply with sections 2950.04, 2950.05, and 2380  
2950.06 of the Revised Code, reclassify the offender as a tier I 2381  
sex offender/child-victim offender, or continue the offender's 2382  
current classification. 2383

(C) Except as otherwise provided in this division, the 2384  
eligible offender shall file the petition described in division 2385  
(B) of this section in the court in which the eligible offender 2386  
was convicted of or pleaded guilty to the offense. If the 2387

eligible offender was convicted of or pleaded guilty to the 2388  
offense in a jurisdiction other than this state, the eligible 2389  
offender shall file the petition in whichever of the following 2390  
courts is applicable: 2391

(1) If the eligible offender is a resident of this state, 2392  
in the court of common pleas of the county in which the offender 2393  
resides; 2394

(2) If the eligible offender is not a resident of this 2395  
state, in the court of common pleas of the county in which the 2396  
offender has registered pursuant to section 2950.04 of the 2397  
Revised Code. If the offender has registered addresses of that 2398  
nature in more than one county, the offender may file a petition 2399  
in the court of only one of those counties. 2400

(D) An eligible offender who files a petition under 2401  
division (B) of this section shall include all of the following 2402  
with the petition: 2403

(1) A certified copy of the judgment entry and any other 2404  
documentation of the sentence given for the offense for which 2405  
the eligible offender was convicted or pleaded guilty; 2406

(2) Documentation of the date of discharge from probation 2407  
supervision or other supervision, if applicable; 2408

(3) Evidence that the eligible offender has completed a 2409  
sex offender treatment program certified by the department of 2410  
rehabilitation and correction pursuant to section 2950.16 of the 2411  
Revised Code; 2412

(4) Any other evidence necessary to show that the offender 2413  
meets the qualifications listed in division (A) of this section; 2414

(5) Evidence that the eligible offender has been 2415

rehabilitated to a satisfactory degree by successful completion 2416  
of community control sanctions. 2417

(E) An eligible offender may obtain, at the offender's 2418  
expense, a risk assessment or professional opinion, recommending 2419  
relief under this section, from a licensed clinical 2420  
psychologist, social worker, or other professional certified in 2421  
sex offender treatment. The professional opinion or risk 2422  
assessment may be submitted with the petition as additional 2423  
evidence of rehabilitation. 2424

(F) Upon the filing of a petition under division (B) of 2425  
this section, the court shall schedule a hearing to review the 2426  
eligible offender's petition and all evidence of rehabilitation 2427  
accompanying the petition. The court shall notify the offender 2428  
and the prosecutor of the county in which the petition is filed 2429  
of the date, time, and place of the hearing. Upon receipt of the 2430  
notice, the prosecutor shall notify the victim of the date, 2431  
time, and place of the hearing. The victim may submit a written 2432  
statement to the prosecutor regarding any knowledge the victim 2433  
has of the eligible offender's conduct while subject to the 2434  
duties imposed by sections 2950.04, 2950.05, and 2950.06 of the 2435  
Revised Code. At least seven days before the hearing date, the 2436  
prosecutor may file an objection to the petition with the court 2437  
and serve a copy of the objection to the petition on the 2438  
eligible offender or the eligible offender's attorney. In 2439  
addition to considering the evidence and information included 2440  
with the petition as described in division (D) of this section 2441  
and any risk assessment or professional opinion submitted as 2442  
described in division (E) of this section, in determining the 2443  
type of order to enter in response to the petition, the court 2444  
shall consider any objections submitted by the prosecutor and 2445  
any written statement submitted by the victim. After the 2446

hearing, the court shall enter one of the following orders: 2447

(1) An order to terminate the offender's duty to comply 2448  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2449

(2) If the offender is classified a tier II sex 2450  
offender/child-victim offender, an order to reclassify the 2451  
offender from a tier II sex offender/child-victim offender 2452  
classification to a tier I sex offender/child-victim offender 2453  
classification; 2454

(3) If the offender is classified a tier I sex 2455  
offender/child-victim offender or a tier II sex offender/child- 2456  
victim offender, an order to continue the offender's 2457  
classification as a tier I sex offender/child-victim offender or 2458  
tier II sex offender/child-victim offender, whichever is 2459  
applicable, required to comply with sections 2950.04, 2950.05, 2460  
and 2950.06 of the Revised Code. 2461

(G) After issuing an order pursuant to division (F) of 2462  
this section, the court shall provide a copy of the order to the 2463  
eligible offender and the bureau of criminal identification and 2464  
investigation. The bureau, upon receipt of the copy, shall 2465  
promptly notify the sheriff with whom the offender most recently 2466  
registered under section 2950.04 or 2950.05 of the Revised Code 2467  
of the court's order. 2468

(H) (1) An order issued under division (F) (2) or (3) of 2469  
this section shall remain in effect for the duration of the 2470  
eligible offender's duty to comply with sections 2950.04, 2471  
2950.05, and 2950.06 of the Revised Code under the 2472  
reclassification or continuation, whichever is applicable, as 2473  
specified in section 2950.07 of the Revised Code, except that an 2474  
eligible offender may refile a petition under this section at 2475

the time prescribed under division (H) (2) of this section. An 2476  
order issued under division (F) (2) or (3) of this section shall 2477  
not increase the duration of the offender's duty to comply with 2478  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2479

(2) After the eligible offender's initial petition filed 2480  
under this section, if the court entered an order continuing the 2481  
offender's classification or reclassifying the offender, the 2482  
offender may file a second petition not earlier than three years 2483  
after the court entered the first order. After the second 2484  
petition, the offender may file one subsequent petition not 2485  
earlier than five years after the most recent order continuing 2486  
the offender's classification or reclassifying the offender. A 2487  
petition filed under this division shall comply with the 2488  
requirements described in divisions (C), (D), and (E) of this 2489  
section. 2490

(3) Upon the filing of a second or subsequent petition by 2491  
an eligible offender pursuant to division (H) (2) of this 2492  
section, the court shall schedule a hearing to review any 2493  
previous order entered under this section, consider all of the 2494  
documents previously submitted, and evaluate any new evidence of 2495  
rehabilitation presented with the petition. The court shall 2496  
notify the offender and the prosecutor of the county in which 2497  
the petition is filed of the date, time, and place of the 2498  
hearing. Upon receipt of the notice, the prosecutor shall notify 2499  
the victim of the date, time, and place of the hearing. The 2500  
victim may submit a written statement to the prosecutor 2501  
regarding any knowledge the victim has of the eligible 2502  
offender's conduct while subject to the duties imposed by 2503  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2504  
least seven days before the hearing date, the prosecutor may 2505  
file an objection to the petition with the court and serve a 2506

copy of the objection to the petition on the eligible offender 2507  
or the eligible offender's attorney. In addition to reviewing 2508  
any previous order, considering the documents previously 2509  
submitted, and evaluating any new evidence of rehabilitation 2510  
presented with the petition as described in this division, in 2511  
determining whether to deny the petition or the type of order to 2512  
enter in response to the petition, the court shall consider any 2513  
objections submitted by the prosecutor and any written statement 2514  
submitted by the victim. After the hearing on the petition, the 2515  
court may deny the petition or enter either of the following 2516  
orders: 2517

(a) If the previous order continued the offender's 2518  
classification as a tier II sex offender/child-victim offender, 2519  
an order to reclassify the offender as a tier I sex 2520  
offender/child-victim offender or terminate the offender's duty 2521  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2522  
Revised Code; 2523

(b) If the previous order reclassified the offender as a 2524  
tier I sex offender/child-victim offender or continued the 2525  
offender's classification as a tier I sex offender/child-victim 2526  
offender, an order to terminate the offender's duty to comply 2527  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2528

**Sec. 2971.01.** As used in this chapter: 2529

(A) "Mandatory prison term" has the same meaning as in 2530  
section 2929.01 of the Revised Code. 2531

(B) "Designated homicide, assault, or kidnapping offense" 2532  
means any of the following: 2533

(1) A violation of section 2903.01, 2903.02, 2903.11, or 2534  
2905.01 of the Revised Code or a violation of division (A) of 2535

section 2903.04 of the Revised Code;	2536
(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.	2537 2538 2539
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2540 2541
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2542 2543
(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.	2544 2545 2546
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2547 2548 2549
(G) "Sexually violent offense" means any of the following:	2550
(1) A violent sex offense;	2551
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2552 2553
(H)(1) "Sexually violent predator" means a person who, on or after January 1, 1997, commits a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses.	2554 2555 2556 2557
(2) For purposes of division (H)(1) of this section, any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses:	2558 2559 2560 2561
(a) The person has been convicted two or more times, in	2562



separate criminal actions, of a sexually oriented offense or a child-victim oriented offense. For purposes of this division, convictions that result from or are connected with the same act or result from offenses committed at the same time are one conviction, and a conviction set aside pursuant to law is not a conviction.

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

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

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

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

(f) Any other relevant evidence.

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

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

(K) "Sexual motivation specification" means a specification, as described in section 2941.147 of the Revised

Code, that charges that a person charged with a designated 2591  
homicide, assault, or kidnapping offense committed the offense 2592  
with a sexual motivation. 2593

(L) "Violent sex offense" means any of the following: 2594

(1) A violation of section 2907.02, 2907.03 if the sexual 2595  
activity involved is sexual conduct, or 2907.12 or of division 2596  
(A) (4) or (B) of section 2907.05 of the Revised Code; 2597

(2) A felony violation of a former law of this state that 2598  
is substantially equivalent to a violation listed in division 2599  
(L) (1) of this section or of an existing or former law of the 2600  
United States or of another state that is substantially 2601  
equivalent to a violation listed in division (L) (1) of this 2602  
section; 2603

(3) An attempt to commit or complicity in committing a 2604  
violation listed in division (L) (1) or (2) of this section if 2605  
the attempt or complicity is a felony. 2606

**Sec. 3107.07.** Consent to adoption is not required of any 2607  
of the following: 2608

(A) A parent of a minor, when it is alleged in the 2609  
adoption petition and the court, after proper service of notice 2610  
and hearing, finds by clear and convincing evidence that the 2611  
parent has failed without justifiable cause to provide more than 2612  
de minimis contact with the minor or to provide for the 2613  
maintenance and support of the minor as required by law or 2614  
judicial decree for a period of at least one year immediately 2615  
preceding either the filing of the adoption petition or the 2616  
placement of the minor in the home of the petitioner. 2617

(B) The putative father of a minor if either of the 2618  
following applies: 2619

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

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

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

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

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

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

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

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

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

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

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

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

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

(J) Any parent, legal guardian, or other lawful custodian  
in a foreign country, if the person to be adopted has been  
released for adoption pursuant to the laws of the country in  
which the person resides and the release of such person is in a  
form that satisfies the requirements of the immigration and  
naturalization service of the United States department of  
justice for purposes of immigration to the United States  
pursuant to section 101(b)(1)(F) of the "Immigration and

Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2678  
as amended or reenacted. 2679

(K) Except as provided in divisions (G) and (H) of this 2680  
section, a juvenile court, agency, or person given notice of the 2681  
petition pursuant to division (A)(1) of section 3107.11 of the 2682  
Revised Code that fails to file an objection to the petition 2683  
within fourteen days after proof is filed pursuant to division 2684  
(B) of that section that the notice was given; 2685

(L) Any guardian, custodian, or other party who has 2686  
temporary custody of the child. 2687

**Sec. 3109.50.** As used in sections 3109.501 to 3109.507 of 2688  
the Revised Code: 2689

(A) "Parental rights" means parental rights and 2690  
responsibilities, parenting time, or any other similar right 2691  
established by the laws of this state with respect to a child. 2692  
"Parental rights" does not include the parental duty of support 2693  
for a child. 2694

(B) "Rape" means a violation of section 2907.02 of the 2695  
Revised Code or similar law of another state. 2696

(C) "Sexual battery" means a violation of section 2907.03 2697  
of the Revised Code if the sexual activity involved is sexual 2698  
conduct, or similar law of another state. 2699

**Sec. 3111.04.** (A)(1) Except as provided in division (A)(2) 2700  
of this section, an action to determine the existence or 2701  
nonexistence of the father and child relationship may be brought 2702  
by the child or the child's personal representative, the child's 2703  
mother or her personal representative, a man alleged or alleging 2704  
himself to be the child's father, the child support enforcement 2705  
agency of the county in which the child resides if the child's 2706

mother, father, or alleged father is a recipient of public 2707  
assistance or of services under Title IV-D of the "Social 2708  
Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as 2709  
amended, or the alleged father's personal representative. 2710

(2) A man alleged or alleging himself to be the child's 2711  
father is not eligible to file an action under division (A) (1) 2712  
of this section if the man was convicted of or pleaded guilty to 2713  
rape or sexual battery, the victim of the rape or sexual battery 2714  
was the child's mother, and the child was conceived as a result 2715  
of the rape or sexual battery. 2716

(B) An agreement does not bar an action under this 2717  
section. 2718

(C) If an action under this section is brought before the 2719  
birth of the child and if the action is contested, all 2720  
proceedings, except service of process and the taking of 2721  
depositions to perpetuate testimony, may be stayed until after 2722  
the birth. 2723

(D) A recipient of public assistance or of services under 2724  
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2725  
42 U.S.C.A. 651, as amended, shall cooperate with the child 2726  
support enforcement agency of the county in which a child 2727  
resides to obtain an administrative determination pursuant to 2728  
sections 3111.38 to 3111.54 of the Revised Code, or, if 2729  
necessary, a court determination pursuant to sections 3111.01 to 2730  
3111.18 of the Revised Code, of the existence or nonexistence of 2731  
a parent and child relationship between the father and the 2732  
child. If the recipient fails to cooperate, the agency may 2733  
commence an action to determine the existence or nonexistence of 2734  
a parent and child relationship between the father and the child 2735  
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2736

(E) As used in this section:	2737
(1) "Public assistance" means both of the following:	2738
(a) Medicaid;	2739
(b) Ohio works first under Chapter 5107. of the Revised Code.	2740 2741
(2) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state.	2742 2743
(3) "Sexual battery" means a violation of section 2907.03 of the Revised Code <u>if the sexual activity involved is sexual conduct</u> , or similar law of another state.	2744 2745 2746
<b>Sec. 4730.25.</b> (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a physician assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.	2747 2748 2749 2750 2751 2752
(B) Except as provided in division (N) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a physician assistant or prescriber number, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:	2753 2754 2755 2756 2757 2758 2759 2760
(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which the supervising physician and physician	2761 2762 2763 2764

assistant are practicing;	2765
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	2766 2767 2768
(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;	2769 2770 2771 2772
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	2773 2774 2775 2776
(5) 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;	2777 2778 2779 2780
(6) Administering drugs for purposes other than those authorized under this chapter;	2781 2782
(7) Willfully betraying a professional confidence;	2783
(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.	2784 2785 2786 2787 2788 2789 2790
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a	2791 2792



misrepresentation of fact, is likely to mislead or deceive 2793  
because of a failure to disclose material facts, is intended or 2794  
is likely to create false or unjustified expectations of 2795  
favorable results, or includes representations or implications 2796  
that in reasonable probability will cause an ordinarily prudent 2797  
person to misunderstand or be deceived. 2798

(9) Representing, with the purpose of obtaining 2799  
compensation or other advantage personally or for any other 2800  
person, that an incurable disease or injury, or other incurable 2801  
condition, can be permanently cured; 2802

(10) The obtaining of, or attempting to obtain, money or 2803  
anything of value by fraudulent misrepresentations in the course 2804  
of practice; 2805

(11) A plea of guilty to, a judicial finding of guilt of, 2806  
or a judicial finding of eligibility for intervention in lieu of 2807  
conviction for, a felony; 2808

(12) Commission of an act that constitutes a felony in 2809  
this state, regardless of the jurisdiction in which the act was 2810  
committed; 2811

(13) A plea of guilty to, a judicial finding of guilt of, 2812  
or a judicial finding of eligibility for intervention in lieu of 2813  
conviction for, a misdemeanor committed in the course of 2814  
practice; 2815

(14) A plea of guilty to, a judicial finding of guilt of, 2816  
or a judicial finding of eligibility for intervention in lieu of 2817  
conviction for, a misdemeanor involving moral turpitude; 2818

(15) Commission of an act in the course of practice that 2819  
constitutes a misdemeanor in this state, regardless of the 2820  
jurisdiction in which the act was committed; 2821

(16) Commission of an act involving moral turpitude that 2822  
constitutes a misdemeanor in this state, regardless of the 2823  
jurisdiction in which the act was committed; 2824

(17) A plea of guilty to, a judicial finding of guilt of, 2825  
or a judicial finding of eligibility for intervention in lieu of 2826  
conviction for violating any state or federal law regulating the 2827  
possession, distribution, or use of any drug, including 2828  
trafficking in drugs; 2829

(18) Any of the following actions taken by the state 2830  
agency responsible for regulating the practice of physician 2831  
assistants in another state, for any reason other than the 2832  
nonpayment of fees: the limitation, revocation, or suspension of 2833  
an individual's license to practice; acceptance of an 2834  
individual's license surrender; denial of a license; refusal to 2835  
renew or reinstate a license; imposition of probation; or 2836  
issuance of an order of censure or other reprimand; 2837

(19) A departure from, or failure to conform to, minimal 2838  
standards of care of similar physician assistants under the same 2839  
or similar circumstances, regardless of whether actual injury to 2840  
a patient is established; 2841

(20) Violation of the conditions placed by the board on a 2842  
license to practice as a physician assistant; 2843

(21) Failure to use universal blood and body fluid 2844  
precautions established by rules adopted under section 4731.051 2845  
of the Revised Code; 2846

(22) Failure to cooperate in an investigation conducted by 2847  
the board under section 4730.26 of the Revised Code, including 2848  
failure to comply with a subpoena or order issued by the board 2849  
or failure to answer truthfully a question presented by the 2850

board at a deposition or in written interrogatories, except that 2851  
failure to cooperate with an investigation shall not constitute 2852  
grounds for discipline under this section if a court of 2853  
competent jurisdiction has issued an order that either quashes a 2854  
subpoena or permits the individual to withhold the testimony or 2855  
evidence in issue; 2856

(23) Assisting suicide, as defined in section 3795.01 of 2857  
the Revised Code; 2858

(24) Prescribing any drug or device to perform or induce 2859  
an abortion, or otherwise performing or inducing an abortion; 2860

(25) Failure to comply with section 4730.53 of the Revised 2861  
Code, unless the board no longer maintains a drug database 2862  
pursuant to section 4729.75 of the Revised Code; 2863

(26) Failure to comply with the requirements in section 2864  
3719.061 of the Revised Code before issuing for a minor a 2865  
prescription for an opioid analgesic, as defined in section 2866  
3719.01 of the Revised Code; 2867

(27) Having certification by the national commission on 2868  
certification of physician assistants or a successor 2869  
organization expire, lapse, or be suspended or revoked; 2870

(28) The revocation, suspension, restriction, reduction, 2871  
or termination of clinical privileges by the United States 2872  
department of defense or department of veterans affairs or the 2873  
termination or suspension of a certificate of registration to 2874  
prescribe drugs by the drug enforcement administration of the 2875  
United States department of justice; 2876

(29) Failure to comply with terms of a consult agreement 2877  
entered into with a pharmacist pursuant to section 4729.39 of 2878  
the Revised Code. 2879

(C) Disciplinary actions taken by the board under 2880  
divisions (A) and (B) of this section shall be taken pursuant to 2881  
an adjudication under Chapter 119. of the Revised Code, except 2882  
that in lieu of an adjudication, the board may enter into a 2883  
consent agreement with a physician assistant or applicant to 2884  
resolve an allegation of a violation of this chapter or any rule 2885  
adopted under it. A consent agreement, when ratified by an 2886  
affirmative vote of not fewer than six members of the board, 2887  
shall constitute the findings and order of the board with 2888  
respect to the matter addressed in the agreement. If the board 2889  
refuses to ratify a consent agreement, the admissions and 2890  
findings contained in the consent agreement shall be of no force 2891  
or effect. 2892

(D) For purposes of divisions (B) (12), (15), and (16) of 2893  
this section, the commission of the act may be established by a 2894  
finding by the board, pursuant to an adjudication under Chapter 2895  
119. of the Revised Code, that the applicant or license holder 2896  
committed the act in question. The board shall have no 2897  
jurisdiction under these divisions in cases where the trial 2898  
court renders a final judgment in the license holder's favor and 2899  
that judgment is based upon an adjudication on the merits. The 2900  
board shall have jurisdiction under these divisions in cases 2901  
where the trial court issues an order of dismissal upon 2902  
technical or procedural grounds. 2903

(E) The sealing of conviction records by any court shall 2904  
have no effect upon a prior board order entered under the 2905  
provisions of this section or upon the board's jurisdiction to 2906  
take action under the provisions of this section if, based upon 2907  
a plea of guilty, a judicial finding of guilt, or a judicial 2908  
finding of eligibility for intervention in lieu of conviction, 2909  
the board issued a notice of opportunity for a hearing prior to 2910

the court's order to seal the records. The board shall not be 2911  
required to seal, destroy, redact, or otherwise modify its 2912  
records to reflect the court's sealing of conviction records. 2913

(F) For purposes of this division, any individual who 2914  
holds a license issued under this chapter, or applies for a 2915  
license issued under this chapter, shall be deemed to have given 2916  
consent to submit to a mental or physical examination when 2917  
directed to do so in writing by the board and to have waived all 2918  
objections to the admissibility of testimony or examination 2919  
reports that constitute a privileged communication. 2920

(1) In enforcing division (B)(4) of this section, the 2921  
board, upon a showing of a possible violation, may compel any 2922  
individual who holds a license issued under this chapter or who 2923  
has applied for a license pursuant to this chapter to submit to 2924  
a mental examination, physical examination, including an HIV 2925  
test, or both a mental and physical examination. The expense of 2926  
the examination is the responsibility of the individual 2927  
compelled to be examined. Failure to submit to a mental or 2928  
physical examination or consent to an HIV test ordered by the 2929  
board constitutes an admission of the allegations against the 2930  
individual unless the failure is due to circumstances beyond the 2931  
individual's control, and a default and final order may be 2932  
entered without the taking of testimony or presentation of 2933  
evidence. If the board finds a physician assistant unable to 2934  
practice because of the reasons set forth in division (B)(4) of 2935  
this section, the board shall require the physician assistant to 2936  
submit to care, counseling, or treatment by physicians approved 2937  
or designated by the board, as a condition for an initial, 2938  
continued, reinstated, or renewed license. An individual 2939  
affected under this division shall be afforded an opportunity to 2940  
demonstrate to the board the ability to resume practicing in 2941

compliance with acceptable and prevailing standards of care. 2942

(2) For purposes of division (B)(5) of this section, if 2943  
the board has reason to believe that any individual who holds a 2944  
license issued under this chapter or any applicant for a license 2945  
suffers such impairment, the board may compel the individual to 2946  
submit to a mental or physical examination, or both. The expense 2947  
of the examination is the responsibility of the individual 2948  
compelled to be examined. Any mental or physical examination 2949  
required under this division shall be undertaken by a treatment 2950  
provider or physician qualified to conduct such examination and 2951  
chosen by the board. 2952

Failure to submit to a mental or physical examination 2953  
ordered by the board constitutes an admission of the allegations 2954  
against the individual unless the failure is due to 2955  
circumstances beyond the individual's control, and a default and 2956  
final order may be entered without the taking of testimony or 2957  
presentation of evidence. If the board determines that the 2958  
individual's ability to practice is impaired, the board shall 2959  
suspend the individual's license or deny the individual's 2960  
application and shall require the individual, as a condition for 2961  
initial, continued, reinstated, or renewed licensure, to submit 2962  
to treatment. 2963

Before being eligible to apply for reinstatement of a 2964  
license suspended under this division, the physician assistant 2965  
shall demonstrate to the board the ability to resume practice or 2966  
prescribing in compliance with acceptable and prevailing 2967  
standards of care. The demonstration shall include the 2968  
following: 2969

(a) Certification from a treatment provider approved under 2970  
section 4731.25 of the Revised Code that the individual has 2971

successfully completed any required inpatient treatment; 2972

(b) Evidence of continuing full compliance with an 2973  
aftercare contract or consent agreement; 2974

(c) Two written reports indicating that the individual's 2975  
ability to practice has been assessed and that the individual 2976  
has been found capable of practicing according to acceptable and 2977  
prevailing standards of care. The reports shall be made by 2978  
individuals or providers approved by the board for making such 2979  
assessments and shall describe the basis for their 2980  
determination. 2981

The board may reinstate a license suspended under this 2982  
division after such demonstration and after the individual has 2983  
entered into a written consent agreement. 2984

When the impaired physician assistant resumes practice or 2985  
prescribing, the board shall require continued monitoring of the 2986  
physician assistant. The monitoring shall include compliance 2987  
with the written consent agreement entered into before 2988  
reinstatement or with conditions imposed by board order after a 2989  
hearing, and, upon termination of the consent agreement, 2990  
submission to the board for at least two years of annual written 2991  
progress reports made under penalty of falsification stating 2992  
whether the physician assistant has maintained sobriety. 2993

(G) (1) If either of the following circumstances occur, the 2994  
secretary and supervising member may recommend that the board 2995  
suspend the individual's license without a prior hearing: 2996

(a) The secretary and supervising member determine that 2997  
there is clear and convincing evidence that a physician 2998  
assistant has violated division (B) of this section and that the 2999  
individual's continued practice or prescribing presents a danger 3000

of immediate and serious harm to the public, ~~they may recommend~~ 3001  
~~that the board suspend the individual's license without a prior~~ 3002  
~~hearing;~~ 3003

(b) The board receives verifiable information that a 3004  
licensee has been charged in any state or federal court with a 3005  
crime classified as a felony under the charging court's law and 3006  
the conduct charged constitutes a violation of division (B) of 3007  
this section. ~~Written~~ 3008

(2) If a recommendation is made to suspend without a prior 3009  
hearing pursuant to division (G) (1) of this section, written 3010  
allegations shall be prepared for consideration by the board. 3011

The board, upon review of those allegations and by an 3012  
affirmative vote of not fewer than six of its members, excluding 3013  
the secretary and supervising member, may suspend a license 3014  
without a prior hearing. A telephone conference call may be 3015  
utilized for reviewing the allegations and taking the vote on 3016  
the summary suspension. 3017

The board shall issue a written order of suspension by 3018  
certified mail or in person in accordance with section 119.07 of 3019  
the Revised Code. The order shall not be subject to suspension 3020  
by the court during pendency of any appeal filed under section 3021  
119.12 of the Revised Code. If the physician assistant requests 3022  
an adjudicatory hearing by the board, the date set for the 3023  
hearing shall be within fifteen days, but not earlier than seven 3024  
days, after the physician assistant requests the hearing, unless 3025  
otherwise agreed to by both the board and the license holder. 3026

(3) A summary suspension imposed under this division shall 3027  
remain in effect, unless reversed on appeal, until a final 3028  
adjudicative order issued by the board pursuant to this section 3029



and Chapter 119. of the Revised Code becomes effective. The 3030  
board shall issue its final adjudicative order within sixty days 3031  
after completion of its hearing. Failure to issue the order 3032  
within sixty days shall result in dissolution of the summary 3033  
suspension order, but shall not invalidate any subsequent, final 3034  
adjudicative order. 3035

(H) If the board takes action under division (B) (11), 3036  
(13), or (14) of this section, and the judicial finding of 3037  
guilt, guilty plea, or judicial finding of eligibility for 3038  
intervention in lieu of conviction is overturned on appeal, upon 3039  
exhaustion of the criminal appeal, a petition for 3040  
reconsideration of the order may be filed with the board along 3041  
with appropriate court documents. Upon receipt of a petition and 3042  
supporting court documents, the board shall reinstate the 3043  
individual's license. The board may then hold an adjudication 3044  
under Chapter 119. of the Revised Code to determine whether the 3045  
individual committed the act in question. Notice of opportunity 3046  
for hearing shall be given in accordance with Chapter 119. of 3047  
the Revised Code. If the board finds, pursuant to an 3048  
adjudication held under this division, that the individual 3049  
committed the act, or if no hearing is requested, it may order 3050  
any of the sanctions identified under division (B) of this 3051  
section. 3052

(I) The license to practice issued to a physician 3053  
assistant and the physician assistant's practice in this state 3054  
are automatically suspended as of the date the physician 3055  
assistant pleads guilty to, is found by a judge or jury to be 3056  
guilty of, or is subject to a judicial finding of eligibility 3057  
for intervention in lieu of conviction in this state or 3058  
treatment or intervention in lieu of conviction in another state 3059  
for any of the following criminal offenses in this state or a 3060

substantially equivalent criminal offense in another 3061  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3062  
felonious assault, trafficking in persons, kidnapping, rape, 3063  
sexual battery, gross sexual imposition, aggravated arson, 3064  
aggravated robbery, or aggravated burglary. Continued practice 3065  
after the suspension shall be considered practicing without a 3066  
license. 3067

The board shall notify the individual subject to the 3068  
suspension by certified mail or in person in accordance with 3069  
section 119.07 of the Revised Code. If an individual whose 3070  
license is suspended under this division fails to make a timely 3071  
request for an adjudication under Chapter 119. of the Revised 3072  
Code, the board shall enter a final order permanently revoking 3073  
the individual's license to practice. 3074

(J) In any instance in which the board is required by 3075  
Chapter 119. of the Revised Code to give notice of opportunity 3076  
for hearing and the individual subject to the notice does not 3077  
timely request a hearing in accordance with section 119.07 of 3078  
the Revised Code, the board is not required to hold a hearing, 3079  
but may adopt, by an affirmative vote of not fewer than six of 3080  
its members, a final order that contains the board's findings. 3081  
In that final order, the board may order any of the sanctions 3082  
identified under division (A) or (B) of this section. 3083

(K) Any action taken by the board under division (B) of 3084  
this section resulting in a suspension shall be accompanied by a 3085  
written statement of the conditions under which the physician 3086  
assistant's license may be reinstated. The board shall adopt 3087  
rules in accordance with Chapter 119. of the Revised Code 3088  
governing conditions to be imposed for reinstatement. 3089  
Reinstatement of a license suspended pursuant to division (B) of 3090

this section requires an affirmative vote of not fewer than six 3091  
members of the board. 3092

(L) When the board refuses to grant or issue to an 3093  
applicant a license to practice as a physician assistant, 3094  
revokes an individual's license, refuses to renew an 3095  
individual's license, or refuses to reinstate an individual's 3096  
license, the board may specify that its action is permanent. An 3097  
individual subject to a permanent action taken by the board is 3098  
forever thereafter ineligible to hold the license and the board 3099  
shall not accept an application for reinstatement of the license 3100  
or for issuance of a new license. 3101

(M) Notwithstanding any other provision of the Revised 3102  
Code, all of the following apply: 3103

(1) The surrender of a license issued under this chapter 3104  
is not effective unless or until accepted by the board. 3105  
Reinstatement of a license surrendered to the board requires an 3106  
affirmative vote of not fewer than six members of the board. 3107

(2) An application made under this chapter for a license 3108  
may not be withdrawn without approval of the board. 3109

(3) Failure by an individual to renew a license in 3110  
accordance with section 4730.14 of the Revised Code shall not 3111  
remove or limit the board's jurisdiction to take disciplinary 3112  
action under this section against the individual. 3113

(N) The board shall not refuse to issue a license to an 3114  
applicant because of a conviction, plea of guilty, judicial 3115  
finding of guilt, judicial finding of eligibility for 3116  
intervention in lieu of conviction, or the commission of an act 3117  
that constitutes a criminal offense, unless the refusal is in 3118  
accordance with section 9.79 of the Revised Code. 3119

**Sec. 4730.26.** (A) The state medical board shall 3120  
investigate evidence that appears to show that any person has 3121  
violated this chapter or a rule adopted under it. In an 3122  
investigation involving the practice or supervision of a 3123  
physician assistant pursuant to the policies of a health care 3124  
facility, the board may require that the health care facility 3125  
provide any information the board considers necessary to 3126  
identify either or both of the following: 3127

(1) The facility's policies for the practice of physician 3128  
assistants within the facility; 3129

(2) The services that the facility has authorized a 3130  
particular physician assistant to provide for the facility. 3131

(B) Any person may report to the board in a signed writing 3132  
any information the person has that appears to show a violation 3133  
of any provision of this chapter or rule adopted under it. In 3134  
the absence of bad faith, a person who reports such information 3135  
or testifies before the board in an adjudication conducted under 3136  
Chapter 119. of the Revised Code shall not be liable for civil 3137  
damages as a result of reporting the information or providing 3138  
testimony. Each complaint or allegation of a violation received 3139  
by the board shall be assigned a case number and be recorded by 3140  
the board. 3141

(C) Investigations of alleged violations of this chapter 3142  
or rules adopted under it shall be supervised by the supervising 3143  
member elected by the board in accordance with section 4731.02 3144  
of the Revised Code and by the secretary as provided in section 3145  
4730.33 of the Revised Code. The president may designate another 3146  
member of the board to supervise the investigation in place of 3147  
the supervising member. Upon a vote of the majority of the board 3148  
to authorize the addition of a consumer member in the 3149

supervision of any part of any investigation, the president 3150  
shall designate a consumer member for supervision of 3151  
investigations as determined by the president. The authorization 3152  
of consumer member participation in investigation supervision 3153  
may be rescinded by a majority vote of the board. A member of 3154  
the board who supervises the investigation of a case shall not 3155  
participate in further adjudication of the case. 3156

(D) In investigating a possible violation of this chapter 3157  
or a rule adopted under it, the board may administer oaths, 3158  
order the taking of depositions, issue subpoenas, and compel the 3159  
attendance of witnesses and production of books, accounts, 3160  
papers, records, documents, and testimony, except that a 3161  
subpoena for patient record information or information, 3162  
documents, and records from a peer review committee of a health 3163  
care entity related to sexual misconduct or criminal conduct 3164  
shall not be issued without consultation with the attorney 3165  
general's office and approval of the secretary and supervising 3166  
member of the board. Before issuance of a subpoena for patient 3167  
record information or information, documents, and records from a 3168  
peer review committee of a health care entity related to sexual 3169  
misconduct or criminal conduct, the secretary and supervising 3170  
member shall determine whether there is probable cause to 3171  
believe that the complaint filed alleges a violation of this 3172  
chapter or a rule adopted under it and that the records sought 3173  
are relevant to the alleged violation and material to the 3174  
investigation. The subpoena may apply only to records that cover 3175  
a reasonable period of time surrounding the alleged violation. 3176

On failure to comply with any subpoena issued by the board 3177  
and after reasonable notice to the person being subpoenaed, the 3178  
board may move for an order compelling the production of persons 3179  
or records pursuant to the Rules of Civil Procedure. 3180

A subpoena issued by the board may be served by a sheriff, 3181  
the sheriff's deputy, or a board employee designated by the 3182  
board. Service of a subpoena issued by the board may be made by 3183  
delivering a copy of the subpoena to the person named therein, 3184  
reading it to the person, or leaving it at the person's usual 3185  
place of residence. When the person being served is a physician 3186  
assistant, service of the subpoena may be made by certified 3187  
mail, restricted delivery, return receipt requested, and the 3188  
subpoena shall be deemed served on the date delivery is made or 3189  
the date the person refuses to accept delivery. 3190

A sheriff's deputy who serves a subpoena shall receive the 3191  
same fees as a sheriff. Each witness who appears before the 3192  
board in obedience to a subpoena shall receive the fees and 3193  
mileage provided for under section 119.094 of the Revised Code. 3194

(E) All-For purposes of section 2305.252 of the Revised 3195  
Code, all hearings and investigations of the board shall be 3196  
considered civil actions for the purposes of section 2305.252 of 3197  
the Revised Code, except those involving allegations of sexual 3198  
misconduct or criminal conduct, as defined in that section. 3199

(F) Information received by the board pursuant to an 3200  
investigation is confidential and not subject to discovery in 3201  
any civil action. 3202

The board shall conduct all investigations and proceedings 3203  
in a manner that protects the confidentiality of patients and 3204  
persons who file complaints with the board. The board shall not 3205  
make public the names or any other identifying information about 3206  
patients or complainants unless proper consent is given or, in 3207  
the case of a patient, a waiver of the patient privilege exists 3208  
under division (B) of section 2317.02 of the Revised Code, 3209  
except that consent or a waiver is not required if the board 3210

possesses reliable and substantial evidence that no bona fide 3211  
physician-patient relationship exists. 3212

