

**As Passed by the Senate**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Sub. S. B. No. 109**

**Senator Hackett**

**Cosponsors: Senators Dolan, Manning, Antonio, Brenner, Cirino, Craig, DeMora,  
Gavarone, Hicks-Hudson, Huffman, S., Ingram, Johnson, Kunze, Reineke,  
Romanchuk, Rulli, Schaffer, Schuring, Smith, Sykes, Wilson**

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**A BILL**

To amend sections 149.43, 2105.062, 2305.111, 1  
2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2  
2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 3  
2971.01, 3107.07, 3109.50, 3111.04, 4730.25, 4  
4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 5  
4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 6  
4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 7  
4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 8  
4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 9  
4778.14, 4778.18, and 4778.99 and to enact 10  
sections 4731.2210, 4759.14, and 4778.171 of the 11  
Revised Code regarding sex offenses and 12  
individuals regulated by the State Medical Board 13  
and to amend the version of section 2305.111 of 14  
the Revised Code that is scheduled to take 15  
effect October 12, 2028, to continue the change 16  
on and after that date. 17

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

**Section 1.** That sections 149.43, 2105.062, 2305.111, 18  
2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 2921.22, 19  
2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 20  
4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 4731.99, 21  
4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 22  
4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 23  
4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 4778.18, 24  
and 4778.99 be amended and sections 4731.2210, 4759.14, and 25  
4778.171 of the Revised Code be enacted to read as follows: 26

**Sec. 149.43.** (A) As used in this section: 27

(1) "Public record" means records kept by any public 28  
office, including, but not limited to, state, county, city, 29  
village, township, and school district units, and records 30  
pertaining to the delivery of educational services by an 31  
alternative school in this state kept by the nonprofit or for- 32  
profit entity operating the alternative school pursuant to 33  
section 3313.533 of the Revised Code. "Public record" does not 34  
mean any of the following: 35

(a) Medical records; 36

(b) Records pertaining to probation and parole 37  
proceedings, to proceedings related to the imposition of 38  
community control sanctions and post-release control sanctions, 39  
or to proceedings related to determinations under section 40  
2967.271 of the Revised Code regarding the release or maintained 41  
incarceration of an offender to whom that section applies; 42

(c) Records pertaining to actions under section 2151.85 43  
and division (C) of section 2919.121 of the Revised Code and to 44  
appeals of actions arising under those sections; 45

(d) Records pertaining to adoption proceedings, including 46

the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	47 48
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	49 50 51 52 53 54
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	55 56
(g) Trial preparation records;	57
(h) Confidential law enforcement investigatory records;	58
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	59 60
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	61 62
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	63 64 65 66
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	67 68 69 70
(m) Intellectual property records;	71
(n) Donor profile records;	72
(o) Records maintained by the department of job and family	73

services pursuant to section 3121.894 of the Revised Code;	74
(p) Designated public service worker residential and familial information;	75 76
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	77 78 79 80 81
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	82 83
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	84 85 86 87 88 89 90 91 92 93 94 95
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	96 97 98 99 100
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator	101 102

that the board of executives of long-term services and supports	103
administers under section 4751.15 of the Revised Code or	104
contracts under that section with a private or government entity	105
to administer;	106
(v) Records the release of which is prohibited by state or	107
federal law;	108
(w) Proprietary information of or relating to any person	109
that is submitted to or compiled by the Ohio venture capital	110
authority created under section 150.01 of the Revised Code;	111
(x) Financial statements and data any person submits for	112
any purpose to the Ohio housing finance agency or the	113
controlling board in connection with applying for, receiving, or	114
accounting for financial assistance from the agency, and	115
information that identifies any individual who benefits directly	116
or indirectly from financial assistance from the agency;	117
(y) Records listed in section 5101.29 of the Revised Code;	118
(z) Discharges recorded with a county recorder under	119
section 317.24 of the Revised Code, as specified in division (B)	120
(2) of that section;	121
(aa) Usage information including names and addresses of	122
specific residential and commercial customers of a municipally	123
owned or operated public utility;	124
(bb) Records described in division (C) of section 187.04	125
of the Revised Code that are not designated to be made available	126
to the public as provided in that division;	127
(cc) Information and records that are made confidential,	128
privileged, and not subject to disclosure under divisions (B)	129
and (C) of section 2949.221 of the Revised Code;	130

(dd) Personal information, as defined in section 149.45 of 131  
the Revised Code; 132

(ee) The confidential name, address, and other personally 133  
identifiable information of a program participant in the address 134  
confidentiality program established under sections 111.41 to 135  
111.47 of the Revised Code, including the contents of any 136  
application for absent voter's ballots, absent voter's ballot 137  
identification envelope statement of voter, or provisional 138  
ballot affirmation completed by a program participant who has a 139  
confidential voter registration record; records or portions of 140  
records pertaining to that program that identify the number of 141  
program participants that reside within a precinct, ward, 142  
township, municipal corporation, county, or any other geographic 143  
area smaller than the state; and any real property 144  
confidentiality notice filed under section 111.431 of the 145  
Revised Code and the information described in division (C) of 146  
that section. As used in this division, "confidential address" 147  
and "program participant" have the meaning defined in section 148  
111.41 of the Revised Code. 149

(ff) Orders for active military service of an individual 150  
serving or with previous service in the armed forces of the 151  
United States, including a reserve component, or the Ohio 152  
organized militia, except that, such order becomes a public 153  
record on the day that is fifteen years after the published date 154  
or effective date of the call to order; 155

(gg) The name, address, contact information, or other 156  
personal information of an individual who is less than eighteen 157  
years of age that is included in any record related to a traffic 158  
accident involving a school vehicle in which the individual was 159  
an occupant at the time of the accident; 160

(hh) Protected health information, as defined in 45 C.F.R. 160.103, that is in a claim for payment for a health care product, service, or procedure, as well as any other health claims data in another document that reveals the identity of an individual who is the subject of the data or could be used to reveal that individual's identity;	161 162 163 164 165 166
(ii) Any depiction by photograph, film, videotape, or printed or digital image under either of the following circumstances:	167 168 169
(i) The depiction is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity.	170 171 172 173
(ii) The depiction captures or depicts the victim of a sexually oriented offense, as defined in section 2950.01 of the Revised Code, at the actual occurrence of that offense.	174 175 176
(jj) Restricted portions of a body-worn camera or dashboard camera recording;	177 178
(kk) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.	179 180 181 182 183 184 185 186 187
(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board	188 189

established under section 3738.01 of the Revised Code, 190  
statements made by board members during board meetings, all work 191  
products of the board, and data submitted by the board to the 192  
department of health, other than the biennial reports prepared 193  
under section 3738.08 of the Revised Code; 194

(mm) Except as otherwise provided in division (A) (1) (oo) 195  
of this section, telephone numbers for a victim, as defined in 196  
section 2930.01 of the Revised Code or a witness to a crime that 197  
are listed on any law enforcement record or report. 198

(nn) A preneed funeral contract, as defined in section 199  
4717.01 of the Revised Code, and contract terms and personally 200  
identifying information of a preneed funeral contract, that is 201  
contained in a report submitted by or for a funeral home to the 202  
board of embalmers and funeral directors under division (C) of 203  
section 4717.13, division (J) of section 4717.31, or section 204  
4717.41 of the Revised Code. 205

(oo) Telephone numbers for a party to a motor vehicle 206  
accident subject to the requirements of section 5502.11 of the 207  
Revised Code that are listed on any law enforcement record or 208  
report, except that the telephone numbers described in this 209  
division are not excluded from the definition of "public record" 210  
under this division on and after the thirtieth day after the 211  
occurrence of the motor vehicle accident. 212

(pp) Records pertaining to individuals who complete 213  
training under section 5502.703 of the Revised Code to be 214  
permitted by a school district board of education or governing 215  
body of a community school established under Chapter 3314. of 216  
the Revised Code, a STEM school established under Chapter 3326. 217  
of the Revised Code, or a chartered nonpublic school to convey 218  
deadly weapons or dangerous ordnance into a school safety zone; 219



(qq) Records, documents, reports, or other information 220  
presented to a domestic violence fatality review board 221  
established under section 307.651 of the Revised Code, 222  
statements made by board members during board meetings, all work 223  
products of the board, and data submitted by the board to the 224  
department of health, other than a report prepared pursuant to 225  
section 307.656 of the Revised Code; 226

(rr) Records, documents, and information the release of 227  
which is prohibited under sections 2930.04 and 2930.07 of the 228  
Revised Code; 229

(ss) Records of an existing qualified nonprofit 230  
corporation that creates a special improvement district under 231  
Chapter 1710. of the Revised Code that do not pertain to a 232  
purpose for which the district is created; 233

(tt) License or certificate application or renewal 234  
responses and supporting documentation submitted to the state 235  
medical board regarding an applicant's, or a license or 236  
certificate holder's, inability to practice according to 237  
acceptable and prevailing standards of care by reason of a 238  
medical condition. 239

A record that is not a public record under division (A) (1) 240  
of this section and that, under law, is permanently retained 241  
becomes a public record on the day that is seventy-five years 242  
after the day on which the record was created, except for any 243  
record protected by the attorney-client privilege, a trial 244  
preparation record as defined in this section, a statement 245  
prohibiting the release of identifying information signed under 246  
section 3107.083 of the Revised Code, a denial of release form 247  
filed pursuant to section 3107.46 of the Revised Code, or any 248  
record that is exempt from release or disclosure under section 249

149.433 of the Revised Code. If the record is a birth 250  
certificate and a biological parent's name redaction request 251  
form has been accepted under section 3107.391 of the Revised 252  
Code, the name of that parent shall be redacted from the birth 253  
certificate before it is released under this paragraph. If any 254  
other section of the Revised Code establishes a time period for 255  
disclosure of a record that conflicts with the time period 256  
specified in this section, the time period in the other section 257  
prevails. 258

(2) "Confidential law enforcement investigatory record" 259  
means any record that pertains to a law enforcement matter of a 260  
criminal, quasi-criminal, civil, or administrative nature, but 261  
only to the extent that the release of the record would create a 262  
high probability of disclosure of any of the following: 263

(a) The identity of a suspect who has not been charged 264  
with the offense to which the record pertains, or of an 265  
information source or witness to whom confidentiality has been 266  
reasonably promised; 267

(b) Information provided by an information source or 268  
witness to whom confidentiality has been reasonably promised, 269  
which information would reasonably tend to disclose the source's 270  
or witness's identity; 271

(c) Specific confidential investigatory techniques or 272  
procedures or specific investigatory work product; 273

(d) Information that would endanger the life or physical 274  
safety of law enforcement personnel, a crime victim, a witness, 275  
or a confidential information source. 276

(3) "Medical record" means any document or combination of 277  
documents, except births, deaths, and the fact of admission to 278

or discharge from a hospital, that pertains to the medical 279  
history, diagnosis, prognosis, or medical condition of a patient 280  
and that is generated and maintained in the process of medical 281  
treatment. 282

(4) "Trial preparation record" means any record that 283  
contains information that is specifically compiled in reasonable 284  
anticipation of, or in defense of, a civil or criminal action or 285  
proceeding, including the independent thought processes and 286  
personal trial preparation of an attorney. 287

(5) "Intellectual property record" means a record, other 288  
than a financial or administrative record, that is produced or 289  
collected by or for faculty or staff of a state institution of 290  
higher learning in the conduct of or as a result of study or 291  
research on an educational, commercial, scientific, artistic, 292  
technical, or scholarly issue, regardless of whether the study 293  
or research was sponsored by the institution alone or in 294  
conjunction with a governmental body or private concern, and 295  
that has not been publicly released, published, or patented. 296

(6) "Donor profile record" means all records about donors 297  
or potential donors to a public institution of higher education 298  
except the names and reported addresses of the actual donors and 299  
the date, amount, and conditions of the actual donation. 300

(7) "Designated public service worker" means a peace 301  
officer, parole officer, probation officer, bailiff, prosecuting 302  
attorney, assistant prosecuting attorney, correctional employee, 303  
county or multicounty corrections officer, community-based 304  
correctional facility employee, designated Ohio national guard 305  
member, protective services worker, youth services employee, 306  
firefighter, EMT, medical director or member of a cooperating 307  
physician advisory board of an emergency medical service 308

organization, state board of pharmacy employee, investigator of 309  
the bureau of criminal identification and investigation, 310  
emergency service telecommunicator, forensic mental health 311  
provider, mental health evaluation provider, regional 312  
psychiatric hospital employee, judge, magistrate, or federal law 313  
enforcement officer. 314

(8) "Designated public service worker residential and 315  
familial information" means any information that discloses any 316  
of the following about a designated public service worker: 317

(a) The address of the actual personal residence of a 318  
designated public service worker, except for the following 319  
information: 320

(i) The address of the actual personal residence of a 321  
prosecuting attorney or judge; and 322

(ii) The state or political subdivision in which a 323  
designated public service worker resides. 324

(b) Information compiled from referral to or participation 325  
in an employee assistance program; 326

(c) The social security number, the residential telephone 327  
number, any bank account, debit card, charge card, or credit 328  
card number, or the emergency telephone number of, or any 329  
medical information pertaining to, a designated public service 330  
worker; 331

(d) The name of any beneficiary of employment benefits, 332  
including, but not limited to, life insurance benefits, provided 333  
to a designated public service worker by the designated public 334  
service worker's employer; 335

(e) The identity and amount of any charitable or 336

employment benefit deduction made by the designated public 337  
service worker's employer from the designated public service 338  
worker's compensation, unless the amount of the deduction is 339  
required by state or federal law; 340

(f) The name, the residential address, the name of the 341  
employer, the address of the employer, the social security 342  
number, the residential telephone number, any bank account, 343  
debit card, charge card, or credit card number, or the emergency 344  
telephone number of the spouse, a former spouse, or any child of 345  
a designated public service worker; 346

(g) A photograph of a peace officer who holds a position 347  
or has an assignment that may include undercover or plain 348  
clothes positions or assignments as determined by the peace 349  
officer's appointing authority. 350

(9) As used in divisions (A) (7) and (15) to (17) of this 351  
section: 352

"Peace officer" has the meaning defined in section 109.71 353  
of the Revised Code and also includes the superintendent and 354  
troopers of the state highway patrol; it does not include the 355  
sheriff of a county or a supervisory employee who, in the 356  
absence of the sheriff, is authorized to stand in for, exercise 357  
the authority of, and perform the duties of the sheriff. 358

"Correctional employee" means any employee of the 359  
department of rehabilitation and correction who in the course of 360  
performing the employee's job duties has or has had contact with 361  
inmates and persons under supervision. 362

"County or multicounty corrections officer" means any 363  
corrections officer employed by any county or multicounty 364  
correctional facility. 365

"Designated Ohio national guard member" means a member of 366  
the Ohio national guard who is participating in duties related 367  
to remotely piloted aircraft, including, but not limited to, 368  
pilots, sensor operators, and mission intelligence personnel, 369  
duties related to special forces operations, or duties related 370  
to cybersecurity, and is designated by the adjutant general as a 371  
designated public service worker for those purposes. 372

"Protective services worker" means any employee of a 373  
county agency who is responsible for child protective services, 374  
child support services, or adult protective services. 375

"Youth services employee" means any employee of the 376  
department of youth services who in the course of performing the 377  
employee's job duties has or has had contact with children 378  
committed to the custody of the department of youth services. 379

"Firefighter" means any regular, paid or volunteer, member 380  
of a lawfully constituted fire department of a municipal 381  
corporation, township, fire district, or village. 382

"EMT" means EMTs-basic, EMTs-I, and paramedics that 383  
provide emergency medical services for a public emergency 384  
medical service organization. "Emergency medical service 385  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 386  
meanings defined in section 4765.01 of the Revised Code. 387

"Investigator of the bureau of criminal identification and 388  
investigation" has the meaning defined in section 2903.11 of the 389  
Revised Code. 390

"Emergency service telecommunicator" means an individual 391  
employed by an emergency service provider as defined under 392  
section 128.01 of the Revised Code, whose primary responsibility 393  
is to be an operator for the receipt or processing of calls for 394

emergency services made by telephone, radio, or other electronic means. 395  
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"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. 397  
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"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. 404  
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"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. 410  
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"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code. 417  
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(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 419  
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of the following:	424
(a) The address or telephone number of a person under the	425
age of eighteen or the address or telephone number of that	426
person's parent, guardian, custodian, or emergency contact	427
person;	428
(b) The social security number, birth date, or	429
photographic image of a person under the age of eighteen;	430
(c) Any medical record, history, or information pertaining	431
to a person under the age of eighteen;	432
(d) Any additional information sought or required about a	433
person under the age of eighteen for the purpose of allowing	434
that person to participate in any recreational activity	435
conducted or sponsored by a public office or to use or obtain	436
admission privileges to any recreational facility owned or	437
operated by a public office.	438
(11) "Community control sanction" has the meaning defined	439
in section 2929.01 of the Revised Code.	440
(12) "Post-release control sanction" has the meaning	441
defined in section 2967.01 of the Revised Code.	442
(13) "Redaction" means obscuring or deleting any	443
information that is exempt from the duty to permit public	444
inspection or copying from an item that otherwise meets the	445
definition of a "record" in section 149.011 of the Revised Code.	446
(14) "Designee," "elected official," and "future official"	447
have the meanings defined in section 109.43 of the Revised Code.	448
(15) "Body-worn camera" means a visual and audio recording	449
device worn on the person of a correctional employee, youth	450
services employee, or peace officer while the correctional	451



employee, youth services employee, or peace officer is engaged 452  
in the performance of official duties. 453

(16) "Dashboard camera" means a visual and audio recording 454  
device mounted on a peace officer's vehicle or vessel that is 455  
used while the peace officer is engaged in the performance of 456  
the peace officer's duties. 457

(17) "Restricted portions of a body-worn camera or 458  
dashboard camera recording" means any visual or audio portion of 459  
a body-worn camera or dashboard camera recording that shows, 460  
communicates, or discloses any of the following: 461

(a) The image or identity of a child or information that 462  
could lead to the identification of a child who is a primary 463  
subject of the recording when the department of rehabilitation 464  
and correction, department of youth services, or the law 465  
enforcement agency knows or has reason to know the person is a 466  
child based on the department's or law enforcement agency's 467  
records or the content of the recording; 468

(b) The death of a person or a deceased person's body, 469  
unless the death was caused by a correctional employee, youth 470  
services employee, or peace officer or, subject to division (H) 471  
(1) of this section, the consent of the decedent's executor or 472  
administrator has been obtained; 473

(c) The death of a correctional employee, youth services 474  
employee, peace officer, firefighter, paramedic, or other first 475  
responder, occurring while the decedent was engaged in the 476  
performance of official duties, unless, subject to division (H) 477  
(1) of this section, the consent of the decedent's executor or 478  
administrator has been obtained; 479

(d) Grievous bodily harm, unless the injury was effected 480

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

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

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

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

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

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

identify a person who is not the subject of a correctional,	510
youth services, or law enforcement encounter;	511
(j) Information that could identify the alleged victim of	512
a sex offense, menacing by stalking, or domestic violence;	513
(k) Information, that does not constitute a confidential	514
law enforcement investigatory record, that could identify a	515
person who provides sensitive or confidential information to the	516
department of rehabilitation and correction, the department of	517
youth services, or a law enforcement agency when the disclosure	518
of the person's identity or the information provided could	519
reasonably be expected to threaten or endanger the safety or	520
property of the person or another person;	521
(l) Personal information of a person who is not arrested,	522
cited, charged, or issued a written warning by a peace officer;	523
(m) Proprietary correctional, youth services, or police	524
contingency plans or tactics that are intended to prevent crime	525
and maintain public order and safety;	526
(n) A personal conversation unrelated to work between	527
correctional employees, youth services employees, or peace	528
officers or between a correctional employee, youth services	529
employee, or peace officer and an employee of a law enforcement	530
agency;	531
(o) A conversation between a correctional employee, youth	532
services employee, or peace officer and a member of the public	533
that does not concern correctional, youth services, or law	534
enforcement activities;	535
(p) The interior of a residence, unless the interior of a	536
residence is the location of an adversarial encounter with, or a	537
use of force by, a correctional employee, youth services	538

employee, or peace officer;	539
(q) Any portion of the interior of a private business that	540
is not open to the public, unless an adversarial encounter with,	541
or a use of force by, a correctional employee, youth services	542
employee, or peace officer occurs in that location.	543
As used in division (A) (17) of this section:	544
"Grievous bodily harm" has the same meaning as in section	545
5924.120 of the Revised Code.	546
"Health care facility" has the same meaning as in section	547
1337.11 of the Revised Code.	548
"Protected health information" has the same meaning as in	549
45 C.F.R. 160.103.	550
"Law enforcement agency" means a government entity that	551
employs peace officers to perform law enforcement duties.	552
"Personal information" means any government-issued	553
identification number, date of birth, address, financial	554
information, or criminal justice information from the law	555
enforcement automated data system or similar databases.	556
"Sex offense" has the same meaning as in section 2907.10	557
of the Revised Code.	558
"Firefighter," "paramedic," and "first responder" have the	559
same meanings as in section 4765.01 of the Revised Code.	560
(B) (1) Upon request by any person and subject to division	561
(B) (8) of this section, all public records responsive to the	562
request shall be promptly prepared and made available for	563
inspection to the requester at all reasonable times during	564
regular business hours. Subject to division (B) (8) of this	565

section, upon request by any person, a public office or person 566  
responsible for public records shall make copies of the 567  
requested public record available to the requester at cost and 568  
within a reasonable period of time. If a public record contains 569  
information that is exempt from the duty to permit public 570  
inspection or to copy the public record, the public office or 571  
the person responsible for the public record shall make 572  
available all of the information within the public record that 573  
is not exempt. When making that public record available for 574  
public inspection or copying that public record, the public 575  
office or the person responsible for the public record shall 576  
notify the requester of any redaction or make the redaction 577  
plainly visible. A redaction shall be deemed a denial of a 578  
request to inspect or copy the redacted information, except if 579  
federal or state law authorizes or requires a public office to 580  
make the redaction. When the auditor of state receives a request 581  
to inspect or to make a copy of a record that was provided to 582  
the auditor of state for purposes of an audit, but the original 583  
public office has asserted to the auditor of state that the 584  
record is not a public record, the auditor of state may handle 585  
the requests by directing the requestor to the original public 586  
office that provided the record to the auditor of state. 587

(2) To facilitate broader access to public records, a 588  
public office or the person responsible for public records shall 589  
organize and maintain public records in a manner that they can 590  
be made available for inspection or copying in accordance with 591  
division (B) of this section. A public office also shall have 592  
available a copy of its current records retention schedule at a 593  
location readily available to the public. If a requester makes 594  
an ambiguous or overly broad request or has difficulty in making 595  
a request for copies or inspection of public records under this 596

section such that the public office or the person responsible 597  
for the requested public record cannot reasonably identify what 598  
public records are being requested, the public office or the 599  
person responsible for the requested public record may deny the 600  
request but shall provide the requester with an opportunity to 601  
revise the request by informing the requester of the manner in 602  
which records are maintained by the public office and accessed 603  
in the ordinary course of the public office's or person's 604  
duties. 605

(3) If a request is ultimately denied, in part or in 606  
whole, the public office or the person responsible for the 607  
requested public record shall provide the requester with an 608  
explanation, including legal authority, setting forth why the 609  
request was denied. If the initial request was provided in 610  
writing, the explanation also shall be provided to the requester 611  
in writing. The explanation shall not preclude the public office 612  
or the person responsible for the requested public record from 613  
relying upon additional reasons or legal authority in defending 614  
an action commenced under division (C) of this section. 615

(4) Unless specifically required or authorized by state or 616  
federal law or in accordance with division (B) of this section, 617  
no public office or person responsible for public records may 618  
limit or condition the availability of public records by 619  
requiring disclosure of the requester's identity or the intended 620  
use of the requested public record. Any requirement that the 621  
requester disclose the requester's identity or the intended use 622  
of the requested public record constitutes a denial of the 623  
request. 624

(5) A public office or person responsible for public 625  
records may ask a requester to make the request in writing, may 626

ask for the requester's identity, and may inquire about the 627  
intended use of the information requested, but may do so only 628  
after disclosing to the requester that a written request is not 629  
mandatory, that the requester may decline to reveal the 630  
requester's identity or the intended use, and when a written 631  
request or disclosure of the identity or intended use would 632  
benefit the requester by enhancing the ability of the public 633  
office or person responsible for public records to identify, 634  
locate, or deliver the public records sought by the requester. 635

(6) If any person requests a copy of a public record in 636  
accordance with division (B) of this section, the public office 637  
or person responsible for the public record may require the 638  
requester to pay in advance the cost involved in providing the 639  
copy of the public record in accordance with the choice made by 640  
the requester under this division. The public office or the 641  
person responsible for the public record shall permit the 642  
requester to choose to have the public record duplicated upon 643  
paper, upon the same medium upon which the public office or 644  
person responsible for the public record keeps it, or upon any 645  
other medium upon which the public office or person responsible 646  
for the public record determines that it reasonably can be 647  
duplicated as an integral part of the normal operations of the 648  
public office or person responsible for the public record. When 649  
the requester makes a choice under this division, the public 650  
office or person responsible for the public record shall provide 651  
a copy of it in accordance with the choice made by the 652  
requester. Nothing in this section requires a public office or 653  
person responsible for the public record to allow the requester 654  
of a copy of the public record to make the copies of the public 655  
record. 656

(7) (a) Upon a request made in accordance with division (B) 657

of this section and subject to division (B) (6) of this section, 658  
a public office or person responsible for public records shall 659  
transmit a copy of a public record to any person by United 660  
States mail or by any other means of delivery or transmission 661  
within a reasonable period of time after receiving the request 662  
for the copy. The public office or person responsible for the 663  
public record may require the person making the request to pay 664  
in advance the cost of postage if the copy is transmitted by 665  
United States mail or the cost of delivery if the copy is 666  
transmitted other than by United States mail, and to pay in 667  
advance the costs incurred for other supplies used in the 668  
mailing, delivery, or transmission. 669

(b) Any public office may adopt a policy and procedures 670  
that it will follow in transmitting, within a reasonable period 671  
of time after receiving a request, copies of public records by 672  
United States mail or by any other means of delivery or 673  
transmission pursuant to division (B) (7) of this section. A 674  
public office that adopts a policy and procedures under division 675  
(B) (7) of this section shall comply with them in performing its 676  
duties under that division. 677

(c) In any policy and procedures adopted under division 678  
(B) (7) of this section: 679

(i) A public office may limit the number of records 680  
requested by a person that the office will physically deliver by 681  
United States mail or by another delivery service to ten per 682  
month, unless the person certifies to the office in writing that 683  
the person does not intend to use or forward the requested 684  
records, or the information contained in them, for commercial 685  
purposes; 686

(ii) A public office that chooses to provide some or all 687



of its public records on a web site that is fully accessible to 688  
and searchable by members of the public at all times, other than 689  
during acts of God outside the public office's control or 690  
maintenance, and that charges no fee to search, access, 691  
download, or otherwise receive records provided on the web site, 692  
may limit to ten per month the number of records requested by a 693  
person that the office will deliver in a digital format, unless 694  
the requested records are not provided on the web site and 695  
unless the person certifies to the office in writing that the 696  
person does not intend to use or forward the requested records, 697  
or the information contained in them, for commercial purposes. 698