The board may share any information it receives pursuant 3213  
to an investigation, including patient records and patient 3214  
record information, with law enforcement agencies, other 3215  
licensing boards, and other governmental agencies that are 3216  
prosecuting, adjudicating, or investigating alleged violations 3217  
of statutes or administrative rules. An agency or board that 3218  
receives the information shall comply with the same requirements 3219  
regarding confidentiality as those with which the state medical 3220  
board must comply, notwithstanding any conflicting provision of 3221  
the Revised Code or procedure of the agency or board that 3222  
applies when it is dealing with other information in its 3223  
possession. In a judicial proceeding, the information may be 3224  
admitted into evidence only in accordance with the Rules of 3225  
Evidence, but the court shall require that appropriate measures 3226  
are taken to ensure that confidentiality is maintained with 3227  
respect to any part of the information that contains names or 3228  
other identifying information about patients or complainants 3229  
whose confidentiality was protected by the state medical board 3230  
when the information was in the board's possession. Measures to 3231  
ensure confidentiality that may be taken by the court include 3232  
sealing its records or deleting specific information from its 3233  
records. 3234

No person shall knowingly access, use, or disclose 3235  
confidential investigatory information in a manner prohibited by 3236  
law. 3237

(G) The state medical board shall develop requirements for 3238  
and provide appropriate initial and continuing training for 3239  
investigators employed by the board to carry out its duties 3240

under this chapter. The training and continuing education may 3241  
include enrollment in courses operated or approved by the Ohio 3242  
peace officer training commission that the board considers 3243  
appropriate under conditions set forth in section 109.79 of the 3244  
Revised Code. 3245

(H) On a quarterly basis, the board shall prepare a report 3246  
that documents the disposition of all cases during the preceding 3247  
three months. The report shall contain the following information 3248  
for each case with which the board has completed its activities: 3249

(1) The case number assigned to the complaint or alleged 3250  
violation; 3251

(2) The type of license, if any, held by the individual 3252  
against whom the complaint is directed; 3253

(3) A description of the allegations contained in the 3254  
complaint; 3255

(4) Whether witnesses were interviewed; 3256

(5) Whether the individual against whom the complaint is 3257  
directed is the subject of any pending complaints; 3258

(6) The disposition of the case. 3259

The report shall state how many cases are still pending, 3260  
and shall be prepared in a manner that protects the identity of 3261  
each person involved in each case. The report shall be submitted 3262  
to the physician assistant policy committee of the board and is 3263  
a public record for purposes of section 149.43 of the Revised 3264  
Code. 3265

(I) The board may provide a status update regarding an 3266  
investigation to a complainant on request if the board verifies 3267  
the complainant's identity. 3268



Sec. 4730.32. (A) As used in this section, "criminal 3269  
conduct" and "sexual misconduct" have the same meanings as in 3270  
section 4731.224 of the Revised Code. 3271

(B)(1) Within ~~sixty~~-thirty days after the imposition of 3272  
any formal disciplinary action taken by a health care facility 3273  
against any individual holding a valid license to practice as a 3274  
physician assistant issued under this chapter, the chief 3275  
administrator or executive officer of the facility shall report 3276  
to the state medical board the name of the individual, the 3277  
action taken by the facility, and a summary of the underlying 3278  
facts leading to the action taken. Upon request, the board shall 3279  
be provided certified copies of the patient records that were 3280  
the basis for the facility's action. Prior to release to the 3281  
board, the summary shall be approved by the peer review 3282  
committee that reviewed the case or by the governing board of 3283  
the facility. 3284

The filing of a report with the board or decision not to 3285  
file a report, investigation by the board, or any disciplinary 3286  
action taken by the board, does not preclude a health care 3287  
facility from taking disciplinary action against a physician 3288  
assistant. 3289

In the absence of fraud or bad faith, no individual or 3290  
entity that provides patient records to the board shall be 3291  
liable in damages to any person as a result of providing the 3292  
records. 3293

(2) Within thirty days after commencing an investigation 3294  
regarding criminal conduct or sexual misconduct against any 3295  
individual holding a valid license to practice issued pursuant 3296  
to this chapter, a health care facility, including a hospital, 3297  
health care facility operated by a health insuring corporation, 3298

ambulatory surgical center, or similar facility, shall report to 3299  
the board the name of the individual and a summary of the 3300  
underlying facts related to the investigation being commenced. 3301

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 3302  
of this section and subject to division (C) (3) of this section, 3303  
a physician assistant, professional association or society of 3304  
physician assistants, physician, or professional association or 3305  
society of physicians that believes a violation of any provision 3306  
of this chapter, Chapter 4731. of the Revised Code, or rule of 3307  
the board has occurred shall report to the board the information 3308  
upon which the belief is based. 3309

(2) A physician assistant, professional association or 3310  
society of physician assistants, physician, or professional 3311  
association or society of physicians that believes that a 3312  
violation of division (B) (5) of section 4730.25 of the Revised 3313  
Code has occurred shall report the information upon which the 3314  
belief is based to the monitoring organization conducting the 3315  
program established by the board under section 4731.251 of the 3316  
Revised Code. If any such report is made to the board, it shall 3317  
be referred to the monitoring organization unless the board is 3318  
aware that the individual who is the subject of the report does 3319  
not meet the program eligibility requirements of section 3320  
4731.252 of the Revised Code. 3321

(3) If any individual authorized to practice under this 3322  
chapter or any professional association or society of such 3323  
individuals knows or has reasonable cause to suspect based on 3324  
facts that would cause a reasonable person in a similar position 3325  
to suspect that an individual authorized to practice under this 3326  
chapter has committed or participated in criminal conduct or 3327  
sexual misconduct the information upon which the belief is based 3328

shall be reported to the board within thirty days. 3329

(4) In addition to the self-reporting of criminal offenses 3330  
that is required for license renewal, an individual authorized 3331  
to practice under this chapter shall report to the board 3332  
criminal charges regarding criminal conduct, sexual misconduct, 3333  
or any conduct involving the use of a motor vehicle while under 3334  
the influence of alcohol or drugs, including offenses that are 3335  
equivalent offenses under division (A) of section 4511.181 of 3336  
the Revised Code, violations of division (D) of section 4511.194 3337  
of the Revised Code, and violations of division (C) of section 3338  
4511.79 of the Revised Code. Reports under this division shall 3339  
be made within thirty days of the criminal charge being filed. 3340

~~(C)~~ (D) Any professional association or society composed 3341  
primarily of physician assistants that suspends or revokes an 3342  
individual's membership for violations of professional ethics, 3343  
or for reasons of professional incompetence or professional 3344  
malpractice, within ~~sixty~~ thirty days after a final decision, 3345  
shall report to the board, on forms prescribed and provided by 3346  
the board, the name of the individual, the action taken by the 3347  
professional organization, and a summary of the underlying facts 3348  
leading to the action taken. 3349

The filing or nonfiling of a report with the board, 3350  
investigation by the board, or any disciplinary action taken by 3351  
the board, shall not preclude a professional organization from 3352  
taking disciplinary action against a physician assistant. 3353

~~(D)~~ (E) Any insurer providing professional liability 3354  
insurance to any person holding a valid license to practice as a 3355  
physician assistant issued under this chapter or any other 3356  
entity that seeks to indemnify the professional liability of a 3357  
physician assistant shall notify the board within thirty days 3358

after the final disposition of any written claim for damages 3359  
where such disposition results in a payment exceeding twenty- 3360  
five thousand dollars. The notice shall contain the following 3361  
information: 3362

(1) The name and address of the person submitting the 3363  
notification; 3364

(2) The name and address of the insured who is the subject 3365  
of the claim; 3366

(3) The name of the person filing the written claim; 3367

(4) The date of final disposition; 3368

(5) If applicable, the identity of the court in which the 3369  
final disposition of the claim took place. 3370

~~(E)~~ (F) The board may investigate possible violations of 3371  
this chapter or the rules adopted under it that are brought to 3372  
its attention as a result of the reporting requirements of this 3373  
section, except that the board shall conduct an investigation if 3374  
a possible violation involves repeated malpractice. As used in 3375  
this division, "repeated malpractice" means three or more claims 3376  
for malpractice within the previous five-year period, each 3377  
resulting in a judgment or settlement in excess of twenty-five 3378  
thousand dollars in favor of the claimant, and each involving 3379  
negligent conduct by the physician assistant. 3380

~~(F)~~ (G) All summaries, reports, and records received and 3381  
maintained by the board pursuant to this section shall be held 3382  
~~in confidence and shall not be subject to discovery or~~ 3383  
~~introduction in evidence in any federal or state civil action~~ 3384  
~~involving a physician assistant, supervising physician, or~~ 3385  
~~health care facility arising out of matters that are the subject~~ 3386  
~~of the reporting required by this section. The board may use the~~ 3387

~~information obtained only as the basis for an investigation, as 3388  
evidence in a disciplinary hearing against a physician assistant 3389  
or supervising physician, or in any subsequent trial or appeal 3390  
of a board action or order. 3391~~

~~The board may disclose the summaries and reports it 3392  
receives under this section only to health care facility 3393  
committees within or outside this state that are involved in 3394  
credentialing or recredentialing a physician assistant or 3395  
supervising physician or reviewing their privilege to practice 3396  
within a particular facility. The board shall indicate whether 3397  
or not the information has been verified. Information 3398  
transmitted by the board shall be subject to the same 3399  
confidentiality provisions as when maintained by the 3400  
board confidential pursuant to division (F) of section 4730.26 of 3401  
the Revised Code. 3402~~

~~(G) (H) Except for reports filed by an individual pursuant to 3403  
to division (B) (2) or (C) of this section, the board shall send 3404  
a copy of any reports or summaries it receives pursuant to this 3405  
section to the physician assistant. The physician assistant 3406  
shall have the right to file a statement with the board 3407  
concerning the correctness or relevance of the information. The 3408  
statement shall at all times accompany that part of the record 3409  
in contention. 3410~~

~~(H) (I) An individual or entity that reports to the board, 3411  
reports to the monitoring organization described in section 3412  
4731.251 of the Revised Code, or refers an impaired physician 3413  
assistant to a treatment provider approved by the board under 3414  
section 4731.25 of the Revised Code shall not be subject to suit 3415  
for civil damages as a result of the report, referral, or 3416  
provision of the information. 3417~~

~~(I)~~ (J) In the absence of fraud or bad faith, a 3418  
professional association or society of physician assistants that 3419  
sponsors a committee or program to provide peer assistance to a 3420  
physician assistant with substance abuse problems, a 3421  
representative or agent of such a committee or program, a 3422  
representative or agent of the monitoring organization described 3423  
in section 4731.251 of the Revised Code, and a member of the 3424  
state medical board shall not be held liable in damages to any 3425  
person by reason of actions taken to refer a physician assistant 3426  
to a treatment provider approved under section 4731.25 of the 3427  
Revised Code for examination or treatment. 3428

**Sec. 4730.99.** (A) Whoever violates section 4730.02 of the 3429  
Revised Code is guilty of a misdemeanor of the first degree on a 3430  
first offense; on each subsequent offense, the person is guilty 3431  
of a felony of the fourth degree. 3432

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 3433  
(1), ~~or (C) (2)~~, (D), or (E) of section 4730.32 of the Revised 3434  
Code is guilty of a minor misdemeanor on a first offense; on 3435  
each subsequent offense the person is guilty of a misdemeanor of 3436  
the fourth degree, except that an individual guilty of a 3437  
subsequent offense shall not be subject to imprisonment, but to 3438  
a fine alone of up to one thousand dollars for each offense. 3439

(2) Whoever violates division (B) (2) or (C) (3) of section 3440  
4730.32 of the Revised Code is guilty of failure to report 3441  
criminal conduct or sexual misconduct, a misdemeanor of the 3442  
fourth degree. If the offender has previously been convicted of 3443  
a violation of this division, the failure to report is a 3444  
misdemeanor of the first degree. 3445

(C) Whoever violates division (F) of section 4730.26 of 3446  
the Revised Code is guilty of disclosing confidential 3447

investigatory information, a misdemeanor of the first degree. 3448

**Sec. 4731.22.** (A) The state medical board, by an 3449  
affirmative vote of not fewer than six of its members, may 3450  
limit, revoke, or suspend a license or certificate to practice 3451  
or certificate to recommend, refuse to grant a license or 3452  
certificate, refuse to renew a license or certificate, refuse to 3453  
reinstate a license or certificate, or reprimand or place on 3454  
probation the holder of a license or certificate if the 3455  
individual applying for or holding the license or certificate is 3456  
found by the board to have committed fraud during the 3457  
administration of the examination for a license or certificate 3458  
to practice or to have committed fraud, misrepresentation, or 3459  
deception in applying for, renewing, or securing any license or 3460  
certificate to practice or certificate to recommend issued by 3461  
the board. 3462

(B) Except as provided in division (P) of this section, 3463  
the board, by an affirmative vote of not fewer than six members, 3464  
shall, to the extent permitted by law, limit, revoke, or suspend 3465  
a license or certificate to practice or certificate to 3466  
recommend, refuse to issue a license or certificate, refuse to 3467  
renew a license or certificate, refuse to reinstate a license or 3468  
certificate, or reprimand or place on probation the holder of a 3469  
license or certificate for one or more of the following reasons: 3470

(1) Permitting one's name or one's license or certificate 3471  
to practice to be used by a person, group, or corporation when 3472  
the individual concerned is not actually directing the treatment 3473  
given; 3474

(2) Failure to maintain minimal standards applicable to 3475  
the selection or administration of drugs, or failure to employ 3476  
acceptable scientific methods in the selection of drugs or other 3477

modalities for treatment of disease; 3478

(3) Except as provided in section 4731.97 of the Revised 3479  
Code, selling, giving away, personally furnishing, prescribing, 3480  
or administering drugs for other than legal and legitimate 3481  
therapeutic purposes or a plea of guilty to, a judicial finding 3482  
of guilt of, or a judicial finding of eligibility for 3483  
intervention in lieu of conviction of, a violation of any 3484  
federal or state law regulating the possession, distribution, or 3485  
use of any drug; 3486

(4) Willfully betraying a professional confidence. 3487

For purposes of this division, "willfully betraying a 3488  
professional confidence" does not include providing any 3489  
information, documents, or reports under sections 307.621 to 3490  
307.629 of the Revised Code to a child fatality review board; 3491  
does not include providing any information, documents, or 3492  
reports under sections 307.631 to 307.6410 of the Revised Code 3493  
to a drug overdose fatality review committee, a suicide fatality 3494  
review committee, or hybrid drug overdose fatality and suicide 3495  
fatality review committee; does not include providing any 3496  
information, documents, or reports to the director of health 3497  
pursuant to guidelines established under section 3701.70 of the 3498  
Revised Code; does not include written notice to a mental health 3499  
professional under section 4731.62 of the Revised Code; does not 3500  
include making a report as described in division (F) of section 3501  
2921.22 and section 4731.224 of the Revised Code; and does not 3502  
include the making of a report of an employee's use of a drug of 3503  
abuse, or a report of a condition of an employee other than one 3504  
involving the use of a drug of abuse, to the employer of the 3505  
employee as described in division (B) of section 2305.33 of the 3506  
Revised Code. Nothing in this division affects the immunity from 3507



civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of

patients, or the receiving of a thing of value in return for a 3565  
specific referral of a patient to utilize a particular service 3566  
or business; 3567

(18) Subject to section 4731.226 of the Revised Code, 3568  
violation of any provision of a code of ethics of the American 3569  
medical association, the American osteopathic association, the 3570  
American podiatric medical association, or any other national 3571  
professional organizations that the board specifies by rule. The 3572  
state medical board shall obtain and keep on file current copies 3573  
of the codes of ethics of the various national professional 3574  
organizations. The individual whose license or certificate is 3575  
being suspended or revoked shall not be found to have violated 3576  
any provision of a code of ethics of an organization not 3577  
appropriate to the individual's profession. 3578

For purposes of this division, a "provision of a code of 3579  
ethics of a national professional organization" does not include 3580  
any provision that would preclude the making of a report by a 3581  
physician of an employee's use of a drug of abuse, or of a 3582  
condition of an employee other than one involving the use of a 3583  
drug of abuse, to the employer of the employee as described in 3584  
division (B) of section 2305.33 of the Revised Code. Nothing in 3585  
this division affects the immunity from civil liability 3586  
conferred by that section upon a physician who makes either type 3587  
of report in accordance with division (B) of that section. As 3588  
used in this division, "employee," "employer," and "physician" 3589  
have the same meanings as in section 2305.33 of the Revised 3590  
Code. 3591

(19) Inability to practice according to acceptable and 3592  
prevailing standards of care by reason of mental illness or 3593  
physical illness, including, but not limited to, physical 3594

deterioration that adversely affects cognitive, motor, or 3595  
perceptive skills. 3596

In enforcing this division, the board, upon a showing of a 3597  
possible violation, may compel any individual authorized to 3598  
practice by this chapter or who has submitted an application 3599  
pursuant to this chapter to submit to a mental examination, 3600  
physical examination, including an HIV test, or both a mental 3601  
and a physical examination. The expense of the examination is 3602  
the responsibility of the individual compelled to be examined. 3603  
Failure to submit to a mental or physical examination or consent 3604  
to an HIV test ordered by the board constitutes an admission of 3605  
the allegations against the individual unless the failure is due 3606  
to circumstances beyond the individual's control, and a default 3607  
and final order may be entered without the taking of testimony 3608  
or presentation of evidence. If the board finds an individual 3609  
unable to practice because of the reasons set forth in this 3610  
division, the board shall require the individual to submit to 3611  
care, counseling, or treatment by physicians approved or 3612  
designated by the board, as a condition for initial, continued, 3613  
reinstated, or renewed authority to practice. An individual 3614  
affected under this division shall be afforded an opportunity to 3615  
demonstrate to the board the ability to resume practice in 3616  
compliance with acceptable and prevailing standards under the 3617  
provisions of the individual's license or certificate. For the 3618  
purpose of this division, any individual who applies for or 3619  
receives a license or certificate to practice under this chapter 3620  
accepts the privilege of practicing in this state and, by so 3621  
doing, shall be deemed to have given consent to submit to a 3622  
mental or physical examination when directed to do so in writing 3623  
by the board, and to have waived all objections to the 3624  
admissibility of testimony or examination reports that 3625

constitute a privileged communication. 3626

(20) Except as provided in division (F) (1) (b) of section 3627  
4731.282 of the Revised Code or when civil penalties are imposed 3628  
under section 4731.225 of the Revised Code, and subject to 3629  
section 4731.226 of the Revised Code, violating or attempting to 3630  
violate, directly or indirectly, or assisting in or abetting the 3631  
violation of, or conspiring to violate, any provisions of this 3632  
chapter or any rule promulgated by the board. 3633

This division does not apply to a violation or attempted 3634  
violation of, assisting in or abetting the violation of, or a 3635  
conspiracy to violate, any provision of this chapter or any rule 3636  
adopted by the board that would preclude the making of a report 3637  
by a physician of an employee's use of a drug of abuse, or of a 3638  
condition of an employee other than one involving the use of a 3639  
drug of abuse, to the employer of the employee as described in 3640  
division (B) of section 2305.33 of the Revised Code. Nothing in 3641  
this division affects the immunity from civil liability 3642  
conferred by that section upon a physician who makes either type 3643  
of report in accordance with division (B) of that section. As 3644  
used in this division, "employee," "employer," and "physician" 3645  
have the same meanings as in section 2305.33 of the Revised 3646  
Code. 3647

(21) The violation of section 3701.79 of the Revised Code 3648  
or of any abortion rule adopted by the director of health 3649  
pursuant to section 3701.341 of the Revised Code; 3650

(22) Any of the following actions taken by an agency 3651  
responsible for authorizing, certifying, or regulating an 3652  
individual to practice a health care occupation or provide 3653  
health care services in this state or another jurisdiction, for 3654  
any reason other than the nonpayment of fees: the limitation, 3655

revocation, or suspension of an individual's license to 3656  
practice; acceptance of an individual's license surrender; 3657  
denial of a license; refusal to renew or reinstate a license; 3658  
imposition of probation; or issuance of an order of censure or 3659  
other reprimand; 3660

(23) The violation of section 2919.12 of the Revised Code 3661  
or the performance or inducement of an abortion upon a pregnant 3662  
woman with actual knowledge that the conditions specified in 3663  
division (B) of section 2317.56 of the Revised Code have not 3664  
been satisfied or with a heedless indifference as to whether 3665  
those conditions have been satisfied, unless an affirmative 3666  
defense as specified in division (H) (2) of that section would 3667  
apply in a civil action authorized by division (H) (1) of that 3668  
section; 3669

(24) The revocation, suspension, restriction, reduction, 3670  
or termination of clinical privileges by the United States 3671  
department of defense or department of veterans affairs or the 3672  
termination or suspension of a certificate of registration to 3673  
prescribe drugs by the drug enforcement administration of the 3674  
United States department of justice; 3675

(25) Termination or suspension from participation in the 3676  
medicare or medicaid programs by the department of health and 3677  
human services or other responsible agency; 3678

(26) Impairment of ability to practice according to 3679  
acceptable and prevailing standards of care because of habitual 3680  
or excessive use or abuse of drugs, alcohol, or other substances 3681  
that impair ability to practice. 3682

For the purposes of this division, any individual 3683  
authorized to practice by this chapter accepts the privilege of 3684

practicing in this state subject to supervision by the board. By 3685  
filing an application for or holding a license or certificate to 3686  
practice under this chapter, an individual shall be deemed to 3687  
have given consent to submit to a mental or physical examination 3688  
when ordered to do so by the board in writing, and to have 3689  
waived all objections to the admissibility of testimony or 3690  
examination reports that constitute privileged communications. 3691

If it has reason to believe that any individual authorized 3692  
to practice by this chapter or any applicant for licensure or 3693  
certification to practice suffers such impairment, the board may 3694  
compel the individual to submit to a mental or physical 3695  
examination, or both. The expense of the examination is the 3696  
responsibility of the individual compelled to be examined. Any 3697  
mental or physical examination required under this division 3698  
shall be undertaken by a treatment provider or physician who is 3699  
qualified to conduct the examination and who is chosen by the 3700  
board. 3701

Failure to submit to a mental or physical examination 3702  
ordered by the board constitutes an admission of the allegations 3703  
against the individual unless the failure is due to 3704  
circumstances beyond the individual's control, and a default and 3705  
final order may be entered without the taking of testimony or 3706  
presentation of evidence. If the board determines that the 3707  
individual's ability to practice is impaired, the board shall 3708  
suspend the individual's license or certificate or deny the 3709  
individual's application and shall require the individual, as a 3710  
condition for initial, continued, reinstated, or renewed 3711  
licensure or certification to practice, to submit to treatment. 3712

Before being eligible to apply for reinstatement of a 3713  
license or certificate suspended under this division, the 3714

impaired practitioner shall demonstrate to the board the ability 3715  
to resume practice in compliance with acceptable and prevailing 3716  
standards of care under the provisions of the practitioner's 3717  
license or certificate. The demonstration shall include, but 3718  
shall not be limited to, the following: 3719

(a) Certification from a treatment provider approved under 3720  
section 4731.25 of the Revised Code that the individual has 3721  
successfully completed any required inpatient treatment; 3722

(b) Evidence of continuing full compliance with an 3723  
aftercare contract or consent agreement; 3724

(c) Two written reports indicating that the individual's 3725  
ability to practice has been assessed and that the individual 3726  
has been found capable of practicing according to acceptable and 3727  
prevailing standards of care. The reports shall be made by 3728  
individuals or providers approved by the board for making the 3729  
assessments and shall describe the basis for their 3730  
determination. 3731

The board may reinstate a license or certificate suspended 3732  
under this division after that demonstration and after the 3733  
individual has entered into a written consent agreement. 3734

When the impaired practitioner resumes practice, the board 3735  
shall require continued monitoring of the individual. The 3736  
monitoring shall include, but not be limited to, compliance with 3737  
the written consent agreement entered into before reinstatement 3738  
or with conditions imposed by board order after a hearing, and, 3739  
upon termination of the consent agreement, submission to the 3740  
board for at least two years of annual written progress reports 3741  
made under penalty of perjury stating whether the individual has 3742  
maintained sobriety. 3743



(27) A second or subsequent violation of section 4731.66	3744
or 4731.69 of the Revised Code;	3745
(28) Except as provided in division (N) of this section:	3746
(a) Waiving the payment of all or any part of a deductible	3747
or copayment that a patient, pursuant to a health insurance or	3748
health care policy, contract, or plan that covers the	3749
individual's services, otherwise would be required to pay if the	3750
waiver is used as an enticement to a patient or group of	3751
patients to receive health care services from that individual;	3752
(b) Advertising that the individual will waive the payment	3753
of all or any part of a deductible or copayment that a patient,	3754
pursuant to a health insurance or health care policy, contract,	3755
or plan that covers the individual's services, otherwise would	3756
be required to pay.	3757
(29) Failure to use universal blood and body fluid	3758
precautions established by rules adopted under section 4731.051	3759
of the Revised Code;	3760
(30) Failure to provide notice to, and receive	3761
acknowledgment of the notice from, a patient when required by	3762
section 4731.143 of the Revised Code prior to providing	3763
nonemergency professional services, or failure to maintain that	3764
notice in the patient's medical record;	3765
(31) Failure of a physician supervising a physician	3766
assistant to maintain supervision in accordance with the	3767
requirements of Chapter 4730. of the Revised Code and the rules	3768
adopted under that chapter;	3769
(32) Failure of a physician or podiatrist to enter into a	3770
standard care arrangement with a clinical nurse specialist,	3771
certified nurse-midwife, or certified nurse practitioner with	3772

whom the physician or podiatrist is in collaboration pursuant to 3773  
section 4731.27 of the Revised Code or failure to fulfill the 3774  
responsibilities of collaboration after entering into a standard 3775  
care arrangement; 3776

(33) Failure to comply with the terms of a consult 3777  
agreement entered into with a pharmacist pursuant to section 3778  
4729.39 of the Revised Code; 3779

(34) Failure to cooperate in an investigation conducted by 3780  
the board under division (F) of this section, including failure 3781  
to comply with a subpoena or order issued by the board or 3782  
failure to answer truthfully a question presented by the board 3783  
in an investigative interview, an investigative office 3784  
conference, at a deposition, or in written interrogatories, 3785  
except that failure to cooperate with an investigation shall not 3786  
constitute grounds for discipline under this section if a court 3787  
of competent jurisdiction has issued an order that either 3788  
quashes a subpoena or permits the individual to withhold the 3789  
testimony or evidence in issue; 3790

(35) Failure to supervise an acupuncturist in accordance 3791  
with Chapter 4762. of the Revised Code and the board's rules for 3792  
providing that supervision; 3793

(36) Failure to supervise an anesthesiologist assistant in 3794  
accordance with Chapter 4760. of the Revised Code and the 3795  
board's rules for supervision of an anesthesiologist assistant; 3796

(37) Assisting suicide, as defined in section 3795.01 of 3797  
the Revised Code; 3798

(38) Failure to comply with the requirements of section 3799  
2317.561 of the Revised Code; 3800

(39) Failure to supervise a radiologist assistant in 3801

accordance with Chapter 4774. of the Revised Code and the 3802  
board's rules for supervision of radiologist assistants; 3803

(40) Performing or inducing an abortion at an office or 3804  
facility with knowledge that the office or facility fails to 3805  
post the notice required under section 3701.791 of the Revised 3806  
Code; 3807

(41) Failure to comply with the standards and procedures 3808  
established in rules under section 4731.054 of the Revised Code 3809  
for the operation of or the provision of care at a pain 3810  
management clinic; 3811

(42) Failure to comply with the standards and procedures 3812  
established in rules under section 4731.054 of the Revised Code 3813  
for providing supervision, direction, and control of individuals 3814  
at a pain management clinic; 3815

(43) Failure to comply with the requirements of section 3816  
4729.79 or 4731.055 of the Revised Code, unless the state board 3817  
of pharmacy no longer maintains a drug database pursuant to 3818  
section 4729.75 of the Revised Code; 3819

(44) Failure to comply with the requirements of section 3820  
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 3821  
to submit to the department of health in accordance with a court 3822  
order a complete report as described in section 2919.171 or 3823  
2919.202 of the Revised Code; 3824

(45) Practicing at a facility that is subject to licensure 3825  
as a category III terminal distributor of dangerous drugs with a 3826  
pain management clinic classification unless the person 3827  
operating the facility has obtained and maintains the license 3828  
with the classification; 3829

(46) Owning a facility that is subject to licensure as a 3830

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

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

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

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

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

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

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

(53) Failure to fulfill the responsibilities of a

collaboration agreement entered into with an athletic trainer as 3860  
described in section 4755.621 of the Revised Code. 3861

(C) Disciplinary actions taken by the board under 3862  
divisions (A) and (B) of this section shall be taken pursuant to 3863  
an adjudication under Chapter 119. of the Revised Code, except 3864  
that in lieu of an adjudication, the board may enter into a 3865  
consent agreement with an individual to resolve an allegation of 3866  
a violation of this chapter or any rule adopted under it. A 3867  
consent agreement, when ratified by an affirmative vote of not 3868  
fewer than six members of the board, shall constitute the 3869  
findings and order of the board with respect to the matter 3870  
addressed in the agreement. If the board refuses to ratify a 3871  
consent agreement, the admissions and findings contained in the 3872  
consent agreement shall be of no force or effect. 3873

A telephone conference call may be utilized for 3874  
ratification of a consent agreement that revokes or suspends an 3875  
individual's license or certificate to practice or certificate 3876  
to recommend. The telephone conference call shall be considered 3877  
a special meeting under division (F) of section 121.22 of the 3878  
Revised Code. 3879

If the board takes disciplinary action against an 3880  
individual under division (B) of this section for a second or 3881  
subsequent plea of guilty to, or judicial finding of guilt of, a 3882  
violation of section 2919.123 or 2919.124 of the Revised Code, 3883  
the disciplinary action shall consist of a suspension of the 3884  
individual's license or certificate to practice for a period of 3885  
at least one year or, if determined appropriate by the board, a 3886  
more serious sanction involving the individual's license or 3887  
certificate to practice. Any consent agreement entered into 3888  
under this division with an individual that pertains to a second 3889

or subsequent plea of guilty to, or judicial finding of guilt 3890  
of, a violation of that section shall provide for a suspension 3891  
of the individual's license or certificate to practice for a 3892  
period of at least one year or, if determined appropriate by the 3893  
board, a more serious sanction involving the individual's 3894  
license or certificate to practice. 3895

(D) For purposes of divisions (B) (10), (12), and (14) of 3896  
this section, the commission of the act may be established by a 3897  
finding by the board, pursuant to an adjudication under Chapter 3898  
119. of the Revised Code, that the individual committed the act. 3899  
The board does not have jurisdiction under those divisions if 3900  
the trial court renders a final judgment in the individual's 3901  
favor and that judgment is based upon an adjudication on the 3902  
merits. The board has jurisdiction under those divisions if the 3903  
trial court issues an order of dismissal upon technical or 3904  
procedural grounds. 3905

(E) The sealing of conviction records by any court shall 3906  
have no effect upon a prior board order entered under this 3907  
section or upon the board's jurisdiction to take action under 3908  
this section if, based upon a plea of guilty, a judicial finding 3909  
of guilt, or a judicial finding of eligibility for intervention 3910  
in lieu of conviction, the board issued a notice of opportunity 3911  
for a hearing prior to the court's order to seal the records. 3912  
The board shall not be required to seal, destroy, redact, or 3913  
otherwise modify its records to reflect the court's sealing of 3914  
conviction records. 3915

(F) (1) The board shall investigate evidence that appears 3916  
to show that a person has violated any provision of this chapter 3917  
or any rule adopted under it. Any person may report to the board 3918  
in a signed writing any information that the person may have 3919

that appears to show a violation of any provision of this 3920  
chapter or any rule adopted under it. In the absence of bad 3921  
faith, any person who reports information of that nature or who 3922  
testifies before the board in any adjudication conducted under 3923  
Chapter 119. of the Revised Code shall not be liable in damages 3924  
in a civil action as a result of the report or testimony. Each 3925  
complaint or allegation of a violation received by the board 3926  
shall be assigned a case number and shall be recorded by the 3927  
board. 3928

(2) Investigations of alleged violations of this chapter 3929  
or any rule adopted under it shall be supervised by the 3930  
supervising member elected by the board in accordance with 3931  
section 4731.02 of the Revised Code and by the secretary as 3932  
provided in section 4731.39 of the Revised Code. The president 3933  
may designate another member of the board to supervise the 3934  
investigation in place of the supervising member. Upon a vote of 3935  
the majority of the board to authorize the addition of a 3936  
consumer member in the supervision of any part of any 3937  
investigation, the president shall designate a consumer member 3938  
for supervision of investigations as determined by the 3939  
president. The authorization of consumer member participation in 3940  
investigation supervision may be rescinded by a majority vote of 3941  
the board. No member of the board who supervises the 3942  
investigation of a case shall participate in further 3943  
adjudication of the case. 3944

(3) In investigating a possible violation of this chapter 3945  
or any rule adopted under this chapter, or in conducting an 3946  
inspection under division (E) of section 4731.054 of the Revised 3947  
Code, the board may question witnesses, conduct interviews, 3948  
administer oaths, order the taking of depositions, inspect and 3949  
copy any books, accounts, papers, records, or documents, issue 3950

subpoenas, and compel the attendance of witnesses and production 3951  
of books, accounts, papers, records, documents, and testimony, 3952  
except that a subpoena for patient record information or 3953  
information, documents, and records from a peer review committee 3954  
of a health care entity related to sexual misconduct or criminal 3955  
conduct shall not be issued without consultation with the 3956  
attorney general's office and approval of the secretary and 3957  
supervising member of the board. 3958

(a) Before issuance of a subpoena for patient record 3959  
information or information, documents, and records from a peer 3960  
review committee of a health care entity related to sexual 3961  
misconduct or criminal conduct, the secretary and supervising 3962  
member shall determine whether there is probable cause to 3963  
believe that the complaint filed alleges a violation of this 3964  
chapter or any rule adopted under it and that the records sought 3965  
are relevant to the alleged violation and material to the 3966  
investigation. The subpoena may apply only to records that cover 3967  
a reasonable period of time surrounding the alleged violation. 3968

(b) On failure to comply with any subpoena issued by the 3969  
board and after reasonable notice to the person being 3970  
subpoenaed, the board may move for an order compelling the 3971  
production of persons or records pursuant to the Rules of Civil 3972  
Procedure. 3973

(c) A subpoena issued by the board may be served by a 3974  
sheriff, the sheriff's deputy, or a board employee or agent 3975  
designated by the board. Service of a subpoena issued by the 3976  
board may be made by delivering a copy of the subpoena to the 3977  
person named therein, reading it to the person, or leaving it at 3978  
the person's usual place of residence, usual place of business, 3979  
or address on file with the board. When serving a subpoena to an 3980



applicant for or the holder of a license or certificate issued 3981  
under this chapter, service of the subpoena may be made by 3982  
certified mail, return receipt requested, and the subpoena shall 3983  
be deemed served on the date delivery is made or the date the 3984  
person refuses to accept delivery. If the person being served 3985  
refuses to accept the subpoena or is not located, service may be 3986  
made to an attorney who notifies the board that the attorney is 3987  
representing the person. 3988

(d) A sheriff's deputy who serves a subpoena shall receive 3989  
the same fees as a sheriff. Each witness who appears before the 3990  
board in obedience to a subpoena shall receive the fees and 3991  
mileage provided for under section 119.094 of the Revised Code. 3992

(4) All ~~For purposes of section 2305.252 of the Revised~~ 3993  
Code, all hearings, investigations, and inspections of the board 3994  
shall be considered civil actions ~~for the purposes of section~~ 3995  
2305.252 of the Revised Code, except those involving allegations 3996  
of sexual misconduct or criminal conduct, as defined in that 3997  
section. 3998