(iii) For purposes of division (B) (7) of this section, 699  
"commercial" shall be narrowly construed and does not include 700  
reporting or gathering news, reporting or gathering information 701  
to assist citizen oversight or understanding of the operation or 702  
activities of government, or nonprofit educational research. 703

(8) A public office or person responsible for public 704  
records is not required to permit a person who is incarcerated 705  
pursuant to a criminal conviction or a juvenile adjudication to 706  
inspect or to obtain a copy of any public record concerning a 707  
criminal investigation or prosecution or concerning what would 708  
be a criminal investigation or prosecution if the subject of the 709  
investigation or prosecution were an adult, unless the request 710  
to inspect or to obtain a copy of the record is for the purpose 711  
of acquiring information that is subject to release as a public 712  
record under this section and the judge who imposed the sentence 713  
or made the adjudication with respect to the person, or the 714  
judge's successor in office, finds that the information sought 715  
in the public record is necessary to support what appears to be 716  
a justiciable claim of the person. 717

(9) (a) Upon written request made and signed by a 718  
journalist, a public office, or person responsible for public 719  
records, having custody of the records of the agency employing a 720  
specified designated public service worker shall disclose to the 721  
journalist the address of the actual personal residence of the 722  
designated public service worker and, if the designated public 723  
service worker's spouse, former spouse, or child is employed by 724  
a public office, the name and address of the employer of the 725  
designated public service worker's spouse, former spouse, or 726  
child. The request shall include the journalist's name and title 727  
and the name and address of the journalist's employer and shall 728  
state that disclosure of the information sought would be in the 729  
public interest. 730

(b) Division (B) (9) (a) of this section also applies to 731  
journalist requests for: 732

(i) Customer information maintained by a municipally owned 733  
or operated public utility, other than social security numbers 734  
and any private financial information such as credit reports, 735  
payment methods, credit card numbers, and bank account 736  
information; 737

(ii) Information about minors involved in a school vehicle 738  
accident as provided in division (A) (1) (gg) of this section, 739  
other than personal information as defined in section 149.45 of 740  
the Revised Code. 741

(c) As used in division (B) (9) of this section, 742  
"journalist" means a person engaged in, connected with, or 743  
employed by any news medium, including a newspaper, magazine, 744  
press association, news agency, or wire service, a radio or 745  
television station, or a similar medium, for the purpose of 746  
gathering, processing, transmitting, compiling, editing, or 747

disseminating information for the general public. 748

(10) Upon a request made by a victim, victim's attorney, 749  
or victim's representative, as that term is used in section 750  
2930.02 of the Revised Code, a public office or person 751  
responsible for public records shall transmit a copy of a 752  
depiction of the victim as described in division (A) (1) (ii) of 753  
this section to the victim, victim's attorney, or victim's 754  
representative. 755

(C) (1) If a person allegedly is aggrieved by the failure 756  
of a public office or the person responsible for public records 757  
to promptly prepare a public record and to make it available to 758  
the person for inspection in accordance with division (B) of 759  
this section or by any other failure of a public office or the 760  
person responsible for public records to comply with an 761  
obligation in accordance with division (B) of this section, the 762  
person allegedly aggrieved may do only one of the following, and 763  
not both: 764

(a) File a complaint with the clerk of the court of claims 765  
or the clerk of the court of common pleas under section 2743.75 766  
of the Revised Code; 767

(b) Commence a mandamus action to obtain a judgment that 768  
orders the public office or the person responsible for the 769  
public record to comply with division (B) of this section, that 770  
awards court costs and reasonable attorney's fees to the person 771  
that instituted the mandamus action, and, if applicable, that 772  
includes an order fixing statutory damages under division (C) (2) 773  
of this section. The mandamus action may be commenced in the 774  
court of common pleas of the county in which division (B) of 775  
this section allegedly was not complied with, in the supreme 776  
court pursuant to its original jurisdiction under Section 2 of 777

Article IV, Ohio Constitution, or in the court of appeals for 778  
the appellate district in which division (B) of this section 779  
allegedly was not complied with pursuant to its original 780  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 781

(2) If a requester transmits a written request by hand 782  
delivery, electronic submission, or certified mail to inspect or 783  
receive copies of any public record in a manner that fairly 784  
describes the public record or class of public records to the 785  
public office or person responsible for the requested public 786  
records, except as otherwise provided in this section, the 787  
requester shall be entitled to recover the amount of statutory 788  
damages set forth in this division if a court determines that 789  
the public office or the person responsible for public records 790  
failed to comply with an obligation in accordance with division 791  
(B) of this section. 792

The amount of statutory damages shall be fixed at one 793  
hundred dollars for each business day during which the public 794  
office or person responsible for the requested public records 795  
failed to comply with an obligation in accordance with division 796  
(B) of this section, beginning with the day on which the 797  
requester files a mandamus action to recover statutory damages, 798  
up to a maximum of one thousand dollars. The award of statutory 799  
damages shall not be construed as a penalty, but as compensation 800  
for injury arising from lost use of the requested information. 801  
The existence of this injury shall be conclusively presumed. The 802  
award of statutory damages shall be in addition to all other 803  
remedies authorized by this section. 804

The court may reduce an award of statutory damages or not 805  
award statutory damages if the court determines both of the 806  
following: 807

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

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

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

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

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

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

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

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

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

(c) The court shall not award attorney's fees to the

relator if the court determines both of the following: 867

(i) That, based on the ordinary application of statutory 868  
law and case law as it existed at the time of the conduct or 869  
threatened conduct of the public office or person responsible 870  
for the requested public records that allegedly constitutes a 871  
failure to comply with an obligation in accordance with division 872  
(B) of this section and that was the basis of the mandamus 873  
action, a well-informed public office or person responsible for 874  
the requested public records reasonably would believe that the 875  
conduct or threatened conduct of the public office or person 876  
responsible for the requested public records did not constitute 877  
a failure to comply with an obligation in accordance with 878  
division (B) of this section; 879

(ii) That a well-informed public office or person 880  
responsible for the requested public records reasonably would 881  
believe that the conduct or threatened conduct of the public 882  
office or person responsible for the requested public records 883  
would serve the public policy that underlies the authority that 884  
is asserted as permitting that conduct or threatened conduct. 885

(4) All of the following apply to any award of reasonable 886  
attorney's fees awarded under division (C) (3) (b) of this 887  
section: 888

(a) The fees shall be construed as remedial and not 889  
punitive. 890

(b) The fees awarded shall not exceed the total of the 891  
reasonable attorney's fees incurred before the public record was 892  
made available to the relator and the fees described in division 893  
(C) (4) (c) of this section. 894

(c) Reasonable attorney's fees shall include reasonable 895

fees incurred to produce proof of the reasonableness and amount 896  
of the fees and to otherwise litigate entitlement to the fees. 897

(d) The court may reduce the amount of fees awarded if the 898  
court determines that, given the factual circumstances involved 899  
with the specific public records request, an alternative means 900  
should have been pursued to more effectively and efficiently 901  
resolve the dispute that was subject to the mandamus action 902  
filed under division (C)(1) of this section. 903

(5) If the court does not issue a writ of mandamus under 904  
division (C) of this section and the court determines at that 905  
time that the bringing of the mandamus action was frivolous 906  
conduct as defined in division (A) of section 2323.51 of the 907  
Revised Code, the court may award to the public office all court 908  
costs, expenses, and reasonable attorney's fees, as determined 909  
by the court. 910

(D) Chapter 1347. of the Revised Code does not limit the 911  
provisions of this section. 912

(E) (1) To ensure that all employees of public offices are 913  
appropriately educated about a public office's obligations under 914  
division (B) of this section, all elected officials or their 915  
appropriate designees shall attend training approved by the 916  
attorney general as provided in section 109.43 of the Revised 917  
Code. A future official may satisfy the requirements of this 918  
division by attending the training before taking office, 919  
provided that the future official may not send a designee in the 920  
future official's place. 921

(2) All public offices shall adopt a public records policy 922  
in compliance with this section for responding to public records 923  
requests. In adopting a public records policy under this 924



division, a public office may obtain guidance from the model 925  
public records policy developed and provided to the public 926  
office by the attorney general under section 109.43 of the 927  
Revised Code. Except as otherwise provided in this section, the 928  
policy may not limit the number of public records that the 929  
public office will make available to a single person, may not 930  
limit the number of public records that it will make available 931  
during a fixed period of time, and may not establish a fixed 932  
period of time before it will respond to a request for 933  
inspection or copying of public records, unless that period is 934  
less than eight hours. 935

The public office shall distribute the public records 936  
policy adopted by the public office under this division to the 937  
employee of the public office who is the records custodian or 938  
records manager or otherwise has custody of the records of that 939  
office. The public office shall require that employee to 940  
acknowledge receipt of the copy of the public records policy. 941  
The public office shall create a poster that describes its 942  
public records policy and shall post the poster in a conspicuous 943  
place in the public office and in all locations where the public 944  
office has branch offices. The public office may post its public 945  
records policy on the internet web site of the public office if 946  
the public office maintains an internet web site. A public 947  
office that has established a manual or handbook of its general 948  
policies and procedures for all employees of the public office 949  
shall include the public records policy of the public office in 950  
the manual or handbook. 951

(F) (1) The bureau of motor vehicles may adopt rules 952  
pursuant to Chapter 119. of the Revised Code to reasonably limit 953  
the number of bulk commercial special extraction requests made 954  
by a person for the same records or for updated records during a 955

calendar year. The rules may include provisions for charges to 956  
be made for bulk commercial special extraction requests for the 957  
actual cost of the bureau, plus special extraction costs, plus 958  
ten per cent. The bureau may charge for expenses for redacting 959  
information, the release of which is prohibited by law. 960

(2) As used in division (F) (1) of this section: 961

(a) "Actual cost" means the cost of depleted supplies, 962  
records storage media costs, actual mailing and alternative 963  
delivery costs, or other transmitting costs, and any direct 964  
equipment operating and maintenance costs, including actual 965  
costs paid to private contractors for copying services. 966

(b) "Bulk commercial special extraction request" means a 967  
request for copies of a record for information in a format other 968  
than the format already available, or information that cannot be 969  
extracted without examination of all items in a records series, 970  
class of records, or database by a person who intends to use or 971  
forward the copies for surveys, marketing, solicitation, or 972  
resale for commercial purposes. "Bulk commercial special 973  
extraction request" does not include a request by a person who 974  
gives assurance to the bureau that the person making the request 975  
does not intend to use or forward the requested copies for 976  
surveys, marketing, solicitation, or resale for commercial 977  
purposes. 978

(c) "Commercial" means profit-seeking production, buying, 979  
or selling of any good, service, or other product. 980

(d) "Special extraction costs" means the cost of the time 981  
spent by the lowest paid employee competent to perform the task, 982  
the actual amount paid to outside private contractors employed 983  
by the bureau, or the actual cost incurred to create computer 984

programs to make the special extraction. "Special extraction 985  
costs" include any charges paid to a public agency for computer 986  
or records services. 987

(3) For purposes of divisions (F) (1) and (2) of this 988  
section, "surveys, marketing, solicitation, or resale for 989  
commercial purposes" shall be narrowly construed and does not 990  
include reporting or gathering news, reporting or gathering 991  
information to assist citizen oversight or understanding of the 992  
operation or activities of government, or nonprofit educational 993  
research. 994

(G) A request by a defendant, counsel of a defendant, or 995  
any agent of a defendant in a criminal action that public 996  
records related to that action be made available under this 997  
section shall be considered a demand for discovery pursuant to 998  
the Criminal Rules, except to the extent that the Criminal Rules 999  
plainly indicate a contrary intent. The defendant, counsel of 1000  
the defendant, or agent of the defendant making a request under 1001  
this division shall serve a copy of the request on the 1002  
prosecuting attorney, director of law, or other chief legal 1003  
officer responsible for prosecuting the action. 1004

(H) (1) Any portion of a body-worn camera or dashboard 1005  
camera recording described in divisions (A) (17) (b) to (h) of 1006  
this section may be released by consent of the subject of the 1007  
recording or a representative of that person, as specified in 1008  
those divisions, only if either of the following applies: 1009

(a) The recording will not be used in connection with any 1010  
probable or pending criminal proceedings; 1011

(b) The recording has been used in connection with a 1012  
criminal proceeding that was dismissed or for which a judgment 1013

has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

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

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

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

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

(1) "Childhood sexual abuse" means any conduct that constitutes any of the violations identified in division (A)(1)

(a) or (b) of this section and would constitute a criminal 1043  
offense under the specified section ~~or division~~ of the Revised 1044  
Code, if the victim of the violation is at the time of the 1045  
violation a child under eighteen years of age or a child with a 1046  
developmental disability or physical impairment under twenty-one 1047  
years of age. The court need not find that any person has been 1048  
convicted of or pleaded guilty to the offense under the 1049  
specified section ~~or division~~ of the Revised Code in order for 1050  
the conduct that is the violation constituting the offense to be 1051  
childhood sexual abuse for purposes of this division. This 1052  
division applies to any of the following violations committed in 1053  
the following specified circumstances: 1054

(a) A violation of section 2907.02 or ~~of division (A) (1),~~ 1055  
~~(5), (6), (7), (8), (9), (10), (11), or (12)~~ of section 2907.03 1056  
of the Revised Code; 1057

(b) A violation of section 2907.05 or 2907.06 of the 1058  
Revised Code if, at the time of the violation, any of the 1059  
following apply: 1060

(i) The actor is the victim's natural parent, adoptive 1061  
parent, or stepparent or the guardian, custodian, or person in 1062  
loco parentis of the victim. 1063