(5) A report required to be submitted to the board under 3999  
this chapter, a complaint, or information received by the board 4000  
pursuant to an investigation or pursuant to an inspection under 4001  
division (E) of section 4731.054 of the Revised Code is 4002  
confidential and not subject to discovery in any civil action. 4003

The board shall conduct all investigations or inspections 4004  
and proceedings in a manner that protects the confidentiality of 4005  
patients and persons who file complaints with the board. The 4006  
board shall not make public the names or any other identifying 4007  
information about patients or complainants unless proper consent 4008  
is given or, in the case of a patient, a waiver of the patient 4009  
privilege exists under division (B) of section 2317.02 of the 4010

Revised Code, except that consent or a waiver of that nature is 4011  
not required if the board possesses reliable and substantial 4012  
evidence that no bona fide physician-patient relationship 4013  
exists. 4014

The board may share any information it receives pursuant 4015  
to an investigation or inspection, including patient records and 4016  
patient record information, with law enforcement agencies, other 4017  
licensing boards, and other governmental agencies that are 4018  
prosecuting, adjudicating, or investigating alleged violations 4019  
of statutes or administrative rules. An agency or board that 4020  
receives the information shall comply with the same requirements 4021  
regarding confidentiality as those with which the state medical 4022  
board must comply, notwithstanding any conflicting provision of 4023  
the Revised Code or procedure of the agency or board that 4024  
applies when it is dealing with other information in its 4025  
possession. In a judicial proceeding, the information may be 4026  
admitted into evidence only in accordance with the Rules of 4027  
Evidence, but the court shall require that appropriate measures 4028  
are taken to ensure that confidentiality is maintained with 4029  
respect to any part of the information that contains names or 4030  
other identifying information about patients or complainants 4031  
whose confidentiality was protected by the state medical board 4032  
when the information was in the board's possession. Measures to 4033  
ensure confidentiality that may be taken by the court include 4034  
sealing its records or deleting specific information from its 4035  
records. 4036

No person shall knowingly access, use, or disclose 4037  
confidential investigatory information in a manner prohibited by 4038  
law. 4039

(6) On a quarterly basis, the board shall prepare a report 4040

that documents the disposition of all cases during the preceding 4041  
three months. The report shall contain the following information 4042  
for each case with which the board has completed its activities: 4043

(a) The case number assigned to the complaint or alleged 4044  
violation; 4045

(b) The type of license or certificate to practice, if 4046  
any, held by the individual against whom the complaint is 4047  
directed; 4048

(c) A description of the allegations contained in the 4049  
complaint; 4050

(d) Whether witnesses were interviewed; 4051

(e) Whether the individual against whom the complaint is 4052  
directed is the subject of any pending complaints; 4053

(f) The disposition of the case. 4054

The report shall state how many cases are still pending 4055  
and shall be prepared in a manner that protects the identity of 4056  
each person involved in each case. The report shall be a public 4057  
record under section 149.43 of the Revised Code. 4058

(7) The board may provide a status update regarding an 4059  
investigation to a complainant on request if the board verifies 4060  
the complainant's identity. 4061

~~(G)~~(G) (1) If either of the following circumstances occur, 4062  
the secretary and supervising member ~~determine both of the~~ 4063  
~~following,~~ they may recommend that the board suspend an 4064  
individual's license or certificate to practice or certificate 4065  
to recommend without a prior hearing: 4066

~~(1)~~(a) The secretary and supervising member determine 4067

both of the following: 4068

(i) That there is clear and convincing evidence that an 4069  
individual has violated division (B) of this section; 4070

~~(2)~~ (ii) That the individual's continued practice presents 4071  
a danger of immediate and serious harm to the public. 4072

(b) The board receives verifiable information that a 4073  
licensee has been charged in any state or federal court with a 4074  
crime classified as a felony under the charging court's law and 4075  
the conduct charged constitutes a violation of division (B) of 4076  
this section. 4077

~~Written~~ (2) If a recommendation is made to suspend without 4078  
a prior hearing pursuant to division (G)(1) of this section, 4079  
written allegations shall be prepared for consideration by the 4080  
board. The board, upon review of those allegations and by an 4081  
affirmative vote of not fewer than six of its members, excluding 4082  
the secretary and supervising member, may suspend a license or 4083  
certificate without a prior hearing. A telephone conference call 4084  
may be utilized for reviewing the allegations and taking the 4085  
vote on the summary suspension. 4086

The board shall issue a written order of suspension by 4087  
certified mail or in person in accordance with section 119.07 of 4088  
the Revised Code. The order shall not be subject to suspension 4089  
by the court during pendency of any appeal filed under section 4090  
119.12 of the Revised Code. If the individual subject to the 4091  
summary suspension requests an adjudicatory hearing by the 4092  
board, the date set for the hearing shall be within fifteen 4093  
days, but not earlier than seven days, after the individual 4094  
requests the hearing, unless otherwise agreed to by both the 4095  
board and the individual. 4096

(3) Any summary suspension imposed under this division 4097  
shall remain in effect, unless reversed on appeal, until a final 4098  
adjudicative order issued by the board pursuant to this section 4099  
and Chapter 119. of the Revised Code becomes effective. The 4100  
board shall issue its final adjudicative order within seventy- 4101  
five days after completion of its hearing. A failure to issue 4102  
the order within seventy-five days shall result in dissolution 4103  
of the summary suspension order but shall not invalidate any 4104  
subsequent, final adjudicative order. 4105

(H) If the board takes action under division (B) (9), (11), 4106  
or (13) of this section and the judicial finding of guilt, 4107  
guilty plea, or judicial finding of eligibility for intervention 4108  
in lieu of conviction is overturned on appeal, upon exhaustion 4109  
of the criminal appeal, a petition for reconsideration of the 4110  
order may be filed with the board along with appropriate court 4111  
documents. Upon receipt of a petition of that nature and 4112  
supporting court documents, the board shall reinstate the 4113  
individual's license or certificate to practice. The board may 4114  
then hold an adjudication under Chapter 119. of the Revised Code 4115  
to determine whether the individual committed the act in 4116  
question. Notice of an opportunity for a hearing shall be given 4117  
in accordance with Chapter 119. of the Revised Code. If the 4118  
board finds, pursuant to an adjudication held under this 4119  
division, that the individual committed the act or if no hearing 4120  
is requested, the board may order any of the sanctions 4121  
identified under division (B) of this section. 4122

(I) The license or certificate to practice issued to an 4123  
individual under this chapter and the individual's practice in 4124  
this state are automatically suspended as of the date of the 4125  
individual's second or subsequent plea of guilty to, or judicial 4126  
finding of guilt of, a violation of section 2919.123 or 2919.124 4127

of the Revised Code. In addition, the license or certificate to 4128  
practice or certificate to recommend issued to an individual 4129  
under this chapter and the individual's practice in this state 4130  
are automatically suspended as of the date the individual pleads 4131  
guilty to, is found by a judge or jury to be guilty of, or is 4132  
subject to a judicial finding of eligibility for intervention in 4133  
lieu of conviction in this state or treatment or intervention in 4134  
lieu of conviction in another jurisdiction for any of the 4135  
following criminal offenses in this state or a substantially 4136  
equivalent criminal offense in another jurisdiction: aggravated 4137  
murder, murder, voluntary manslaughter, felonious assault, 4138  
trafficking in persons, kidnapping, rape, sexual battery, gross 4139  
sexual imposition, aggravated arson, aggravated robbery, or 4140  
aggravated burglary. Continued practice after suspension shall 4141  
be considered practicing without a license or certificate. 4142

The board shall notify the individual subject to the 4143  
suspension by certified mail or in person in accordance with 4144  
section 119.07 of the Revised Code. If an individual whose 4145  
license or certificate is automatically suspended under this 4146  
division fails to make a timely request for an adjudication 4147  
under Chapter 119. of the Revised Code, the board shall do 4148  
whichever of the following is applicable: 4149

(1) If the automatic suspension under this division is for 4150  
a second or subsequent plea of guilty to, or judicial finding of 4151  
guilt of, a violation of section 2919.123 or 2919.124 of the 4152  
Revised Code, the board shall enter an order suspending the 4153  
individual's license or certificate to practice for a period of 4154  
at least one year or, if determined appropriate by the board, 4155  
imposing a more serious sanction involving the individual's 4156  
license or certificate to practice. 4157

(2) In all circumstances in which division (I) (1) of this 4158  
section does not apply, enter a final order permanently revoking 4159  
the individual's license or certificate to practice. 4160

(J) If the board is required by Chapter 119. of the 4161  
Revised Code to give notice of an opportunity for a hearing and 4162  
if the individual subject to the notice does not timely request 4163  
a hearing in accordance with section 119.07 of the Revised Code, 4164  
the board is not required to hold a hearing, but may adopt, by 4165  
an affirmative vote of not fewer than six of its members, a 4166  
final order that contains the board's findings. In that final 4167  
order, the board may order any of the sanctions identified under 4168  
division (A) or (B) of this section. 4169

(K) Any action taken by the board under division (B) of 4170  
this section resulting in a suspension from practice shall be 4171  
accompanied by a written statement of the conditions under which 4172  
the individual's license or certificate to practice may be 4173  
reinstated. The board shall adopt rules governing conditions to 4174  
be imposed for reinstatement. Reinstatement of a license or 4175  
certificate suspended pursuant to division (B) of this section 4176  
requires an affirmative vote of not fewer than six members of 4177  
the board. 4178

(L) When the board refuses to grant or issue a license or 4179  
certificate to practice to an applicant, revokes an individual's 4180  
license or certificate to practice, refuses to renew an 4181  
individual's license or certificate to practice, or refuses to 4182  
reinstatement an individual's license or certificate to practice, 4183  
the board may specify that its action is permanent. An 4184  
individual subject to a permanent action taken by the board is 4185  
forever thereafter ineligible to hold a license or certificate 4186  
to practice and the board shall not accept an application for 4187

reinstatement of the license or certificate or for issuance of a 4188  
new license or certificate. 4189

(M) Notwithstanding any other provision of the Revised 4190  
Code, all of the following apply: 4191

(1) The surrender of a license or certificate issued under 4192  
this chapter shall not be effective unless or until accepted by 4193  
the board. A telephone conference call may be utilized for 4194  
acceptance of the surrender of an individual's license or 4195  
certificate to practice. The telephone conference call shall be 4196  
considered a special meeting under division (F) of section 4197  
121.22 of the Revised Code. Reinstatement of a license or 4198  
certificate surrendered to the board requires an affirmative 4199  
vote of not fewer than six members of the board. 4200

(2) An application for a license or certificate made under 4201  
the provisions of this chapter may not be withdrawn without 4202  
approval of the board. 4203

(3) Failure by an individual to renew a license or 4204  
certificate to practice in accordance with this chapter or a 4205  
certificate to recommend in accordance with rules adopted under 4206  
section 4731.301 of the Revised Code shall not remove or limit 4207  
the board's jurisdiction to take any disciplinary action under 4208  
this section against the individual. 4209

(4) At the request of the board, a license or certificate 4210  
holder shall immediately surrender to the board a license or 4211  
certificate that the board has suspended, revoked, or 4212  
permanently revoked. 4213

(N) Sanctions shall not be imposed under division (B) (28) 4214  
of this section against any person who waives deductibles and 4215  
copayments as follows: 4216



(1) In compliance with the health benefit plan that 4217  
expressly allows such a practice. Waiver of the deductibles or 4218  
copayments shall be made only with the full knowledge and 4219  
consent of the plan purchaser, payer, and third-party 4220  
administrator. Documentation of the consent shall be made 4221  
available to the board upon request. 4222

(2) For professional services rendered to any other person 4223  
authorized to practice pursuant to this chapter, to the extent 4224  
allowed by this chapter and rules adopted by the board. 4225

(O) Under the board's investigative duties described in 4226  
this section and subject to division (F) of this section, the 4227  
board shall develop and implement a quality intervention program 4228  
designed to improve through remedial education the clinical and 4229  
communication skills of individuals authorized under this 4230  
chapter to practice medicine and surgery, osteopathic medicine 4231  
and surgery, and podiatric medicine and surgery. In developing 4232  
and implementing the quality intervention program, the board may 4233  
do all of the following: 4234

(1) Offer in appropriate cases as determined by the board 4235  
an educational and assessment program pursuant to an 4236  
investigation the board conducts under this section; 4237

(2) Select providers of educational and assessment 4238  
services, including a quality intervention program panel of case 4239  
reviewers; 4240

(3) Make referrals to educational and assessment service 4241  
providers and approve individual educational programs 4242  
recommended by those providers. The board shall monitor the 4243  
progress of each individual undertaking a recommended individual 4244  
educational program. 4245

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

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

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

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

(Q) A license or certificate to practice or certificate to recommend issued to an individual under this chapter and an individual's practice under this chapter in this state are automatically suspended if the individual's license or certificate to practice a health care occupation or provide health care services is suspended, revoked, or surrendered or relinquished in lieu of discipline by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction. The automatic suspension shall begin immediately upon entry of the order by the agency and last for ninety days to permit the board to investigate the basis for the action under this chapter. Continued practice during the automatic suspension shall be considered practicing without a

license or certificate. 4276

The board shall notify the individual subject to the 4277  
automatic suspension by certified mail or in person in 4278  
accordance with section 119.07 of the Revised Code. If an 4279  
individual subject to an automatic suspension under this 4280  
division fails to make a timely request for an adjudication 4281  
under Chapter 119. of the Revised Code, the board is not 4282  
required to hold a hearing, but may adopt, by an affirmative 4283  
vote of not fewer than six of its members, a final order that 4284  
contains the board's findings. In that final order, the board 4285  
may order any of the sanctions identified under division (A) or 4286  
(B) of this section. 4287

**Sec. 4731.224.** (A) As used in this section: 4288

(1) "Criminal conduct" means any conduct that would 4289  
constitute a felony, a misdemeanor committed in the course of 4290  
medical practice, an offense of violence, or a sexually oriented 4291  
offense, as defined in section 2950.01 of the Revised Code, 4292  
regardless of whether a criminal charge has been filed or the 4293  
location in this state where the conduct occurred. 4294

(2) "Sexual misconduct" means conduct that exploits the 4295  
licensee-patient relationship in a sexual way, whether verbal or 4296  
physical, and may include the expression of thoughts, feelings, 4297  
or gestures that are sexual or that reasonably may be construed 4298  
by a patient as sexual. Sexual misconduct includes sexual 4299  
impropriety, sexual contact, and sexual interaction as defined 4300  
by the state medical board in rules adopted in accordance with 4301  
Chapter 119. of the Revised Code. 4302

(B) (1) Within ~~sixty~~-thirty days after the imposition of 4303  
any formal disciplinary action taken by any health care 4304

facility, including a hospital, health care facility operated by 4305  
a health insuring corporation, ambulatory surgical center, or 4306  
similar facility, against any individual holding a valid license 4307  
or certificate to practice issued pursuant to this chapter, the 4308  
chief administrator or executive officer of the facility shall 4309  
report to the state medical board the name of the individual, 4310  
the action taken by the facility, and a summary of the 4311  
underlying facts leading to the action taken. Upon request, the 4312  
board shall be provided certified copies of the patient records 4313  
that were the basis for the facility's action. Prior to release 4314  
to the board, the summary shall be approved by the peer review 4315  
committee that reviewed the case or by the governing board of 4316  
the facility. As used in this division, "formal disciplinary 4317  
action" means any action resulting in the revocation, 4318  
restriction, reduction, or termination of clinical privileges 4319  
for violations of professional ethics, or for reasons of medical 4320  
incompetence or medical malpractice. "Formal disciplinary 4321  
action" includes a summary action, an action that takes effect 4322  
notwithstanding any appeal rights that may exist, and an action 4323  
that results in an individual surrendering clinical privileges 4324  
while under investigation and during proceedings regarding the 4325  
action being taken or in return for not being investigated or 4326  
having proceedings held. "Formal disciplinary action" does not 4327  
include any action taken for the sole reason of failure to 4328  
maintain records on a timely basis or failure to attend staff or 4329  
section meetings. 4330

The filing or nonfiling of a report with the board, 4331  
investigation by the board, or any disciplinary action taken by 4332  
the board, shall not preclude any action by a health care 4333  
facility to suspend, restrict, or revoke the individual's 4334  
clinical privileges. 4335

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

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

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

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B) (26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the

board, it shall be referred to the monitoring organization 4366  
unless the board is aware that the individual who is the subject 4367  
of the report does not meet the program eligibility requirements 4368  
of section 4731.252 of the Revised Code. 4369

(3) If any individual authorized to practice under this 4370  
chapter or any professional association or society of such 4371  
individuals knows or has reasonable cause to suspect based on 4372  
facts that would cause a reasonable person in a similar position 4373  
to suspect that an individual authorized to practice under this 4374  
chapter has committed or participated in criminal conduct or 4375  
sexual misconduct the information upon which the belief is based 4376  
shall be reported to the board within thirty days. 4377

(4) In addition to the self-reporting of criminal offenses 4378  
that is required for license renewal, an individual authorized 4379  
to practice under this chapter shall report to the board 4380  
criminal charges regarding criminal conduct, sexual misconduct, 4381  
or any conduct involving the use of a motor vehicle while under 4382  
the influence of alcohol or drugs, including offenses that are 4383  
equivalent offenses under division (A) of section 4511.181 of 4384  
the Revised Code, violations of division (D) of section 4511.194 4385  
of the Revised Code, and violations of division (C) of section 4386  
4511.79 of the Revised Code. Reports under this division shall 4387  
be made within thirty days of the criminal charge being filed. 4388

~~(C)~~ (D) Any professional association or society composed 4389  
primarily of doctors of medicine and surgery, doctors of 4390  
osteopathic medicine and surgery, doctors of podiatric medicine 4391  
and surgery, or practitioners of limited branches of medicine 4392  
that suspends or revokes an individual's membership for 4393  
violations of professional ethics, or for reasons of 4394  
professional incompetence or professional malpractice, within 4395

~~sixty~~thirty days after a final decision shall report to the 4396  
board, on forms prescribed and provided by the board, the name 4397  
of the individual, the action taken by the professional 4398  
organization, and a summary of the underlying facts leading to 4399  
the action taken. 4400

The filing of a report with the board or decision not to 4401  
file a report, investigation by the board, or any disciplinary 4402  
action taken by the board, does not preclude a professional 4403  
organization from taking disciplinary action against an 4404  
individual. 4405

~~(D)~~(E) Any insurer providing professional liability 4406  
insurance to an individual authorized to practice under this 4407  
chapter, or any other entity that seeks to indemnify the 4408  
professional liability of such an individual, shall notify the 4409  
board within thirty days after the final disposition of any 4410  
written claim for damages where such disposition results in a 4411  
payment exceeding twenty-five thousand dollars. The notice shall 4412  
contain the following information: 4413

(1) The name and address of the person submitting the 4414  
notification; 4415

(2) The name and address of the insured who is the subject 4416  
of the claim; 4417

(3) The name of the person filing the written claim; 4418

(4) The date of final disposition; 4419

(5) If applicable, the identity of the court in which the 4420  
final disposition of the claim took place. 4421

~~(E)~~(F) The board may investigate possible violations of 4422  
this chapter or the rules adopted under it that are brought to 4423

its attention as a result of the reporting requirements of this 4424  
section, except that the board shall conduct an investigation if 4425  
a possible violation involves repeated malpractice. As used in 4426  
this division, "repeated malpractice" means three or more claims 4427  
for medical malpractice within the previous five-year period, 4428  
each resulting in a judgment or settlement in excess of twenty- 4429  
five thousand dollars in favor of the claimant, and each 4430  
involving negligent conduct by the practicing individual. 4431

~~(F)-(G) All summaries, reports, and records received and 4432  
maintained by the board pursuant to this section shall be held- 4433  
in confidence and shall not be subject to discovery or 4434  
introduction in evidence in any federal or state civil action- 4435  
involving a health care professional or facility arising out of 4436  
matters that are the subject of the reporting required by this- 4437  
section. The board may use the information obtained only as the 4438  
basis for an investigation, as evidence in a disciplinary 4439  
hearing against an individual whose practice is regulated under 4440  
this chapter, or in any subsequent trial or appeal of a board- 4441  
action or order. 4442~~

~~The board may disclose the summaries and reports it 4443  
receives under this section only to health care facility 4444  
committees within or outside this state that are involved in 4445  
credentialing or recredentialing the individual or in reviewing 4446  
the individual's clinical privileges. The board shall indicate 4447  
whether or not the information has been verified. Information 4448  
transmitted by the board shall be subject to the same 4449  
confidentiality provisions as when maintained by the 4450  
board confidential pursuant to division (F) (5) of section 4731.22 4451  
of the Revised Code. 4452~~

~~(G)-(H) Except for reports filed by an individual pursuant 4453~~



to division ~~(B)~~(B) (2) or (C) of this section, the board shall 4454  
send a copy of any reports or summaries it receives pursuant to 4455  
this section to the individual who is the subject of the reports 4456  
or summaries. The individual shall have the right to file a 4457  
statement with the board concerning the correctness or relevance 4458  
of the information. The statement shall at all times accompany 4459  
that part of the record in contention. 4460

~~(H)~~(I) An individual or entity that, pursuant to this 4461  
section, reports to the board, reports to the monitoring 4462  
organization described in section 4731.251 of the Revised Code, 4463  
or refers an impaired practitioner to a treatment provider 4464  
approved by the board under section 4731.25 of the Revised Code 4465  
shall not be subject to suit for civil damages as a result of 4466  
the report, referral, or provision of the information. 4467

~~(I)~~(J) In the absence of fraud or bad faith, no 4468  
professional association or society of individuals authorized to 4469  
practice under this chapter that sponsors a committee or program 4470  
to provide peer assistance to practitioners with substance abuse 4471  
problems, no representative or agent of such a committee or 4472  
program, no representative or agent of the monitoring 4473  
organization described in section 4731.251 of the Revised Code, 4474  
and no member of the state medical board shall be held liable in 4475  
damages to any person by reason of actions taken to refer a 4476  
practitioner to a treatment provider approved under section 4477  
4731.25 of the Revised Code for examination or treatment. 4478

**Sec. 4731.2210. (A) As used in this section:** 4479

(1) "Key third party" means an individual closely involved 4480  
in a patient's decision-making regarding health care services, 4481  
including a patient's spouse or partner, parents, children, 4482  
siblings, or guardians. An individual's status as a key third 4483

party ceases upon termination of a practitioner-patient 4484  
relationship or termination of the relationship between a 4485  
patient and the individual. 4486

(2) "Practitioner" means any of the following: 4487

(a) An individual authorized under this chapter to 4488  
practice medicine and surgery, osteopathic medicine and surgery, 4489  
podiatric medicine and surgery, or a limited branch of medicine; 4490

(b) An individual licensed under Chapter 4730. of the 4491  
Revised Code to practice as a physician assistant; 4492

(c) An individual authorized under Chapter 4759. of the 4493  
Revised Code to practice as a dietitian; 4494

(d) An individual authorized under Chapter 4760. of the 4495  
Revised Code to practice as an anesthesiologist assistant; 4496

(e) An individual authorized under Chapter 4761. of the 4497  
Revised Code to practice respiratory care; 4498

(f) An individual authorized under Chapter 4762. of the 4499  
Revised Code to practice as an acupuncturist or oriental 4500  
medicine practitioner; 4501

(g) An individual authorized under Chapter 4774. of the 4502  
Revised Code to practice as a radiologist assistant; 4503

(h) An individual licensed under Chapter 4778. of the 4504  
Revised Code to practice as a genetic counselor. 4505

(3) "Sexual misconduct" has the same meaning as in section 4506  
4731.224 of the Revised Code. 4507

(B) Except as provided in division (D) of this section, 4508  
each practitioner that is subject to a probationary order of the 4509  
state medical board that is made on or after the effective date 4510

of this section and that involves a circumstance described in 4511  
division (C) of this section shall provide to each patient, or 4512  
to the patient's guardian or a key third party, a written 4513  
disclosure signed by the practitioner that includes all of the 4514  
following: 4515

(1) The practitioner's probation status; 4516

(2) The total length of the probation; 4517

(3) The probation end date; 4518

(4) Practice restrictions placed on the practitioner by 4519  
the board; 4520

(5) The board's telephone number; 4521

(6) An explanation of how the patient can find additional 4522  
information regarding the probation on the practitioner's 4523  
profile page on the board's internet web site. 4524

The written disclosure shall be provided before the 4525  
patient's first visit following the probationary order of the 4526  
board. The practitioner shall obtain a copy of the disclosure 4527  
signed by the patient, or the patient's guardian or a key third 4528  
party, and maintain the signed copy in the patient's medical 4529  
record. The signed copy shall be made available to the board 4530  
immediately upon request. 4531

(C) The written disclosure required by division (B) of 4532  
this section applies in both of the following circumstances: 4533

(1) Issuance by the board of a final order, final 4534  
adjudicative order under Chapter 119. of the Revised Code, or a 4535  
consent agreement that is ratified by an affirmative vote of not 4536  
fewer than six members of the board establishing any of the 4537  
following: 4538

(a) Commission of any act of sexual misconduct with a patient or key third party; 4539  
4540

(b) Drug or alcohol abuse directly resulting in patient harm, or that impairs the ability of the practitioner to practice safely; 4541  
4542  
4543

(c) Criminal conviction directly resulting in harm to patient health; 4544  
4545

(d) Inappropriate prescribing directly resulting in patient harm. 4546  
4547

(2) A statement of issues alleged that the practitioner committed any of the acts described in divisions (C) (1) (a) through (d) and, notwithstanding a lack of admission of guilt, a consent agreement ratified by an affirmative vote of not fewer than six members of the board includes express acknowledgement that the disclosure requirements of this section would serve to protect the public interest. 4548  
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(D) Written disclosure as described in this section is not required in the following circumstances: 4555  
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(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign it, and a guardian or a key third party is unavailable to comprehend and sign it; 4557  
4558  
4559

(2) The direct patient interaction occurs in an emergency department or otherwise occurs as an immediate result of a medical emergency; 4560  
4561  
4562

(3) The practitioner does not have a direct treatment relationship with the patient and does not have direct contact or direct communication with the patient. 4563  
4564  
4565

(E) The board shall provide the following information 4566

regarding practitioners on probation and those practicing under 4567  
probationary status, in plain view on a practitioner's profile 4568  
page on the board's internet web site: 4569

(1) Formal action documents detailing the citation, 4570  
reports and recommendations, board order, and consent agreement; 4571

(2) The length of the probation and the end date; 4572

(3) Practice restrictions placed on the practitioner by 4573  
the board. 4574

(F) The board shall provide a sample probation disclosure 4575  
letter on its internet web site to be used by practitioners to 4576  
comply with this section. 4577

**Sec. 4731.251.** (A) As used in this section and in sections 4578  
4731.252 and 4731.253 of the Revised Code: 4579

(1) "Impaired" or "impairment" has the same meaning as in 4580  
division (B) (5) of section 4730.25, division (B) (26) of section 4581  
4731.22, division (A) (18) of section 4759.07, division (B) (6) of 4582  
section 4760.13, division (A) (18) of section 4761.09, division 4583  
(B) (6) of section 4762.13, division (B) (6) of section 4774.13, 4584  
or division (B) (6) of section 4778.14 of the Revised Code. 4585

(2) "Practitioner" means any of the following: 4586

(a) An individual authorized under this chapter to 4587  
practice medicine and surgery, osteopathic medicine and surgery, 4588  
podiatric medicine and surgery, or a limited branch of medicine; 4589

(b) An individual licensed under Chapter 4730. of the 4590  
Revised Code to practice as a physician assistant; 4591

(c) An individual authorized under Chapter 4759. of the 4592  
Revised Code to practice as a dietitian; 4593

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;	4594 4595
(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;	4596 4597
(f) An individual authorized under Chapter 4762. of the Revised Code to practice as an acupuncturist or oriental medicine practitioner;	4598 4599 4600
(g) An individual authorized under Chapter 4774. of the Revised Code to practice as a radiologist assistant;	4601 4602
(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.	4603 4604
(B) The state medical board shall establish a confidential program for treatment of impaired practitioners, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services.	4605 4606 4607 4608 4609
To be qualified to contract with the board under this section, an organization must meet all of the following requirements:	4610 4611 4612
(1) Be sponsored by one or more professional associations or societies of practitioners;	4613 4614
(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;	4615 4616 4617
(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in	4618 4619 4620 4621

addiction medicine; 4622

(4) Contract with or employ one or more of the following 4623  
as necessary for the organization's operation: 4624

(a) An individual licensed under Chapter 4758. of the 4625  
Revised Code as an independent chemical dependency counselor- 4626  
clinical supervisor, independent chemical dependency counselor, 4627  
chemical dependency counselor III, or chemical dependency 4628  
counselor II; 4629

(b) An individual licensed under Chapter 4757. of the 4630  
Revised Code as an independent social worker, social worker, 4631  
licensed professional clinical counselor, or licensed 4632  
professional counselor; 4633

(c) An individual licensed under Chapter 4732. of the 4634  
Revised Code as a psychologist. 4635

(C) The monitoring organization shall do all of the 4636  
following pursuant to the contract: 4637

(1) Receive any report of suspected impairment, including 4638  
a report made under division ~~(B) (2)~~ (C) (2) of section 4730.32, 4639  
division ~~(B) (2)~~ (C) (2) of section 4731.224, section 4759.13, 4640  
division ~~(B) (2)~~ (C) (2) of section 4760.16, section 4761.19, 4641  
division ~~(B) (2)~~ (C) (2) of section 4762.16, division ~~(B) (2)~~ (C) 4642  
(2) of section 4774.16, or section 4778.17 of the Revised Code; 4643

(2) Notify a practitioner who is the subject of a report 4644  
received under division (C) (1) of this section that the report 4645  
has been made and that the practitioner may be eligible to 4646  
participate in the program conducted under this section; 4647

(3) Determine whether a practitioner reported to the 4648  
monitoring organization is eligible to participate in the 4649

program and notify the practitioner of the determination; 4650

(4) In the case of a practitioner reported by a treatment 4651  
provider, notify the treatment provider of the eligibility 4652  
determination; 4653

(5) Report to the board any practitioner who is determined 4654  
ineligible to participate in the program; 4655

(6) Refer an eligible practitioner who chooses to 4656  
participate in the program for evaluation by a treatment 4657  
provider approved by the board under section 4731.25 of the 4658  
Revised Code, unless the report received by the monitoring 4659  
organization was made by an approved treatment provider and the 4660  
practitioner has already been evaluated by the treatment 4661  
provider; 4662

(7) Monitor the evaluation of an eligible practitioner; 4663

(8) Refer an eligible practitioner who chooses to 4664  
participate in the program to a treatment provider approved by 4665  
the board under section 4731.25 of the Revised Code; 4666

(9) Establish, in consultation with the treatment provider 4667  
to which a practitioner is referred, the terms and conditions 4668  
with which the practitioner must comply for continued 4669  
participation in and successful completion of the program; 4670

(10) Report to the board any practitioner who does not 4671  
complete evaluation or treatment or does not comply with any of 4672  
the terms and conditions established by the monitoring 4673  
organization and the treatment provider; 4674

(11) Perform any other activities specified in the 4675  
contract with the board or that the monitoring organization 4676  
considers necessary to comply with this section and sections 4677



4731.252 and 4731.253 of the Revised Code. 4678

(D) The monitoring organization shall not disclose to the 4679  
board the name of a practitioner or any records relating to a 4680  
practitioner, unless any of the following occurs: 4681

(1) The practitioner is determined to be ineligible to 4682  
participate in the program. 4683

(2) The practitioner requests the disclosure. 4684

(3) The practitioner is unwilling or unable to complete or 4685  
comply with any part of the program, including evaluation, 4686  
treatment, or monitoring. 4687

(4) The practitioner presents an imminent danger to the 4688  
public or to the practitioner, as a result of the practitioner's 4689  
impairment. 4690

(5) The practitioner has relapsed or the practitioner's 4691  
impairment has not been substantially alleviated by 4692  
participation in the program. 4693

(E) (1) The monitoring organization shall develop 4694  
procedures governing each of the following: 4695

(a) Receiving reports of practitioner impairment; 4696

(b) Notifying practitioners of reports and eligibility 4697  
determinations; 4698

(c) Referring eligible practitioners for evaluation or 4699  
treatment; 4700

(d) Establishing individualized treatment plans for 4701  
eligible practitioners, as recommended by treatment providers; 4702

(e) Establishing individualized terms and conditions with 4703  
which eligible practitioners must comply for continued 4704

participation in and successful completion of the program. 4705

(2) The monitoring organization, in consultation with the 4706  
board, shall develop procedures governing each of the following: 4707

(a) Providing reports to the board on a periodic basis on 4708  
the total number of practitioners participating in the program, 4709  
without disclosing the names or records of any program 4710  
participants other than those about whom reports are required by 4711  
this section; 4712

(b) Reporting to the board any practitioner who due to 4713  
impairment presents an imminent danger to the public or to the 4714  
practitioner; 4715

(c) Reporting to the board any practitioner who is 4716  
unwilling or unable to complete or comply with any part of the 4717  
program, including evaluation, treatment, or monitoring; 4718

(d) Reporting to the board any practitioner whose 4719  
impairment was not substantially alleviated by participation in 4720  
the program or who has relapsed. 4721

(F) The board may adopt any rules it considers necessary 4722  
to implement this section and sections 4731.252 and 4731.253 of 4723  
the Revised Code, including rules regarding the monitoring 4724  
organization and treatment providers that provide treatment to 4725  
practitioners referred by the monitoring organization. Any such 4726  
rules shall be adopted in accordance with Chapter 119. of the 4727  
Revised Code. 4728

**Sec. 4731.99.** (A) Whoever violates section 4731.41, 4729  
4731.43, or 4731.60 of the Revised Code is guilty of a felony of 4730  
the fifth degree on a first offense and a felony of the fourth 4731  
degree on each subsequent offense. 4732

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 4733  
of the Revised Code is guilty of a misdemeanor of the fourth 4734  
degree on a first offense and a misdemeanor of the first degree 4735  
on each subsequent offense. 4736

(C) Whoever violates section 4731.46 or 4731.47 of the 4737  
Revised Code is guilty of a felony of the fifth degree. 4738

(D) Whoever violates section 4731.48 of the Revised Code 4739  
is guilty of a misdemeanor of the fourth degree. 4740

~~(E)~~ (E) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 4741  
(1), ~~or (C) (2)~~, (D), or (E) of section 4731.224 of the Revised 4742  
Code is guilty of a minor misdemeanor on a first offense and a 4743  
misdemeanor of the fourth degree on each subsequent offense, 4744  
except that an individual guilty of a subsequent offense shall 4745  
not be subject to imprisonment, but to a fine alone of up to one 4746  
thousand dollars for each offense. 4747

(2) Whoever violates division (B) (2) or (C) (3) of section 4748  
4731.224 of the Revised Code is guilty of failure to report 4749  
criminal conduct or sexual misconduct, a misdemeanor of the 4750  
fourth degree. If the offender has previously been convicted of 4751  
a violation of this division, the failure to report is a 4752  
misdemeanor of the first degree. 4753

(F) Whoever violates section 4731.481 of the Revised Code 4754  
is guilty of a misdemeanor of the first degree. 4755

(G) Whoever violates division (F) (5) of section 4731.22 of 4756  
the Revised Code is guilty of disclosing confidential 4757  
investigatory information, a misdemeanor of the first degree. 4758

**Sec. 4759.05.** (A) The state medical board shall adopt, 4759  
amend, or rescind rules pursuant to Chapter 119. of the Revised 4760  
Code to carry out the provisions of this chapter, including 4761

rules governing the following:	4762
(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration or any other examination;	4763 4764 4765
(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;	4766 4767 4768
(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;	4769 4770 4771 4772
(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;	4773 4774 4775 4776
(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.	4777 4778 4779 4780 4781 4782 4783 4784
(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;	4785 4786 4787 4788
(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with	4789 4790

those standards of professional responsibility and practice 4791  
adopted by the academy of nutrition and dietetics; 4792

(8) Formulation of an application form for licensure or 4793  
license renewal; 4794

(9) Procedures for license renewal; 4795

(10) Requirements for criminal records checks of 4796  
applicants under section 4776.03 of the Revised Code. 4797