(ii) The victim is in custody of law or a patient in a 1064  
hospital or other institution, and the actor has supervisory or 1065  
disciplinary authority over the victim. 1066

(iii) The actor is a teacher, administrator, coach, or 1067  
other person in authority employed by or serving in a school for 1068  
which the director of education and workforce prescribes minimum 1069  
standards pursuant to division (D) of section 3301.07 of the 1070  
Revised Code, the victim is enrolled in or attends that school, 1071

and the actor is not enrolled in and does not attend that 1072  
school. 1073

(iv) The actor is a teacher, administrator, coach, or 1074  
other person in authority employed by or serving in an 1075  
institution of higher education, and the victim is enrolled in 1076  
or attends that institution. 1077

(v) The actor is the victim's athletic or other type of 1078  
coach, is the victim's instructor, is the leader of a scouting 1079  
troop of which the victim is a member, or is a person with 1080  
temporary or occasional disciplinary control over the victim. 1081

(vi) The actor is a mental health professional, the victim 1082  
is a mental health client or patient of the actor, and the actor 1083  
induces the victim to submit by falsely representing to the 1084  
victim that the sexual contact involved in the violation is 1085  
necessary for mental health treatment purposes. 1086

(vii) The actor is a licensed medical professional, the 1087  
victim is a patient of the actor, and the sexual contact occurs 1088  
in the course of medical treatment. 1089

(viii) The victim is confined in a detention facility, and 1090  
the actor is an employee of that detention facility. 1091

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 1092  
member of, or attends, the church or congregation served by the 1093  
cleric. 1094

(2) "Cleric" has the same meaning as in section 2317.02 of 1095  
the Revised Code. 1096

(3) "Licensed medical professional" has the same meaning 1097  
as in section 2907.01 of the Revised Code. 1098

(4) "Mental health client or patient" has the same meaning 1099

as in section 2305.51 of the Revised Code. 1100

~~(4)~~ (5) "Mental health professional" has the same meaning 1101  
as in section 2305.115 of the Revised Code. 1102

~~(5)~~ (6) "Sexual contact" has the same meaning as in 1103  
section 2907.01 of the Revised Code. 1104

~~(6)~~ (7) "Victim" means, except as provided in division (B) 1105  
of this section, a victim of childhood sexual abuse. 1106

(B) Except as provided in section 2305.115 of the Revised 1107  
Code and subject to division (C) of this section, an action for 1108  
assault or battery shall be brought within one year after the 1109  
cause of the action accrues. For purposes of this section, a 1110  
cause of action for assault or battery accrues upon the later of 1111  
the following: 1112

(1) The date on which the alleged assault or battery 1113  
occurred; 1114

(2) If the plaintiff did not know the identity of the 1115  
person who allegedly committed the assault or battery on the 1116  
date on which it allegedly occurred, the earlier of the 1117  
following dates: 1118

(a) The date on which the plaintiff learns the identity of 1119  
that person; 1120

(b) The date on which, by the exercise of reasonable 1121  
diligence, the plaintiff should have learned the identity of 1122  
that person. 1123

(C) (1) Except as provided in division (C) (2) of this 1124  
section, an action for assault or battery brought by a victim of 1125  
childhood sexual abuse based on childhood sexual abuse, or an 1126  
action brought by a victim of childhood sexual abuse asserting 1127

any claim resulting from childhood sexual abuse, shall be 1128  
brought within twelve years after the cause of action accrues. 1129  
If the defendant in an action brought by a victim of childhood 1130  
sexual abuse asserting a claim resulting from childhood sexual 1131  
abuse that occurs on or after August 3, 2006, has fraudulently 1132  
concealed from the plaintiff facts that form the basis of the 1133  
claim, the running of the limitations period with regard to that 1134  
claim is tolled until the time when the plaintiff discovers or 1135  
in the exercise of due diligence should have discovered those 1136  
facts. 1137

(2) Only for purposes of making claims against a 1138  
bankruptcy estate of an organization chartered under part B of 1139  
subtitle II of Title 36 of the United States Code, an action for 1140  
assault or battery brought by a victim of childhood sexual abuse 1141  
based on childhood sexual abuse, or an action brought by a 1142  
victim of childhood sexual abuse asserting any claim resulting 1143  
from childhood sexual abuse, may be brought at any time after 1144  
the cause of action accrues. 1145

(3) For purposes of this section, a cause of action for 1146  
assault or battery based on childhood sexual abuse, or a cause 1147  
of action for a claim resulting from childhood sexual abuse, 1148  
accrues upon the date on which the victim reaches the age of 1149  
majority. 1150

**Sec. 2907.01.** As used in sections 2907.01 to 2907.38 and 1151  
2917.211 of the Revised Code: 1152

(A) "Sexual conduct" means vaginal intercourse between a 1153  
male and female; anal intercourse, fellatio, and cunnilingus 1154  
between persons regardless of sex; and, without privilege to do 1155  
so, the insertion, however slight, of any part of the body or 1156  
any instrument, apparatus, or other object into the vaginal or 1157



anal opening of another. Penetration, however slight, is 1158  
sufficient to complete vaginal or anal intercourse. 1159

(B) "Sexual contact" means any touching of an erogenous 1160  
zone of another, including without limitation the thigh, 1161  
genitals, buttock, pubic region, or, if the person is a female, 1162  
a breast, for the purpose of sexually arousing or gratifying 1163  
either person. 1164

(C) "Sexual activity" means sexual conduct or sexual 1165  
contact, or both. 1166

(D) "Prostitute" means a male or female who promiscuously 1167  
engages in sexual activity for hire, regardless of whether the 1168  
hire is paid to the prostitute or to another. 1169

(E) "Harmful to juveniles" means that quality of any 1170  
material or performance describing or representing nudity, 1171  
sexual conduct, sexual excitement, or sado-masochistic abuse in 1172  
any form to which all of the following apply: 1173

(1) The material or performance, when considered as a 1174  
whole, appeals to the prurient interest of juveniles in sex. 1175

(2) The material or performance is patently offensive to 1176  
prevailing standards in the adult community as a whole with 1177  
respect to what is suitable for juveniles. 1178

(3) The material or performance, when considered as a 1179  
whole, lacks serious literary, artistic, political, and 1180  
scientific value for juveniles. 1181

(F) When considered as a whole, and judged with reference 1182  
to ordinary adults or, if it is designed for sexual deviates or 1183  
other specially susceptible group, judged with reference to that 1184  
group, any material or performance is "obscene" if any of the 1185

following apply:	1186
(1) Its dominant appeal is to prurient interest;	1187
(2) Its dominant tendency is to arouse lust by displaying	1188
or depicting sexual activity, masturbation, sexual excitement,	1189
or nudity in a way that tends to represent human beings as mere	1190
objects of sexual appetite;	1191
(3) Its dominant tendency is to arouse lust by displaying	1192
or depicting bestiality or extreme or bizarre violence, cruelty,	1193
or brutality;	1194
(4) Its dominant tendency is to appeal to scatological	1195
interest by displaying or depicting human bodily functions of	1196
elimination in a way that inspires disgust or revulsion in	1197
persons with ordinary sensibilities, without serving any genuine	1198
scientific, educational, sociological, moral, or artistic	1199
purpose;	1200
(5) It contains a series of displays or descriptions of	1201
sexual activity, masturbation, sexual excitement, nudity,	1202
bestiality, extreme or bizarre violence, cruelty, or brutality,	1203
or human bodily functions of elimination, the cumulative effect	1204
of which is a dominant tendency to appeal to prurient or	1205
scatological interest, when the appeal to such an interest is	1206
primarily for its own sake or for commercial exploitation,	1207
rather than primarily for a genuine scientific, educational,	1208
sociological, moral, or artistic purpose.	1209
(G) "Sexual excitement" means the condition of human male	1210
or female genitals when in a state of sexual stimulation or	1211
arousal.	1212
(H) "Nudity" means the showing, representation, or	1213
depiction of human male or female genitals, pubic area, or	1214

buttocks with less than a full, opaque covering, or of a female 1215  
breast with less than a full, opaque covering of any portion 1216  
thereof below the top of the nipple, or of covered male genitals 1217  
in a discernibly turgid state. 1218

(I) "Juvenile" means an unmarried person under the age of 1219  
eighteen. 1220

(J) "Material" means any book, magazine, newspaper, 1221  
pamphlet, poster, print, picture, figure, image, description, 1222  
motion picture film, phonographic record, or tape, or other 1223  
tangible thing capable of arousing interest through sight, 1224  
sound, or touch and includes an image or text appearing on a 1225  
computer monitor, television screen, liquid crystal display, or 1226  
similar display device or an image or text recorded on a 1227  
computer hard disk, computer floppy disk, compact disk, magnetic 1228  
tape, or similar data storage device. 1229

(K) "Performance" means any motion picture, preview, 1230  
trailer, play, show, skit, dance, or other exhibition performed 1231  
before an audience. 1232

(L) "Spouse" means a person married to an offender at the 1233  
time of an alleged offense, except that such person shall not be 1234  
considered the spouse when any of the following apply: 1235

(1) When the parties have entered into a written 1236  
separation agreement authorized by section 3103.06 of the 1237  
Revised Code; 1238

(2) During the pendency of an action between the parties 1239  
for annulment, divorce, dissolution of marriage, or legal 1240  
separation; 1241

(3) In the case of an action for legal separation, after 1242  
the effective date of the judgment for legal separation. 1243

(M) "Minor" means a person under the age of eighteen.	1244
(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	1245 1246
(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	1247 1248
(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.	1249 1250 1251
(Q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.	1252 1253 1254
(R) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.	1255 1256 1257
<u>(S) "Licensed medical professional" means any of the following medical professionals:</u>	1258 1259
<u>(1) A physician assistant licensed under Chapter 4730. of the Revised Code;</u>	1260 1261
<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>	1262 1263 1264
<u>(3) A massage therapist licensed under Chapter 4731. of the Revised Code.</u>	1265 1266
<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:	1267 1268 1269 1270

(a) For the purpose of preventing resistance, the offender 1271  
substantially impairs the other person's judgment or control by 1272  
administering any drug, intoxicant, or controlled substance to 1273  
the other person surreptitiously or by force, threat of force, 1274  
or deception. 1275

(b) The other person is less than thirteen years of age, 1276  
whether or not the offender knows the age of the other person. 1277

(c) The other person's ability to resist or consent is 1278  
substantially impaired because of a mental or physical condition 1279  
or because of advanced age, and the offender knows or has 1280  
reasonable cause to believe that the other person's ability to 1281  
resist or consent is substantially impaired because of a mental 1282  
or physical condition or because of advanced age. 1283

(d) The offender knows that the judgment or control of the 1284  
other person is substantially impaired as a result of the 1285  
influence of any drug or intoxicant administered to the other 1286  
person with the other person's consent for the purpose of any 1287  
kind of medical or dental examination, treatment, or surgery. 1288

(2) No person shall engage in sexual conduct with another 1289  
when the offender purposely compels the other person to submit 1290  
by force or threat of force. 1291

(B) Whoever violates this section is guilty of rape, a 1292  
felony of the first degree. If the offender under division (A) 1293  
(1)(a) of this section substantially impairs the other person's 1294  
judgment or control by administering any controlled substance, 1295  
as defined in section 3719.01 of the Revised Code, to the other 1296  
person surreptitiously or by force, threat of force, or 1297  
deception, the prison term imposed upon the offender shall be 1298  
one of the definite prison terms prescribed for a felony of the 1299

first degree in division (A) (1) (b) of section 2929.14 of the 1300  
Revised Code that is not less than five years, except that if 1301  
the violation is committed on or after March 22, 2019, the court 1302  
shall impose as the minimum prison term for the offense a 1303  
mandatory prison term that is one of the minimum terms 1304  
prescribed for a felony of the first degree in division (A) (1) 1305  
(a) of section 2929.14 of the Revised Code that is not less than 1306  
five years. Except as otherwise provided in this division, 1307  
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 1308  
an offender under division (A) (1) (b) of this section shall be 1309  
sentenced to a prison term or term of life imprisonment pursuant 1310  
to section 2971.03 of the Revised Code. If an offender is 1311  
convicted of or pleads guilty to a violation of division (A) (1) 1312  
(b) of this section, if the offender was less than sixteen years 1313  
of age at the time the offender committed the violation of that 1314  
division, and if the offender during or immediately after the 1315  
commission of the offense did not cause serious physical harm to 1316  
the victim, the victim was ten years of age or older at the time 1317  
of the commission of the violation, and the offender has not 1318  
previously been convicted of or pleaded guilty to a violation of 1319  
this section or a substantially similar existing or former law 1320  
of this state, another state, or the United States, the court 1321  
shall not sentence the offender to a prison term or term of life 1322  
imprisonment pursuant to section 2971.03 of the Revised Code, 1323  
and instead the court shall sentence the offender as otherwise 1324  
provided in this division. If an offender under division (A) (1) 1325  
(b) of this section previously has been convicted of or pleaded 1326  
guilty to violating division (A) (1) (b) of this section or to 1327  
violating an existing or former law of this state, another 1328  
state, or the United States that is substantially similar to 1329  
division (A) (1) (b) of this section, if the offender during or 1330  
immediately after the commission of the offense caused serious 1331

physical harm to the victim, or if the victim under division (A) 1332  
(1) (b) of this section is less than ten years of age, in lieu of 1333  
sentencing the offender to a prison term or term of life 1334  
imprisonment pursuant to section 2971.03 of the Revised Code, 1335  
except as otherwise provided in this division, the court may 1336  
impose upon the offender a term of life without parole. If the 1337  
court imposes a term of life without parole pursuant to this 1338  
division, division (F) of section 2971.03 of the Revised Code 1339  
applies, and the offender automatically is classified a tier III 1340  
sex offender/child-victim offender, as described in that 1341  
division. A court shall not impose a term of life without parole 1342  
on an offender for rape if the offender was under eighteen years 1343  
of age at the time of the offense. 1344