(B) (1) The board shall investigate evidence that appears 4798  
to show that a person has violated any provision of this chapter 4799  
or any rule adopted under it. Any person may report to the board 4800  
in a signed writing any information that the person may have 4801  
that appears to show a violation of any provision of this 4802  
chapter or any rule adopted under it. In the absence of bad 4803  
faith, any person who reports information of that nature or who 4804  
testifies before the board in any adjudication conducted under 4805  
Chapter 119. of the Revised Code shall not be liable in damages 4806  
in a civil action as a result of the report or testimony. Each 4807  
complaint or allegation of a violation received by the board 4808  
shall be assigned a case number and shall be recorded by the 4809  
board. 4810

(2) Investigations of alleged violations of this chapter 4811  
or any rule adopted under it shall be supervised by the 4812  
supervising member elected by the board in accordance with 4813  
section 4731.02 of the Revised Code and by the secretary as 4814  
provided in section 4759.012 of the Revised Code. The president 4815  
may designate another member of the board to supervise the 4816  
investigation in place of the supervising member. Upon a vote of 4817  
the majority of the board to authorize the addition of a 4818  
consumer member in the supervision of any part of any 4819

investigation, the president shall designate a consumer member 4820  
for supervision of investigations as determined by the 4821  
president. The authorization of consumer member participation in 4822  
investigation supervision may be rescinded by a majority vote of 4823  
the board. No member of the board who supervises the 4824  
investigation of a case shall participate in further 4825  
adjudication of the case. 4826

(3) In investigating a possible violation of this chapter 4827  
or any rule adopted under this chapter, the board may issue 4828  
subpoenas, question witnesses, conduct interviews, administer 4829  
oaths, order the taking of depositions, inspect and copy any 4830  
books, accounts, papers, records, or documents, and compel the 4831  
attendance of witnesses and the production of books, accounts, 4832  
papers, records, documents, and testimony, except that a 4833  
subpoena for patient record information or information, 4834  
documents, and records from a peer review committee of a health 4835  
care entity related to sexual misconduct or criminal conduct 4836  
shall not be issued without consultation with the attorney 4837  
general's office and approval of the secretary and supervising 4838  
member of the board. 4839

Before issuance of a subpoena for patient record 4840  
information or information, documents, and records from a peer 4841  
review committee of a health care entity related to sexual 4842  
misconduct or criminal conduct, the secretary and supervising 4843  
member shall determine whether there is probable cause to 4844  
believe that the complaint filed alleges a violation of this 4845  
chapter or any rule adopted under it and that the records sought 4846  
are relevant to the alleged violation and material to the 4847  
investigation. The subpoena may apply only to records that cover 4848  
a reasonable period of time surrounding the alleged violation. 4849

On failure to comply with any subpoena issued by the board 4850  
and after reasonable notice to the person being subpoenaed, the 4851  
board may move for an order compelling the production of persons 4852  
or records pursuant to the Rules of Civil Procedure. 4853

A subpoena issued by the board may be served by a sheriff, 4854  
the sheriff's deputy, or a board employee or agent designated by 4855  
the board. Service of a subpoena issued by the board may be made 4856  
by delivering a copy of the subpoena to the person named 4857  
therein, reading it to the person, or leaving it at the person's 4858  
usual place of residence, usual place of business, or address on 4859  
file with the board. When serving a subpoena to an applicant for 4860  
or the holder of a license or limited permit issued under this 4861  
chapter, service of the subpoena may be made by certified mail, 4862  
return receipt requested, and the subpoena shall be deemed 4863  
served on the date delivery is made or the date the person 4864  
refuses to accept delivery. If the person being served refuses 4865  
to accept the subpoena or is not located, service may be made to 4866  
an attorney who notifies the board that the attorney is 4867  
representing the person. 4868

A sheriff's deputy who serves a subpoena shall receive the 4869  
same fees as a sheriff. Each witness who appears before the 4870  
board in obedience to a subpoena shall receive the fees and 4871  
mileage provided for under section 119.094 of the Revised Code. 4872

(4) All For purposes of section 2305.252 of the Revised 4873  
Code, all hearings, investigations, and inspections of the board 4874  
shall be considered civil actions ~~for the purposes of section~~ 4875  
~~2305.252 of the Revised Code, except those involving allegations~~ 4876  
of sexual misconduct or criminal conduct, as defined in that 4877  
section. 4878

(5) A report required to be submitted to the board under 4879

this chapter, a complaint, or information received by the board 4880  
pursuant to an investigation is confidential and not subject to 4881  
discovery in any civil action. 4882

The board shall conduct all investigations or inspections 4883  
and proceedings in a manner that protects the confidentiality of 4884  
patients and persons who file complaints with the board. The 4885  
board shall not make public the names or any other identifying 4886  
information about patients or complainants unless proper consent 4887  
is given. 4888

The board may share any information it receives pursuant 4889  
to an investigation or inspection, including patient records and 4890  
patient record information, with law enforcement agencies, other 4891  
licensing boards, and other governmental agencies that are 4892  
prosecuting, adjudicating, or investigating alleged violations 4893  
of statutes or administrative rules. An agency or board that 4894  
receives the information shall comply with the same requirements 4895  
regarding confidentiality as those with which the state medical 4896  
board must comply, notwithstanding any conflicting provision of 4897  
the Revised Code or procedure of the agency or board that 4898  
applies when it is dealing with other information in its 4899  
possession. In a judicial proceeding, the information may be 4900  
admitted into evidence only in accordance with the Rules of 4901  
Evidence, but the court shall require that appropriate measures 4902  
are taken to ensure that confidentiality is maintained with 4903  
respect to any part of the information that contains names or 4904  
other identifying information about patients or complainants 4905  
whose confidentiality was protected by the state medical board 4906  
when the information was in the board's possession. Measures to 4907  
ensure confidentiality that may be taken by the court include 4908  
sealing its records or deleting specific information from its 4909  
records. 4910



No person shall knowingly access, use, or disclose 4911  
confidential investigatory information in a manner prohibited by 4912  
law. 4913

(6) On a quarterly basis, the board shall prepare a report 4914  
that documents the disposition of all cases during the preceding 4915  
three months. The report shall contain the following information 4916  
for each case with which the board has completed its activities: 4917

(a) The case number assigned to the complaint or alleged 4918  
violation; 4919

(b) The type of license, if any, held by the individual 4920  
against whom the complaint is directed; 4921

(c) A description of the allegations contained in the 4922  
complaint; 4923

(d) Whether witnesses were interviewed; 4924

(e) Whether the individual against whom the complaint is 4925  
directed is the subject of any pending complaints; 4926

(f) The disposition of the case. 4927

The report shall state how many cases are still pending 4928  
and shall be prepared in a manner that protects the identity of 4929  
each person involved in each case. The report shall be a public 4930  
record under section 149.43 of the Revised Code. 4931

(7) The board may provide a status update regarding an 4932  
investigation to a complainant on request if the board verifies 4933  
the complainant's identity. 4934

(C) The board shall keep records as are necessary to carry 4935  
out the provisions of this chapter. 4936

(D) The board shall maintain and publish on its internet 4937

web site the board's rules and requirements for licensure 4938  
adopted under division (A) of this section. 4939

**Sec. 4759.07.** (A) The state medical board, by an 4940  
affirmative vote of not fewer than six members, shall, except as 4941  
provided in division (B) of this section, and to the extent 4942  
permitted by law, limit, revoke, or suspend an individual's 4943  
license or limited permit, refuse to issue a license or limited 4944  
permit to an individual, refuse to renew a license or limited 4945  
permit, refuse to reinstate a license or limited permit, or 4946  
reprimand or place on probation the holder of a license or 4947  
limited permit for one or more of the following reasons: 4948

(1) Except when civil penalties are imposed under section 4949  
4759.071 of the Revised Code, violating or attempting to 4950  
violate, directly or indirectly, or assisting in or abetting the 4951  
violation of, or conspiring to violate, any provision of this 4952  
chapter or the rules adopted by the board; 4953

(2) Making a false, fraudulent, deceptive, or misleading 4954  
statement in the solicitation of or advertising for patients; in 4955  
relation to the practice of dietetics; or in securing or 4956  
attempting to secure any license or permit issued by the board 4957  
under this chapter. 4958

As used in division (A) (2) of this section, "false, 4959  
fraudulent, deceptive, or misleading statement" means a 4960  
statement that includes a misrepresentation of fact, is likely 4961  
to mislead or deceive because of a failure to disclose material 4962  
facts, is intended or is likely to create false or unjustified 4963  
expectations of favorable results, or includes representations 4964  
or implications that in reasonable probability will cause an 4965  
ordinarily prudent person to misunderstand or be deceived. 4966

- (3) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;
- (4) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;
- (5) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;
- (6) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;
- (7) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;
- (8) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;
- (9) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;
- (10) A record of engaging in incompetent or negligent conduct in the practice of dietetics;
- (11) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient

is established;	4995
(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	4996 4997 4998
(13) Violation of the conditions of limitation placed by the board on a license or permit;	4999 5000
(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, physical deterioration that adversely affects cognitive, motor, or perceptive skills;	5001 5002 5003 5004
(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	5005 5006 5007 5008 5009 5010 5011 5012 5013 5014
(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;	5015 5016 5017
(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A) (11), (12), or (14) of this section;	5018 5019 5020 5021 5022
(18) Impairment of ability to practice according to	5023

acceptable and prevailing standards of care because of habitual 5024  
or excessive use or abuse of drugs, alcohol, or other substances 5025  
that impair ability to practice; 5026

(19) Failure to cooperate in an investigation conducted by 5027  
the board under division (B) of section 4759.05 of the Revised 5028  
Code, including failure to comply with a subpoena or order 5029  
issued by the board or failure to answer truthfully a question 5030  
presented by the board in an investigative interview, an 5031  
investigative office conference, at a deposition, or in written 5032  
interrogatories, except that failure to cooperate with an 5033  
investigation shall not constitute grounds for discipline under 5034  
this section if a court of competent jurisdiction has issued an 5035  
order that either quashes a subpoena or permits the individual 5036  
to withhold the testimony or evidence in issue; 5037

(20) Representing with the purpose of obtaining 5038  
compensation or other advantage as personal gain or for any 5039  
other person, that an incurable disease or injury, or other 5040  
incurable condition, can be permanently cured. 5041

(B) The board shall not refuse to issue a license or 5042  
limited permit to an applicant because of a plea of guilty to, a 5043  
judicial finding of guilt of, or a judicial finding of 5044  
eligibility for intervention in lieu of conviction for an 5045  
offense unless the refusal is in accordance with section 9.79 of 5046  
the Revised Code. 5047

(C) Any action taken by the board under division (A) of 5048  
this section resulting in a suspension from practice shall be 5049  
accompanied by a written statement of the conditions under which 5050  
the individual's license or permit may be reinstated. The board 5051  
shall adopt rules governing conditions to be imposed for 5052  
reinstatement. Reinstatement of a license or permit suspended 5053

pursuant to division (A) of this section requires an affirmative 5054  
vote of not fewer than six members of the board. 5055

(D) When the board refuses to grant or issue a license or 5056  
permit to an applicant, revokes an individual's license or 5057  
permit, refuses to renew an individual's license or permit, or 5058  
refuses to reinstate an individual's license or permit, the 5059  
board may specify that its action is permanent. An individual 5060  
subject to a permanent action taken by the board is forever 5061  
thereafter ineligible to hold a license or permit and the board 5062  
shall not accept an application for reinstatement of the license 5063  
or permit or for issuance of a new license or permit. 5064

(E) Disciplinary actions taken by the board under division 5065  
(A) of this section shall be taken pursuant to an adjudication 5066  
under Chapter 119. of the Revised Code, except that in lieu of 5067  
an adjudication, the board may enter into a consent agreement 5068  
with an individual to resolve an allegation of a violation of 5069  
this chapter or any rule adopted under it. A consent agreement, 5070  
when ratified by an affirmative vote of not fewer than six 5071  
members of the board, shall constitute the findings and order of 5072  
the board with respect to the matter addressed in the agreement. 5073  
If the board refuses to ratify a consent agreement, the 5074  
admissions and findings contained in the consent agreement shall 5075  
be of no force or effect. 5076

A telephone conference call may be utilized for 5077  
ratification of a consent agreement that revokes or suspends an 5078  
individual's license or permit. The telephone conference call 5079  
shall be considered a special meeting under division (F) of 5080  
section 121.22 of the Revised Code. 5081

(F) In enforcing division (A)(14) of this section, the 5082  
board, upon a showing of a possible violation, may compel any 5083

individual authorized to practice by this chapter or who has 5084  
submitted an application pursuant to this chapter to submit to a 5085  
mental examination, physical examination, including an HIV test, 5086  
or both a mental and a physical examination. The expense of the 5087  
examination is the responsibility of the individual compelled to 5088  
be examined. Failure to submit to a mental or physical 5089  
examination or consent to an HIV test ordered by the board 5090  
constitutes an admission of the allegations against the 5091  
individual unless the failure is due to circumstances beyond the 5092  
individual's control, and a default and final order may be 5093  
entered without the taking of testimony or presentation of 5094  
evidence. If the board finds an individual unable to practice 5095  
because of the reasons set forth in division (A)(14) of this 5096  
section, the board shall require the individual to submit to 5097  
care, counseling, or treatment by physicians approved or 5098  
designated by the board, as a condition for initial, continued, 5099  
reinstated, or renewed authority to practice. An individual 5100  
affected under this division shall be afforded an opportunity to 5101  
demonstrate to the board the ability to resume practice in 5102  
compliance with acceptable and prevailing standards under the 5103  
provisions of the individual's license or permit. For the 5104  
purpose of division (A)(14) of this section, any individual who 5105  
applies for or receives a license or permit under this chapter 5106  
accepts the privilege of practicing in this state and, by so 5107  
doing, shall be deemed to have given consent to submit to a 5108  
mental or physical examination when directed to do so in writing 5109  
by the board, and to have waived all objections to the 5110  
admissibility of testimony or examination reports that 5111  
constitute a privileged communication. 5112

(G) For the purposes of division (A)(18) of this section, 5113  
any individual authorized to practice by this chapter accepts 5114

the privilege of practicing in this state subject to supervision 5115  
by the board. By filing an application for or holding a license 5116  
or permit under this chapter, an individual shall be deemed to 5117  
have given consent to submit to a mental or physical examination 5118  
when ordered to do so by the board in writing, and to have 5119  
waived all objections to the admissibility of testimony or 5120  
examination reports that constitute privileged communications. 5121

If it has reason to believe that any individual authorized 5122  
to practice by this chapter or any applicant for a license or 5123  
permit suffers such impairment, the board may compel the 5124  
individual to submit to a mental or physical examination, or 5125  
both. The expense of the examination is the responsibility of 5126  
the individual compelled to be examined. Any mental or physical 5127  
examination required under this division shall be undertaken by 5128  
a treatment provider or physician who is qualified to conduct 5129  
the examination and who is chosen by the board. 5130

Failure to submit to a mental or physical examination 5131  
ordered by the board constitutes an admission of the allegations 5132  
against the individual unless the failure is due to 5133  
circumstances beyond the individual's control, and a default and 5134  
final order may be entered without the taking of testimony or 5135  
presentation of evidence. If the board determines that the 5136  
individual's ability to practice is impaired, the board shall 5137  
suspend the individual's license or permit or deny the 5138  
individual's application and shall require the individual, as a 5139  
condition for an initial, continued, reinstated, or renewed 5140  
license or permit, to submit to treatment. 5141

Before being eligible to apply for reinstatement of a 5142  
license or permit suspended under this division, the impaired 5143  
practitioner shall demonstrate to the board the ability to 5144



resume practice in compliance with acceptable and prevailing 5145  
standards of care under the provisions of the practitioner's 5146  
license or permit. The demonstration shall include, but shall 5147  
not be limited to, the following: 5148

(1) Certification from a treatment provider approved under 5149  
section 4731.25 of the Revised Code that the individual has 5150  
successfully completed any required inpatient treatment; 5151

(2) Evidence of continuing full compliance with an 5152  
aftercare contract or consent agreement; 5153

(3) Two written reports indicating that the individual's 5154  
ability to practice has been assessed and that the individual 5155  
has been found capable of practicing according to acceptable and 5156  
prevailing standards of care. The reports shall be made by 5157  
individuals or providers approved by the board for making the 5158  
assessments and shall describe the basis for their 5159  
determination. 5160

The board may reinstate a license or permit suspended 5161  
under this division after that demonstration and after the 5162  
individual has entered into a written consent agreement. 5163

When the impaired practitioner resumes practice, the board 5164  
shall require continued monitoring of the individual. The 5165  
monitoring shall include, but not be limited to, compliance with 5166  
the written consent agreement entered into before reinstatement 5167  
or with conditions imposed by board order after a hearing, and, 5168  
upon termination of the consent agreement, submission to the 5169  
board for at least two years of annual written progress reports 5170  
made under penalty of perjury stating whether the individual has 5171  
maintained sobriety. 5172

~~(H)~~ (H) (1) If either of the following circumstances occur, 5173

the secretary and supervising member ~~determine both of the~~ 5174  
~~following, they may~~ recommend that the board suspend an 5175  
individual's license or permit without a prior hearing: 5176

~~(1)~~ (a) The secretary and supervising member determine 5177  
both of the following: 5178

(i) That there is clear and convincing evidence that an 5179  
individual has violated division (A) of this section; 5180

~~(2)~~ (ii) That the individual's continued practice presents 5181  
a danger of immediate and serious harm to the public. 5182

(b) The board receives verifiable information that a 5183  
licensee has been charged in any state or federal court for a 5184  
crime classified as a felony under the charging court's law and 5185  
the conduct charged constitutes a violation of division (A) of 5186  
this section. 5187

~~Written~~ (2) If a recommendation is made to suspend without 5188  
a prior hearing pursuant to division (H) (1) of this section, 5189  
written allegations shall be prepared for consideration by the 5190  
board. The board, upon review of those allegations and by an 5191  
affirmative vote of not fewer than six of its members, excluding 5192  
the secretary and supervising member, may suspend a license or 5193  
permit without a prior hearing. A telephone conference call may 5194  
be utilized for reviewing the allegations and taking the vote on 5195  
the summary suspension. 5196

The board shall issue a written order of suspension by 5197  
certified mail or in person in accordance with section 119.07 of 5198  
the Revised Code. The order shall not be subject to suspension 5199  
by the court during pendency of any appeal filed under section 5200  
119.12 of the Revised Code. If the individual subject to the 5201  
summary suspension requests an adjudicatory hearing by the 5202

board, the date set for the hearing shall be within fifteen 5203  
days, but not earlier than seven days, after the individual 5204  
requests the hearing, unless otherwise agreed to by both the 5205  
board and the individual. 5206

(3) Any summary suspension imposed under this division 5207  
shall remain in effect, unless reversed on appeal, until a final 5208  
adjudicative order issued by the board pursuant to this section 5209  
and Chapter 119. of the Revised Code becomes effective. The 5210  
board shall issue its final adjudicative order within seventy- 5211  
five days after completion of its hearing. A failure to issue 5212  
the order within seventy-five days shall result in dissolution 5213  
of the summary suspension order but shall not invalidate any 5214  
subsequent, final adjudicative order. 5215

(I) If the board is required by Chapter 119. of the 5216  
Revised Code to give notice of an opportunity for a hearing and 5217  
if the individual subject to the notice does not timely request 5218  
a hearing in accordance with section 119.07 of the Revised Code, 5219  
the board is not required to hold a hearing, but may adopt, by 5220  
an affirmative vote of not fewer than six of its members, a 5221  
final order that contains the board's findings. In the final 5222  
order, the board may order any of the sanctions identified under 5223  
division (A) of this section. 5224

(J) For purposes of divisions (A) (5), (7), and (9) of this 5225  
section, the commission of the act may be established by a 5226  
finding by the board, pursuant to an adjudication under Chapter 5227  
119. of the Revised Code, that the individual committed the act. 5228  
The board does not have jurisdiction under those divisions if 5229  
the trial court renders a final judgment in the individual's 5230  
favor and that judgment is based upon an adjudication on the 5231  
merits. The board has jurisdiction under those divisions if the 5232

trial court issues an order of dismissal upon technical or 5233  
procedural grounds. 5234

(K) The sealing of conviction records by any court shall 5235  
have no effect upon a prior board order entered under this 5236  
section or upon the board's jurisdiction to take action under 5237  
this section if, based upon a plea of guilty, a judicial finding 5238  
of guilt, or a judicial finding of eligibility for intervention 5239  
in lieu of conviction, the board issued a notice of opportunity 5240  
for a hearing prior to the court's order to seal the records. 5241  
The board shall not be required to seal, destroy, redact, or 5242  
otherwise modify its records to reflect the court's sealing of 5243  
conviction records. 5244

(L) If the board takes action under division (A) (4), (6), 5245  
or (8) of this section, and the judicial finding of guilt, 5246  
guilty plea, or judicial finding of eligibility for intervention 5247  
in lieu of conviction is overturned on appeal, upon exhaustion 5248  
of the criminal appeal, a petition for reconsideration of the 5249  
order may be filed with the board along with appropriate court 5250  
documents. Upon receipt of a petition for reconsideration and 5251  
supporting court documents, the board shall reinstate the 5252  
individual's license or permit. The board may then hold an 5253  
adjudication under Chapter 119. of the Revised Code to determine 5254  
whether the individual committed the act in question. Notice of 5255  
an opportunity for a hearing shall be given in accordance with 5256  
Chapter 119. of the Revised Code. If the board finds, pursuant 5257  
to an adjudication held under this division, that the individual 5258  
committed the act or if no hearing is requested, the board may 5259  
order any of the sanctions identified under division (A) of this 5260  
section. 5261

(M) The license or permit issued to an individual under 5262

this chapter and the individual's practice in this state are 5263  
automatically suspended as of the date the individual pleads 5264  
guilty to, is found by a judge or jury to be guilty of, or is 5265  
subject to a judicial finding of eligibility for intervention in 5266  
lieu of conviction in this state or treatment or intervention in 5267  
lieu of conviction in another jurisdiction for any of the 5268  
following criminal offenses in this state or a substantially 5269  
equivalent criminal offense in another jurisdiction: aggravated 5270  
murder, murder, voluntary manslaughter, felonious assault, 5271  
trafficking in persons, kidnapping, rape, sexual battery, gross 5272  
sexual imposition, aggravated arson, aggravated robbery, or 5273  
aggravated burglary. Continued practice after suspension shall 5274  
be considered practicing without a license or permit. 5275

The board shall notify the individual subject to the 5276  
suspension by certified mail or in person in accordance with 5277  
section 119.07 of the Revised Code. If an individual whose 5278  
license or permit is automatically suspended under this division 5279  
fails to make a timely request for an adjudication under Chapter 5280  
119. of the Revised Code, the board shall enter a final order 5281  
permanently revoking the individual's license or permit. 5282

(N) Notwithstanding any other provision of the Revised 5283  
Code, all of the following apply: 5284

(1) The surrender of a license or permit issued under this 5285  
chapter shall not be effective unless or until accepted by the 5286  
board. A telephone conference call may be utilized for 5287  
acceptance of the surrender of an individual's license or 5288  
permit. The telephone conference call shall be considered a 5289  
special meeting under division (F) of section 121.22 of the 5290  
Revised Code. Reinstatement of a license or permit surrendered 5291  
to the board requires an affirmative vote of not fewer than six 5292

members of the board. 5293

(2) An application for a license or permit made under the 5294  
provisions of this chapter may not be withdrawn without approval 5295  
of the board. 5296

(3) Failure by an individual to renew a license or permit 5297  
in accordance with this chapter shall not remove or limit the 5298  
board's jurisdiction to take any disciplinary action under this 5299  
section against the individual. 5300

(4) At the request of the board, a license or permit 5301  
holder shall immediately surrender to the board a license or 5302  
permit that the board has suspended, revoked, or permanently 5303  
revoked. 5304

Sec. 4759.14. (A) As used in this section, "criminal 5305  
conduct" and "sexual misconduct" have the same meanings as in 5306  
section 4731.224 of the Revised Code. 5307

(B) (1) Within thirty days after commencing an 5308  
investigation regarding criminal conduct or sexual misconduct 5309  
against any individual holding a valid license to practice 5310  
issued pursuant to this chapter, a health care facility, 5311  
including a hospital, health care facility operated by a health 5312  
insuring corporation, ambulatory surgical facility, or similar 5313  
facility, shall report to the board the name of the individual 5314  
and a summary of the underlying facts related to the 5315  
investigation being commenced. 5316

(2) If any individual authorized to practice under this 5317  
chapter or any professional association or society of such 5318  
individuals knows or has reasonable cause to suspect based on 5319  
facts that would cause a reasonable person in a similar position 5320  
to suspect that an individual authorized to practice under this 5321

chapter has committed or participated in criminal conduct or 5322  
sexual misconduct the information upon which the belief is based 5323  
shall be reported to the board within thirty days. 5324

(3) In addition to the self-reporting of criminal offenses 5325  
that is required for license renewal, an individual authorized 5326  
to practice under this chapter shall report to the board 5327  
criminal charges regarding criminal conduct, sexual misconduct, 5328  
or any conduct involving the use of a motor vehicle while under 5329  
the influence of alcohol or drugs, including offenses that are 5330  
equivalent offenses under division (A) of section 4511.181 of 5331  
the Revised Code, violations of division (D) of section 4511.194 5332  
of the Revised Code, and violations of division (C) of section 5333  
4511.79 of the Revised Code. Reports under this division shall 5334  
be made within thirty days of the criminal charge being filed. 5335

**Sec. 4759.99.** Whoever violates section 4759.02 of the 5336  
Revised Code is guilty of a minor misdemeanor. If the offender 5337  
has been previously convicted once of a violation of the 5338  
section, then the violation is a misdemeanor of the fourth 5339  
degree. If the offender has been previously convicted more than 5340  
once of a violation of the section, then the violation is a 5341  
misdemeanor of the first degree. 5342

Whoever violates division (B)(1) or (2) of section 4759.14 5343  
of the Revised Code is guilty of failure to report criminal 5344  
conduct or sexual misconduct, a misdemeanor of the fourth 5345  
degree. If the offender has previously been convicted of a 5346  
violation of this division, the failure to report is a 5347  
misdemeanor of the first degree. 5348

Whoever violates division (B) of section 4759.05 of the 5349  
Revised Code is guilty of disclosing confidential investigatory 5350  
information, a misdemeanor of the first degree. 5351

**Sec. 4760.13.** (A) The state medical board, by an 5352  
affirmative vote of not fewer than six members, may revoke or 5353  
may refuse to grant a license to practice as an anesthesiologist 5354  
assistant to a person found by the board to have committed 5355  
fraud, misrepresentation, or deception in applying for or 5356  
securing the license. 5357

(B) The board, by an affirmative vote of not fewer than 5358  
six members, shall, except as provided in division (C) of this 5359  
section, and to the extent permitted by law, limit, revoke, or 5360  
suspend an individual's license to practice as an 5361  
anesthesiologist assistant, refuse to issue a license to an 5362  
applicant, refuse to renew a license, refuse to reinstate a 5363  
license, or reprimand or place on probation the holder of a 5364  
license for any of the following reasons: 5365

(1) Permitting the holder's name or license to be used by 5366  
another person; 5367

(2) Failure to comply with the requirements of this 5368  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5369  
by the board; 5370

(3) Violating or attempting to violate, directly or 5371  
indirectly, or assisting in or abetting the violation of, or 5372  
conspiring to violate, any provision of this chapter, Chapter 5373  
4731. of the Revised Code, or the rules adopted by the board; 5374

(4) A departure from, or failure to conform to, minimal 5375  
standards of care of similar practitioners under the same or 5376  
similar circumstances whether or not actual injury to the 5377  
patient is established; 5378

(5) Inability to practice according to acceptable and 5379  
prevailing standards of care by reason of mental illness or 5380



physical illness, including physical deterioration that 5381  
adversely affects cognitive, motor, or perceptive skills; 5382

(6) Impairment of ability to practice according to 5383  
acceptable and prevailing standards of care because of habitual 5384  
or excessive use or abuse of drugs, alcohol, or other substances 5385  
that impair ability to practice; 5386

(7) Willfully betraying a professional confidence; 5387

(8) Making a false, fraudulent, deceptive, or misleading 5388  
statement in securing or attempting to secure a license to 5389  
practice as an anesthesiologist assistant. 5390

As used in this division, "false, fraudulent, deceptive, 5391  
or misleading statement" means a statement that includes a 5392  
misrepresentation of fact, is likely to mislead or deceive 5393  
because of a failure to disclose material facts, is intended or 5394  
is likely to create false or unjustified expectations of 5395  
favorable results, or includes representations or implications 5396  
that in reasonable probability will cause an ordinarily prudent 5397  
person to misunderstand or be deceived. 5398

(9) The obtaining of, or attempting to obtain, money or a 5399  
thing of value by fraudulent misrepresentations in the course of 5400  
practice; 5401

(10) A plea of guilty to, a judicial finding of guilt of, 5402  
or a judicial finding of eligibility for intervention in lieu of 5403  
conviction for, a felony; 5404

(11) Commission of an act that constitutes a felony in 5405  
this state, regardless of the jurisdiction in which the act was 5406  
committed; 5407

(12) A plea of guilty to, a judicial finding of guilt of, 5408

or a judicial finding of eligibility for intervention in lieu of 5409  
conviction for, a misdemeanor committed in the course of 5410  
practice; 5411

(13) A plea of guilty to, a judicial finding of guilt of, 5412  
or a judicial finding of eligibility for intervention in lieu of 5413  
conviction for, a misdemeanor involving moral turpitude; 5414

(14) Commission of an act in the course of practice that 5415  
constitutes a misdemeanor in this state, regardless of the 5416  
jurisdiction in which the act was committed; 5417

(15) Commission of an act involving moral turpitude that 5418  
constitutes a misdemeanor in this state, regardless of the 5419  
jurisdiction in which the act was committed; 5420

(16) A plea of guilty to, a judicial finding of guilt of, 5421  
or a judicial finding of eligibility for intervention in lieu of 5422  
conviction for violating any state or federal law regulating the 5423  
possession, distribution, or use of any drug, including 5424  
trafficking in drugs; 5425

(17) Any of the following actions taken by the state 5426  
agency responsible for regulating the practice of 5427  
anesthesiologist assistants in another jurisdiction, for any 5428  
reason other than the nonpayment of fees: the limitation, 5429  
revocation, or suspension of an individual's license to 5430  
practice; acceptance of an individual's license surrender; 5431  
denial of a license; refusal to renew or reinstate a license; 5432  
imposition of probation; or issuance of an order of censure or 5433  
other reprimand; 5434

(18) Violation of the conditions placed by the board on a 5435  
license to practice; 5436

(19) Failure to use universal blood and body fluid 5437

precautions established by rules adopted under section 4731.051 5438  
of the Revised Code; 5439

(20) Failure to cooperate in an investigation conducted by 5440  
the board under section 4760.14 of the Revised Code, including 5441  
failure to comply with a subpoena or order issued by the board 5442  
or failure to answer truthfully a question presented by the 5443  
board at a deposition or in written interrogatories, except that 5444  
failure to cooperate with an investigation shall not constitute 5445  
grounds for discipline under this section if a court of 5446  
competent jurisdiction has issued an order that either quashes a 5447  
subpoena or permits the individual to withhold the testimony or 5448  
evidence in issue; 5449

(21) Failure to comply with any code of ethics established 5450  
by the national commission for the certification of 5451  
anesthesiologist assistants; 5452

(22) Failure to notify the state medical board of the 5453  
revocation or failure to maintain certification from the 5454  
national commission for certification of anesthesiologist 5455  
assistants. 5456

(C) The board shall not refuse to issue a certificate to 5457  
an applicant because of a plea of guilty to, a judicial finding 5458  
of guilt of, or a judicial finding of eligibility for 5459  
intervention in lieu of conviction for an offense unless the 5460  
refusal is in accordance with section 9.79 of the Revised Code. 5461

(D) Disciplinary actions taken by the board under 5462  
divisions (A) and (B) of this section shall be taken pursuant to 5463  
an adjudication under Chapter 119. of the Revised Code, except 5464  
that in lieu of an adjudication, the board may enter into a 5465  
consent agreement with an anesthesiologist assistant or 5466

applicant to resolve an allegation of a violation of this 5467  
chapter or any rule adopted under it. A consent agreement, when 5468  
ratified by an affirmative vote of not fewer than six members of 5469  
the board, shall constitute the findings and order of the board 5470  
with respect to the matter addressed in the agreement. If the 5471  
board refuses to ratify a consent agreement, the admissions and 5472  
findings contained in the consent agreement shall be of no force 5473  
or effect. 5474

(E) For purposes of divisions (B) (11), (14), and (15) of 5475  
this section, the commission of the act may be established by a 5476  
finding by the board, pursuant to an adjudication under Chapter 5477  
119. of the Revised Code, that the applicant or license holder 5478  
committed the act in question. The board shall have no 5479  
jurisdiction under these divisions in cases where the trial 5480  
court renders a final judgment in the license holder's favor and 5481  
that judgment is based upon an adjudication on the merits. The 5482  
board shall have jurisdiction under these divisions in cases 5483  
where the trial court issues an order of dismissal on technical 5484  
or procedural grounds. 5485

(F) The sealing of conviction records by any court shall 5486  
have no effect on a prior board order entered under the 5487  
provisions of this section or on the board's jurisdiction to 5488  
take action under the provisions of this section if, based upon 5489  
a plea of guilty, a judicial finding of guilt, or a judicial 5490  
finding of eligibility for intervention in lieu of conviction, 5491  
the board issued a notice of opportunity for a hearing prior to 5492  
the court's order to seal the records. The board shall not be 5493  
required to seal, destroy, redact, or otherwise modify its 5494  
records to reflect the court's sealing of conviction records. 5495

(G) For purposes of this division, any individual who 5496

holds a license to practice issued under this chapter, or 5497  
applies for a license to practice, shall be deemed to have given 5498  
consent to submit to a mental or physical examination when 5499  
directed to do so in writing by the board and to have waived all 5500  
objections to the admissibility of testimony or examination 5501  
reports that constitute a privileged communication. 5502

(1) In enforcing division (B)(5) of this section, the 5503  
board, on a showing of a possible violation, may compel any 5504  
individual who holds a license to practice issued under this 5505  
chapter or who has applied for a license to practice pursuant to 5506  
this chapter to submit to a mental or physical examination, or 5507  
both. A physical examination may include an HIV test. The 5508  
expense of the examination is the responsibility of the 5509  
individual compelled to be examined. Failure to submit to a 5510  
mental or physical examination or consent to an HIV test ordered 5511  
by the board constitutes an admission of the allegations against 5512  
the individual unless the failure is due to circumstances beyond 5513  
the individual's control, and a default and final order may be 5514  
entered without the taking of testimony or presentation of 5515  
evidence. If the board finds an anesthesiologist assistant 5516  
unable to practice because of the reasons set forth in division 5517  
(B)(5) of this section, the board shall require the 5518  
anesthesiologist assistant to submit to care, counseling, or 5519  
treatment by physicians approved or designated by the board, as 5520  
a condition for an initial, continued, reinstated, or renewed 5521  
license to practice. An individual affected by this division 5522  
shall be afforded an opportunity to demonstrate to the board the 5523  
ability to resume practicing in compliance with acceptable and 5524  
prevailing standards of care. 5525

(2) For purposes of division (B)(6) of this section, if 5526  
the board has reason to believe that any individual who holds a 5527

license to practice issued under this chapter or any applicant 5528  
for a license to practice suffers such impairment, the board may 5529  
compel the individual to submit to a mental or physical 5530  
examination, or both. The expense of the examination is the 5531  
responsibility of the individual compelled to be examined. Any 5532  
mental or physical examination required under this division 5533  
shall be undertaken by a treatment provider or physician 5534  
qualified to conduct such examination and chosen by the board. 5535

Failure to submit to a mental or physical examination 5536  
ordered by the board constitutes an admission of the allegations 5537  
against the individual unless the failure is due to 5538  
circumstances beyond the individual's control, and a default and 5539  
final order may be entered without the taking of testimony or 5540  
presentation of evidence. If the board determines that the 5541  
individual's ability to practice is impaired, the board shall 5542  
suspend the individual's license or deny the individual's 5543  
application and shall require the individual, as a condition for 5544  
an initial, continued, reinstated, or renewed license to 5545  
practice, to submit to treatment. 5546