(C) A victim need not prove physical resistance to the 1345  
offender in prosecutions under this section. 1346

(D) Evidence of specific instances of the victim's sexual 1347  
activity, opinion evidence of the victim's sexual activity, and 1348  
reputation evidence of the victim's sexual activity shall not be 1349  
admitted under this section unless it involves evidence of the 1350  
origin of semen, pregnancy, or sexually transmitted disease or 1351  
infection, or the victim's past sexual activity with the 1352  
offender, and only to the extent that the court finds that the 1353  
evidence is material to a fact at issue in the case and that its 1354  
inflammatory or prejudicial nature does not outweigh its 1355  
probative value. 1356

Evidence of specific instances of the defendant's sexual 1357  
activity, opinion evidence of the defendant's sexual activity, 1358  
and reputation evidence of the defendant's sexual activity shall 1359  
not be admitted under this section unless it involves evidence 1360  
of the origin of semen, pregnancy, or sexually transmitted 1361

disease or infection, the defendant's past sexual activity with 1362  
the victim, or is admissible against the defendant under section 1363  
2945.59 of the Revised Code, and only to the extent that the 1364  
court finds that the evidence is material to a fact at issue in 1365  
the case and that its inflammatory or prejudicial nature does 1366  
not outweigh its probative value. 1367

(E) Prior to taking testimony or receiving evidence of any 1368  
sexual activity of the victim or the defendant in a proceeding 1369  
under this section, the court shall resolve the admissibility of 1370  
the proposed evidence in a hearing in chambers, which shall be 1371  
held at or before preliminary hearing and not less than three 1372  
days before trial, or for good cause shown during the trial. 1373

(F) Upon approval by the court, the victim may be 1374  
represented by counsel in any hearing in chambers or other 1375  
proceeding to resolve the admissibility of evidence. If the 1376  
victim is indigent or otherwise is unable to obtain the services 1377  
of counsel, the court, upon request, may appoint counsel to 1378  
represent the victim without cost to the victim. 1379

(G) It is not a defense to a charge under division (A) (2) 1380  
of this section that the offender and the victim were married or 1381  
were cohabiting at the time of the commission of the offense. 1382

**Sec. 2907.03.** (A) No person shall engage in sexual ~~conduct~~ 1383  
activity with another, not the spouse of the offender, ~~;~~ cause 1384  
another, not the spouse of the offender, to engage in sexual 1385  
activity with the offender; or cause two or more other persons 1386  
to engage in sexual activity when any of the following apply: 1387

(1) The offender knowingly coerces the other person, or 1388  
one of the other persons, to submit by any means that would 1389  
prevent resistance by a person of ordinary resolution. 1390



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

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

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

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

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

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

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

(9) The other person, or one of the other persons, is a 1420  
minor, and the offender is the other person's athletic or other 1421  
type of coach, is the other person's instructor, is the leader 1422  
of a scouting troop of which the other person is a member, or is 1423  
a person with temporary or occasional disciplinary control over 1424  
the other person. 1425

(10) The offender is a mental health professional, the 1426  
other person, or one of the other persons, is a mental health 1427  
client or patient of the offender, and the offender induces the 1428  
other person to submit by falsely representing to the other 1429  
person that the sexual ~~conduct~~ activity is necessary for mental 1430  
health treatment purposes. 1431

(11) The offender is a licensed medical professional, the 1432  
other person, or one of the other persons, is a patient of the 1433  
offender, and the sexual activity occurs in the course of 1434  
medical treatment. 1435

(12) The other person, or one of the other persons, is 1436  
confined in a detention facility, and the offender is an 1437  
employee of that detention facility. 1438

~~(12)~~ (13) The other person, or one of the other persons, 1439  
is a minor, the offender is a cleric, and the other person is a 1440  
member of, or attends, the church or congregation served by the 1441  
cleric. 1442

~~(13)~~ (14) The other person, or one of the other persons, 1443  
is a minor, the offender is a peace officer, and the offender is 1444  
more than two years older than the other person. 1445

(B) Whoever violates this section is guilty of sexual 1446  
battery. ~~Except~~ 1447

(1) If the sexual activity involved is sexual conduct, 1448

except as otherwise provided in this division, sexual battery is 1449  
a felony of the third degree. If the other person, or one of the 1450  
other persons, is ~~less than~~ thirteen years of age or over and 1451  
less than eighteen years of age, sexual battery is a felony of 1452  
the second degree, and the court shall impose upon the offender 1453  
a mandatory prison term equal to one of the definite prison 1454  
terms prescribed in division (A) (2) (b) of section 2929.14 of the 1455  
Revised Code for a felony of the second degree, except that if 1456  
the violation is committed on or after March 22, 2019, the court 1457  
shall impose as the minimum prison term for the offense a 1458  
mandatory prison term that is one of the minimum terms 1459  
prescribed in division (A) (2) (a) of that section for a felony of 1460  
the second degree. 1461

(2) If the sexual activity involved is sexual contact, 1462  
except as otherwise provided in this division, sexual battery is 1463  
a felony of the fifth degree. If the other person, or one of the 1464  
other persons, is less than eighteen years of age, sexual 1465  
battery is a felony of the fourth degree. 1466

(C) As used in this section: 1467

(1) "Cleric" has the same meaning as in section 2317.02 of 1468  
the Revised Code. 1469

(2) "Detention facility" has the same meaning as in 1470  
section 2921.01 of the Revised Code. 1471

(3) "Institution of higher education" means a state 1472  
institution of higher education defined in section 3345.011 of 1473  
the Revised Code, a private nonprofit college or university 1474  
located in this state that possesses a certificate of 1475  
authorization issued by the chancellor of higher education 1476  
pursuant to Chapter 1713. of the Revised Code, or a school 1477

certified under Chapter 3332. of the Revised Code. 1478

(4) "Peace officer" has the same meaning as in section 1479  
2935.01 of the Revised Code. 1480

(5) "Medical treatment" means in-person medical services 1481  
provided by a licensed medical professional under the legal 1482  
authority conferred by a license or certificate, including in- 1483  
person examination, consultation, health care, treatment, 1484  
procedure, surgery, or other in-person procedures. 1485

**Sec. 2907.06.** (A) No person shall have sexual contact with 1486  
another, not the spouse of the offender; cause another, not the 1487  
spouse of the offender, to have sexual contact with the 1488  
offender; or cause two or more other persons to have sexual 1489  
contact when ~~any of the following applies:~~ 1490

~~(1) The the offender knows that the sexual contact is 1491~~  
~~offensive to the other person, or one of the other persons, or 1492~~  
~~is reckless in that regard. 1493~~

~~(2) The offender knows that the other person's, or one of 1494~~  
~~the other person's, ability to appraise the nature of or control 1495~~  
~~the offender's or touching person's conduct is substantially 1496~~  
~~impaired. 1497~~

~~(3) The offender knows that the other person, or one of 1498~~  
~~the other persons, submits because of being unaware of the 1499~~  
~~sexual contact. 1500~~

~~(4) The other person, or one of the other persons, is 1501~~  
~~thirteen years of age or older but less than sixteen years of 1502~~  
~~age, whether or not the offender knows the age of such person, 1503~~  
~~and the offender is at least eighteen years of age and four or 1504~~  
~~more years older than such other person. 1505~~

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

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

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

**Sec. 2907.17.** If a mental health professional or a  
licensed medical professional is indicted or charged and bound  
over to the court of common pleas for trial for an alleged  
violation of division (A) (10) or (11) of section 2907.03 ~~or~~  
~~division (A) (5) of section 2907.06~~ of the Revised Code,

whichever is applicable, the prosecuting attorney handling the 1536  
case shall send written notice of the indictment or the charge 1537  
and bind over to the regulatory or licensing board or agency, if 1538  
any, that has the administrative authority to suspend or revoke 1539  
the mental health professional's or licensed medical 1540  
professional's professional license, certification, 1541  
registration, or authorization. 1542

**Sec. 2907.18.** If a mental health professional or a 1543  
licensed medical professional is convicted of or pleads guilty 1544  
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1545  
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1546  
whichever is applicable, the court shall transmit a certified 1547  
copy of the judgment entry of conviction to the regulatory or 1548  
licensing board or agency, if any, that has the administrative 1549  
authority to suspend or revoke the mental health professional's 1550  
or licensed medical professional's professional license, 1551  
certification, registration, or authorization. 1552

**Sec. 2921.22.** (A) (1) Except as provided in division (A) (2) 1553  
of this section, no person, knowing that a felony has been or is 1554  
being committed, shall knowingly fail to report such information 1555  
to law enforcement authorities. 1556

(2) No person, knowing that a violation of division (B) of 1557  
section 2913.04 of the Revised Code has been, or is being 1558  
committed or that the person has received information derived 1559  
from such a violation, shall knowingly fail to report the 1560  
violation to law enforcement authorities. 1561

(B) Except for conditions that are within the scope of 1562  
division (E) of this section, no person giving aid to a sick or 1563  
injured person shall negligently fail to report to law 1564  
enforcement authorities any gunshot or stab wound treated or 1565

observed by the person, or any serious physical harm to persons 1566  
that the person knows or has reasonable cause to believe 1567  
resulted from an offense of violence. 1568

(C) No person who discovers the body or acquires the first 1569  
knowledge of the death of a person shall fail to report the 1570  
death immediately to a physician or advanced practice registered 1571  
nurse whom the person knows to be treating the deceased for a 1572  
condition from which death at such time would not be unexpected, 1573  
or to a law enforcement officer, an ambulance service, an 1574  
emergency squad, or the coroner in a political subdivision in 1575  
which the body is discovered, the death is believed to have 1576  
occurred, or knowledge concerning the death is obtained. For 1577  
purposes of this division, "advanced practice registered nurse" 1578  
does not include a certified registered nurse anesthetist. 1579

(D) No person shall fail to provide upon request of the 1580  
person to whom a report required by division (C) of this section 1581  
was made, or to any law enforcement officer who has reasonable 1582  
cause to assert the authority to investigate the circumstances 1583  
surrounding the death, any facts within the person's knowledge 1584  
that may have a bearing on the investigation of the death. 1585

(E) (1) As used in this division, "burn injury" means any 1586  
of the following: 1587

(a) Second or third degree burns; 1588

(b) Any burns to the upper respiratory tract or laryngeal 1589  
edema due to the inhalation of superheated air; 1590

(c) Any burn injury or wound that may result in death; 1591

(d) Any physical harm to persons caused by or as the 1592  
result of the use of fireworks, novelties and trick noisemakers, 1593  
and wire sparklers, as each is defined by section 3743.01 of the 1594

Revised Code. 1595

(2) No physician, nurse, physician assistant, or limited 1596  
practitioner who, outside a hospital, sanitarium, or other 1597  
medical facility, attends or treats a person who has sustained a 1598  
burn injury that is inflicted by an explosion or other 1599  
incendiary device or that shows evidence of having been 1600  
inflicted in a violent, malicious, or criminal manner shall fail 1601  
to report the burn injury immediately to the local arson, or 1602  
fire and explosion investigation, bureau, if there is a bureau 1603  
of this type in the jurisdiction in which the person is attended 1604  
or treated, or otherwise to local law enforcement authorities. 1605

(3) No manager, superintendent, or other person in charge 1606  
of a hospital, sanitarium, or other medical facility in which a 1607  
person is attended or treated for any burn injury that is 1608  
inflicted by an explosion or other incendiary device or that 1609  
shows evidence of having been inflicted in a violent, malicious, 1610  
or criminal manner shall fail to report the burn injury 1611  
immediately to the local arson, or fire and explosion 1612  
investigation, bureau, if there is a bureau of this type in the 1613  
jurisdiction in which the person is attended or treated, or 1614  
otherwise to local law enforcement authorities. 1615

(4) No person who is required to report any burn injury 1616  
under division (E) (2) or (3) of this section shall fail to file, 1617  
within three working days after attending or treating the 1618  
victim, a written report of the burn injury with the office of 1619  
the state fire marshal. The report shall comply with the uniform 1620  
standard developed by the state fire marshal pursuant to 1621  
division (A) (15) of section 3737.22 of the Revised Code. 1622

(5) Anyone participating in the making of reports under 1623  
division (E) of this section or anyone participating in a 1624



judicial proceeding resulting from the reports is immune from 1625  
any civil or criminal liability that otherwise might be incurred 1626  
or imposed as a result of such actions. Notwithstanding section 1627  
4731.22 of the Revised Code, the physician-patient relationship 1628  
or advanced practice registered nurse-patient relationship is 1629  
not a ground for excluding evidence regarding a person's burn 1630  
injury or the cause of the burn injury in any judicial 1631  
proceeding resulting from a report submitted under division (E) 1632  
of this section. 1633

(F) (1) No person who knows that a licensed medical 1634  
professional has committed an offense under Chapter 2907. of the 1635  
Revised Code, a violation of a municipal ordinance that is 1636  
substantially equivalent to such offense, or a substantially 1637  
equivalent criminal offense in another jurisdiction, against a 1638  
patient of the licensed medical professional shall fail to 1639  
report such knowledge to law enforcement authorities within 1640  
thirty days of obtaining the knowledge. 1641

(2) Except for a self-report or participation in the 1642  
offense or violation being reported, any person who makes a 1643  
report within the thirty-day period provided in division (F) (1) 1644  
of this section or any person who participates in a judicial 1645  
proceeding that results from such report is immune from civil or 1646  
criminal liability that otherwise might be incurred or imposed 1647  
as a result of making that report or participating in that 1648  
proceeding so long as the person is acting in good faith without 1649  
fraud or malice. 1650

(3) The physician-patient relationship or physician 1651  
assistant-patient relationship is not a ground for excluding 1652  
evidence regarding the person's knowledge of a licensed medical 1653  
professional's commission of an offense or violation reported 1654

under division (F) (1) of this section, against that licensed 1655  
medical professional in any judicial proceeding resulting from a 1656  
report made under that division. 1657

(4) As used in division (F) of this section, "licensed 1658  
medical professional" has the same meaning as in section 2907.01 1659  
of the Revised Code. 1660

(G) (1) Any doctor of medicine or osteopathic medicine, 1661  
hospital intern or resident, nurse, psychologist, social worker, 1662  
independent social worker, social work assistant, licensed 1663  
professional clinical counselor, licensed professional 1664  
counselor, independent marriage and family therapist, or 1665  
marriage and family therapist who knows or has reasonable cause 1666  
to believe that a patient or client has been the victim of 1667  
domestic violence, as defined in section 3113.31 of the Revised 1668  
Code, shall note that knowledge or belief and the basis for it 1669  
in the patient's or client's records. 1670

(2) Notwithstanding section 4731.22 of the Revised Code, 1671  
the physician-patient privilege or advanced practice registered 1672  
nurse-patient privilege shall not be a ground for excluding any 1673  
information regarding the report containing the knowledge or 1674  
belief noted under division ~~(F) (1)~~ (G) (1) of this section, and 1675  
the information may be admitted as evidence in accordance with 1676  
the Rules of Evidence. 1677

~~(G)~~ (H) Divisions (A) and (D) of this section do not 1678  
require disclosure of information, when any of the following 1679  
applies: 1680

(1) The information is privileged by reason of the 1681  
relationship between attorney and client; physician and patient; 1682  
advanced practice registered nurse and patient; licensed 1683

psychologist or licensed school psychologist and client; 1684  
licensed professional clinical counselor, licensed professional 1685  
counselor, independent social worker, social worker, independent 1686  
marriage and family therapist, or marriage and family therapist 1687  
and client; member of the clergy, rabbi, minister, or priest and 1688  
any person communicating information confidentially to the 1689  
member of the clergy, rabbi, minister, or priest for a religious 1690  
counseling purpose of a professional character; husband and 1691  
wife; or a communications assistant and those who are a party to 1692  
a telecommunications relay service call. 1693

(2) The information would tend to incriminate a member of 1694  
the actor's immediate family. 1695

(3) Disclosure of the information would amount to 1696  
revealing a news source, privileged under section 2739.04 or 1697  
2739.12 of the Revised Code. 1698

(4) Disclosure of the information would amount to 1699  
disclosure by a member of the ordained clergy of an organized 1700  
religious body of a confidential communication made to that 1701  
member of the clergy in that member's capacity as a member of 1702  
the clergy by a person seeking the aid or counsel of that member 1703  
of the clergy. 1704

(5) Disclosure would amount to revealing information 1705  
acquired by the actor in the course of the actor's duties in 1706  
connection with a bona fide program of treatment or services for 1707  
persons with drug dependencies or persons in danger of drug 1708  
dependence, which program is maintained or conducted by a 1709  
hospital, clinic, person, agency, or community addiction 1710  
services provider whose alcohol and drug addiction services are 1711  
certified pursuant to section 5119.36 of the Revised Code. 1712

(6) Disclosure would amount to revealing information 1713  
acquired by the actor in the course of the actor's duties in 1714  
connection with a bona fide program for providing counseling 1715  
services to victims of crimes that are violations of section 1716  
2907.02 or 2907.05 of the Revised Code or to victims of 1717  
felonious sexual penetration in violation of former section 1718  
2907.12 of the Revised Code. As used in this division, 1719  
"counseling services" include services provided in an informal 1720  
setting by a person who, by education or experience, is 1721  
competent to provide those services. 1722

~~(H)~~ (I) No disclosure of information pursuant to this 1723  
section gives rise to any liability or recrimination for a 1724  
breach of privilege or confidence. 1725

~~(I)~~ (J) Whoever violates division (A) ~~or, (B), or (F) (1)~~ 1726  
of this section is guilty of failure to report a crime. 1727  
Violation of division (A) (1) or (F) (1) of this section is a 1728  
misdemeanor of the fourth degree. Violation of division (A) (2) 1729  
or (B) of this section is a misdemeanor of the second degree. 1730

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1731  
section is guilty of failure to report knowledge of a death, a 1732  
misdemeanor of the fourth degree. 1733

~~(K) (1)~~ (L) (1) Whoever negligently violates division (E) of 1734  
this section is guilty of a minor misdemeanor. 1735

(2) Whoever knowingly violates division (E) of this 1736  
section is guilty of a misdemeanor of the second degree. 1737

~~(I)~~ (M) As used in this section, "nurse" includes an 1738  
advanced practice registered nurse, registered nurse, and 1739  
licensed practical nurse. 1740

**Sec. 2929.42.** (A) The prosecutor in any case against any 1741

person licensed, certified, registered, or otherwise authorized 1742  
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1743  
4731., 4734., ~~or~~ 4741., 4759., 4760., 4761., 4762., 4774., or 1744  
4778. of the Revised Code shall notify the appropriate licensing 1745  
board, on forms provided by the board, of any of the following 1746  
regarding the person: 1747

(1) A plea of guilty to, or a conviction of, a felony, or 1748  
a court order dismissing a felony charge on technical or 1749  
procedural grounds; 1750

(2) A plea of guilty to, or a conviction of, a misdemeanor 1751  
committed in the course of practice or in the course of 1752  
business, or a court order dismissing such a misdemeanor charge 1753  
on technical or procedural grounds; 1754

(3) A plea of guilty to, or a conviction of, a misdemeanor 1755  
involving moral turpitude, or a court order dismissing such a 1756  
charge on technical or procedural grounds. 1757

(B) The report required by division (A) of this section 1758  
shall include the name and address of the person, the nature of 1759  
the offense, and certified copies of court entries in the 1760  
action. 1761

**Sec. 2950.01.** As used in this chapter, unless the context 1762  
clearly requires otherwise: 1763

(A) "Sexually oriented offense" means any of the following 1764  
violations or offenses committed by a person, regardless of the 1765  
person's age: 1766

(1) A violation of section 2907.02, 2907.03, 2907.05, 1767  
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1768  
2907.322, or 2907.323 of the Revised Code; 1769

(2) A violation of section 2907.04 of the Revised Code 1770  
when the offender is less than four years older than the other 1771  
person with whom the offender engaged in sexual conduct, the 1772  
other person did not consent to the sexual conduct, and the 1773  
offender previously has not been convicted of or pleaded guilty 1774  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1775  
Revised Code or a violation of former section 2907.12 of the 1776  
Revised Code; 1777

(3) A violation of section 2907.04 of the Revised Code 1778  
when the offender is at least four years older than the other 1779  
person with whom the offender engaged in sexual conduct or when 1780  
the offender is less than four years older than the other person 1781  
with whom the offender engaged in sexual conduct and the 1782  
offender previously has been convicted of or pleaded guilty to a 1783  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1784  
Code or a violation of former section 2907.12 of the Revised 1785  
Code; 1786

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1787  
the Revised Code when the violation was committed with a sexual 1788  
motivation; 1789

(5) A violation of division (A) of section 2903.04 of the 1790  
Revised Code when the offender committed or attempted to commit 1791  
the felony that is the basis of the violation with a sexual 1792  
motivation; 1793

(6) A violation of division (A)(3) of section 2903.211 of 1794  
the Revised Code; 1795

(7) A violation of division (A)(1), (2), (3), or (5) of 1796  
section 2905.01 of the Revised Code when the offense is 1797  
committed with a sexual motivation; 1798

(8) A violation of division (A) (4) of section 2905.01 of the Revised Code;	1799 1800
(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;	1801 1802 1803 1804
(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B) (5) of section 2919.22 of the Revised Code;	1805 1806 1807 1808
(11) A violation of section 2905.32 of the Revised Code when either of the following applies:	1809 1810
(a) The violation is a violation of division (A) (1) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented.	1811 1812 1813 1814 1815 1816 1817 1818 1819 1820
(b) The violation is a violation of division (A) (2) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is less than eighteen years of age or is a person with a developmental disability whom the offender knows or has	1821 1822 1823 1824 1825 1826 1827

reasonable cause to believe is a person with a developmental 1828  
disability for any purpose listed in divisions (A) (2) (a) to (c) 1829  
of that section. 1830

(12) A violation of division (B) (4) of section 2907.09 of 1831  
the Revised Code if the sentencing court classifies the offender 1832  
as a tier I sex offender/child-victim offender relative to that 1833  
offense pursuant to division (D) of that section; 1834

(13) A violation of any former law of this state, any 1835  
existing or former municipal ordinance or law of another state 1836  
or the United States, any existing or former law applicable in a 1837  
military court or in an Indian tribal court, or any existing or 1838  
former law of any nation other than the United States that is or 1839  
was substantially equivalent to any offense listed in division 1840  
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1841  
(12) of this section; 1842

(14) Any attempt to commit, conspiracy to commit, or 1843  
complicity in committing any offense listed in division (A) (1), 1844  
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1845  
(13) of this section. 1846

(B) (1) "Sex offender" means, subject to division (B) (2) of 1847  
this section, a person who is convicted of, pleads guilty to, 1848  
has been convicted of, has pleaded guilty to, is adjudicated a 1849  
delinquent child for committing, or has been adjudicated a 1850  
delinquent child for committing any sexually oriented offense. 1851

(2) "Sex offender" does not include a person who is 1852  
convicted of, pleads guilty to, has been convicted of, has 1853  
pleaded guilty to, is adjudicated a delinquent child for 1854  
committing, or has been adjudicated a delinquent child for 1855  
committing a sexually oriented offense if the offense involves 1856



consensual sexual conduct or consensual sexual contact and 1857  
either of the following applies: 1858

(a) The victim of the sexually oriented offense was 1859  
eighteen years of age or older and at the time of the sexually 1860  
oriented offense was not under the custodial authority of the 1861  
person who is convicted of, pleads guilty to, has been convicted 1862  
of, has pleaded guilty to, is adjudicated a delinquent child for 1863  
committing, or has been adjudicated a delinquent child for 1864  
committing the sexually oriented offense. 1865

(b) The victim of the offense was thirteen years of age or 1866  
older, and the person who is convicted of, pleads guilty to, has 1867  
been convicted of, has pleaded guilty to, is adjudicated a 1868  
delinquent child for committing, or has been adjudicated a 1869  
delinquent child for committing the sexually oriented offense is 1870  
not more than four years older than the victim. 1871

(c) "Child-victim oriented offense" means any of the 1872  
following violations or offenses committed by a person, 1873  
regardless of the person's age, when the victim is under 1874  
eighteen years of age and is not a child of the person who 1875  
commits the violation: 1876

(1) A violation of division (A)(1), (2), (3), or (5) of 1877  
section 2905.01 of the Revised Code when the violation is not 1878  
included in division (A)(7) of this section; 1879

(2) A violation of division (A) of section 2905.02, 1880  
division (A) of section 2905.03, or division (A) of section 1881  
2905.05 of the Revised Code; 1882

(3) A violation of any former law of this state, any 1883  
existing or former municipal ordinance or law of another state 1884  
or the United States, any existing or former law applicable in a 1885

military court or in an Indian tribal court, or any existing or 1886  
former law of any nation other than the United States that is or 1887  
was substantially equivalent to any offense listed in division 1888  
(C) (1) or (2) of this section; 1889

(4) Any attempt to commit, conspiracy to commit, or 1890  
complicity in committing any offense listed in division (C) (1), 1891  
(2), or (3) of this section. 1892

(D) "Child-victim offender" means a person who is 1893  
convicted of, pleads guilty to, has been convicted of, has 1894  
pleaded guilty to, is adjudicated a delinquent child for 1895  
committing, or has been adjudicated a delinquent child for 1896  
committing any child-victim oriented offense. 1897

(E) "Tier I sex offender/child-victim offender" means any 1898  
of the following: 1899

(1) A sex offender who is convicted of, pleads guilty to, 1900  
has been convicted of, or has pleaded guilty to any of the 1901  
following sexually oriented offenses: 1902

(a) A violation of section 2907.06, 2907.07, 2907.08, 1903  
2907.22, or 2907.32 of the Revised Code; 1904

(b) A violation of section 2907.04 of the Revised Code 1905  
when the offender is less than four years older than the other 1906  
person with whom the offender engaged in sexual conduct, the 1907  
other person did not consent to the sexual conduct, and the 1908  
offender previously has not been convicted of or pleaded guilty 1909  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1910  
Revised Code or a violation of former section 2907.12 of the 1911  
Revised Code; 1912

(c) A violation of division (A) (1), (2), (3), or (5) of 1913  
section 2907.05 of the Revised Code; 1914

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code; 1915  
1916

(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; 1917  
1918  
1919

(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; 1920  
1921  
1922  
1923

(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; 1924  
1925  
1926  
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1930

(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. 1931  
1932  
1933

(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. 1934  
1935  
1936  
1937  
1938

(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- 1939  
1940  
1941  
1942  
1943

victim offender relative to the offense. 1944

(4) A child-victim offender who is adjudicated a 1945  
delinquent child for committing or has been adjudicated a 1946  
delinquent child for committing any child-victim oriented 1947  
offense and who a juvenile court, pursuant to section 2152.82, 1948  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 1949  
tier I sex offender/child-victim offender relative to the 1950  
offense. 1951

(F) "Tier II sex offender/child-victim offender" means any 1952  
of the following: 1953