Before being eligible to apply for reinstatement of a 5547  
license suspended under this division, the anesthesiologist 5548  
assistant shall demonstrate to the board the ability to resume 5549  
practice in compliance with acceptable and prevailing standards 5550  
of care. The demonstration shall include the following: 5551

(a) Certification from a treatment provider approved under 5552  
section 4731.25 of the Revised Code that the individual has 5553  
successfully completed any required inpatient treatment; 5554

(b) Evidence of continuing full compliance with an 5555  
aftercare contract or consent agreement; 5556

(c) Two written reports indicating that the individual's 5557  
ability to practice has been assessed and that the individual 5558  
has been found capable of practicing according to acceptable and 5559  
prevailing standards of care. The reports shall be made by 5560  
individuals or providers approved by the board for making such 5561  
assessments and shall describe the basis for their 5562  
determination. 5563

The board may reinstate a license suspended under this 5564  
division after such demonstration and after the individual has 5565  
entered into a written consent agreement. 5566

When the impaired anesthesiologist assistant resumes 5567  
practice, the board shall require continued monitoring of the 5568  
anesthesiologist assistant. The monitoring shall include 5569  
monitoring of compliance with the written consent agreement 5570  
entered into before reinstatement or with conditions imposed by 5571  
board order after a hearing, and, on termination of the consent 5572  
agreement, submission to the board for at least two years of 5573  
annual written progress reports made under penalty of 5574  
falsification stating whether the anesthesiologist assistant has 5575  
maintained sobriety. 5576

~~(H)~~(H) (1) If either of the following circumstances occur, 5577  
the secretary and supervising member may recommend that the 5578  
board suspend the individual's license without a prior hearing: 5579

(a) The secretary and supervising member determine that 5580  
there is clear and convincing evidence that an anesthesiologist 5581  
assistant has violated division (B) of this section and that the 5582  
individual's continued practice presents a danger of immediate 5583  
and serious harm to the public, ~~they may recommend that the~~ 5584  
~~board suspend the individual's license without a prior hearing;~~ 5585

(b) The board receives verifiable information that a 5586  
licensee has been charged in any state or federal court for a 5587  
crime classified as a felony under the charging court's law and 5588  
the conduct charged constitutes a violation of division (B) of 5589  
this section. ~~Written~~ 5590

(2) If a recommendation is made to suspend without a prior 5591  
hearing pursuant to division (H) (1) of this section, written 5592  
allegations shall be prepared for consideration by the board. 5593

The board, on review of the allegations and by an 5594  
affirmative vote of not fewer than six of its members, excluding 5595  
the secretary and supervising member, may suspend a license 5596  
without a prior hearing. A telephone conference call may be 5597  
utilized for reviewing the allegations and taking the vote on 5598  
the summary suspension. 5599

The board shall issue a written order of suspension by 5600  
certified mail or in person in accordance with section 119.07 of 5601  
the Revised Code. The order shall not be subject to suspension 5602  
by the court during pendency of any appeal filed under section 5603  
119.12 of the Revised Code. If the anesthesiologist assistant 5604  
requests an adjudicatory hearing by the board, the date set for 5605  
the hearing shall be within fifteen days, but not earlier than 5606  
seven days, after the anesthesiologist assistant requests the 5607  
hearing, unless otherwise agreed to by both the board and the 5608  
license holder. 5609

(3) A summary suspension imposed under this division shall 5610  
remain in effect, unless reversed on appeal, until a final 5611  
adjudicative order issued by the board pursuant to this section 5612  
and Chapter 119. of the Revised Code becomes effective. The 5613  
board shall issue its final adjudicative order within sixty days 5614  
after completion of its hearing. Failure to issue the order 5615



within sixty days shall result in dissolution of the summary 5616  
suspension order, but shall not invalidate any subsequent, final 5617  
adjudicative order. 5618

(I) If the board takes action under division (B) (11), 5619  
(13), or (14) of this section, and the judicial finding of 5620  
guilt, guilty plea, or judicial finding of eligibility for 5621  
intervention in lieu of conviction is overturned on appeal, on 5622  
exhaustion of the criminal appeal, a petition for 5623  
reconsideration of the order may be filed with the board along 5624  
with appropriate court documents. On receipt of a petition and 5625  
supporting court documents, the board shall reinstate the 5626  
license to practice. The board may then hold an adjudication 5627  
under Chapter 119. of the Revised Code to determine whether the 5628  
individual committed the act in question. Notice of opportunity 5629  
for hearing shall be given in accordance with Chapter 119. of 5630  
the Revised Code. If the board finds, pursuant to an 5631  
adjudication held under this division, that the individual 5632  
committed the act, or if no hearing is requested, it may order 5633  
any of the sanctions specified in division (B) of this section. 5634

(J) The license to practice of an anesthesiologist 5635  
assistant and the assistant's practice in this state are 5636  
automatically suspended as of the date the anesthesiologist 5637  
assistant pleads guilty to, is found by a judge or jury to be 5638  
guilty of, or is subject to a judicial finding of eligibility 5639  
for intervention in lieu of conviction in this state or 5640  
treatment of intervention in lieu of conviction in another 5641  
jurisdiction for any of the following criminal offenses in this 5642  
state or a substantially equivalent criminal offense in another 5643  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 5644  
felonious assault, trafficking in persons, kidnapping, rape, 5645  
sexual battery, gross sexual imposition, aggravated arson, 5646

aggravated robbery, or aggravated burglary. Continued practice 5647  
after the suspension shall be considered practicing without a 5648  
license. 5649

The board shall notify the individual subject to the 5650  
suspension by certified mail or in person in accordance with 5651  
section 119.07 of the Revised Code. If an individual whose 5652  
license is suspended under this division fails to make a timely 5653  
request for an adjudication under Chapter 119. of the Revised 5654  
Code, the board shall enter a final order permanently revoking 5655  
the individual's license to practice. 5656

(K) In any instance in which the board is required by 5657  
Chapter 119. of the Revised Code to give notice of opportunity 5658  
for hearing and the individual subject to the notice does not 5659  
timely request a hearing in accordance with section 119.07 of 5660  
the Revised Code, the board is not required to hold a hearing, 5661  
but may adopt, by an affirmative vote of not fewer than six of 5662  
its members, a final order that contains the board's findings. 5663  
In the final order, the board may order any of the sanctions 5664  
identified under division (A) or (B) of this section. 5665

(L) Any action taken by the board under division (B) of 5666  
this section resulting in a suspension shall be accompanied by a 5667  
written statement of the conditions under which the 5668  
anesthesiologist assistant's license may be reinstated. The 5669  
board shall adopt rules in accordance with Chapter 119. of the 5670  
Revised Code governing conditions to be imposed for 5671  
reinstatement. Reinstatement of a license suspended pursuant to 5672  
division (B) of this section requires an affirmative vote of not 5673  
fewer than six members of the board. 5674

(M) When the board refuses to grant or issue a license to 5675  
practice as an anesthesiologist assistant to an applicant, 5676

revokes an individual's license, refuses to renew an 5677  
individual's license, or refuses to reinstate an individual's 5678  
license, the board may specify that its action is permanent. An 5679  
individual subject to a permanent action taken by the board is 5680  
forever thereafter ineligible to hold a license to practice as 5681  
an anesthesiologist assistant and the board shall not accept an 5682  
application for reinstatement of the license or for issuance of 5683  
a new license. 5684

(N) Notwithstanding any other provision of the Revised 5685  
Code, all of the following apply: 5686

(1) The surrender of a license to practice issued under 5687  
this chapter is not effective unless or until accepted by the 5688  
board. Reinstatement of a license surrendered to the board 5689  
requires an affirmative vote of not fewer than six members of 5690  
the board. 5691

(2) An application made under this chapter for a license 5692  
to practice may not be withdrawn without approval of the board. 5693

(3) Failure by an individual to renew a license to 5694  
practice in accordance with section 4760.06 of the Revised Code 5695  
shall not remove or limit the board's jurisdiction to take 5696  
disciplinary action under this section against the individual. 5697

**Sec. 4760.14.** (A) The state medical board shall 5698  
investigate evidence that appears to show that any person has 5699  
violated this chapter or the rules adopted under it. Any person 5700  
may report to the board in a signed writing any information the 5701  
person has that appears to show a violation of any provision of 5702  
this chapter or the rules adopted under it. In the absence of 5703  
bad faith, a person who reports such information or testifies 5704  
before the board in an adjudication conducted under Chapter 119. 5705

of the Revised Code shall not be liable for civil damages as a 5706  
result of reporting the information or providing testimony. Each 5707  
complaint or allegation of a violation received by the board 5708  
shall be assigned a case number and be recorded by the board. 5709

(B) Investigations of alleged violations of this chapter 5710  
or rules adopted under it shall be supervised by the supervising 5711  
member elected by the board in accordance with section 4731.02 5712  
of the Revised Code and by the secretary as provided in section 5713  
4760.15 of the Revised Code. The board's president may designate 5714  
another member of the board to supervise the investigation in 5715  
place of the supervising member. Upon a vote of the majority of 5716  
the board to authorize the addition of a consumer member in the 5717  
supervision of any part of any investigation, the president 5718  
shall designate a consumer member for supervision of 5719  
investigations as determined by the president. The authorization 5720  
of consumer member participation in investigation supervision 5721  
may be rescinded by a majority vote of the board. A member of 5722  
the board who supervises the investigation of a case shall not 5723  
participate in further adjudication of the case. 5724

(C) In investigating a possible violation of this chapter 5725  
or the rules adopted under it, the board may administer oaths, 5726  
order the taking of depositions, issue subpoenas, and compel the 5727  
attendance of witnesses and production of books, accounts, 5728  
papers, records, documents, and testimony, except that a 5729  
subpoena for patient record information or information, 5730  
documents, and records from a peer review committee of a health 5731  
care entity related to sexual misconduct or criminal conduct 5732  
shall not be issued without consultation with the attorney 5733  
general's office and approval of the secretary and supervising 5734  
member of the board. Before issuance of a subpoena for patient 5735  
record information or information, documents, and records from a 5736

peer review committee of a health care entity related to sexual 5737  
misconduct or criminal conduct, the secretary and supervising 5738  
member shall determine whether there is probable cause to 5739  
believe that the complaint filed alleges a violation of this 5740  
chapter or the rules adopted under it and that the records 5741  
sought are relevant to the alleged violation and material to the 5742  
investigation. The subpoena may apply only to records that cover 5743  
a reasonable period of time surrounding the alleged violation. 5744

On failure to comply with any subpoena issued by the board 5745  
and after reasonable notice to the person being subpoenaed, the 5746  
board may move for an order compelling the production of persons 5747  
or records pursuant to the Rules of Civil Procedure. 5748

A subpoena issued by the board may be served by a sheriff, 5749  
the sheriff's deputy, or a board employee designated by the 5750  
board. Service of a subpoena issued by the board may be made by 5751  
delivering a copy of the subpoena to the person named therein, 5752  
reading it to the person, or leaving it at the person's usual 5753  
place of residence. When the person being served is an 5754  
anesthesiologist assistant, service of the subpoena may be made 5755  
by certified mail, restricted delivery, return receipt 5756  
requested, and the subpoena shall be deemed served on the date 5757  
delivery is made or the date the person refuses to accept 5758  
delivery. 5759

A sheriff's deputy who serves a subpoena shall receive the 5760  
same fees as a sheriff. Each witness who appears before the 5761  
board in obedience to a subpoena shall receive the fees and 5762  
mileage provided for under section 119.094 of the Revised Code. 5763

(D) All For purposes of section 2305.252 of the Revised 5764  
Code, all hearings and investigations of the board shall be 5765  
considered civil actions ~~for the purposes of section 2305.252 of~~ 5766

~~the Revised Code, except those involving allegations of sexual~~ 5767  
~~misconduct or criminal conduct, as defined in that section.~~ 5768

(E) Information received by the board pursuant to an 5769  
investigation is confidential and not subject to discovery in 5770  
any civil action. 5771

The board shall conduct all investigations and proceedings 5772  
in a manner that protects the confidentiality of patients and 5773  
persons who file complaints with the board. The board shall not 5774  
make public the names or any other identifying information about 5775  
patients or complainants unless proper consent is given. 5776

The board may share any information it receives pursuant 5777  
to an investigation, including patient records and patient 5778  
record information, with law enforcement agencies, other 5779  
licensing boards, and other governmental agencies that are 5780  
prosecuting, adjudicating, or investigating alleged violations 5781  
of statutes or administrative rules. An agency or board that 5782  
receives the information shall comply with the same requirements 5783  
regarding confidentiality as those with which the state medical 5784  
board must comply, notwithstanding any conflicting provision of 5785  
the Revised Code or procedure of the agency or board that 5786  
applies when it is dealing with other information in its 5787  
possession. In a judicial proceeding, the information may be 5788  
admitted into evidence only in accordance with the Rules of 5789  
Evidence, but the court shall require that appropriate measures 5790  
are taken to ensure that confidentiality is maintained with 5791  
respect to any part of the information that contains names or 5792  
other identifying information about patients or complainants 5793  
whose confidentiality was protected by the state medical board 5794  
when the information was in the board's possession. Measures to 5795  
ensure confidentiality that may be taken by the court include 5796

sealing its records or deleting specific information from its 5797  
records. 5798

No person shall knowingly access, use, or disclose 5799  
confidential investigatory information in a manner prohibited by 5800  
law. 5801

(F) The state medical board shall develop requirements for 5802  
and provide appropriate initial training and continuing 5803  
education for investigators employed by the board to carry out 5804  
its duties under this chapter. The training and continuing 5805  
education may include enrollment in courses operated or approved 5806  
by the Ohio peace officer training commission that the board 5807  
considers appropriate under conditions set forth in section 5808  
109.79 of the Revised Code. 5809

(G) On a quarterly basis, the board shall prepare a report 5810  
that documents the disposition of all cases during the preceding 5811  
three months. The report shall contain the following information 5812  
for each case with which the board has completed its activities: 5813

(1) The case number assigned to the complaint or alleged 5814  
violation; 5815

(2) The type of license to practice, if any, held by the 5816  
individual against whom the complaint is directed; 5817

(3) A description of the allegations contained in the 5818  
complaint; 5819

(4) Whether witnesses were interviewed; 5820

(5) Whether the individual against whom the complaint is 5821  
directed is the subject of any pending complaints; 5822

(6) The disposition of the case. 5823

The report shall state how many cases are still pending, 5824  
and shall be prepared in a manner that protects the identity of 5825  
each person involved in each case. The report is a public record 5826  
for purposes of section 149.43 of the Revised Code. 5827

(H) The board may provide a status update regarding an 5828  
investigation to a complainant on request if the board verifies 5829  
the complainant's identity. 5830

**Sec. 4760.16.** (A) As used in this section, "criminal 5831  
conduct" and "sexual misconduct" have the same meanings as in 5832  
section 4731.224 of the Revised Code. 5833

(B) (1) Within ~~sixty~~-thirty days after the imposition of 5834  
any formal disciplinary action taken by any health care 5835  
facility, including a hospital, health care facility operated by 5836  
a health insuring corporation, ambulatory surgical facility, or 5837  
similar facility, against any individual holding a valid license 5838  
to practice as an anesthesiologist assistant, the chief 5839  
administrator or executive officer of the facility shall report 5840  
to the state medical board the name of the individual, the 5841  
action taken by the facility, and a summary of the underlying 5842  
facts leading to the action taken. On request, the board shall 5843  
be provided certified copies of the patient records that were 5844  
the basis for the facility's action. Prior to release to the 5845  
board, the summary shall be approved by the peer review 5846  
committee that reviewed the case or by the governing board of 5847  
the facility. 5848

The filing of a report with the board or decision not to 5849  
file a report, investigation by the board, or any disciplinary 5850  
action taken by the board, does not preclude a health care 5851  
facility from taking disciplinary action against an 5852  
anesthesiologist assistant. 5853



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

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

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

(2) An anesthesiologist assistant, professional  
association or society of anesthesiologist assistants,  
physician, or professional association or society of physicians  
that believes that a violation of division (B) (6) of section  
4760.13 of the Revised Code has occurred shall report the  
information upon which the belief is based to the monitoring  
organization conducting the program established by the board  
under section 4731.251 of the Revised Code. If any such report  
is made to the board, it shall be referred to the monitoring  
organization unless the board is aware that the individual who

is the subject of the report does not meet the program 5884  
eligibility requirements of section 4731.252 of the Revised 5885  
Code. 5886

(3) If any individual authorized to practice under this 5887  
chapter or any professional association or society of such 5888  
individuals knows or has reasonable cause to suspect based on 5889  
facts that would cause a reasonable person in a similar position 5890  
to suspect that an individual authorized to practice under this 5891  
chapter has committed or participated in criminal conduct or 5892  
sexual misconduct the information upon which the belief is based 5893  
shall be reported to the board within thirty days. 5894

(4) In addition to the self-reporting of criminal offenses 5895  
that is required for license renewal, an individual authorized 5896  
to practice under this chapter shall report to the board 5897  
criminal charges regarding criminal conduct, sexual misconduct, 5898  
or any conduct involving the use of a motor vehicle while under 5899  
the influence of alcohol or drugs, including offenses that are 5900  
equivalent offenses under division (A) of section 4511.181 of 5901  
the Revised Code, violations of division (D) of section 4511.194 5902  
of the Revised Code, and violations of division (C) of section 5903  
4511.79 of the Revised Code. Reports under this division shall 5904  
be made within thirty days of the criminal charge being filed. 5905

~~(C)~~ (D) Any professional association or society composed 5906  
primarily of anesthesiologist assistants that suspends or 5907  
revokes an individual's membership for violations of 5908  
professional ethics, or for reasons of professional incompetence 5909  
or professional malpractice, within ~~sixty~~ thirty days after a 5910  
final decision, shall report to the board, on forms prescribed 5911  
and provided by the board, the name of the individual, the 5912  
action taken by the professional organization, and a summary of 5913

the underlying facts leading to the action taken. 5914

The filing of a report with the board or decision not to 5915  
file a report, investigation by the board, or any disciplinary 5916  
action taken by the board, does not preclude a professional 5917  
organization from taking disciplinary action against an 5918  
anesthesiologist assistant. 5919

~~(D)~~ (E) Any insurer providing professional liability 5920  
insurance to any person holding a valid license to practice as 5921  
an anesthesiologist assistant or any other entity that seeks to 5922  
indemnify the professional liability of an anesthesiologist 5923  
assistant shall notify the board within thirty days after the 5924  
final disposition of any written claim for damages where such 5925  
disposition results in a payment exceeding twenty-five thousand 5926  
dollars. The notice shall contain the following information: 5927

(1) The name and address of the person submitting the 5928  
notification; 5929

(2) The name and address of the insured who is the subject 5930  
of the claim; 5931

(3) The name of the person filing the written claim; 5932

(4) The date of final disposition; 5933

(5) If applicable, the identity of the court in which the 5934  
final disposition of the claim took place. 5935

~~(E)~~ (F) The board may investigate possible violations of 5936  
this chapter or the rules adopted under it that are brought to 5937  
its attention as a result of the reporting requirements of this 5938  
section, except that the board shall conduct an investigation if 5939  
a possible violation involves repeated malpractice. As used in 5940  
this division, "repeated malpractice" means three or more claims 5941

for malpractice within the previous five-year period, each 5942  
resulting in a judgment or settlement in excess of twenty-five 5943  
thousand dollars in favor of the claimant, and each involving 5944  
negligent conduct by the anesthesiologist assistant. 5945

~~(F)-(G) All summaries, reports, and records received and 5946  
maintained by the board pursuant to this section shall be held- 5947  
in confidence and shall not be subject to discovery or- 5948  
introduction in evidence in any federal or state civil action- 5949  
involving an anesthesiologist assistant, supervising physician,- 5950  
or health care facility arising out of matters that are the- 5951  
subject of the reporting required by this section. The board may 5952  
use the information obtained only as the basis for an- 5953  
investigation, as evidence in a disciplinary hearing against an- 5954  
anesthesiologist assistant or supervising physician, or in any- 5955  
subsequent trial or appeal of a board action or order.- 5956~~

~~The board may disclose the summaries and reports it 5957  
receives under this section only to health care facility 5958  
committees within or outside this state that are involved in 5959  
credentialing or recredentialing an anesthesiologist assistant- 5960  
or supervising physician or reviewing their privilege to 5961  
practice within a particular facility. The board shall indicate 5962  
whether or not the information has been verified. Information- 5963  
transmitted by the board shall be subject to the same 5964  
confidentiality provisions as when maintained by the 5965  
board confidential pursuant to division (E) of section 4760.14 of 5966  
the Revised Code. 5967~~

~~(G)-(H) Except for reports filed by an individual pursuant 5968  
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 5969  
send a copy of any reports or summaries it receives pursuant to 5970  
this section to the anesthesiologist assistant. The 5971~~

anesthesiologist assistant shall have the right to file a 5972  
statement with the board concerning the correctness or relevance 5973  
of the information. The statement shall at all times accompany 5974  
that part of the record in contention. 5975

~~(H)~~ (I) An individual or entity that reports to the board, 5976  
reports to the monitoring organization described in section 5977  
4731.251 of the Revised Code, or refers an impaired 5978  
anesthesiologist assistant to a treatment provider approved by 5979  
the board under section 4731.25 of the Revised Code shall not be 5980  
subject to suit for civil damages as a result of the report, 5981  
referral, or provision of the information. 5982

~~(I)~~ (J) In the absence of fraud or bad faith, a 5983  
professional association or society of anesthesiologist 5984  
assistants that sponsors a committee or program to provide peer 5985  
assistance to an anesthesiologist assistant with substance abuse 5986  
problems, a representative or agent of such a committee or 5987  
program, a representative or agent of the monitoring 5988  
organization described in section 4731.251 of the Revised Code, 5989  
and a member of the state medical board shall not be held liable 5990  
in damages to any person by reason of actions taken to refer an 5991  
anesthesiologist assistant to a treatment provider approved 5992  
under section 4731.25 of the Revised Code for examination or 5993  
treatment. 5994

**Sec. 4760.99.** (A) Whoever violates section 4760.02 of the 5995  
Revised Code is guilty of a misdemeanor of the first degree on a 5996  
first offense; on each subsequent offense, the person is guilty 5997  
of a felony of the fourth degree. 5998

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 5999  
(1), ~~or (C) (2)~~, (D), or (E) of section 4760.16 of the Revised 6000  
Code is guilty of a minor misdemeanor on a first offense; on 6001

each subsequent offense the person is guilty of a misdemeanor of 6002  
the fourth degree, except that an individual guilty of a 6003  
subsequent offense shall not be subject to imprisonment, but to 6004  
a fine alone of up to one thousand dollars for each offense. 6005

(2) Whoever violates division (B) (2) or (C) (3) of section 6006  
4760.16 of the Revised Code is guilty of failure to report 6007  
criminal conduct or sexual misconduct, a misdemeanor of the 6008  
fourth degree. If the offender has previously been convicted of 6009  
a violation of this division, the failure to report is a 6010  
misdemeanor of the first degree. 6011

(C) Whoever violates division (E) of section 4760.14 of 6012  
the Revised Code is guilty of disclosing confidential 6013  
investigatory information, a misdemeanor of the first degree. 6014

**Sec. 4761.03.** (A) The state medical board shall regulate 6015  
the practice of respiratory care in this state and the persons 6016  
to whom the board issues licenses and limited permits under this 6017  
chapter. Rules adopted under this chapter that deal with the 6018  
provision of respiratory care in a hospital, other than rules 6019  
regulating the issuance of licenses or limited permits, shall be 6020  
consistent with the conditions for participation under medicare, 6021  
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 6022  
42 U.S.C.A. 1395, as amended, and with the respiratory care 6023  
accreditation standards of the joint commission or the American 6024  
osteopathic association. 6025

(B) The board shall adopt, and may rescind or amend, rules 6026  
in accordance with Chapter 119. of the Revised Code to carry out 6027  
the purposes of this chapter, including rules prescribing the 6028  
following: 6029

(1) The form and manner for filing applications under 6030

sections 4761.05 and 4761.06 of the Revised Code;	6031
(2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;	6032 6033 6034
(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;	6035 6036 6037
(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;	6038 6039 6040 6041 6042 6043 6044
(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;	6045 6046 6047
(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;	6048 6049 6050 6051 6052
(7) Standards of ethical conduct for the practice of respiratory care;	6053 6054
(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;	6055 6056 6057 6058

(9) Requirements for criminal records checks of applicants 6059  
under section 4776.03 of the Revised Code. 6060

(C) The board shall determine the sufficiency of an 6061  
applicant's qualifications for admission to the licensing 6062  
examination or a reexamination, and for the issuance or renewal 6063  
of a license or limited permit. 6064

(D) The board shall determine the respiratory care 6065  
educational programs that are acceptable for fulfilling the 6066  
requirements of division (A) of section 4761.04 of the Revised 6067  
Code. 6068

(E) (1) The board shall investigate evidence that appears 6069  
to show that a person has violated any provision of this chapter 6070  
or any rule adopted under it. Any person may report to the board 6071  
in a signed writing any information that the person may have 6072  
that appears to show a violation of any provision of this 6073  
chapter or any rule adopted under it. In the absence of bad 6074  
faith, any person who reports information of that nature or who 6075  
testifies before the board in any adjudication conducted under 6076  
Chapter 119. of the Revised Code shall not be liable in damages 6077  
in a civil action as a result of the report or testimony. Each 6078  
complaint or allegation of a violation received by the board 6079  
shall be assigned a case number and shall be recorded by the 6080  
board. 6081

(2) Investigations of alleged violations of this chapter 6082  
or any rule adopted under it shall be supervised by the 6083  
supervising member elected by the board in accordance with 6084  
section 4731.02 of the Revised Code and by the secretary as 6085  
provided in section 4761.012 of the Revised Code. The president 6086  
may designate another member of the board to supervise the 6087  
investigation in place of the supervising member. Upon a vote of 6088



the majority of the board to authorize the addition of a 6089  
consumer member in the supervision of any part of any 6090  
investigation, the president shall designate a consumer member 6091  
for supervision of investigations as determined by the 6092  
president. The authorization of consumer member participation in 6093  
investigation supervision may be rescinded by a majority vote of 6094  
the board. No member of the board who supervises the 6095  
investigation of a case shall participate in further 6096  
adjudication of the case. 6097

(3) In investigating a possible violation of this chapter 6098  
or any rule adopted under it, the board may issue subpoenas, 6099  
administer oaths, question witnesses, conduct interviews, order 6100  
the taking of depositions, inspect and copy any books, accounts, 6101  
papers, records, or documents, and compel the attendance of 6102  
witnesses and production of books, accounts, papers, records, 6103  
documents, and testimony, except that a subpoena for patient 6104  
record information or information, documents, and records from a 6105  
peer review committee of a health care entity related to sexual 6106  
misconduct or criminal conduct shall not be issued without 6107  
consultation with the attorney general's office and approval of 6108  
the secretary and supervising member of the board. 6109

Before issuance of a subpoena for patient record 6110  
information or information, documents, and records from a peer 6111  
review committee of a health care entity related to sexual 6112  
misconduct or criminal conduct, the secretary and supervising 6113  
member shall determine whether there is probable cause to 6114  
believe that the complaint filed alleges a violation of this 6115  
chapter or any rule adopted under it and that the records sought 6116  
are relevant to the alleged violation and material to the 6117  
investigation. The subpoena may apply only to records that cover 6118  
a reasonable period of time surrounding the alleged violation. 6119

On failure to comply with any subpoena issued by the board 6120  
and after reasonable notice to the person being subpoenaed, the 6121  
board may move for an order compelling the production of persons 6122  
or records pursuant to the Rules of Civil Procedure. 6123

A subpoena issued by the board may be served by a sheriff, 6124  
the sheriff's deputy, or a board employee or agent designated by 6125  
the board. Service of a subpoena issued by the board may be made 6126  
by delivering a copy of the subpoena to the person named 6127  
therein, reading it to the person, or leaving it at the person's 6128  
usual place of residence, usual place of business, or address on 6129  
file with the board. When serving a subpoena to an applicant for 6130  
or the holder of a license or limited permit issued under this 6131  
chapter, service of the subpoena may be made by certified mail, 6132  
return receipt requested, and the subpoena shall be deemed 6133  
served on the date delivery is made or the date the person 6134  
refuses to accept delivery. If the person being served refuses 6135  
to accept the subpoena or is not located, service may be made to 6136  
an attorney who notifies the board that the attorney is 6137  
representing the person. 6138

A sheriff's deputy who serves a subpoena shall receive the 6139  
same fees as a sheriff. Each witness who appears before the 6140  
board in obedience to a subpoena shall receive the fees and 6141  
mileage provided for under section 119.094 of the Revised Code. 6142

(4) All For purposes of section 2305.252 of the Revised 6143  
Code, all hearings, investigations, and inspections of the board 6144  
shall be considered civil actions ~~for the purposes of section~~ 6145  
~~2305.252 of the Revised Code, except those involving allegations~~ 6146  
of sexual misconduct or criminal conduct, as defined in that 6147  
section. 6148

(5) A report required to be submitted to the board under 6149

this chapter, a complaint, or information received by the board 6150  
pursuant to an investigation is confidential and not subject to 6151  
discovery in any civil action. 6152

The board shall conduct all investigations or inspections 6153  
and proceedings in a manner that protects the confidentiality of 6154  
patients and persons who file complaints with the board. The 6155  
board shall not make public the names or any other identifying 6156  
information about patients or complainants unless proper consent 6157  
is given. 6158

The board may share any information it receives pursuant 6159  
to an investigation or inspection, including patient records and 6160  
patient record information, with law enforcement agencies, other 6161  
licensing boards, and other governmental agencies that are 6162  
prosecuting, adjudicating, or investigating alleged violations 6163  
of statutes or administrative rules. An agency or board that 6164  
receives the information shall comply with the same requirements 6165  
regarding confidentiality as those with which the state medical 6166  
board must comply, notwithstanding any conflicting provision of 6167  
the Revised Code or procedure of the agency or board that 6168  
applies when it is dealing with other information in its 6169  
possession. In a judicial proceeding, the information may be 6170  
admitted into evidence only in accordance with the Rules of 6171  
Evidence, but the court shall require that appropriate measures 6172  
are taken to ensure that confidentiality is maintained with 6173  
respect to any part of the information that contains names or 6174  
other identifying information about patients or complainants 6175  
whose confidentiality was protected by the state medical board 6176  
when the information was in the board's possession. Measures to 6177  
ensure confidentiality that may be taken by the court include 6178  
sealing its records or deleting specific information from its 6179  
records. 6180

No person shall knowingly access, use, or disclose 6181  
confidential investigatory information in a manner prohibited by 6182  
law. 6183

(6) On a quarterly basis, the board shall prepare a report 6184  
that documents the disposition of all cases during the preceding 6185  
three months. The report shall contain the following information 6186  
for each case with which the board has completed its activities: 6187

(a) The case number assigned to the complaint or alleged 6188  
violation; 6189

(b) The type of license or limited permit, if any, held by 6190  
the individual against whom the complaint is directed; 6191

(c) A description of the allegations contained in the 6192  
complaint; 6193

(d) Whether witnesses were interviewed; 6194

(e) Whether the individual against whom the complaint is 6195  
directed is the subject of any pending complaints; 6196

(f) The disposition of the case. 6197

The report shall state how many cases are still pending 6198  
and shall be prepared in a manner that protects the identity of 6199  
each person involved in each case. The report shall be a public 6200  
record under section 149.43 of the Revised Code. 6201

(7) The board may provide a status update regarding an 6202  
investigation to a complainant on request if the board verifies 6203  
the complainant's identity. 6204

(F) The board shall keep records of its proceedings and do 6205  
other things as are necessary and proper to carry out and 6206  
enforce the provisions of this chapter. 6207

(G) The board shall maintain and publish on its internet 6208  
web site all of the following: 6209

(1) The requirements for the issuance of licenses and 6210  
limited permits under this chapter and rules adopted by the 6211  
board; 6212

(2) A list of the names and locations of the institutions 6213  
that each year granted degrees or certificates of completion in 6214  
respiratory care. 6215

**Sec. 4761.09.** (A) The state medical board, by an 6216  
affirmative vote of not fewer than six members, shall, except as 6217  
provided in division (B) of this section, and to the extent 6218  
permitted by law, limit, revoke, or suspend an individual's 6219  
license or limited permit, refuse to issue a license or limited 6220  
permit to an individual, refuse to renew a license or limited 6221  
permit, refuse to reinstate a license or limited permit, or 6222  
reprimand or place on probation the holder of a license or 6223  
limited permit for one or more of the following reasons: 6224

(1) A plea of guilty to, a judicial finding of guilt of, 6225  
or a judicial finding of eligibility for intervention in lieu of 6226  
conviction for, a felony; 6227

(2) Commission of an act that constitutes a felony in this 6228  
state, regardless of the jurisdiction in which the act was 6229  
committed; 6230

(3) A plea of guilty to, a judicial finding of guilt of, 6231  
or a judicial finding of eligibility for intervention in lieu of 6232  
conviction for, a misdemeanor committed in the course of 6233  
practice; 6234

(4) Commission of an act in the course of practice that 6235  
constitutes a misdemeanor in this state, regardless of the 6236

jurisdiction in which the act was committed; 6237

(5) A plea of guilty to, a judicial finding of guilt of, 6238  
or a judicial finding of eligibility for intervention in lieu of 6239  
conviction for, a misdemeanor involving moral turpitude; 6240

(6) Commission of an act involving moral turpitude that 6241  
constitutes a misdemeanor in this state, regardless of the 6242  
jurisdiction in which the act was committed; 6243

(7) Except when civil penalties are imposed under section 6244  
4761.091 of the Revised Code, violating or attempting to 6245  
violate, directly or indirectly, or assisting in or abetting the 6246  
violation of, or conspiring to violate, any provision of this 6247  
chapter or the rules adopted by the board; 6248

(8) Making a false, fraudulent, deceptive, or misleading 6249  
statement in the solicitation of or advertising for patients; in 6250  
relation to the practice of respiratory care; or in securing or 6251  
attempting to secure any license or permit issued by the board 6252  
under this chapter. 6253

As used in division (A)(8) of this section, "false, 6254  
fraudulent, deceptive, or misleading statement" means a 6255  
statement that includes a misrepresentation of fact, is likely 6256  
to mislead or deceive because of a failure to disclose material 6257  
facts, is intended or is likely to create false or unjustified 6258  
expectations of favorable results, or includes representations 6259  
or implications that in reasonable probability will cause an 6260  
ordinarily prudent person to misunderstand or be deceived. 6261

(9) Committing fraud during the administration of the 6262  
examination for a license to practice or committing fraud, 6263  
misrepresentation, or deception in applying for, renewing, or 6264  
securing any license or permit issued by the board; 6265

- (10) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established; 6266  
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- (11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care; 6270  
6271
- (12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 6272  
6273  
6274
- (13) Violation of the conditions of limitation placed by the board upon a license or permit; 6275  
6276
- (14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills; 6277  
6278  
6279  
6280
- (15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand; 6281  
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- (16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs; 6291  
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- (17) Termination or suspension from participation in the 6294

medicare or medicaid programs by the department of health and 6295  
human services or other responsible agency for any act or acts 6296  
that also would constitute a violation of division (A) (10), 6297  
(12), or (14) of this section; 6298

(18) Impairment of ability to practice according to 6299  
acceptable and prevailing standards of care because of habitual 6300  
or excessive use or abuse of drugs, alcohol, or other substances 6301  
that impair ability to practice; 6302

(19) Failure to cooperate in an investigation conducted by 6303  
the board under division (E) of section 4761.03 of the Revised 6304  
Code, including failure to comply with a subpoena or order 6305  
issued by the board or failure to answer truthfully a question 6306  
presented by the board in an investigative interview, an 6307  
investigative office conference, at a deposition, or in written 6308  
interrogatories, except that failure to cooperate with an 6309  
investigation shall not constitute grounds for discipline under 6310  
this section if a court of competent jurisdiction has issued an 6311  
order that either quashes a subpoena or permits the individual 6312  
to withhold the testimony or evidence in issue; 6313