(1) A sex offender who is convicted of, pleads guilty to, 1954  
has been convicted of, or has pleaded guilty to any of the 1955  
following sexually oriented offenses: 1956

(a) A violation of section 2907.21, 2907.321, or 2907.322 1957  
of the Revised Code; 1958

(b) A violation of section 2907.04 of the Revised Code 1959  
when the offender is at least four years older than the other 1960  
person with whom the offender engaged in sexual conduct, or when 1961  
the offender is less than four years older than the other person 1962  
with whom the offender engaged in sexual conduct and the 1963  
offender previously has been convicted of or pleaded guilty to a 1964  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1965  
Code or former section 2907.12 of the Revised Code; 1966

(c) A violation of section 2907.03 of the Revised Code if 1967  
the sexual activity involved is sexual contact; 1968

(d) A violation of division (A) (4) of section 2907.05 or 1969  
of division (A) (1) or (2) of section 2907.323 of the Revised 1970  
Code; 1971

<del>(d)</del> <u>(e)</u> A violation of division (A) (1), (2), (3), or (5)	1972
of section 2905.01 of the Revised Code when the offense is	1973
committed with a sexual motivation;	1974
<del>(e)</del> <u>(f)</u> A violation of division (A) (4) of section 2905.01	1975
of the Revised Code when the victim of the offense is eighteen	1976
years of age or older;	1977
<del>(f)</del> <u>(g)</u> A violation of division (B) of section 2905.02 or	1978
of division (B) (5) of section 2919.22 of the Revised Code;	1979
<del>(g)</del> <u>(h)</u> A violation of section 2905.32 of the Revised Code	1980
that is described in division (A) (11) (a) or (b) of this section;	1981
<del>(h)</del> <u>(i)</u> A violation of any former law of this state, any	1982
existing or former municipal ordinance or law of another state	1983
or the United States, any existing or former law applicable in a	1984
military court or in an Indian tribal court, or any existing or	1985
former law of any nation other than the United States that is or	1986
was substantially equivalent to any offense listed in division	1987
(F) (1) (a), (b), (c), (d), (e), (f), <del>or (g)</del> , <u>or (h)</u> of this	1988
section;	1989
<del>(i)</del> <u>(j)</u> Any attempt to commit, conspiracy to commit, or	1990
complicity in committing any offense listed in division (F) (1)	1991
(a), (b), (c), (d), (e), (f), (g), <del>or (h)</del> , <u>or (i)</u> of this	1992
section;	1993
<del>(j)</del> <u>(k)</u> Any sexually oriented offense that is committed	1994
after the sex offender previously has been convicted of, pleaded	1995
guilty to, or has been adjudicated a delinquent child for	1996
committing any sexually oriented offense or child-victim	1997
oriented offense for which the offender was classified a tier I	1998
sex offender/child-victim offender.	1999
(2) A child-victim offender who is convicted of, pleads	2000

guilty to, has been convicted of, or has pleaded guilty to any 2001  
child-victim oriented offense when the child-victim oriented 2002  
offense is committed after the child-victim offender previously 2003  
has been convicted of, pleaded guilty to, or been adjudicated a 2004  
delinquent child for committing any sexually oriented offense or 2005  
child-victim oriented offense for which the offender was 2006  
classified a tier I sex offender/child-victim offender. 2007

(3) A sex offender who is adjudicated a delinquent child 2008  
for committing or has been adjudicated a delinquent child for 2009  
committing any sexually oriented offense and who a juvenile 2010  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2011  
of the Revised Code, classifies a tier II sex offender/child- 2012  
victim offender relative to the offense. 2013

(4) A child-victim offender who is adjudicated a 2014  
delinquent child for committing or has been adjudicated a 2015  
delinquent child for committing any child-victim oriented 2016  
offense and whom a juvenile court, pursuant to section 2152.82, 2017  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2018  
tier II sex offender/child-victim offender relative to the 2019  
current offense. 2020

(5) A sex offender or child-victim offender who is not in 2021  
any category of tier II sex offender/child-victim offender set 2022  
forth in division (F)(1), (2), (3), or (4) of this section, who 2023  
prior to January 1, 2008, was adjudicated a delinquent child for 2024  
committing a sexually oriented offense or child-victim oriented 2025  
offense, and who prior to that date was determined to be a 2026  
habitual sex offender or determined to be a habitual child- 2027  
victim offender, unless either of the following applies: 2028

(a) The sex offender or child-victim offender is 2029  
reclassified pursuant to section 2950.031 or 2950.032 of the 2030

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 2059  
years of age and the offender is not a parent of the victim of 2060  
the offense; 2061

(g) A violation of division (B) of section 2903.03 of the 2062  
Revised Code; 2063

(h) A violation of any former law of this state, any 2064  
existing or former municipal ordinance or law of another state 2065  
or the United States, any existing or former law applicable in a 2066  
military court or in an Indian tribal court, or any existing or 2067  
former law of any nation other than the United States that is or 2068  
was substantially equivalent to any offense listed in division 2069  
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 2070

(i) Any attempt to commit, conspiracy to commit, or 2071  
complicity in committing any offense listed in division (G) (1) 2072  
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 2073

(j) Any sexually oriented offense that is committed after 2074  
the sex offender previously has been convicted of, pleaded 2075  
guilty to, or been adjudicated a delinquent child for committing 2076  
any sexually oriented offense or child-victim oriented offense 2077  
for which the offender was classified a tier II sex 2078  
offender/child-victim offender or a tier III sex offender/child- 2079  
victim offender. 2080

(2) A child-victim offender who is convicted of, pleads 2081  
guilty to, has been convicted of, or has pleaded guilty to any 2082  
child-victim oriented offense when the child-victim oriented 2083  
offense is committed after the child-victim offender previously 2084  
has been convicted of, pleaded guilty to, or been adjudicated a 2085  
delinquent child for committing any sexually oriented offense or 2086  
child-victim oriented offense for which the offender was 2087



classified a tier II sex offender/child-victim offender or a 2088  
tier III sex offender/child-victim offender. 2089

(3) A sex offender who is adjudicated a delinquent child 2090  
for committing or has been adjudicated a delinquent child for 2091  
committing any sexually oriented offense and who a juvenile 2092  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2093  
of the Revised Code, classifies a tier III sex offender/child- 2094  
victim offender relative to the offense. 2095

(4) A child-victim offender who is adjudicated a 2096  
delinquent child for committing or has been adjudicated a 2097  
delinquent child for committing any child-victim oriented 2098  
offense and whom a juvenile court, pursuant to section 2152.82, 2099  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2100  
tier III sex offender/child-victim offender relative to the 2101  
current offense. 2102

(5) A sex offender or child-victim offender who is not in 2103  
any category of tier III sex offender/child-victim offender set 2104  
forth in division (G) (1), (2), (3), or (4) of this section, who 2105  
prior to January 1, 2008, was convicted of or pleaded guilty to 2106  
a sexually oriented offense or child-victim oriented offense or 2107  
was adjudicated a delinquent child for committing a sexually 2108  
oriented offense or child-victim oriented offense and classified 2109  
a juvenile offender registrant, and who prior to that date was 2110  
adjudicated a sexual predator or adjudicated a child-victim 2111  
predator, unless either of the following applies: 2112

(a) The sex offender or child-victim offender is 2113  
reclassified pursuant to section 2950.031 or 2950.032 of the 2114  
Revised Code as a tier I sex offender/child-victim offender or a 2115  
tier II sex offender/child-victim offender relative to the 2116  
offense. 2117

(b) The sex offender or child-victim offender is a 2118  
delinquent child, and a juvenile court, pursuant to section 2119  
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2120  
classifies the child a tier I sex offender/child-victim offender 2121  
or a tier II sex offender/child-victim offender relative to the 2122  
offense. 2123

(6) A sex offender who is convicted of, pleads guilty to, 2124  
was convicted of, or pleaded guilty to a sexually oriented 2125  
offense, if the sexually oriented offense and the circumstances 2126  
in which it was committed are such that division (F) of section 2127  
2971.03 of the Revised Code automatically classifies the 2128  
offender as a tier III sex offender/child-victim offender; 2129

(7) A sex offender or child-victim offender who is 2130  
convicted of, pleads guilty to, was convicted of, pleaded guilty 2131  
to, is adjudicated a delinquent child for committing, or was 2132  
adjudicated a delinquent child for committing a sexually 2133  
oriented offense or child-victim offense in another state, in a 2134  
federal court, military court, or Indian tribal court, or in a 2135  
court in any nation other than the United States if both of the 2136  
following apply: 2137

(a) Under the law of the jurisdiction in which the 2138  
offender was convicted or pleaded guilty or the delinquent child 2139  
was adjudicated, the offender or delinquent child is in a 2140  
category substantially equivalent to a category of tier III sex 2141  
offender/child-victim offender described in division (G) (1), 2142  
(2), (3), (4), (5), or (6) of this section. 2143

(b) Subsequent to the conviction, plea of guilty, or 2144  
adjudication in the other jurisdiction, the offender or 2145  
delinquent child resides, has temporary domicile, attends school 2146  
or an institution of higher education, is employed, or intends 2147

to reside in this state in any manner and for any period of time 2148  
that subjects the offender or delinquent child to a duty to 2149  
register or provide notice of intent to reside under section 2150  
2950.04 or 2950.041 of the Revised Code. 2151

(H) "Confinement" includes, but is not limited to, a 2152  
community residential sanction imposed pursuant to section 2153  
2929.16 or 2929.26 of the Revised Code. 2154

(I) "Prosecutor" has the same meaning as in section 2155  
2935.01 of the Revised Code. 2156

(J) "Supervised release" means a release of an offender 2157  
from a prison term, a term of imprisonment, or another type of 2158  
confinement that satisfies either of the following conditions: 2159

(1) The release is on parole, a conditional pardon, under 2160  
a community control sanction, under transitional control, or 2161  
under a post-release control sanction, and it requires the 2162  
person to report to or be supervised by a parole officer, 2163  
probation officer, field officer, or another type of supervising 2164  
officer. 2165

(2) The release is any type of release that is not 2166  
described in division (J)(1) of this section and that requires 2167  
the person to report to or be supervised by a probation officer, 2168  
a parole officer, a field officer, or another type of 2169  
supervising officer. 2170

(K) "Sexually violent predator specification," "sexually 2171  
violent predator," "sexually violent offense," "sexual 2172  
motivation specification," "designated homicide, assault, or 2173  
kidnapping offense," and "violent sex offense" have the same 2174  
meanings as in section 2971.01 of the Revised Code. 2175

(L) "Post-release control sanction" and "transitional 2176

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 2207  
the Revised Code that was committed with a purpose to gratify 2208  
the sexual needs or desires of the child; 2209

(c) A violation of division (B) of section 2903.03 of the 2210  
Revised Code. 2211

(2) The person was fourteen, fifteen, sixteen, or 2212  
seventeen years of age at the time of committing the act. 2213

(3) A juvenile court judge, pursuant to an order issued 2214  
under section 2152.86 of the Revised Code, classifies the person 2215  
a juvenile offender registrant, specifies the person has a duty 2216  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2217  
Revised Code, and classifies the person a public registry- 2218  
qualified juvenile offender registrant, and the classification 2219  
of the person as a public registry-qualified juvenile offender 2220  
registrant has not been terminated pursuant to division (D) of 2221  
section 2152.86 of the Revised Code. 2222

(O) "Secure facility" means any facility that is designed 2223  
and operated to ensure that all of its entrances and exits are 2224  
locked and under the exclusive control of its staff and to 2225  
ensure that, because of that exclusive control, no person who is 2226  
institutionalized or confined in the facility may leave the 2227  
facility without permission or supervision. 2228

(P) "Out-of-state juvenile offender registrant" means a 2229  
person who is adjudicated a delinquent child in a court in 2230  
another state, in a federal court, military court, or Indian 2231  
tribal court, or in a court in any nation other than the United 2232  
States for committing a sexually oriented offense or a child- 2233  
victim oriented offense, who on or after January 1, 2002, moves 2234  
to and resides in this state or temporarily is domiciled in this 2235

state for more than five days, and who has a duty under section 2236  
2950.04 or 2950.041 of the Revised Code to register in this 2237  
state and the duty to otherwise comply with that applicable 2238  
section and sections 2950.05 and 2950.06 of the Revised Code. 2239  
"Out-of-state juvenile offender registrant" includes a person 2240  
who prior to January 1, 2008, was an "out-of-state juvenile 2241  
offender registrant" under the definition of the term in 2242  
existence prior to January 1, 2008, and a person who prior to 2243  
July 31, 2003, was an "out-of-state juvenile sex offender 2244  
registrant" under the former definition of that former term. 2245

(Q) "Juvenile court judge" includes a magistrate to whom 2246  
the juvenile court judge confers duties pursuant to division (A) 2247  
(15) of section 2151.23 of the Revised Code. 2248

(R) "Adjudicated a delinquent child for committing a 2249  
sexually oriented offense" includes a child who receives a 2250  
serious youthful offender dispositional sentence under section 2251  
2152.13 of the Revised Code for committing a sexually oriented 2252  
offense. 2253

(S) "School" and "school premises" have the same meanings 2254  
as in section 2925.01 of the Revised Code. 2255

(T) "Residential premises" means the building in which a 2256  
residential unit is located and the grounds upon which that 2257  
building stands, extending to the perimeter of the property. 2258  
"Residential premises" includes any type of structure in which a 2259  
residential unit is located, including, but not limited to, 2260  
multi-unit buildings and mobile and manufactured homes. 2261

(U) "Residential unit" means a dwelling unit for 2262  
residential use and occupancy, and includes the structure or 2263  
part of a structure that is used as a home, residence, or 2264

sleeping place by one person who maintains a household or two or 2265  
more persons who maintain a common household. "Residential unit" 2266  
does not include a halfway house or a community-based 2267  
correctional facility. 2268