(20) Practicing in an area of respiratory care for which 6314  
the person is clearly untrained or incompetent or practicing in 6315  
a manner that conflicts with section 4761.17 of the Revised 6316  
Code; 6317

(21) Employing, directing, or supervising a person who is 6318  
not authorized to practice respiratory care under this chapter 6319  
in the performance of respiratory care procedures; 6320

(22) Misrepresenting educational attainments or authorized 6321  
functions for the purpose of obtaining some benefit related to 6322  
the practice of respiratory care; 6323



(23) Assisting suicide as defined in section 3795.01 of 6324  
the Revised Code; 6325

(24) Representing, with the purpose of obtaining 6326  
compensation or other advantage as personal gain or for any 6327  
other person, that an incurable disease or injury, or other 6328  
incurable condition, can be permanently cured. 6329

Disciplinary actions taken by the board under division (A) 6330  
of this section shall be taken pursuant to an adjudication under 6331  
Chapter 119. of the Revised Code, except that in lieu of an 6332  
adjudication, the board may enter into a consent agreement with 6333  
an individual to resolve an allegation of a violation of this 6334  
chapter or any rule adopted under it. A consent agreement, when 6335  
ratified by an affirmative vote of not fewer than six members of 6336  
the board, shall constitute the findings and order of the board 6337  
with respect to the matter addressed in the agreement. If the 6338  
board refuses to ratify a consent agreement, the admissions and 6339  
findings contained in the consent agreement shall be of no 6340  
effect. 6341

A telephone conference call may be utilized for 6342  
ratification of a consent agreement that revokes or suspends an 6343  
individual's license or permit. The telephone conference call 6344  
shall be considered a special meeting under division (F) of 6345  
section 121.22 of the Revised Code. 6346

(B) The board shall not refuse to issue a license or 6347  
limited permit to an applicant because of a plea of guilty to, a 6348  
judicial finding of guilt of, or a judicial finding of 6349  
eligibility for intervention in lieu of conviction for an 6350  
offense unless the refusal is in accordance with section 9.79 of 6351  
the Revised Code. 6352

(C) Any action taken by the board under division (A) of 6353  
this section resulting in a suspension from practice shall be 6354  
accompanied by a written statement of the conditions under which 6355  
the individual's license or permit may be reinstated. The board 6356  
shall adopt rules governing conditions to be imposed for 6357  
reinstatement. Reinstatement of a license or permit suspended 6358  
pursuant to division (A) of this section requires an affirmative 6359  
vote of not fewer than six members of the board. 6360

(D) When the board refuses to grant or issue a license or 6361  
permit to an applicant, revokes an individual's license or 6362  
permit, refuses to renew an individual's license or permit, or 6363  
refuses to reinstate an individual's license or permit, the 6364  
board may specify that its action is permanent. An individual 6365  
subject to a permanent action taken by the board is forever 6366  
thereafter ineligible to hold a license or permit and the board 6367  
shall not accept an application for reinstatement of the license 6368  
or permit or for issuance of a new license or permit. 6369

(E) If the board is required by Chapter 119. of the 6370  
Revised Code to give notice of an opportunity for a hearing and 6371  
if the individual subject to the notice does not timely request 6372  
a hearing in accordance with section 119.07 of the Revised Code, 6373  
the board is not required to hold a hearing, but may adopt, by 6374  
an affirmative vote of not fewer than six of its members, a 6375  
final order that contains the board's findings. In the final 6376  
order, the board may order any of the sanctions identified under 6377  
division (A) of this section. 6378

(F) In enforcing division (A) (14) of this section, the 6379  
board, upon a showing of a possible violation, may compel any 6380  
individual authorized to practice by this chapter or who has 6381  
submitted an application pursuant to this chapter to submit to a 6382

mental examination, physical examination, including an HIV test, 6383  
or both a mental and a physical examination. The expense of the 6384  
examination is the responsibility of the individual compelled to 6385  
be examined. Failure to submit to a mental or physical 6386  
examination or consent to an HIV test ordered by the board 6387  
constitutes an admission of the allegations against the 6388  
individual unless the failure is due to circumstances beyond the 6389  
individual's control, and a default and final order may be 6390  
entered without the taking of testimony or presentation of 6391  
evidence. If the board finds an individual unable to practice 6392  
because of the reasons set forth in division (A) (14) of this 6393  
section, the board shall require the individual to submit to 6394  
care, counseling, or treatment by physicians approved or 6395  
designated by the board, as a condition for initial, continued, 6396  
reinstated, or renewed authority to practice. An individual 6397  
affected under this division shall be afforded an opportunity to 6398  
demonstrate to the board the ability to resume practice in 6399  
compliance with acceptable and prevailing standards under the 6400  
provisions of the individual's license or permit. For the 6401  
purpose of division (A) (14) of this section, any individual who 6402  
applies for or receives a license or permit to practice under 6403  
this chapter accepts the privilege of practicing in this state 6404  
and, by so doing, shall be deemed to have given consent to 6405  
submit to a mental or physical examination when directed to do 6406  
so in writing by the board, and to have waived all objections to 6407  
the admissibility of testimony or examination reports that 6408  
constitute a privileged communication. 6409

(G) For the purposes of division (A) (18) of this section, 6410  
any individual authorized to practice by this chapter accepts 6411  
the privilege of practicing in this state subject to supervision 6412  
by the board. By filing an application for or holding a license 6413

or permit under this chapter, an individual shall be deemed to 6414  
have given consent to submit to a mental or physical examination 6415  
when ordered to do so by the board in writing, and to have 6416  
waived all objections to the admissibility of testimony or 6417  
examination reports that constitute privileged communications. 6418

If it has reason to believe that any individual authorized 6419  
to practice by this chapter or any applicant for a license or 6420  
permit suffers such impairment, the board may compel the 6421  
individual to submit to a mental or physical examination, or 6422  
both. The expense of the examination is the responsibility of 6423  
the individual compelled to be examined. Any mental or physical 6424  
examination required under this division shall be undertaken by 6425  
a treatment provider or physician who is qualified to conduct 6426  
the examination and who is chosen by the board. 6427

Failure to submit to a mental or physical examination 6428  
ordered by the board constitutes an admission of the allegations 6429  
against the individual unless the failure is due to 6430  
circumstances beyond the individual's control, and a default and 6431  
final order may be entered without the taking of testimony or 6432  
presentation of evidence. If the board determines that the 6433  
individual's ability to practice is impaired, the board shall 6434  
suspend the individual's license or permit or deny the 6435  
individual's application and shall require the individual, as a 6436  
condition for an initial, continued, reinstated, or renewed 6437  
license or permit, to submit to treatment. 6438

Before being eligible to apply for reinstatement of a 6439  
license or permit suspended under this division, the impaired 6440  
practitioner shall demonstrate to the board the ability to 6441  
resume practice in compliance with acceptable and prevailing 6442  
standards of care under the provisions of the practitioner's 6443

license or permit. The demonstration shall include, but shall not be limited to, the following:

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

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

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

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

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

~~(H) (H) (1) If either of the following circumstances occur, the secretary and supervising member determine both of the following, they may recommend that the board suspend an~~

individual's license or permit without a prior hearing: 6473

~~(1)~~ (a) The secretary and supervising member determine 6474  
both of the following: 6475

(i) That there is clear and convincing evidence that an 6476  
individual has violated division (A) of this section; 6477

~~(2)~~ (ii) That the individual's continued practice presents 6478  
a danger of immediate and serious harm to the public. 6479

(b) The board receives verifiable information that a 6480  
licensee has been charged in any state or federal court for a 6481  
crime classified as a felony under the charging court's law and 6482  
the conduct charged constitutes a violation of division (A) of 6483  
this section. 6484

~~Written~~ (2) If a recommendation is made to suspend without 6485  
a prior hearing pursuant to division (H) (1) of this section, 6486  
written allegations shall be prepared for consideration by the 6487  
board. The board, upon review of those allegations and by an 6488  
affirmative vote of not fewer than six of its members, excluding 6489  
the secretary and supervising member, may suspend a license or 6490  
permit without a prior hearing. A telephone conference call may 6491  
be utilized for reviewing the allegations and taking the vote on 6492  
the summary suspension. 6493

The board shall issue a written order of suspension by 6494  
certified mail or in person in accordance with section 119.07 of 6495  
the Revised Code. The order shall not be subject to suspension 6496  
by the court during pendency of any appeal filed under section 6497  
119.12 of the Revised Code. If the individual subject to the 6498  
summary suspension requests an adjudicatory hearing by the 6499  
board, the date set for the hearing shall be within fifteen 6500  
days, but not earlier than seven days, after the individual 6501

requests the hearing, unless otherwise agreed to by both the 6502  
board and the individual. 6503

(3) Any summary suspension imposed under this division 6504  
shall remain in effect, unless reversed on appeal, until a final 6505  
adjudicative order issued by the board pursuant to this section 6506  
and Chapter 119. of the Revised Code becomes effective. The 6507  
board shall issue its final adjudicative order within seventy- 6508  
five days after completion of its hearing. A failure to issue 6509  
the order within seventy-five days shall result in dissolution 6510  
of the summary suspension order but shall not invalidate any 6511  
subsequent, final adjudicative order. 6512

(I) For purposes of divisions (A) (2), (4), and (6) of this 6513  
section, the commission of the act may be established by a 6514  
finding by the board, pursuant to an adjudication under Chapter 6515  
119. of the Revised Code, that the individual committed the act. 6516  
The board does not have jurisdiction under those divisions if 6517  
the trial court renders a final judgment in the individual's 6518  
favor and that judgment is based upon an adjudication on the 6519  
merits. The board has jurisdiction under those divisions if the 6520  
trial court issues an order of dismissal upon technical or 6521  
procedural grounds. 6522

(J) The sealing of conviction records by any court shall 6523  
have no effect upon a prior board order entered under this 6524  
section or upon the board's jurisdiction to take action under 6525  
this section if, based upon a plea of guilty, a judicial finding 6526  
of guilt, or a judicial finding of eligibility for intervention 6527  
in lieu of conviction, the board issued a notice of opportunity 6528  
for a hearing prior to the court's order to seal the records. 6529  
The board shall not be required to seal, destroy, redact, or 6530  
otherwise modify its records to reflect the court's sealing of 6531

conviction records. 6532

(K) If the board takes action under division (A) (1), (3), 6533  
or (5) of this section, and the judicial finding of guilt, 6534  
guilty plea, or judicial finding of eligibility for intervention 6535  
in lieu of conviction is overturned on appeal, upon exhaustion 6536  
of the criminal appeal, a petition for reconsideration of the 6537  
order may be filed with the board along with appropriate court 6538  
documents. Upon receipt of a petition for reconsideration and 6539  
supporting court documents, the board shall reinstate the 6540  
individual's license or permit. The board may then hold an 6541  
adjudication under Chapter 119. of the Revised Code to determine 6542  
whether the individual committed the act in question. Notice of 6543  
an opportunity for a hearing shall be given in accordance with 6544  
Chapter 119. of the Revised Code. If the board finds, pursuant 6545  
to an adjudication held under this division, that the individual 6546  
committed the act or if no hearing is requested, the board may 6547  
order any of the sanctions identified under division (A) of this 6548  
section. 6549

(L) The license or permit issued to an individual under 6550  
this chapter and the individual's practice in this state are 6551  
automatically suspended as of the date the individual pleads 6552  
guilty to, is found by a judge or jury to be guilty of, or is 6553  
subject to a judicial finding of eligibility for intervention in 6554  
lieu of conviction in this state or treatment or intervention in 6555  
lieu of conviction in another jurisdiction for any of the 6556  
following criminal offenses in this state or a substantially 6557  
equivalent criminal offense in another jurisdiction: aggravated 6558  
murder, murder, voluntary manslaughter, felonious assault, 6559  
trafficking in persons, kidnapping, rape, sexual battery, gross 6560  
sexual imposition, aggravated arson, aggravated robbery, or 6561  
aggravated burglary. Continued practice after suspension shall 6562



be considered practicing without a license or permit. 6563

The board shall notify the individual subject to the 6564  
suspension by certified mail or in person in accordance with 6565  
section 119.07 of the Revised Code. If an individual whose 6566  
license or permit is automatically suspended under this division 6567  
fails to make a timely request for an adjudication under Chapter 6568  
119. of the Revised Code, the board shall enter a final order 6569  
permanently revoking the individual's license or permit. 6570

(M) Notwithstanding any other provision of the Revised 6571  
Code, all of the following apply: 6572

(1) The surrender of a license or permit issued under this 6573  
chapter shall not be effective unless or until accepted by the 6574  
board. A telephone conference call may be utilized for 6575  
acceptance of the surrender of an individual's license or 6576  
permit. The telephone conference call shall be considered a 6577  
special meeting under division (F) of section 121.22 of the 6578  
Revised Code. Reinstatement of a license or permit surrendered 6579  
to the board requires an affirmative vote of not fewer than six 6580  
members of the board. 6581

(2) An application for a license or permit made under the 6582  
provisions of this chapter may not be withdrawn without approval 6583  
of the board. 6584

(3) Failure by an individual to renew a license or permit 6585  
in accordance with this chapter shall not remove or limit the 6586  
board's jurisdiction to take any disciplinary action under this 6587  
section against the individual. 6588

(4) At the request of the board, a license or permit 6589  
holder shall immediately surrender to the board a license or 6590  
permit that the board has suspended, revoked, or permanently 6591

revoked. 6592

Sec. 4761.14. (A) As used in this section, "criminal 6593  
conduct" and "sexual misconduct" have the same meanings as in 6594  
section 4731.224 of the Revised Code. 6595

(B) (1) An employer that disciplines or terminates the 6596  
employment of a respiratory care professional or individual 6597  
holding a limited permit issued under this chapter because of 6598  
conduct that would be grounds for disciplinary action under 6599  
section 4761.09 of the Revised Code shall, not later than ~~sixty-~~ 6600  
~~thirty~~ days after the discipline or termination, report the 6601  
action to the state medical board. The report shall state the 6602  
name of the respiratory care professional or individual holding 6603  
the limited permit and the reason the employer took the action. 6604  
If an employer fails to report to the board, the board may seek 6605  
an order from the Franklin county court of common pleas, or any 6606  
other court of competent jurisdiction, compelling submission of 6607  
the report. 6608

(2) Within thirty days after commencing an investigation 6609  
regarding criminal conduct or sexual misconduct against any 6610  
individual holding a valid license or limited permit issued 6611  
pursuant to this chapter, a health care facility, including a 6612  
hospital, health care facility operated by a health insuring 6613  
corporation, ambulatory surgical center, or similar facility or 6614  
employer, shall report to the board the name of the individual 6615  
and a summary of the underlying facts related to the 6616  
investigation being commenced. 6617

(C) If any individual authorized to practice under this 6618  
chapter or any professional association or society of such 6619  
individuals knows or has reasonable cause to suspect based on 6620  
facts that would cause a reasonable person in a similar position 6621

to suspect that an individual authorized to practice under this 6622  
chapter has committed or participated in criminal conduct or 6623  
sexual misconduct the information upon which the belief is based 6624  
shall be reported to the board within thirty days. 6625

(D) In addition to the self-reporting of criminal offenses 6626  
that is required for license renewal, an individual authorized 6627  
to practice under this chapter shall report to the board 6628  
criminal charges regarding criminal conduct, sexual misconduct, 6629  
or any conduct involving the use of a motor vehicle while under 6630  
the influence of alcohol or drugs, including offenses that are 6631  
equivalent offenses under division (A) of section 4511.181 of 6632  
the Revised Code, violations of division (D) of section 4511.194 6633  
of the Revised Code, and violations of division (C) of section 6634  
4511.79 of the Revised Code. Reports under this division shall 6635  
be made within thirty days of the criminal charge being filed. 6636

**Sec. 4761.99.** Whoever violates division (A) of section 6637  
4761.10 of the Revised Code is guilty of a minor misdemeanor on 6638  
a first offense. On a second offense, the person is guilty of a 6639  
misdemeanor of the fourth degree. On each subsequent offense, 6640  
the person is guilty of a misdemeanor of the first degree. 6641

Whoever violates division (B)(2) or (C) of section 4761.14 6642  
of the Revised Code is guilty of failure to report criminal 6643  
conduct or sexual misconduct, a misdemeanor of the fourth 6644  
degree. If the offender has previously been convicted of a 6645  
violation of this division, the failure to report is a 6646  
misdemeanor of the first degree. 6647

Whoever violates division (E)(5) of section 4761.03 of the 6648  
Revised Code is guilty of disclosing confidential investigatory 6649  
information, a misdemeanor of the first degree. 6650

**Sec. 4762.13.** (A) The state medical board, by an 6651  
affirmative vote of not fewer than six members, may revoke or 6652  
may refuse to grant a license to practice as an oriental 6653  
medicine practitioner or license to practice as an acupuncturist 6654  
to a person found by the board to have committed fraud, 6655  
misrepresentation, or deception in applying for or securing the 6656  
license. 6657

(B) The board, by an affirmative vote of not fewer than 6658  
six members, shall, except as provided in division (C) of this 6659  
section, and to the extent permitted by law, limit, revoke, or 6660  
suspend an individual's license to practice, refuse to issue a 6661  
license to an applicant, refuse to renew a license, refuse to 6662  
reinstate a license, or reprimand or place on probation the 6663  
holder of a license for any of the following reasons: 6664

(1) Permitting the holder's name or license to be used by 6665  
another person; 6666

(2) Failure to comply with the requirements of this 6667  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 6668  
by the board; 6669

(3) Violating or attempting to violate, directly or 6670  
indirectly, or assisting in or abetting the violation of, or 6671  
conspiring to violate, any provision of this chapter, Chapter 6672  
4731. of the Revised Code, or the rules adopted by the board; 6673

(4) A departure from, or failure to conform to, minimal 6674  
standards of care of similar practitioners under the same or 6675  
similar circumstances whether or not actual injury to the 6676  
patient is established; 6677

(5) Inability to practice according to acceptable and 6678  
prevailing standards of care by reason of mental illness or 6679

physical illness, including physical deterioration that 6680  
adversely affects cognitive, motor, or perceptive skills; 6681

(6) Impairment of ability to practice according to 6682  
acceptable and prevailing standards of care because of habitual 6683  
or excessive use or abuse of drugs, alcohol, or other substances 6684  
that impair ability to practice; 6685

(7) Willfully betraying a professional confidence; 6686

(8) Making a false, fraudulent, deceptive, or misleading 6687  
statement in soliciting or advertising for patients or in 6688  
securing or attempting to secure a license to practice as an 6689  
oriental medicine practitioner or license to practice as an 6690  
acupuncturist. 6691

As used in this division, "false, fraudulent, deceptive, 6692  
or misleading statement" means a statement that includes a 6693  
misrepresentation of fact, is likely to mislead or deceive 6694  
because of a failure to disclose material facts, is intended or 6695  
is likely to create false or unjustified expectations of 6696  
favorable results, or includes representations or implications 6697  
that in reasonable probability will cause an ordinarily prudent 6698  
person to misunderstand or be deceived. 6699

(9) Representing, with the purpose of obtaining 6700  
compensation or other advantage personally or for any other 6701  
person, that an incurable disease or injury, or other incurable 6702  
condition, can be permanently cured; 6703

(10) The obtaining of, or attempting to obtain, money or a 6704  
thing of value by fraudulent misrepresentations in the course of 6705  
practice; 6706

(11) A plea of guilty to, a judicial finding of guilt of, 6707  
or a judicial finding of eligibility for intervention in lieu of 6708

conviction for, a felony; 6709

(12) Commission of an act that constitutes a felony in 6710  
this state, regardless of the jurisdiction in which the act was 6711  
committed; 6712

(13) A plea of guilty to, a judicial finding of guilt of, 6713  
or a judicial finding of eligibility for intervention in lieu of 6714  
conviction for, a misdemeanor committed in the course of 6715  
practice; 6716

(14) A plea of guilty to, a judicial finding of guilt of, 6717  
or a judicial finding of eligibility for intervention in lieu of 6718  
conviction for, a misdemeanor involving moral turpitude; 6719

(15) Commission of an act in the course of practice that 6720  
constitutes a misdemeanor in this state, regardless of the 6721  
jurisdiction in which the act was committed; 6722

(16) Commission of an act involving moral turpitude that 6723  
constitutes a misdemeanor in this state, regardless of the 6724  
jurisdiction in which the act was committed; 6725

(17) A plea of guilty to, a judicial finding of guilt of, 6726  
or a judicial finding of eligibility for intervention in lieu of 6727  
conviction for violating any state or federal law regulating the 6728  
possession, distribution, or use of any drug, including 6729  
trafficking in drugs; 6730

(18) Any of the following actions taken by the state 6731  
agency responsible for regulating the practice of oriental 6732  
medicine or acupuncture in another jurisdiction, for any reason 6733  
other than the nonpayment of fees: the limitation, revocation, 6734  
or suspension of an individual's license to practice; acceptance 6735  
of an individual's license surrender; denial of a license; 6736  
refusal to renew or reinstate a license; imposition of 6737

probation; or issuance of an order of censure or other 6738  
reprimand; 6739

(19) Violation of the conditions placed by the board on a 6740  
license to practice as an oriental medicine practitioner or 6741  
license to practice as an acupuncturist; 6742

(20) Failure to use universal blood and body fluid 6743  
precautions established by rules adopted under section 4731.051 6744  
of the Revised Code; 6745

(21) Failure to cooperate in an investigation conducted by 6746  
the board under section 4762.14 of the Revised Code, including 6747  
failure to comply with a subpoena or order issued by the board 6748  
or failure to answer truthfully a question presented by the 6749  
board at a deposition or in written interrogatories, except that 6750  
failure to cooperate with an investigation shall not constitute 6751  
grounds for discipline under this section if a court of 6752  
competent jurisdiction has issued an order that either quashes a 6753  
subpoena or permits the individual to withhold the testimony or 6754  
evidence in issue; 6755

(22) Failure to comply with the standards of the national 6756  
certification commission for acupuncture and oriental medicine 6757  
regarding professional ethics, commitment to patients, 6758  
commitment to the profession, and commitment to the public; 6759

(23) Failure to have adequate professional liability 6760  
insurance coverage in accordance with section 4762.22 of the 6761  
Revised Code; 6762

(24) Failure to maintain a current and active designation 6763  
as a diplomate in oriental medicine, diplomate of acupuncture 6764  
and Chinese herbology, or diplomate in acupuncture, as 6765  
applicable, from the national certification commission for 6766

acupuncture and oriental medicine, including revocation by the 6767  
commission of the individual's designation, failure by the 6768  
individual to meet the commission's requirements for 6769  
redesignation, or failure to notify the board that the 6770  
appropriate designation has not been maintained. 6771

(C) The board shall not refuse to issue a certificate to 6772  
an applicant because of a plea of guilty to, a judicial finding 6773  
of guilt of, or a judicial finding of eligibility for 6774  
intervention in lieu of conviction for an offense unless the 6775  
refusal is in accordance with section 9.79 of the Revised Code. 6776

(D) Disciplinary actions taken by the board under 6777  
divisions (A) and (B) of this section shall be taken pursuant to 6778  
an adjudication under Chapter 119. of the Revised Code, except 6779  
that in lieu of an adjudication, the board may enter into a 6780  
consent agreement with an oriental medicine practitioner or 6781  
acupuncturist or applicant to resolve an allegation of a 6782  
violation of this chapter or any rule adopted under it. A 6783  
consent agreement, when ratified by an affirmative vote of not 6784  
fewer than six members of the board, shall constitute the 6785  
findings and order of the board with respect to the matter 6786  
addressed in the agreement. If the board refuses to ratify a 6787  
consent agreement, the admissions and findings contained in the 6788  
consent agreement shall be of no force or effect. 6789

(E) For purposes of divisions (B) (12), (15), and (16) of 6790  
this section, the commission of the act may be established by a 6791  
finding by the board, pursuant to an adjudication under Chapter 6792  
119. of the Revised Code, that the applicant or license holder 6793  
committed the act in question. The board shall have no 6794  
jurisdiction under these divisions in cases where the trial 6795  
court renders a final judgment in the license holder's favor and 6796



that judgment is based upon an adjudication on the merits. The 6797  
board shall have jurisdiction under these divisions in cases 6798  
where the trial court issues an order of dismissal upon 6799  
technical or procedural grounds. 6800

(F) The sealing of conviction records by any court shall 6801  
have no effect upon a prior board order entered under the 6802  
provisions of this section or upon the board's jurisdiction to 6803  
take action under the provisions of this section if, based upon 6804  
a plea of guilty, a judicial finding of guilt, or a judicial 6805  
finding of eligibility for intervention in lieu of conviction, 6806  
the board issued a notice of opportunity for a hearing or 6807  
entered into a consent agreement prior to the court's order to 6808  
seal the records. The board shall not be required to seal, 6809  
destroy, redact, or otherwise modify its records to reflect the 6810  
court's sealing of conviction records. 6811

(G) For purposes of this division, any individual who 6812  
holds a license to practice issued under this chapter, or 6813  
applies for a license to practice, shall be deemed to have given 6814  
consent to submit to a mental or physical examination when 6815  
directed to do so in writing by the board and to have waived all 6816  
objections to the admissibility of testimony or examination 6817  
reports that constitute a privileged communication. 6818

(1) In enforcing division (B) (5) of this section, the 6819  
board, upon a showing of a possible violation, may compel any 6820  
individual who holds a license to practice issued under this 6821  
chapter or who has applied for a license pursuant to this 6822  
chapter to submit to a mental examination, physical examination, 6823  
including an HIV test, or both a mental and physical 6824  
examination. The expense of the examination is the 6825  
responsibility of the individual compelled to be examined. 6826

Failure to submit to a mental or physical examination or consent 6827  
to an HIV test ordered by the board constitutes an admission of 6828  
the allegations against the individual unless the failure is due 6829  
to circumstances beyond the individual's control, and a default 6830  
and final order may be entered without the taking of testimony 6831  
or presentation of evidence. If the board finds an oriental 6832  
medicine practitioner or acupuncturist unable to practice 6833  
because of the reasons set forth in division (B) (5) of this 6834  
section, the board shall require the individual to submit to 6835  
care, counseling, or treatment by physicians approved or 6836  
designated by the board, as a condition for an initial, 6837  
continued, reinstated, or renewed license to practice. An 6838  
individual affected by this division shall be afforded an 6839  
opportunity to demonstrate to the board the ability to resume 6840  
practicing in compliance with acceptable and prevailing 6841  
standards of care. 6842

(2) For purposes of division (B) (6) of this section, if 6843  
the board has reason to believe that any individual who holds a 6844  
license to practice issued under this chapter or any applicant 6845  
for a license suffers such impairment, the board may compel the 6846  
individual to submit to a mental or physical examination, or 6847  
both. The expense of the examination is the responsibility of 6848  
the individual compelled to be examined. Any mental or physical 6849  
examination required under this division shall be undertaken by 6850  
a treatment provider or physician qualified to conduct such 6851  
examination and chosen by the board. 6852

Failure to submit to a mental or physical examination 6853  
ordered by the board constitutes an admission of the allegations 6854  
against the individual unless the failure is due to 6855  
circumstances beyond the individual's control, and a default and 6856  
final order may be entered without the taking of testimony or 6857

presentation of evidence. If the board determines that the 6858  
individual's ability to practice is impaired, the board shall 6859  
suspend the individual's license or deny the individual's 6860  
application and shall require the individual, as a condition for 6861  
an initial, continued, reinstated, or renewed license, to submit 6862  
to treatment. 6863

Before being eligible to apply for reinstatement of a 6864  
license suspended under this division, the oriental medicine 6865  
practitioner or acupuncturist shall demonstrate to the board the 6866  
ability to resume practice in compliance with acceptable and 6867  
prevailing standards of care. The demonstration shall include 6868  
the following: 6869

(a) Certification from a treatment provider approved under 6870  
section 4731.25 of the Revised Code that the individual has 6871  
successfully completed any required inpatient treatment; 6872

(b) Evidence of continuing full compliance with an 6873  
aftercare contract or consent agreement; 6874

(c) Two written reports indicating that the individual's 6875  
ability to practice has been assessed and that the individual 6876  
has been found capable of practicing according to acceptable and 6877  
prevailing standards of care. The reports shall be made by 6878  
individuals or providers approved by the board for making such 6879  
assessments and shall describe the basis for their 6880  
determination. 6881

The board may reinstate a license suspended under this 6882  
division after such demonstration and after the individual has 6883  
entered into a written consent agreement. 6884

When the impaired individual resumes practice, the board 6885  
shall require continued monitoring of the individual. The 6886

monitoring shall include monitoring of compliance with the 6887  
written consent agreement entered into before reinstatement or 6888  
with conditions imposed by board order after a hearing, and, 6889  
upon termination of the consent agreement, submission to the 6890  
board for at least two years of annual written progress reports 6891  
made under penalty of falsification stating whether the 6892  
individual has maintained sobriety. 6893

~~(H)~~(H) (1) If either of the following circumstances occur, 6894  
the secretary and supervising member ~~determine both of the~~ 6895  
~~following, they may~~ recommend that the board suspend an 6896  
individual's license to practice without a prior hearing: 6897

~~(1)~~(a) The secretary and supervising member determine 6898  
both of the following: 6899

(i) That there is clear and convincing evidence that an 6900  
oriental medicine practitioner or acupuncturist has violated 6901  
division (B) of this section; 6902

~~(2)~~(ii) That the individual's continued practice presents 6903  
a danger of immediate and serious harm to the public. 6904

(b) The board receives verifiable information that a 6905  
licensee has been charged in any state or federal court for a 6906  
crime classified as a felony under the charging court's law and 6907  
the conduct charged constitutes a violation of division (B) of 6908  
this section. 6909

~~Written~~ (2) If a recommendation is made to suspend without 6910  
a prior hearing pursuant to division (H) (1) of this section, 6911  
written allegations shall be prepared for consideration by the 6912  
board. The board, upon review of the allegations and by an 6913  
affirmative vote of not fewer than six of its members, excluding 6914  
the secretary and supervising member, may suspend a license 6915

without a prior hearing. A telephone conference call may be 6916  
utilized for reviewing the allegations and taking the vote on 6917  
the summary suspension. 6918

The board shall issue a written order of suspension by 6919  
certified mail or in person in accordance with section 119.07 of 6920  
the Revised Code. The order shall not be subject to suspension 6921  
by the court during pendency of any appeal filed under section 6922  
119.12 of the Revised Code. If the oriental medicine 6923  
practitioner or acupuncturist requests an adjudicatory hearing 6924  
by the board, the date set for the hearing shall be within 6925  
fifteen days, but not earlier than seven days, after the hearing 6926  
is requested, unless otherwise agreed to by both the board and 6927  
the license holder. 6928

(3) A summary suspension imposed under this division shall 6929  
remain in effect, unless reversed on appeal, until a final 6930  
adjudicative order issued by the board pursuant to this section 6931  
and Chapter 119. of the Revised Code becomes effective. The 6932  
board shall issue its final adjudicative order within sixty days 6933  
after completion of its hearing. Failure to issue the order 6934  
within sixty days shall result in dissolution of the summary 6935  
suspension order, but shall not invalidate any subsequent, final 6936  
adjudicative order. 6937

(I) If the board takes action under division (B) (11), 6938  
(13), or (14) of this section, and the judicial finding of 6939  
guilt, guilty plea, or judicial finding of eligibility for 6940  
intervention in lieu of conviction is overturned on appeal, upon 6941  
exhaustion of the criminal appeal, a petition for 6942  
reconsideration of the order may be filed with the board along 6943  
with appropriate court documents. Upon receipt of a petition and 6944  
supporting court documents, the board shall reinstate the 6945

license. The board may then hold an adjudication under Chapter 6946  
119. of the Revised Code to determine whether the individual 6947  
committed the act in question. Notice of opportunity for hearing 6948  
shall be given in accordance with Chapter 119. of the Revised 6949  
Code. If the board finds, pursuant to an adjudication held under 6950  
this division, that the individual committed the act, or if no 6951  
hearing is requested, it may order any of the sanctions 6952  
specified in division (B) of this section. 6953

(J) The license to practice of an oriental medicine 6954  
practitioner or acupuncturist and the practitioner's or 6955  
acupuncturist's practice in this state are automatically 6956  
suspended as of the date the practitioner or acupuncturist 6957  
pleads guilty to, is found by a judge or jury to be guilty of, 6958  
or is subject to a judicial finding of eligibility for 6959  
intervention in lieu of conviction in this state or treatment or 6960  
intervention in lieu of conviction in another jurisdiction for 6961  
any of the following criminal offenses in this state or a 6962  
substantially equivalent criminal offense in another 6963  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 6964  
felonious assault, trafficking in persons, kidnapping, rape, 6965  
sexual battery, gross sexual imposition, aggravated arson, 6966  
aggravated robbery, or aggravated burglary. Continued practice 6967  
after the suspension shall be considered practicing without a 6968  
license. 6969

The board shall notify the individual subject to the 6970  
suspension by certified mail or in person in accordance with 6971  
section 119.07 of the Revised Code. If an individual whose 6972  
license is suspended under this division fails to make a timely 6973  
request for an adjudication under Chapter 119. of the Revised 6974  
Code, the board shall enter a final order permanently revoking 6975  
the individual's license. 6976

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

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the license may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(M) When the board refuses to grant or issue a license to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

(1) The surrender of a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist

issued under this chapter is not effective unless or until 7007  
accepted by the board. Reinstatement of a license surrendered to 7008  
the board requires an affirmative vote of not fewer than six 7009  
members of the board. 7010

(2) An application made under this chapter for a license 7011  
may not be withdrawn without approval of the board. 7012

(3) Failure by an individual to renew a license in 7013  
accordance with section 4762.06 of the Revised Code shall not 7014  
remove or limit the board's jurisdiction to take disciplinary 7015  
action under this section against the individual. 7016

**Sec. 4762.14.** (A) The state medical board shall 7017  
investigate evidence that appears to show that any person has 7018  
violated this chapter or the rules adopted under it. Any person 7019  
may report to the board in a signed writing any information the 7020  
person has that appears to show a violation of any provision of 7021  
this chapter or the rules adopted under it. In the absence of 7022  
bad faith, a person who reports such information or testifies 7023  
before the board in an adjudication conducted under Chapter 119. 7024  
of the Revised Code shall not be liable for civil damages as a 7025  
result of reporting the information or providing testimony. Each 7026  
complaint or allegation of a violation received by the board 7027  
shall be assigned a case number and be recorded by the board. 7028

(B) Investigations of alleged violations of this chapter 7029  
or rules adopted under it shall be supervised by the supervising 7030  
member elected by the board in accordance with section 4731.02 7031  
of the Revised Code and by the secretary as provided in section 7032  
4762.17 of the Revised Code. The board's president may designate 7033  
another member of the board to supervise the investigation in 7034  
place of the supervising member. Upon a vote of the majority of 7035  
the board to authorize the addition of a consumer member in the 7036



supervision of any part of any investigation, the president 7037  
shall designate a consumer member for supervision of 7038  
investigations as determined by the president. The authorization 7039  
of consumer member participation in investigation supervision 7040  
may be rescinded by a majority vote of the board. A member of 7041  
the board who supervises the investigation of a case shall not 7042  
participate in further adjudication of the case. 7043

(C) In investigating a possible violation of this chapter 7044  
or the rules adopted under it, the board may administer oaths, 7045  
order the taking of depositions, issue subpoenas, and compel the 7046  
attendance of witnesses and production of books, accounts, 7047  
papers, records, documents, and testimony, except that a 7048  
subpoena for patient record information or information, 7049  
documents, and records from a peer review committee of a health 7050  
care entity related to sexual misconduct or criminal conduct 7051  
shall not be issued without consultation with the attorney 7052  
general's office and approval of the secretary and supervising 7053  
member of the board. Before issuance of a subpoena for patient 7054  
record information or information, documents, and records from a 7055  
peer review committee of a health care entity related to sexual 7056  
misconduct or criminal conduct, the secretary and supervising 7057  
member shall determine whether there is probable cause to 7058  
believe that the complaint filed alleges a violation of this 7059  
chapter or the rules adopted under it and that the records 7060  
sought are relevant to the alleged violation and material to the 7061  
investigation. The subpoena may apply only to records that cover 7062  
a reasonable period of time surrounding the alleged violation. 7063

On failure to comply with any subpoena issued by the board 7064  
and after reasonable notice to the person being subpoenaed, the 7065  
board may move for an order compelling the production of persons 7066  
or records pursuant to the Rules of Civil Procedure. 7067

A subpoena issued by the board may be served by a sheriff, 7068  
the sheriff's deputy, or a board employee designated by the 7069  
board. Service of a subpoena issued by the board may be made by 7070  
delivering a copy of the subpoena to the person named therein, 7071  
reading it to the person, or leaving it at the person's usual 7072  
place of residence. When the person being served is an oriental 7073  
medicine practitioner or acupuncturist, service of the subpoena 7074  
may be made by certified mail, restricted delivery, return 7075  
receipt requested, and the subpoena shall be deemed served on 7076  
the date delivery is made or the date the person refuses to 7077  
accept delivery. 7078

A sheriff's deputy who serves a subpoena shall receive the 7079  
same fees as a sheriff. Each witness who appears before the 7080  
board in obedience to a subpoena shall receive the fees and 7081  
mileage provided for under section 119.094 of the Revised Code. 7082

(D) All For purposes of section 2305.252 of the Revised 7083  
Code, all hearings and investigations of the board shall be 7084  
considered civil actions for the purposes of section 2305.252 of 7085  
the Revised Code, except those involving allegations of sexual 7086  
misconduct or criminal conduct, as defined in that section. 7087

(E) Information received by the board pursuant to an 7088  
investigation is confidential and not subject to discovery in 7089  
any civil action. 7090

The board shall conduct all investigations and proceedings 7091  
in a manner that protects the confidentiality of patients and 7092  
persons who file complaints with the board. The board shall not 7093  
make public the names or any other identifying information about 7094  
patients or complainants unless proper consent is given. 7095

The board may share any information it receives pursuant 7096

to an investigation, including patient records and patient 7097  
record information, with law enforcement agencies, other 7098  
licensing boards, and other governmental agencies that are 7099  
prosecuting, adjudicating, or investigating alleged violations 7100  
of statutes or administrative rules. An agency or board that 7101  
receives the information shall comply with the same requirements 7102  
regarding confidentiality as those with which the state medical 7103  
board must comply, notwithstanding any conflicting provision of 7104  
the Revised Code or procedure of the agency or board that 7105  
applies when it is dealing with other information in its 7106  
possession. In a judicial proceeding, the information may be 7107  
admitted into evidence only in accordance with the Rules of 7108  
Evidence, but the court shall require that appropriate measures 7109  
are taken to ensure that confidentiality is maintained with 7110  
respect to any part of the information that contains names or 7111  
other identifying information about patients or complainants 7112  
whose confidentiality was protected by the state medical board 7113  
when the information was in the board's possession. Measures to 7114  
ensure confidentiality that may be taken by the court include 7115  
sealing its records or deleting specific information from its 7116  
records. 7117

No person shall knowingly access, use, or disclose 7118  
confidential investigatory information in a manner prohibited by 7119  
law. 7120

(F) The state medical board shall develop requirements for 7121  
and provide appropriate initial training and continuing 7122  
education for investigators employed by the board to carry out 7123  
its duties under this chapter. The training and continuing 7124  
education may include enrollment in courses operated or approved 7125  
by the Ohio peace officer training commission that the board 7126  
considers appropriate under conditions set forth in section 7127

109.79 of the Revised Code. 7128

(G) On a quarterly basis, the board shall prepare a report 7129  
that documents the disposition of all cases during the preceding 7130  
three months. The report shall contain the following information 7131  
for each case with which the board has completed its activities: 7132

(1) The case number assigned to the complaint or alleged 7133  
violation; 7134

(2) The type of license, if any, held by the individual 7135  
against whom the complaint is directed; 7136

(3) A description of the allegations contained in the 7137  
complaint; 7138

(4) Whether witnesses were interviewed; 7139

(5) Whether the individual against whom the complaint is 7140  
directed is the subject of any pending complaints; 7141

(6) The disposition of the case. 7142

The report shall state how many cases are still pending, 7143  
and shall be prepared in a manner that protects the identity of 7144  
each person involved in each case. The report is a public record 7145  
for purposes of section 149.43 of the Revised Code. 7146

(H) The board may provide a status update regarding an 7147  
investigation to a complainant on request if the board verifies 7148  
the complainant's identity. 7149

**Sec. 4762.16.** (A) As used in this section, "criminal 7150  
conduct" and "sexual misconduct" have the same meanings as in 7151  
section 4731.224 of the Revised Code. 7152

(B) (1) Within ~~sixty~~ thirty days after the imposition of 7153  
any formal disciplinary action taken by any health care 7154

facility, including a hospital, health care facility operated by 7155  
a health insuring corporation, ambulatory surgical center, or 7156  
similar facility, against any individual holding a valid license 7157  
to practice as an oriental medicine practitioner or valid 7158  
license to practice as an acupuncturist, the chief administrator 7159  
or executive officer of the facility shall report to the state 7160  
medical board the name of the individual, the action taken by 7161  
the facility, and a summary of the underlying facts leading to 7162  
the action taken. Upon request, the board shall be provided 7163  
certified copies of the patient records that were the basis for 7164  
the facility's action. Prior to release to the board, the 7165  
summary shall be approved by the peer review committee that 7166  
reviewed the case or by the governing board of the facility. 7167

The filing of a report with the board or decision not to 7168  
file a report, investigation by the board, or any disciplinary 7169  
action taken by the board, does not preclude a health care 7170  
facility from taking disciplinary action against an oriental 7171  
medicine practitioner or acupuncturist. 7172

In the absence of fraud or bad faith, no individual or 7173  
entity that provides patient records to the board shall be 7174  
liable in damages to any person as a result of providing the 7175  
records. 7176

(2) Within thirty days after commencing an investigation 7177  
regarding criminal conduct or sexual misconduct against any 7178  
individual holding a valid license to practice issued pursuant 7179  
to this chapter, a health care facility, including a hospital, 7180  
health care facility operated by a health insuring corporation, 7181  
ambulatory surgical center, or similar facility, shall report to 7182  
the board the name of the individual and a summary of the 7183  
underlying facts related to the investigation being commenced. 7184

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 7185  
of this section and subject to division (C) (3) of this section, 7186  
an oriental medicine practitioner or acupuncturist, professional 7187  
association or society of oriental medicine practitioners or 7188  
acupuncturists, physician, or professional association or 7189  
society of physicians that believes a violation of any provision 7190  
of this chapter, Chapter 4731. of the Revised Code, or rule of 7191  
the board has occurred shall report to the board the information 7192  
upon which the belief is based. 7193

(2) An oriental medicine practitioner or acupuncturist, 7194  
professional association or society of oriental medicine 7195  
practitioners or acupuncturists, physician, or professional 7196  
association or society of physicians that believes a violation 7197  
of division (B) (6) of section 4762.13 of the Revised Code has 7198  
occurred shall report the information upon which the belief is 7199  
based to the monitoring organization conducting the program 7200  
established by the board under section 4731.251 of the Revised 7201  
Code. If any such report is made to the board, it shall be 7202  
referred to the monitoring organization unless the board is 7203  
aware that the individual who is the subject of the report does 7204  
not meet the program eligibility requirements of section 7205  
4731.252 of the Revised Code. 7206

(3) If any individual authorized to practice under this 7207  
chapter or any professional association or society of such 7208  
individuals knows or has reasonable cause to suspect based on 7209  
facts that would cause a reasonable person in a similar position 7210  
to suspect that an individual authorized to practice under this 7211  
chapter has committed or participated in criminal conduct or 7212  
sexual misconduct the information upon which the belief is based 7213  
shall be reported to the board within thirty days. 7214

(4) In addition to the self-reporting of criminal offenses 7215  
that is required for license renewal, an individual authorized 7216  
to practice under this chapter shall report to the board 7217  
criminal charges regarding criminal conduct, sexual misconduct, 7218  
or any conduct involving the use of a motor vehicle while under 7219  
the influence of alcohol or drugs, including offenses that are 7220  
equivalent offenses under division (A) of section 4511.181 of 7221  
the Revised Code, violations of division (D) of section 4511.194 7222  
of the Revised Code, and violations of division (C) of section 7223  
4511.79 of the Revised Code. Reports under this division shall 7224  
be made within thirty days of the criminal charge being filed. 7225

~~(C)~~ (D) Any professional association or society composed 7226  
primarily of oriental medicine practitioners or acupuncturists 7227  
that suspends or revokes an individual's membership for 7228  
violations of professional ethics, or for reasons of 7229  
professional incompetence or professional malpractice, within 7230  
~~sixty~~ thirty days after a final decision, shall report to the 7231  
board, on forms prescribed and provided by the board, the name 7232  
of the individual, the action taken by the professional 7233  
organization, and a summary of the underlying facts leading to 7234  
the action taken. 7235

The filing of a report with the board or decision not to 7236  
file a report, investigation by the board, or any disciplinary 7237  
action taken by the board, does not preclude a professional 7238  
organization from taking disciplinary action against an 7239  
individual. 7240

~~(D)~~ (E) Any insurer providing professional liability 7241  
insurance to any person holding a valid license to practice as 7242  
an oriental medicine practitioner or valid license to practice 7243  
as an acupuncturist or any other entity that seeks to indemnify 7244

the professional liability of an oriental medicine practitioner 7245  
or acupuncturist shall notify the board within thirty days after 7246  
the final disposition of any written claim for damages where 7247  
such disposition results in a payment exceeding twenty-five 7248  
thousand dollars. The notice shall contain the following 7249  
information: 7250

(1) The name and address of the person submitting the 7251  
notification; 7252

(2) The name and address of the insured who is the subject 7253  
of the claim; 7254

(3) The name of the person filing the written claim; 7255

(4) The date of final disposition; 7256

(5) If applicable, the identity of the court in which the 7257  
final disposition of the claim took place. 7258

~~(E)~~ (F) The board may investigate possible violations of 7259  
this chapter or the rules adopted under it that are brought to 7260  
its attention as a result of the reporting requirements of this 7261  
section, except that the board shall conduct an investigation if 7262  
a possible violation involves repeated malpractice. As used in 7263  
this division, "repeated malpractice" means three or more claims 7264  
for malpractice within the previous five-year period, each 7265  
resulting in a judgment or settlement in excess of twenty-five 7266  
thousand dollars in favor of the claimant, and each involving 7267  
negligent conduct by the oriental medicine practitioner or 7268  
acupuncturist. 7269

~~(F)~~ (G) All summaries, reports, and records received and 7270  
maintained by the board pursuant to this section shall be held 7271  
~~in confidence and shall not be subject to discovery or~~ 7272  
~~introduction in evidence in any federal or state civil action~~ 7273



~~involving an oriental medicine practitioner, acupuncturist, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an oriental medicine practitioner, acupuncturist, or supervising physician, or in any subsequent trial or appeal of a board action or order.~~

~~The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an oriental medicine practitioner, acupuncturist, or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board confidential pursuant to division (E) of section 4762.14 of the Revised Code.~~

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

~~(H)~~ (I) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired oriental

medicine practitioner or impaired acupuncturist to a treatment 7304  
provider approved by the board under section 4731.25 of the 7305  
Revised Code shall not be subject to suit for civil damages as a 7306  
result of the report, referral, or provision of the information. 7307

~~(I)~~ (J) In the absence of fraud or bad faith, a 7308  
professional association or society of oriental medicine 7309  
practitioners or acupuncturists that sponsors a committee or 7310  
program to provide peer assistance to an oriental medicine 7311  
practitioner or acupuncturist with substance abuse problems, a 7312  
representative or agent of such a committee or program, a 7313  
representative or agent of the monitoring organization described 7314  
in section 4731.251 of the Revised Code, and a member of the 7315  
state medical board shall not be held liable in damages to any 7316  
person by reason of actions taken to refer an oriental medicine 7317  
practitioner or acupuncturist to a treatment provider approved 7318  
under section 4731.25 of the Revised Code for examination or 7319  
treatment. 7320

**Sec. 4762.99.** (A) Whoever violates section 4762.02 of the 7321  
Revised Code is guilty of a misdemeanor of the first degree on a 7322  
first offense; on each subsequent offense, the person is guilty 7323  
of a felony of the fourth degree. 7324

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7325  
(1), ~~or (C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7326  
Code is guilty of a minor misdemeanor on a first offense; on 7327  
each subsequent offense the person is guilty of a misdemeanor of 7328  
the fourth degree, except that an individual guilty of a 7329  
subsequent offense shall not be subject to imprisonment, but to 7330  
a fine alone of up to one thousand dollars for each offense. 7331

(2) Whoever violates division (B) (2) or (C) (3) of section 7332  
4762.16 of the Revised Code is guilty of failure to report 7333

criminal conduct or sexual misconduct, a misdemeanor of the 7334  
fourth degree. If the offender has previously been convicted of 7335  
a violation of this division, the failure to report is a 7336  
misdemeanor of the first degree. 7337

(C) Whoever violates division (E) of section 4762.14 of 7338  
the Revised Code is guilty of disclosing confidential 7339  
investigatory information, a misdemeanor of the first degree. 7340

**Sec. 4774.13.** (A) The state medical board, by an 7341  
affirmative vote of not fewer than six members, may revoke or 7342  
may refuse to grant a license to practice as a radiologist 7343  
assistant to an individual found by the board to have committed 7344  
fraud, misrepresentation, or deception in applying for or 7345  
securing the license. 7346

(B) The board, by an affirmative vote of not fewer than 7347  
six members, shall, except as provided in division (C) of this 7348  
section, and to the extent permitted by law, limit, revoke, or 7349  
suspend an individual's license to practice as a radiologist 7350  
assistant, refuse to issue a license to an applicant, refuse to 7351  
renew a license, refuse to reinstate a license, or reprimand or 7352  
place on probation the holder of a license for any of the 7353  
following reasons: 7354

(1) Permitting the holder's name or license to be used by 7355  
another person; 7356

(2) Failure to comply with the requirements of this 7357  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7358  
by the board; 7359

(3) Violating or attempting to violate, directly or 7360  
indirectly, or assisting in or abetting the violation of, or 7361  
conspiring to violate, any provision of this chapter, Chapter 7362

4731. of the Revised Code, or the rules adopted by the board; 7363

(4) A departure from, or failure to conform to, minimal 7364  
standards of care of similar practitioners under the same or 7365  
similar circumstances whether or not actual injury to the 7366  
patient is established; 7367

(5) Inability to practice according to acceptable and 7368  
prevailing standards of care by reason of mental illness or 7369  
physical illness, including physical deterioration that 7370  
adversely affects cognitive, motor, or perceptive skills; 7371

(6) Impairment of ability to practice according to 7372  
acceptable and prevailing standards of care because of habitual 7373  
or excessive use or abuse of drugs, alcohol, or other substances 7374  
that impair ability to practice; 7375

(7) Willfully betraying a professional confidence; 7376

(8) Making a false, fraudulent, deceptive, or misleading 7377  
statement in securing or attempting to secure a license to 7378  
practice as a radiologist assistant. 7379

As used in this division, "false, fraudulent, deceptive, 7380  
or misleading statement" means a statement that includes a 7381  
misrepresentation of fact, is likely to mislead or deceive 7382  
because of a failure to disclose material facts, is intended or 7383  
is likely to create false or unjustified expectations of 7384  
favorable results, or includes representations or implications 7385  
that in reasonable probability will cause an ordinarily prudent 7386  
person to misunderstand or be deceived. 7387

(9) The obtaining of, or attempting to obtain, money or a 7388  
thing of value by fraudulent misrepresentations in the course of 7389  
practice; 7390

(10) A plea of guilty to, a judicial finding of guilt of, 7391  
or a judicial finding of eligibility for intervention in lieu of 7392  
conviction for, a felony; 7393

(11) Commission of an act that constitutes a felony in 7394  
this state, regardless of the jurisdiction in which the act was 7395  
committed; 7396

(12) A plea of guilty to, a judicial finding of guilt of, 7397  
or a judicial finding of eligibility for intervention in lieu of 7398  
conviction for, a misdemeanor committed in the course of 7399  
practice; 7400

(13) A plea of guilty to, a judicial finding of guilt of, 7401  
or a judicial finding of eligibility for intervention in lieu of 7402  
conviction for, a misdemeanor involving moral turpitude; 7403

(14) Commission of an act in the course of practice that 7404  
constitutes a misdemeanor in this state, regardless of the 7405  
jurisdiction in which the act was committed; 7406

(15) Commission of an act involving moral turpitude that 7407  
constitutes a misdemeanor in this state, regardless of the 7408  
jurisdiction in which the act was committed; 7409

(16) A plea of guilty to, a judicial finding of guilt of, 7410  
or a judicial finding of eligibility for intervention in lieu of 7411  
conviction for violating any state or federal law regulating the 7412  
possession, distribution, or use of any drug, including 7413  
trafficking in drugs; 7414

(17) Any of the following actions taken by the state 7415  
agency responsible for regulating the practice of radiologist 7416  
assistants in another jurisdiction, for any reason other than 7417  
the nonpayment of fees: the limitation, revocation, or 7418  
suspension of an individual's license to practice; acceptance of 7419

an individual's license surrender; denial of a license; refusal 7420  
to renew or reinstate a license; imposition of probation; or 7421  
issuance of an order of censure or other reprimand; 7422

(18) Violation of the conditions placed by the board on a 7423  
license to practice as a radiologist assistant; 7424

(19) Failure to use universal blood and body fluid 7425  
precautions established by rules adopted under section 4731.051 7426  
of the Revised Code; 7427

(20) Failure to cooperate in an investigation conducted by 7428  
the board under section 4774.14 of the Revised Code, including 7429  
failure to comply with a subpoena or order issued by the board 7430  
or failure to answer truthfully a question presented by the 7431  
board at a deposition or in written interrogatories, except that 7432  
failure to cooperate with an investigation shall not constitute 7433  
grounds for discipline under this section if a court of 7434  
competent jurisdiction has issued an order that either quashes a 7435  
subpoena or permits the individual to withhold the testimony or 7436  
evidence in issue; 7437

(21) Failure to maintain a license as a radiographer under 7438  
Chapter 4773. of the Revised Code; 7439

(22) Failure to maintain certification as a registered 7440  
radiologist assistant from the American registry of radiologic 7441  
technologists, including revocation by the registry of the 7442  
assistant's certification or failure by the assistant to meet 7443  
the registry's requirements for annual registration, or failure 7444  
to notify the board that the certification as a registered 7445  
radiologist assistant has not been maintained; 7446

(23) Failure to comply with any of the rules of ethics 7447  
included in the standards of ethics established by the American 7448

registry of radiologic technologists, as those rules apply to an 7449  
individual who holds the registry's certification as a 7450  
registered radiologist assistant. 7451

(C) The board shall not refuse to issue a license to an 7452  
applicant because of a plea of guilty to, a judicial finding of 7453  
guilt of, or a judicial finding of eligibility for intervention 7454  
in lieu of conviction for an offense unless the refusal is in 7455  
accordance with section 9.79 of the Revised Code. 7456

(D) Disciplinary actions taken by the board under 7457  
divisions (A) and (B) of this section shall be taken pursuant to 7458  
an adjudication under Chapter 119. of the Revised Code, except 7459  
that in lieu of an adjudication, the board may enter into a 7460  
consent agreement with a radiologist assistant or applicant to 7461  
resolve an allegation of a violation of this chapter or any rule 7462  
adopted under it. A consent agreement, when ratified by an 7463  
affirmative vote of not fewer than six members of the board, 7464  
shall constitute the findings and order of the board with 7465  
respect to the matter addressed in the agreement. If the board 7466  
refuses to ratify a consent agreement, the admissions and 7467  
findings contained in the consent agreement shall be of no force 7468  
or effect. 7469

(E) For purposes of divisions (B) (11), (14), and (15) of 7470  
this section, the commission of the act may be established by a 7471  
finding by the board, pursuant to an adjudication under Chapter 7472  
119. of the Revised Code, that the applicant or license holder 7473  
committed the act in question. The board shall have no 7474  
jurisdiction under these divisions in cases where the trial 7475  
court renders a final judgment in the license holder's favor and 7476  
that judgment is based upon an adjudication on the merits. The 7477  
board shall have jurisdiction under these divisions in cases 7478

where the trial court issues an order of dismissal on technical 7479  
or procedural grounds. 7480

(F) The sealing of conviction records by any court shall 7481  
have no effect on a prior board order entered under the 7482  
provisions of this section or on the board's jurisdiction to 7483  
take action under the provisions of this section if, based upon 7484  
a plea of guilty, a judicial finding of guilt, or a judicial 7485  
finding of eligibility for intervention in lieu of conviction, 7486  
the board issued a notice of opportunity for a hearing prior to 7487  
the court's order to seal the records. The board shall not be 7488  
required to seal, destroy, redact, or otherwise modify its 7489  
records to reflect the court's sealing of conviction records. 7490

(G) For purposes of this division, any individual who 7491  
holds a license to practice as a radiologist assistant issued 7492  
under this chapter, or applies for a license, shall be deemed to 7493  
have given consent to submit to a mental or physical examination 7494  
when directed to do so in writing by the board and to have 7495  
waived all objections to the admissibility of testimony or 7496  
examination reports that constitute a privileged communication. 7497

(1) In enforcing division (B)(5) of this section, the 7498  
board, on a showing of a possible violation, may compel any 7499  
individual who holds a license to practice as a radiologist 7500  
assistant issued under this chapter or who has applied for a 7501  
license to submit to a mental or physical examination, or both. 7502  
A physical examination may include an HIV test. The expense of 7503  
the examination is the responsibility of the individual 7504  
compelled to be examined. Failure to submit to a mental or 7505  
physical examination or consent to an HIV test ordered by the 7506  
board constitutes an admission of the allegations against the 7507  
individual unless the failure is due to circumstances beyond the 7508



individual's control, and a default and final order may be 7509  
entered without the taking of testimony or presentation of 7510  
evidence. If the board finds a radiologist assistant unable to 7511  
practice because of the reasons set forth in division (B) (5) of 7512  
this section, the board shall require the radiologist assistant 7513  
to submit to care, counseling, or treatment by physicians 7514  
approved or designated by the board, as a condition for an 7515  
initial, continued, reinstated, or renewed license. An 7516  
individual affected by this division shall be afforded an 7517  
opportunity to demonstrate to the board the ability to resume 7518  
practicing in compliance with acceptable and prevailing 7519  
standards of care. 7520

(2) For purposes of division (B) (6) of this section, if 7521  
the board has reason to believe that any individual who holds a 7522  
license to practice as a radiologist assistant issued under this 7523  
chapter or any applicant for a license suffers such impairment, 7524  
the board may compel the individual to submit to a mental or 7525  
physical examination, or both. The expense of the examination is 7526  
the responsibility of the individual compelled to be examined. 7527  
Any mental or physical examination required under this division 7528  
shall be undertaken by a treatment provider or physician 7529  
qualified to conduct such examination and chosen by the board. 7530

Failure to submit to a mental or physical examination 7531  
ordered by the board constitutes an admission of the allegations 7532  
against the individual unless the failure is due to 7533  
circumstances beyond the individual's control, and a default and 7534  
final order may be entered without the taking of testimony or 7535  
presentation of evidence. If the board determines that the 7536  
individual's ability to practice is impaired, the board shall 7537  
suspend the individual's license or deny the individual's 7538  
application and shall require the individual, as a condition for 7539

an initial, continued, reinstated, or renewed license to 7540  
practice, to submit to treatment. 7541

Before being eligible to apply for reinstatement of a 7542  
license suspended under this division, the radiologist assistant 7543  
shall demonstrate to the board the ability to resume practice in 7544  
compliance with acceptable and prevailing standards of care. The 7545  
demonstration shall include the following: 7546

(a) Certification from a treatment provider approved under 7547  
section 4731.25 of the Revised Code that the individual has 7548  
successfully completed any required inpatient treatment; 7549

(b) Evidence of continuing full compliance with an 7550  
aftercare contract or consent agreement; 7551

(c) Two written reports indicating that the individual's 7552  
ability to practice has been assessed and that the individual 7553  
has been found capable of practicing according to acceptable and 7554  
prevailing standards of care. The reports shall be made by 7555  
individuals or providers approved by the board for making such 7556  
assessments and shall describe the basis for their 7557  
determination. 7558

The board may reinstate a license suspended under this 7559  
division after such demonstration and after the individual has 7560  
entered into a written consent agreement. 7561

When the impaired radiologist assistant resumes practice, 7562  
the board shall require continued monitoring of the radiologist 7563  
assistant. The monitoring shall include monitoring of compliance 7564  
with the written consent agreement entered into before 7565  
reinstatement or with conditions imposed by board order after a 7566  
hearing, and, on termination of the consent agreement, 7567  
submission to the board for at least two years of annual written 7568

progress reports made under penalty of falsification stating 7569  
whether the radiologist assistant has maintained sobriety. 7570

~~(H)~~(H) (1) If either of the following circumstances occur, 7571  
the secretary and supervising member may recommend that the 7572  
board suspend the individual's license to practice without a 7573  
prior hearing: 7574

(a) The secretary and supervising member determine that 7575  
there is clear and convincing evidence that a radiologist 7576  
assistant has violated division (B) of this section and that the 7577  
individual's continued practice presents a danger of immediate 7578  
and serious harm to the public, ~~they may recommend that the~~ 7579  
~~board suspend the individual's license to practice without a~~ 7580  
~~prior hearing;~~ 7581

(b) The board receives verifiable information that a 7582  
licensee has been charged in any state or federal court for a 7583  
crime classified as a felony under the charging court's law and 7584  
the conduct charged constitutes a violation of division (B) of 7585  
this section. ~~Written~~ 7586

(2) If a recommendation is made to suspend without a prior 7587  
hearing pursuant to division (H) (1) of this section, written 7588  
allegations shall be prepared for consideration by the board. 7589

The board, on review of the allegations and by an 7590  
affirmative vote of not fewer than six of its members, excluding 7591  
the secretary and supervising member, may suspend a license 7592  
without a prior hearing. A telephone conference call may be 7593  
utilized for reviewing the allegations and taking the vote on 7594  
the summary suspension. 7595

The board shall issue a written order of suspension by 7596  
certified mail or in person in accordance with section 119.07 of 7597

the Revised Code. The order shall not be subject to suspension 7598  
by the court during pendency of any appeal filed under section 7599  
119.12 of the Revised Code. If the radiologist assistant 7600  
requests an adjudicatory hearing by the board, the date set for 7601  
the hearing shall be within fifteen days, but not earlier than 7602  
seven days, after the radiologist assistant requests the 7603  
hearing, unless otherwise agreed to by both the board and the 7604  
license holder. 7605

(3) A summary suspension imposed under this division shall 7606  
remain in effect, unless reversed on appeal, until a final 7607  
adjudicative order issued by the board pursuant to this section 7608  
and Chapter 119. of the Revised Code becomes effective. The 7609  
board shall issue its final adjudicative order within sixty days 7610  
after completion of its hearing. Failure to issue the order 7611  
within sixty days shall result in dissolution of the summary 7612  
suspension order, but shall not invalidate any subsequent, final 7613  
adjudicative order. 7614

(I) If the board takes action under division (B) (10), 7615  
(12), or (13) of this section, and the judicial finding of 7616  
guilt, guilty plea, or judicial finding of eligibility for 7617  
intervention in lieu of conviction is overturned on appeal, on 7618  
exhaustion of the criminal appeal, a petition for 7619  
reconsideration of the order may be filed with the board along 7620  
with appropriate court documents. On receipt of a petition and 7621  
supporting court documents, the board shall reinstate the 7622  
license to practice as a radiologist assistant. The board may 7623  
then hold an adjudication under Chapter 119. of the Revised Code 7624  
to determine whether the individual committed the act in 7625  
question. Notice of opportunity for hearing shall be given in 7626  
accordance with Chapter 119. of the Revised Code. If the board 7627  
finds, pursuant to an adjudication held under this division, 7628

that the individual committed the act, or if no hearing is 7629  
requested, it may order any of the sanctions specified in 7630  
division (B) of this section. 7631

(J) The license to practice of a radiologist assistant and 7632  
the assistant's practice in this state are automatically 7633  
suspended as of the date the radiologist assistant pleads guilty 7634  
to, is found by a judge or jury to be guilty of, or is subject 7635  
to a judicial finding of eligibility for intervention in lieu of 7636  
conviction in this state or treatment of intervention in lieu of 7637  
conviction in another jurisdiction for any of the following 7638  
criminal offenses in this state or a substantially equivalent 7639  
criminal offense in another jurisdiction: aggravated murder, 7640  
murder, voluntary manslaughter, felonious assault, trafficking 7641  
in persons, kidnapping, rape, sexual battery, gross sexual 7642  
imposition, aggravated arson, aggravated robbery, or aggravated 7643  
burglary. Continued practice after the suspension shall be 7644  
considered practicing without a license. 7645

The board shall notify the individual subject to the 7646  
suspension by certified mail or in person in accordance with 7647  
section 119.07 of the Revised Code. If an individual whose 7648  
license is suspended under this division fails to make a timely 7649  
request for an adjudication under Chapter 119. of the Revised 7650  
Code, the board shall enter a final order permanently revoking 7651  
the individual's license. 7652

(K) In any instance in which the board is required by 7653  
Chapter 119. of the Revised Code to give notice of opportunity 7654  
for hearing and the individual subject to the notice does not 7655  
timely request a hearing in accordance with section 119.07 of 7656  
the Revised Code, the board is not required to hold a hearing, 7657  
but may adopt, by an affirmative vote of not fewer than six of 7658

its members, a final order that contains the board's findings. 7659  
In the final order, the board may order any of the sanctions 7660  
identified under division (A) or (B) of this section. 7661

(L) Any action taken by the board under division (B) of 7662  
this section resulting in a suspension shall be accompanied by a 7663  
written statement of the conditions under which the radiologist 7664  
assistant's license may be reinstated. The board shall adopt 7665  
rules in accordance with Chapter 119. of the Revised Code 7666  
governing conditions to be imposed for reinstatement. 7667  
Reinstatement of a license suspended pursuant to division (B) of 7668  
this section requires an affirmative vote of not fewer than six 7669  
members of the board. 7670

(M) When the board refuses to grant or issue a license to 7671  
practice as a radiologist assistant to an applicant, revokes an 7672  
individual's license, refuses to renew an individual's license, 7673  
or refuses to reinstate an individual's license, the board may 7674  
specify that its action is permanent. An individual subject to a 7675  
permanent action taken by the board is forever thereafter 7676  
ineligible to hold a license to practice as a radiologist 7677  
assistant and the board shall not accept an application for 7678  
reinstatement of the license or for issuance of a new license. 7679

(N) Notwithstanding any other provision of the Revised 7680  
Code, all of the following apply: 7681

(1) The surrender of a license to practice as a 7682  
radiologist assistant issued under this chapter is not effective 7683  
unless or until accepted by the board. Reinstatement of a 7684  
license surrendered to the board requires an affirmative vote of 7685  
not fewer than six members of the board. 7686

(2) An application made under this chapter for a license 7687

to practice may not be withdrawn without approval of the board. 7688

(3) Failure by an individual to renew a license to 7689  
practice in accordance with section 4774.06 of the Revised Code 7690  
shall not remove or limit the board's jurisdiction to take 7691  
disciplinary action under this section against the individual. 7692

**Sec. 4774.14.** (A) The state medical board shall 7693  
investigate evidence that appears to show that any person has 7694  
violated this chapter or the rules adopted under it. Any person 7695  
may report to the board in a signed writing any information the 7696  
person has that appears to show a violation of any provision of 7697  
this chapter or the rules adopted under it. In the absence of 7698  
bad faith, a person who reports such information or testifies 7699  
before the board in an adjudication conducted under Chapter 119. 7700  
of the Revised Code shall not be liable for civil damages as a 7701  
result of reporting the information or providing testimony. Each 7702  
complaint or allegation of a violation received by the board 7703  
shall be assigned a case number and be recorded by the board. 7704

(B) Investigations of alleged violations of this chapter 7705  
or rules adopted under it shall be supervised by the supervising 7706  
member elected by the board in accordance with section 4731.02 7707  
of the Revised Code and by the secretary as provided in section 7708  
4774.17 of the Revised Code. The board's president may designate 7709  
another member of the board to supervise the investigation in 7710  
place of the supervising member. Upon a vote of the majority of 7711  
the board to authorize the addition of a consumer member in the 7712  
supervision of any part of any investigation, the president 7713  
shall designate a consumer member for supervision of 7714  
investigations as determined by the president. The authorization 7715  
of consumer member participation in investigation supervision 7716  
may be rescinded by a majority vote of the board. A member of 7717

the board who supervises the investigation of a case shall not 7718  
participate in further adjudication of the case. 7719

(C) In investigating a possible violation of this chapter 7720  
or the rules adopted under it, the board may administer oaths, 7721  
order the taking of depositions, issue subpoenas, and compel the 7722  
attendance of witnesses and production of books, accounts, 7723  
papers, records, documents, and testimony, except that a 7724  
subpoena for patient record information or information, 7725  
documents, and records from a peer review committee of a health 7726  
care entity related to sexual misconduct or criminal conduct 7727  
shall not be issued without consultation with the attorney 7728  
general's office and approval of the secretary and supervising 7729  
member of the board. Before issuance of a subpoena for patient 7730  
record information or information, documents, and records from a 7731  
peer review committee of a health care entity related to sexual 7732  
misconduct or criminal conduct, the secretary and supervising 7733  
member shall determine whether there is probable cause to 7734  
believe that the complaint filed alleges a violation of this 7735  
chapter or the rules adopted under it and that the records 7736  
sought are relevant to the alleged violation and material to the 7737  
investigation. The subpoena may apply only to records that cover 7738  
a reasonable period of time surrounding the alleged violation. 7739

On failure to comply with any subpoena issued by the board 7740  
and after reasonable notice to the person being subpoenaed, the 7741  
board may move for an order compelling the production of persons 7742  
or records pursuant to the Rules of Civil Procedure. 7743

A subpoena issued by the board may be served by a sheriff, 7744  
the sheriff's deputy, or a board employee designated by the 7745  
board. Service of a subpoena issued by the board may be made by 7746  
delivering a copy of the subpoena to the person named therein, 7747



reading it to the person, or leaving it at the person's usual 7748  
place of residence. When the person being served is a 7749  
radiologist assistant, service of the subpoena may be made by 7750  
certified mail, restricted delivery, return receipt requested, 7751  
and the subpoena shall be deemed served on the date delivery is 7752  
made or the date the person refuses to accept delivery. 7753

A sheriff's deputy who serves a subpoena shall receive the 7754  
same fees as a sheriff. Each witness who appears before the 7755  
board in obedience to a subpoena shall receive the fees and 7756  
mileage provided for witnesses in civil cases in the courts of 7757  
common pleas. 7758

(D) All For purposes of section 2305.252 of the Revised 7759  
Code, all hearings and investigations of the board shall be 7760  
considered civil actions for the purposes of section 2305.252 of 7761  
the Revised Code, except those involving allegations of sexual 7762  
misconduct or criminal conduct, as defined in that section. 7763

(E) Information received by the board pursuant to an 7764  
investigation is confidential and not subject to discovery in 7765  
any civil action. 7766

The board shall conduct all investigations and proceedings 7767  
in a manner that protects the confidentiality of patients and 7768  
persons who file complaints with the board. The board shall not 7769  
make public the names or any other identifying information about 7770  
patients or complainants unless proper consent is given. 7771

The board may share any information it receives pursuant 7772  
to an investigation, including patient records and patient 7773  
record information, with law enforcement agencies, other 7774  
licensing boards, and other governmental agencies that are 7775  
prosecuting, adjudicating, or investigating alleged violations 7776

of statutes or administrative rules. An agency or board that 7777  
receives the information shall comply with the same requirements 7778  
regarding confidentiality as those with which the state medical 7779  
board must comply, notwithstanding any conflicting provision of 7780  
the Revised Code or procedure of the agency or board that 7781  
applies when it is dealing with other information in its 7782  
possession. In a judicial proceeding, the information may be 7783  
admitted into evidence only in accordance with the Rules of 7784  
Evidence, but the court shall require that appropriate measures 7785  
are taken to ensure that confidentiality is maintained with 7786  
respect to any part of the information that contains names or 7787  
other identifying information about patients or complainants 7788  
whose confidentiality was protected by the state medical board 7789  
when the information was in the board's possession. Measures to 7790  
ensure confidentiality that may be taken by the court include 7791  
sealing its records or deleting specific information from its 7792  
records. 7793

No person shall knowingly access, use, or disclose 7794  
confidential investigatory information in a manner prohibited by 7795  
law. 7796

(F) The state medical board shall develop requirements for 7797  
and provide appropriate initial training and continuing 7798  
education for investigators employed by the board to carry out 7799  
its duties under this chapter. The training and continuing 7800  
education may include enrollment in courses operated or approved 7801  
by the Ohio peace officer training commission that the board 7802  
considers appropriate under conditions set forth in section 7803  
109.79 of the Revised Code. 7804

(G) On a quarterly basis, the board shall prepare a report 7805  
that documents the disposition of all cases during the preceding 7806

three months. The report shall contain the following information 7807  
for each case with which the board has completed its activities: 7808

(1) The case number assigned to the complaint or alleged 7809  
violation; 7810

(2) The type of license, if any, held by the individual 7811  
against whom the complaint is directed; 7812

(3) A description of the allegations contained in the 7813  
complaint; 7814

(4) Whether witnesses were interviewed; 7815

(5) Whether the individual against whom the complaint is 7816  
directed is the subject of any pending complaints; 7817

(6) The disposition of the case. 7818

The report shall state how many cases are still pending, 7819  
and shall be prepared in a manner that protects the identity of 7820  
each person involved in each case. The report is a public record 7821  
for purposes of section 149.43 of the Revised Code. 7822

(H) The board may provide a status update regarding an 7823  
investigation to a complainant on request if the board verifies 7824  
the complainant's identity. 7825

**Sec. 4774.16.** (A) As used in this section, "criminal 7826  
conduct" and "sexual misconduct" have the same meanings as in 7827  
section 4731.224 of the Revised Code. 7828

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7829  
any formal disciplinary action taken by any health care 7830  
facility, including a hospital, health care facility operated by 7831  
a health insuring corporation, ambulatory surgical facility, or 7832  
similar facility, against any individual holding a valid license 7833

to practice as a radiologist assistant, the chief administrator 7834  
or executive officer of the facility shall report to the state 7835  
medical board the name of the individual, the action taken by 7836  
the facility, and a summary of the underlying facts leading to 7837  
the action taken. On request, the board shall be provided 7838  
certified copies of the patient records that were the basis for 7839  
the facility's action. Prior to release to the board, the 7840  
summary shall be approved by the peer review committee that 7841  
reviewed the case or by the governing board of the facility. 7842

The filing of a report with the board or decision not to 7843  
file a report, investigation by the board, or any disciplinary 7844  
action taken by the board, does not preclude a health care 7845  
facility from taking disciplinary action against a radiologist 7846  
assistant. 7847

In the absence of fraud or bad faith, no individual or 7848  
entity that provides patient records to the board shall be 7849  
liable in damages to any person as a result of providing the 7850  
records. 7851

(2) Within thirty days after commencing an investigation 7852  
regarding criminal conduct or sexual misconduct against any 7853  
individual holding a valid license to practice issued pursuant 7854  
to this chapter, a health care facility, including a hospital, 7855  
health care facility operated by a health insuring corporation, 7856  
ambulatory surgical center, or similar facility, shall report to 7857  
the board the name of the individual and a summary of the 7858  
underlying facts related to the investigation being commenced. 7859

~~(B) (1)~~-(C) (1) Except as provided in division ~~(B) (2)~~-(C) (2) 7860  
of this section and subject to division (C) (3) of this section, 7861  
a radiologist assistant, professional association or society of 7862  
radiologist assistants, physician, or professional association 7863

or society of physicians that believes a violation of any 7864  
provision of this chapter, Chapter 4731. of the Revised Code, or 7865  
rule of the board has occurred shall report to the board the 7866  
information on which the belief is based. 7867

(2) A radiologist assistant, professional association or 7868  
society of radiologist assistants, physician, or professional 7869  
association or society of physicians that believes a violation 7870  
of division (B) (6) of section 4774.13 of the Revised Code has 7871  
occurred shall report the information upon which the belief is 7872  
based to the monitoring organization conducting the program 7873  
established by the board under section 4731.251 of the Revised 7874  
Code. If any such report is made to the board, it shall be 7875  
referred to the monitoring organization unless the board is 7876  
aware that the individual who is the subject of the report does 7877  
not meet the program eligibility requirements of section 7878  
4731.252 of the Revised Code. 7879

(3) If any individual authorized to practice under this 7880  
chapter or any professional association or society of such 7881  
individuals knows or has reasonable cause to suspect based on 7882  
facts that would cause a reasonable person in a similar position 7883  
to suspect that an individual authorized to practice under this 7884  
chapter has committed or participated in criminal conduct or 7885  
sexual misconduct the information upon which the belief is based 7886  
shall be reported to the board within thirty days. 7887

(4) In addition to the self-reporting of criminal offenses 7888  
that is required for license renewal, an individual authorized 7889  
to practice under this chapter shall report to the board 7890  
criminal charges regarding criminal conduct, sexual misconduct, 7891  
or any conduct involving the use of a motor vehicle while under 7892  
the influence of alcohol or drugs, including offenses that are 7893

equivalent offenses under division (A) of section 4511.181 of 7894  
the Revised Code, violations of division (D) of section 4511.194 7895  
of the Revised Code, and violations of division (C) of section 7896  
4511.79 of the Revised Code. Reports under this division shall 7897  
be made within thirty days of the criminal charge being filed. 7898

~~(C)~~(D) Any professional association or society composed 7899  
primarily of radiologist assistants that suspends or revokes an 7900  
individual's membership for violations of professional ethics, 7901  
or for reasons of professional incompetence or professional 7902  
malpractice, within ~~sixty~~thirty days after a final decision, 7903  
shall report to the board, on forms prescribed and provided by 7904  
the board, the name of the individual, the action taken by the 7905  
professional organization, and a summary of the underlying facts 7906  
leading to the action taken. 7907

The filing of a report with the board or decision not to 7908  
file a report, investigation by the board, or any disciplinary 7909  
action taken by the board, does not preclude a professional 7910  
organization from taking disciplinary action against a 7911  
radiologist assistant. 7912

~~(D)~~(E) Any insurer providing professional liability 7913  
insurance to any person holding a valid license to practice as a 7914  
radiologist assistant or any other entity that seeks to 7915  
indemnify the professional liability of a radiologist assistant 7916  
shall notify the board within thirty days after the final 7917  
disposition of any written claim for damages where such 7918  
disposition results in a payment exceeding twenty-five thousand 7919  
dollars. The notice shall contain the following information: 7920

(1) The name and address of the person submitting the 7921  
notification; 7922

(2) The name and address of the insured who is the subject of the claim; 7923  
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(3) The name of the person filing the written claim; 7925

(4) The date of final disposition; 7926

(5) If applicable, the identity of the court in which the final disposition of the claim took place. 7927  
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~~(E)~~ (F) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the radiologist assistant. 7929  
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~~(F)~~ (G) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a radiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a radiologist assistant or supervising radiologist, or in any subsequent trial or appeal of a board action or order. 7939  
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~~The board may disclose the summaries and reports it receives under this section only to health care facility~~ 7950  
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~~committees within or outside this state that are involved in~~ 7952  
~~credentialing or recredentialing a radiologist assistant or~~ 7953  
~~supervising radiologist or reviewing their privilege to practice~~ 7954  
~~within a particular facility. The board shall indicate whether~~ 7955  
~~or not the information has been verified. Information~~ 7956  
~~transmitted by the board shall be subject to the same~~ 7957  
~~confidentiality provisions as when maintained by the~~ 7958  
~~board~~confidential pursuant to division (E) of section 4774.14 of 7959  
the Revised Code. 7960

~~(G)~~(H) Except for reports filed by an individual pursuant to 7961  
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 7962  
send a copy of any reports or summaries it receives pursuant to 7963  
this section to the radiologist assistant. The radiologist 7964  
assistant shall have the right to file a statement with the 7965  
board concerning the correctness or relevance of the 7966  
information. The statement shall at all times accompany that 7967  
part of the record in contention. 7968

~~(H)~~(I) An individual or entity that reports to the board, 7969  
reports to the monitoring organization described in section 7970  
4731.251 of the Revised Code, or refers an impaired radiologist 7971  
assistant to a treatment provider approved by the board under 7972  
section 4731.25 of the Revised Code shall not be subject to suit 7973  
for civil damages as a result of the report, referral, or 7974  
provision of the information. 7975

~~(I)~~(J) In the absence of fraud or bad faith, a 7976  
professional association or society of radiologist assistants 7977  
that sponsors a committee or program to provide peer assistance 7978  
to a radiologist assistant with substance abuse problems, a 7979  
representative or agent of such a committee or program, a 7980  
representative or agent of the monitoring organization described 7981



in section 4731.251 of the Revised Code, and a member of the 7982  
state medical board shall not be held liable in damages to any 7983  
person by reason of actions taken to refer a radiologist 7984  
assistant to a treatment provider approved under section 4731.25 7985  
of the Revised Code for examination or treatment. 7986

**Sec. 4774.99.** (A) Whoever violates division (A) (1) or (2) 7987  
of section 4774.02 of the Revised Code is guilty of a 7988  
misdemeanor of the first degree on a first offense; on each 7989  
subsequent offense, the person is guilty of a felony of the 7990  
fourth degree. 7991

~~(B) (1)~~ Whoever violates division ~~(A)~~, ~~(B) (1)~~, ~~(C) (C)~~ 7992  
~~(1)~~, ~~or (C) (2)~~, (D), or (E) of section 4774.16 of the Revised 7993  
Code is guilty of a minor misdemeanor on a first offense; on 7994  
each subsequent offense the person is guilty of a misdemeanor of 7995  
the fourth degree, except that an individual guilty of a 7996  
subsequent offense shall not be subject to imprisonment, but to 7997  
a fine alone of up to one thousand dollars for each offense. 7998

(2) Whoever violates division (B) (2) or (C) (3) of section 7999  
4774.16 of the Revised Code is guilty of failure to report 8000  
criminal conduct or sexual misconduct, a misdemeanor of the 8001  
fourth degree. If the offender has previously been convicted of 8002  
a violation of this division, the failure to report is a 8003  
misdemeanor of the first degree. 8004

(C) Whoever violates division (E) of section 4774.14 of 8005  
the Revised Code is guilty of disclosing confidential 8006  
investigatory information, a misdemeanor of the first degree. 8007

**Sec. 4778.14.** (A) The state medical board, by an 8008  
affirmative vote of not fewer than six members, may revoke or 8009  
may refuse to grant a license to practice as a genetic counselor 8010

to an individual found by the board to have committed fraud, 8011  
misrepresentation, or deception in applying for or securing the 8012  
license. 8013

(B) The board, by an affirmative vote of not fewer than 8014  
six members, shall, except as provided in division (C) of this 8015  
section, and to the extent permitted by law, limit, revoke, or 8016  
suspend an individual's license to practice as a genetic 8017  
counselor, refuse to issue a license to an applicant, refuse to 8018  
renew a license, refuse to reinstate a license, or reprimand or 8019  
place on probation the holder of a license for any of the 8020  
following reasons: 8021

(1) Permitting the holder's name or license to be used by 8022  
another person; 8023

(2) Failure to comply with the requirements of this 8024  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 8025  
by the board; 8026

(3) Violating or attempting to violate, directly or 8027  
indirectly, or assisting in or abetting the violation of, or 8028  
conspiring to violate, any provision of this chapter, Chapter 8029  
4731. of the Revised Code, or the rules adopted by the board; 8030

(4) A departure from, or failure to conform to, minimal 8031  
standards of care of similar practitioners under the same or 8032  
similar circumstances whether or not actual injury to the 8033  
patient is established; 8034

(5) Inability to practice according to acceptable and 8035  
prevailing standards of care by reason of mental illness or 8036  
physical illness, including physical deterioration that 8037  
adversely affects cognitive, motor, or perceptive skills; 8038

(6) Impairment of ability to practice according to 8039

acceptable and prevailing standards of care because of habitual 8040  
or excessive use or abuse of drugs, alcohol, or other substances 8041  
that impair ability to practice; 8042

(7) Willfully betraying a professional confidence; 8043

(8) Making a false, fraudulent, deceptive, or misleading 8044  
statement in securing or attempting to secure a license to 8045  
practice as a genetic counselor. 8046

As used in this division, "false, fraudulent, deceptive, 8047  
or misleading statement" means a statement that includes a 8048  
misrepresentation of fact, is likely to mislead or deceive 8049  
because of a failure to disclose material facts, is intended or 8050  
is likely to create false or unjustified expectations of 8051  
favorable results, or includes representations or implications 8052  
that in reasonable probability will cause an ordinarily prudent 8053  
person to misunderstand or be deceived. 8054

(9) The obtaining of, or attempting to obtain, money or a 8055  
thing of value by fraudulent misrepresentations in the course of 8056  
practice; 8057

(10) A plea of guilty to, a judicial finding of guilt of, 8058  
or a judicial finding of eligibility for intervention in lieu of 8059  
conviction for, a felony; 8060

(11) Commission of an act that constitutes a felony in 8061  
this state, regardless of the jurisdiction in which the act was 8062  
committed; 8063

(12) A plea of guilty to, a judicial finding of guilt of, 8064  
or a judicial finding of eligibility for intervention in lieu of 8065  
conviction for, a misdemeanor committed in the course of 8066  
practice; 8067

(13) A plea of guilty to, a judicial finding of guilt of, 8068  
or a judicial finding of eligibility for intervention in lieu of 8069  
conviction for, a misdemeanor involving moral turpitude; 8070

(14) Commission of an act in the course of practice that 8071  
constitutes a misdemeanor in this state, regardless of the 8072  
jurisdiction in which the act was committed; 8073

(15) Commission of an act involving moral turpitude that 8074  
constitutes a misdemeanor in this state, regardless of the 8075  
jurisdiction in which the act was committed; 8076

(16) A plea of guilty to, a judicial finding of guilt of, 8077  
or a judicial finding of eligibility for intervention in lieu of 8078  
conviction for violating any state or federal law regulating the 8079  
possession, distribution, or use of any drug, including 8080  
trafficking in drugs; 8081

(17) Any of the following actions taken by an agency 8082  
responsible for authorizing, certifying, or regulating an 8083  
individual to practice a health care occupation or provide 8084  
health care services in this state or in another jurisdiction, 8085  
for any reason other than the nonpayment of fees: the 8086  
limitation, revocation, or suspension of an individual's license 8087  
to practice; acceptance of an individual's license surrender; 8088  
denial of a license; refusal to renew or reinstate a license; 8089  
imposition of probation; or issuance of an order of censure or 8090  
other reprimand; 8091

(18) Violation of the conditions placed by the board on a 8092  
license to practice as a genetic counselor; 8093

(19) Failure to cooperate in an investigation conducted by 8094  
the board under section 4778.18 of the Revised Code, including 8095  
failure to comply with a subpoena or order issued by the board 8096

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

(20) Failure to maintain the individual's status as a certified genetic counselor;

(21) Failure to comply with the code of ethics established by the national society of genetic counselors.

(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

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

A telephone conference call may be utilized for 8126  
ratification of a consent agreement that revokes or suspends an 8127  
individual's license. The telephone conference call shall be 8128  
considered a special meeting under division (F) of section 8129  
121.22 of the Revised Code. 8130

(E) For purposes of divisions (B) (11), (14), and (15) of 8131  
this section, the commission of the act may be established by a 8132  
finding by the board, pursuant to an adjudication under Chapter 8133  
119. of the Revised Code, that the applicant or license holder 8134  
committed the act in question. The board shall have no 8135  
jurisdiction under these divisions in cases where the trial 8136  
court renders a final judgment in the license holder's favor and 8137  
that judgment is based upon an adjudication on the merits. The 8138  
board shall have jurisdiction under these divisions in cases 8139  
where the trial court issues an order of dismissal on technical 8140  
or procedural grounds. 8141

(F) The sealing of conviction records by any court shall 8142  
have no effect on a prior board order entered under the 8143  
provisions of this section or on the board's jurisdiction to 8144  
take action under the provisions of this section if, based upon 8145  
a plea of guilty, a judicial finding of guilt, or a judicial 8146  
finding of eligibility for intervention in lieu of conviction, 8147  
the board issued a notice of opportunity for a hearing or took 8148  
other formal action under Chapter 119. of the Revised Code prior 8149  
to the court's order to seal the records. The board shall not be 8150  
required to seal, destroy, redact, or otherwise modify its 8151  
records to reflect the court's sealing of conviction records. 8152

(G) For purposes of this division, any individual who 8153  
holds a license to practice as a genetic counselor, or applies 8154  
for a license, shall be deemed to have given consent to submit 8155

to a mental or physical examination when directed to do so in 8156  
writing by the board and to have waived all objections to the 8157  
admissibility of testimony or examination reports that 8158  
constitute a privileged communication. 8159

(1) In enforcing division (B)(5) of this section, the 8160  
board, on a showing of a possible violation, may compel any 8161  
individual who holds a license to practice as a genetic 8162  
counselor or who has applied for a license to practice as a 8163  
genetic counselor to submit to a mental or physical examination, 8164  
or both. A physical examination may include an HIV test. The 8165  
expense of the examination is the responsibility of the 8166  
individual compelled to be examined. Failure to submit to a 8167  
mental or physical examination or consent to an HIV test ordered 8168  
by the board constitutes an admission of the allegations against 8169  
the individual unless the failure is due to circumstances beyond 8170  
the individual's control, and a default and final order may be 8171  
entered without the taking of testimony or presentation of 8172  
evidence. If the board finds a genetic counselor unable to 8173  
practice because of the reasons set forth in division (B)(5) of 8174  
this section, the board shall require the genetic counselor to 8175  
submit to care, counseling, or treatment by physicians approved 8176  
or designated by the board, as a condition for an initial, 8177  
continued, reinstated, or renewed license to practice. An 8178  
individual affected by this division shall be afforded an 8179  
opportunity to demonstrate to the board the ability to resume 8180  
practicing in compliance with acceptable and prevailing 8181  
standards of care. 8182

(2) For purposes of division (B)(6) of this section, if 8183  
the board has reason to believe that any individual who holds a 8184  
license to practice as a genetic counselor or any applicant for 8185  
a license suffers such impairment, the board may compel the 8186

individual to submit to a mental or physical examination, or 8187  
both. The expense of the examination is the responsibility of 8188  
the individual compelled to be examined. Any mental or physical 8189  
examination required under this division shall be undertaken by 8190  
a treatment provider or physician qualified to conduct such 8191  
examination and chosen by the board. 8192

Failure to submit to a mental or physical examination 8193  
ordered by the board constitutes an admission of the allegations 8194  
against the individual unless the failure is due to 8195  
circumstances beyond the individual's control, and a default and 8196  
final order may be entered without the taking of testimony or 8197  
presentation of evidence. If the board determines that the 8198  
individual's ability to practice is impaired, the board shall 8199  
suspend the individual's license or deny the individual's 8200  
application and shall require the individual, as a condition for 8201  
an initial, continued, reinstated, or renewed license, to submit 8202  
to treatment. 8203

Before being eligible to apply for reinstatement of a 8204  
license suspended under this division, the genetic counselor 8205  
shall demonstrate to the board the ability to resume practice in 8206  
compliance with acceptable and prevailing standards of care. The 8207  
demonstration shall include the following: 8208

(a) Certification from a treatment provider approved under 8209  
section 4731.25 of the Revised Code that the individual has 8210  
successfully completed any required inpatient treatment; 8211

(b) Evidence of continuing full compliance with an 8212  
aftercare contract or consent agreement; 8213

(c) Two written reports indicating that the individual's 8214  
ability to practice has been assessed and that the individual 8215



has been found capable of practicing according to acceptable and 8216  
prevailing standards of care. The reports shall be made by 8217  
individuals or providers approved by the board for making such 8218  
assessments and shall describe the basis for their 8219  
determination. 8220

The board may reinstate a license suspended under this 8221  
division after such demonstration and after the individual has 8222  
entered into a written consent agreement. 8223

When the impaired genetic counselor resumes practice, the 8224  
board shall require continued monitoring of the genetic 8225  
counselor. The monitoring shall include monitoring of compliance 8226  
with the written consent agreement entered into before 8227  
reinstatement or with conditions imposed by board order after a 8228  
hearing, and, on termination of the consent agreement, 8229  
submission to the board for at least two years of annual written 8230  
progress reports made under penalty of falsification stating 8231  
whether the genetic counselor has maintained sobriety. 8232

~~(H)~~(H) (1) If either of the following circumstances occur, 8233  
the secretary and supervising member ~~determine both of the~~ 8234  
~~following, they may~~ recommend that the board suspend an 8235  
individual's license to practice without a prior hearing: 8236

~~(1)~~(a) The secretary and supervising member determine 8237  
both of the following: 8238

(i) That there is clear and convincing evidence that a 8239  
genetic counselor has violated division (B) of this section; 8240

~~(2)~~(ii) That the individual's continued practice presents 8241  
a danger of immediate and serious harm to the public. 8242

(b) The board receives verifiable information that a 8243  
licensee has been charged in any state or federal court for a 8244

crime classified as a felony under the charging court's law and 8245  
the conduct charged constitutes a violation of division (B) of 8246  
this section. 8247

~~Written~~ (2) If a recommendation is made to suspend without 8248  
a prior hearing pursuant to division (H)(1) of this section, 8249  
written allegations shall be prepared for consideration by the 8250  
board. The board, on review of the allegations and by an 8251  
affirmative vote of not fewer than six of its members, excluding 8252  
the secretary and supervising member, may suspend a license 8253  
without a prior hearing. A telephone conference call may be 8254  
utilized for reviewing the allegations and taking the vote on 8255  
the summary suspension. 8256

The board shall issue a written order of suspension by 8257  
certified mail or in person in accordance with section 119.07 of 8258  
the Revised Code. The order shall not be subject to suspension 8259  
by the court during pendency of any appeal filed under section 8260  
119.12 of the Revised Code. If the genetic counselor requests an 8261  
adjudicatory hearing by the board, the date set for the hearing 8262  
shall be within fifteen days, but not earlier than seven days, 8263  
after the genetic counselor requests the hearing, unless 8264  
otherwise agreed to by both the board and the genetic counselor. 8265

(3) A summary suspension imposed under this division shall 8266  
remain in effect, unless reversed on appeal, until a final 8267  
adjudicative order issued by the board pursuant to this section 8268  
and Chapter 119. of the Revised Code becomes effective. The 8269  
board shall issue its final adjudicative order within sixty days 8270  
after completion of its hearing. Failure to issue the order 8271  
within sixty days shall result in dissolution of the summary 8272  
suspension order, but shall not invalidate any subsequent, final 8273  
adjudicative order. 8274

(I) If the board takes action under division (B) (10), 8275  
(12), or (13) of this section, and the judicial finding of 8276  
guilt, guilty plea, or judicial finding of eligibility for 8277  
intervention in lieu of conviction is overturned on appeal, on 8278  
exhaustion of the criminal appeal, a petition for 8279  
reconsideration of the order may be filed with the board along 8280  
with appropriate court documents. On receipt of a petition and 8281  
supporting court documents, the board shall reinstate the 8282  
license to practice as a genetic counselor. The board may then 8283  
hold an adjudication under Chapter 119. of the Revised Code to 8284  
determine whether the individual committed the act in question. 8285  
Notice of opportunity for hearing shall be given in accordance 8286  
with Chapter 119. of the Revised Code. If the board finds, 8287  
pursuant to an adjudication held under this division, that the 8288  
individual committed the act, or if no hearing is requested, it 8289  
may order any of the sanctions specified in division (B) of this 8290  
section. 8291

(J) The license to practice as a genetic counselor and the 8292  
counselor's practice in this state are automatically suspended 8293  
as of the date the genetic counselor pleads guilty to, is found 8294  
by a judge or jury to be guilty of, or is subject to a judicial 8295  
finding of eligibility for intervention in lieu of conviction in 8296  
this state or treatment of intervention in lieu of conviction in 8297  
another jurisdiction for any of the following criminal offenses 8298  
in this state or a substantially equivalent criminal offense in 8299  
another jurisdiction: aggravated murder, murder, voluntary 8300  
manslaughter, felonious assault, trafficking in persons, 8301  
kidnapping, rape, sexual battery, gross sexual imposition, 8302  
aggravated arson, aggravated robbery, or aggravated burglary. 8303  
Continued practice after the suspension shall be considered 8304  
practicing without a license. 8305

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

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

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the license of the genetic counselor may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(M) When the board refuses to grant or issue a license to practice as a genetic counselor to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a

permanent action taken by the board is forever thereafter 8336  
ineligible to hold a license to practice as a genetic counselor 8337  
and the board shall not accept an application for reinstatement 8338  
of the license or for issuance of a new license. 8339

(N) Notwithstanding any other provision of the Revised 8340  
Code, all of the following apply: 8341

(1) The surrender of a license to practice as a genetic 8342  
counselor is not effective unless or until accepted by the 8343  
board. A telephone conference call may be utilized for 8344  
acceptance of the surrender of an individual's license. The 8345  
telephone conference call shall be considered a special meeting 8346  
under division (F) of section 121.22 of the Revised Code. 8347  
Reinstatement of a license surrendered to the board requires an 8348  
affirmative vote of not fewer than six members of the board. 8349

(2) An application made under this chapter for a license 8350  
to practice may not be withdrawn without approval of the board. 8351

(3) Failure by an individual to renew a license in 8352  
accordance with section 4778.06 of the Revised Code shall not 8353  
remove or limit the board's jurisdiction to take disciplinary 8354  
action under this section against the individual. 8355

Sec. 4778.171. (A) As used in this section, "criminal 8356  
conduct" and "sexual misconduct" have the same meanings as in 8357  
section 4731.224 of the Revised Code. 8358

(B)(1) Within thirty days after commencing an 8359  
investigation regarding criminal conduct or sexual misconduct 8360  
against any individual holding a valid license to practice 8361  
issued pursuant to this chapter, a health care facility, 8362  
including a hospital, health care facility operated by a health 8363  
insuring corporation, ambulatory surgical facility, or similar 8364

facility, shall report to the board the name of the individual 8365  
and a summary of the underlying facts related to the 8366  
investigation being commenced. 8367

(2) If any individual authorized to practice under this 8368  
chapter or any professional association or society of such 8369  
individuals knows or has reasonable cause to suspect based on 8370  
facts that would cause a reasonable person in a similar position 8371  
to suspect that an individual authorized to practice under this 8372  
chapter has committed or participated in criminal conduct or 8373  
sexual misconduct the information upon which the belief is based 8374  
shall be reported to the board within thirty days. 8375

(3) In addition to the self-reporting of criminal offenses 8376  
that is required for license renewal, an individual authorized 8377  
to practice under this chapter shall report to the board 8378  
criminal charges regarding criminal conduct, sexual misconduct, 8379  
or any conduct involving the use of a motor vehicle while under 8380  
the influence of alcohol or drugs, including offenses that are 8381  
equivalent offenses under division (A) of section 4511.181 of 8382  
the Revised Code, violations of division (D) of section 4511.194 8383  
of the Revised Code, and violations of division (C) of section 8384  
4511.79 of the Revised Code. Reports under this division shall 8385  
be made within thirty days of the criminal charge being filed. 8386

**Sec. 4778.18.** (A) The state medical board shall 8387  
investigate evidence that appears to show that any individual 8388  
has violated this chapter or the rules adopted under it. Any 8389  
person may report to the board in a signed writing any 8390  
information the person has that appears to show a violation of 8391  
this chapter or rules adopted under it. In the absence of bad 8392  
faith, a person who reports such information or testifies before 8393  
the board in an adjudication conducted under Chapter 119. of the 8394

Revised Code shall not be liable for civil damages as a result 8395  
of reporting the information or providing testimony. Each 8396  
complaint or allegation of a violation received by the board 8397  
shall be assigned a case number and be recorded by the board. 8398

(B) Investigations of alleged violations of this chapter 8399  
or rules adopted under it shall be supervised by the supervising 8400  
member elected by the board in accordance with section 4731.02 8401  
of the Revised Code and by the board's secretary, pursuant to 8402  
section 4778.20 of the Revised Code. The board's president may 8403  
designate another member of the board to supervise the 8404  
investigation in place of the supervising member. Upon a vote of 8405  
the majority of the board to authorize the addition of a 8406  
consumer member in the supervision of any part of any 8407  
investigation, the president shall designate a consumer member 8408  
for supervision of investigations as determined by the 8409  
president. The authorization of consumer member participation in 8410  
investigation supervision may be rescinded by a majority vote of 8411  
the board. A member of the board who supervises the 8412  
investigation of a case shall not participate in further 8413  
adjudication of the case. 8414

(C) In investigating a possible violation of this chapter 8415  
or the rules adopted under it, the board may administer oaths, 8416  
order the taking of depositions, inspect and copy any books, 8417  
accounts, papers, records, or documents, issue subpoenas, and 8418  
compel the attendance of witnesses and production of books, 8419  
accounts, papers, records, documents, and testimony, except that 8420  
a subpoena for patient record information or information, 8421  
documents, and records from a peer review committee of a health 8422  
care entity related to sexual misconduct or criminal conduct 8423  
shall not be issued without consultation with the attorney 8424  
general's office and approval of the secretary and supervising 8425

member of the board. Before issuance of a subpoena for patient 8426  
record information or information, documents, and records from a 8427  
peer review committee of a health care entity related to sexual 8428  
misconduct or criminal conduct, the secretary and supervising 8429  
member shall determine whether there is probable cause to 8430  
believe that the complaint filed alleges a violation of this 8431  
chapter or the rules adopted under it and that the records 8432  
sought are relevant to the alleged violation and material to the 8433  
investigation. The subpoena may apply only to records that cover 8434  
a reasonable period of time surrounding the alleged violation. 8435

On failure to comply with any subpoena issued by the board 8436  
and after reasonable notice to the person being subpoenaed, the 8437  
board may move for an order compelling the production of persons 8438  
or records pursuant to the Rules of Civil Procedure. 8439

A subpoena issued by the board may be served by a sheriff, 8440  
the sheriff's deputy, or a board employee designated by the 8441  
board. Service of a subpoena issued by the board may be made by 8442  
delivering a copy of the subpoena to the person named therein, 8443  
reading it to the person, or leaving it at the person's usual 8444  
place of residence. When the person being served is a genetic 8445  
counselor, service of the subpoena may be made by certified 8446  
mail, restricted delivery, return receipt requested, and the 8447  
subpoena shall be deemed served on the date delivery is made or 8448  
the date the person refuses to accept delivery. 8449

A sheriff's deputy who serves a subpoena shall receive the 8450  
same fees as a sheriff. Each witness who appears before the 8451  
board in obedience to a subpoena shall receive the fees and 8452  
mileage provided for witnesses in civil cases in the courts of 8453  
common pleas. 8454

(D) ~~All~~ For purposes of section 2305.252 of the Revised 8455



Code, all hearings and investigations of the board shall be 8456  
considered civil actions~~for the purposes of section 2305.252 of~~ 8457  
~~the Revised Code, except those involving allegations of sexual~~ 8458  
misconduct or criminal conduct, as defined in that section. 8459

(E) Information received by the board pursuant to an 8460  
investigation is confidential and not subject to discovery in 8461  
any civil action. 8462

The board shall conduct all investigations and proceedings 8463  
in a manner that protects the confidentiality of patients and 8464  
persons who file complaints with the board. The board shall not 8465  
make public the names or any other identifying information about 8466  
patients or complainants unless proper consent is given. 8467

The board may share any information it receives pursuant 8468  
to an investigation, including patient records and patient 8469  
record information, with law enforcement agencies, other 8470  
licensing boards, and other governmental agencies that are 8471  
prosecuting, adjudicating, or investigating alleged violations 8472  
of statutes or administrative rules. An agency or board that 8473  
receives the information shall comply with the same requirements 8474  
regarding confidentiality as those with which the state medical 8475  
board must comply, notwithstanding any conflicting provision of 8476  
the Revised Code or procedure of the agency or board that 8477  
applies when it is dealing with other information in its 8478  
possession. In a judicial proceeding, the information may be 8479  
admitted into evidence only in accordance with the Rules of 8480  
Evidence, but the court shall require that appropriate measures 8481  
are taken to ensure that confidentiality is maintained with 8482  
respect to any part of the information that contains names or 8483  
other identifying information about patients or complainants 8484  
whose confidentiality was protected by the state medical board 8485

when the information was in the board's possession. Measures to 8486  
ensure confidentiality that may be taken by the court include 8487  
sealing its records or deleting specific information from its 8488  
records. 8489

No person shall knowingly access, use, or disclose 8490  
confidential investigatory information in a manner prohibited by 8491  
law. 8492

(F) The state medical board shall develop requirements for 8493  
and provide appropriate initial training and continuing 8494  
education for investigators employed by the board to carry out 8495  
its duties under this chapter. The training and continuing 8496  
education may include enrollment in courses operated or approved 8497  
by the Ohio peace officer training commission that the board 8498  
considers appropriate under conditions set forth in section 8499  
109.79 of the Revised Code. 8500

(G) On a quarterly basis, the board shall prepare a report 8501  
that documents the disposition of all cases during the preceding 8502  
three months. The report shall contain the following information 8503  
for each case with which the board has completed its activities: 8504

(1) The case number assigned to the complaint or alleged 8505  
violation; 8506

(2) The type of license, if any, held by the individual 8507  
against whom the complaint is directed; 8508

(3) A description of the allegations contained in the 8509  
complaint; 8510

(4) Whether witnesses were interviewed; 8511

(5) Whether the individual against whom the complaint is 8512  
directed is the subject of any pending complaints; 8513

(6) The disposition of the case. 8514

The report shall state how many cases are still pending, 8515  
and shall be prepared in a manner that protects the identity of 8516  
each individual involved in each case. The report is a public 8517  
record for purposes of section 149.43 of the Revised Code. 8518

(H) The board may provide a status update regarding an 8519  
investigation to a complainant on request if the board verifies 8520  
the complainant's identity. 8521

**Sec. 4778.99.** Whoever violates section 4778.02 of the 8522  
Revised Code is guilty of a misdemeanor of the first degree on a 8523  
first offense and felony of the fifth degree on each subsequent 8524  
offense. 8525

Whoever violates division (B) (1) or (2) of section 8526  
4778.171 of the Revised Code is guilty of failure to report 8527  
criminal conduct or sexual misconduct, a misdemeanor of the 8528  
fourth degree. If the offender has previously been convicted of 8529  
a violation of this division, the failure to report is a 8530  
misdemeanor of the first degree. 8531

Whoever violates division (E) of section 4778.18 of the 8532  
Revised Code is guilty of disclosing confidential investigatory 8533  
information, a misdemeanor of the first degree. 8534

**Section 2.** That existing sections 149.43, 2105.062, 8535  
2305.111, 2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 8536  
2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 8537  
3109.50, 3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 8538  
4731.224, 4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 8539  
4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 8540  
4762.13, 4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 8541  
4774.99, 4778.14, 4778.18, and 4778.99 of the Revised Code are 8542

hereby repealed. 8543

**Section 3.** The General Assembly, applying the principle 8544  
stated in division (B) of section 1.52 of the Revised Code that 8545  
amendments are to be harmonized if reasonably capable of 8546  
simultaneous operation, finds that the following sections, 8547  
presented in this act as composites of the sections as amended 8548  
by the acts indicated, are the resulting versions of the 8549  
sections in effect prior to the effective date of the sections 8550  
as presented in this act: 8551

Section 2921.22 of the Revised Code as amended by both 8552  
H.B. 216 and S.B. 319 of the 131st General Assembly. 8553

Section 3107.07 of the Revised Code as amended by both 8554  
S.B. 207 and S.B. 250 of the 130th General Assembly. 8555

Section 4730.25 of the Revised Code as amended by both 8556  
H.B. 203 and H.B. 263 of the 133rd General Assembly. 8557