(V) "Multi-unit building" means a building in which is 2269  
located more than twelve residential units that have entry doors 2270  
that open directly into the unit from a hallway that is shared 2271  
with one or more other units. A residential unit is not 2272  
considered located in a multi-unit building if the unit does not 2273  
have an entry door that opens directly into the unit from a 2274  
hallway that is shared with one or more other units or if the 2275  
unit is in a building that is not a multi-unit building as 2276  
described in this division. 2277

(W) "Community control sanction" has the same meaning as 2278  
in section 2929.01 of the Revised Code. 2279

(X) "Halfway house" and "community-based correctional 2280  
facility" have the same meanings as in section 2929.01 of the 2281  
Revised Code. 2282

(Y) A person is in a "restricted offender category" if 2283  
both of the following apply with respect to the person: 2284

(1) The person has been convicted of, is convicted of, has 2285  
pleaded guilty to, or pleads guilty to a sexually oriented 2286  
offense where the victim was under the age of eighteen or a 2287  
child-victim oriented offense. 2288

(2) With respect to the offense described in division (Y) 2289  
(1) of this section, one of the following applies: 2290

(a) With respect to that offense, the person is a tier II 2291  
sex offender/child-victim offender or is a tier III sex 2292  
offender/child-victim offender who is subject to the duties 2293

imposed by sections 2950.04, 2950.041, 2950.05, and 2950.06 of 2294  
the Revised Code. 2295

(b) With respect to that offense if it was committed prior 2296  
to January 1, 2008, under the version of Chapter 2950. of the 2297  
Revised Code in effect prior to January 1, 2008, the person was 2298  
adjudicated a sexual predator, was adjudicated a child-victim 2299  
predator, was classified a habitual sex offender, or was 2300  
classified a habitual child-victim sex offender. 2301

(Z) "Adjudicated a sexual predator," "adjudicated a child- 2302  
victim predator," "habitual sex offender," and "habitual child- 2303  
victim offender" have the meanings of those terms that applied 2304  
to them under Chapter 2950. of the Revised Code prior to January 2305  
1, 2008. 2306

**Sec. 2950.151.** (A) As used in this section, "eligible 2307  
offender" means either of the following: 2308

(1) An offender who was convicted of or pleaded guilty to 2309  
a violation of section 2907.04 of the Revised Code to whom all 2310  
of the following apply: 2311

(a) The sentencing court found the offender to be at low 2312  
risk of reoffending based on a presentence investigation report 2313  
that included a risk assessment, assessed by the single 2314  
validated risk assessment tool selected by the department of 2315  
rehabilitation and correction under section 5120.114 of the 2316  
Revised Code; 2317

(b) The sentencing court imposed a community control 2318  
sanction or combination of community control sanctions instead 2319  
of a prison term and the offender has fulfilled every condition 2320  
of every community control sanction imposed by the sentencing 2321  
court; 2322



(c) The offender was under twenty-one years of age at the 2323  
time of committing the offense; 2324

(d) The offender has not otherwise been convicted of or 2325  
pleaded guilty to another violation of section 2907.04 of the 2326  
Revised Code or any sexually oriented offense or child-victim 2327  
oriented offense other than the violation of section 2907.04 of 2328  
the Revised Code; 2329

(e) The minor with whom the offender engaged in sexual 2330  
conduct was at least fourteen years of age at the time of the 2331  
offense and consented to the sexual conduct, with no evidence of 2332  
coercion, force, or threat of force; 2333

(f) The offender was not in a position of authority, 2334  
including a position of a type described in divisions (A) (5) to 2335  
~~(13)~~ (14) of section 2907.03 of the Revised Code, over the minor 2336  
with whom the offender engaged in sexual conduct. 2337

(2) An offender who was convicted of or pleaded guilty to 2338  
a violation of any former law of this state, any existing or 2339  
former municipal ordinance or law of another state or the United 2340  
States, any existing or former law applicable in a military 2341  
court or in an Indian trial court, or any existing or former law 2342  
of any nation other than the United States that is or was 2343  
substantially equivalent to a violation of section 2907.04 of 2344  
the Revised Code and to whom all of the factors described in 2345  
divisions (A) (1) (a) to (f) of this section apply. For purposes 2346  
of this division: 2347

(a) The reference in division (A) (1) (b) of this section to 2348  
a community control sanction shall be construed as including 2349  
nonprison sanctions under the law of the jurisdiction in which 2350  
the offender was convicted of or pleaded guilty to the violation 2351

that is or was substantially equivalent to a violation of 2352  
section 2907.04 of the Revised Code; 2353

(b) The reference in division (A) (1) (d) of this section to 2354  
the violations specified in that division shall be construed as 2355  
including substantially equivalent violations under the law of 2356  
the jurisdiction in which the offender was convicted of or 2357  
pleaded guilty to the violation that is or was substantially 2358  
equivalent to a violation of section 2907.04 of the Revised 2359  
Code. 2360

(B) Upon completion of all community control sanctions 2361  
imposed by the sentencing court for the violation of section 2362  
2907.04 of the Revised Code or the violation of the 2363  
substantially equivalent law or ordinance, whichever is 2364  
applicable, an eligible offender may petition the appropriate 2365  
court specified in division (C) of this section to review the 2366  
effectiveness of the offender's participation in community 2367  
control sanctions and to determine whether to terminate the 2368  
offender's duty to comply with sections 2950.04, 2950.05, and 2369  
2950.06 of the Revised Code, reclassify the offender as a tier I 2370  
sex offender/child-victim offender, or continue the offender's 2371  
current classification. 2372

(C) Except as otherwise provided in this division, the 2373  
eligible offender shall file the petition described in division 2374  
(B) of this section in the court in which the eligible offender 2375  
was convicted of or pleaded guilty to the offense. If the 2376  
eligible offender was convicted of or pleaded guilty to the 2377  
offense in a jurisdiction other than this state, the eligible 2378  
offender shall file the petition in whichever of the following 2379  
courts is applicable: 2380

(1) If the eligible offender is a resident of this state, 2381

in the court of common pleas of the county in which the offender resides; 2382  
2383

(2) If the eligible offender is not a resident of this state, in the court of common pleas of the county in which the offender has registered pursuant to section 2950.04 of the Revised Code. If the offender has registered addresses of that nature in more than one county, the offender may file a petition in the court of only one of those counties. 2384  
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(D) An eligible offender who files a petition under division (B) of this section shall include all of the following with the petition: 2390  
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2392

(1) A certified copy of the judgment entry and any other documentation of the sentence given for the offense for which the eligible offender was convicted or pleaded guilty; 2393  
2394  
2395

(2) Documentation of the date of discharge from probation supervision or other supervision, if applicable; 2396  
2397

(3) Evidence that the eligible offender has completed a sex offender treatment program certified by the department of rehabilitation and correction pursuant to section 2950.16 of the Revised Code in the county where the offender was sentenced if the completion of such a program is ordered by the court, or, if completion of such a program is ordered by the court and such a program is not available in the county of sentencing, in another county; 2398  
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(4) Any other evidence necessary to show that the offender meets the qualifications listed in division (A) of this section; 2406  
2407

(5) Evidence that the eligible offender has been rehabilitated to a satisfactory degree by successful completion of community control sanctions. 2408  
2409  
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(E) An eligible offender may obtain, at the offender's 2411  
expense, a risk assessment or professional opinion, recommending 2412  
relief under this section, from a licensed clinical 2413  
psychologist, social worker, or other professional certified in 2414  
sex offender treatment. The professional opinion or risk 2415  
assessment may be submitted with the petition as additional 2416  
evidence of rehabilitation. 2417

(F) Upon the filing of a petition under division (B) of 2418  
this section, the court shall schedule a hearing to review the 2419  
eligible offender's petition and all evidence of rehabilitation 2420  
accompanying the petition. The court shall notify the offender 2421  
and the prosecutor of the county in which the petition is filed 2422  
of the date, time, and place of the hearing. Upon receipt of the 2423  
notice, the prosecutor shall notify the victim of the date, 2424  
time, and place of the hearing. The victim may submit a written 2425  
statement to the prosecutor regarding any knowledge the victim 2426  
has of the eligible offender's conduct while subject to the 2427  
duties imposed by sections 2950.04, 2950.05, and 2950.06 of the 2428  
Revised Code. At least seven days before the hearing date, the 2429  
prosecutor may file an objection to the petition with the court 2430  
and serve a copy of the objection to the petition on the 2431  
eligible offender or the eligible offender's attorney. In 2432  
addition to considering the evidence and information included 2433  
with the petition as described in division (D) of this section 2434  
and any risk assessment or professional opinion submitted as 2435  
described in division (E) of this section, in determining the 2436  
type of order to enter in response to the petition, the court 2437  
shall consider any objections submitted by the prosecutor and 2438  
any written statement submitted by the victim. After the 2439  
hearing, the court shall enter one of the following orders: 2440

(1) An order to terminate the offender's duty to comply 2441

with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2442

(2) If the offender is classified a tier II sex 2443  
offender/child-victim offender, an order to reclassify the 2444  
offender from a tier II sex offender/child-victim offender 2445  
classification to a tier I sex offender/child-victim offender 2446  
classification; 2447

(3) If the offender is classified a tier I sex 2448  
offender/child-victim offender or a tier II sex offender/child- 2449  
victim offender, an order to continue the offender's 2450  
classification as a tier I sex offender/child-victim offender or 2451  
tier II sex offender/child-victim offender, whichever is 2452  
applicable, required to comply with sections 2950.04, 2950.05, 2453  
and 2950.06 of the Revised Code. 2454

(G) After issuing an order pursuant to division (F) of 2455  
this section, the court shall provide a copy of the order to the 2456  
eligible offender and the bureau of criminal identification and 2457  
investigation. The bureau, upon receipt of the copy, shall 2458  
promptly notify the sheriff with whom the offender most recently 2459  
registered under section 2950.04 or 2950.05 of the Revised Code 2460  
of the court's order. 2461

(H) (1) An order issued under division (F) (2) or (3) of 2462  
this section shall remain in effect for the duration of the 2463  
eligible offender's duty to comply with sections 2950.04, 2464  
2950.05, and 2950.06 of the Revised Code under the 2465  
reclassification or continuation, whichever is applicable, as 2466  
specified in section 2950.07 of the Revised Code, except that an 2467  
eligible offender may refile a petition under this section at 2468  
the time prescribed under division (H) (2) of this section. An 2469  
order issued under division (F) (2) or (3) of this section shall 2470  
not increase the duration of the offender's duty to comply with 2471

sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2472

(2) After the eligible offender's initial petition filed 2473  
under this section, if the court entered an order continuing the 2474  
offender's classification or reclassifying the offender, the 2475  
offender may file a second petition not earlier than three years 2476  
after the court entered the first order. After the second 2477  
petition, the offender may file one subsequent petition not 2478  
earlier than five years after the most recent order continuing 2479  
the offender's classification or reclassifying the offender. A 2480  
petition filed under this division shall comply with the 2481  
requirements described in divisions (C), (D), and (E) of this 2482  
section. 2483

(3) Upon the filing of a second or subsequent petition by 2484  
an eligible offender pursuant to division (H) (2) of this 2485  
section, the court shall schedule a hearing to review any 2486  
previous order entered under this section, consider all of the 2487  
documents previously submitted, and evaluate any new evidence of 2488  
rehabilitation presented with the petition. The court shall 2489  
notify the offender and the prosecutor of the county in which 2490  
the petition is filed of the date, time, and place of the 2491  
hearing. Upon receipt of the notice, the prosecutor shall notify 2492  
the victim of the date, time, and place of the hearing. The 2493  
victim may submit a written statement to the prosecutor 2494  
regarding any knowledge the victim has of the eligible 2495  
offender's conduct while subject to the duties imposed by 2496  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2497  
least seven days before the hearing date, the prosecutor may 2498  
file an objection to the petition with the court and serve a 2499  
copy of the objection to the petition on the eligible offender 2500  
or the eligible offender's attorney. In addition to reviewing 2501  
any previous order, considering the documents previously 2502

submitted, and evaluating any new evidence of rehabilitation 2503  
presented with the petition as described in this division, in 2504  
determining whether to deny the petition or the type of order to 2505  
enter in response to the petition, the court shall consider any 2506  
objections submitted by the prosecutor and any written statement 2507  
submitted by the victim. After the hearing on the petition, the 2508  
court may deny the petition or enter either of the following 2509  
orders: 2510

(a) If the previous order continued the offender's 2511  
classification as a tier II sex offender/child-victim offender, 2512  
an order to reclassify the offender as a tier I sex 2513  
offender/child-victim offender or terminate the offender's duty 2514  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2515  
Revised Code; 2516

(b) If the previous order reclassified the offender as a 2517  
tier I sex offender/child-victim offender or continued the 2518  
offender's classification as a tier I sex offender/child-victim 2519  
offender, an order to terminate the offender's duty to comply 2520  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2521

**Sec. 2971.01.** As used in this chapter: 2522

(A) "Mandatory prison term" has the same meaning as in 2523  
section 2929.01 of the Revised Code. 2524

(B) "Designated homicide, assault, or kidnapping offense" 2525  
means any of the following: 2526

(1) A violation of section 2903.01, 2903.02, 2903.11, or 2527  
2905.01 of the Revised Code or a violation of division (A) of 2528  
section 2903.04 of the Revised Code; 2529

(2) An attempt to commit or complicity in committing a 2530  
violation listed in division (B) (1) of this section, if the 2531

attempt or complicity is a felony.	2532
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2533 2534
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2535 2536
(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.	2537 2538 2539
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2540 2541 2542
(G) "Sexually violent offense" means any of the following:	2543
(1) A violent sex offense;	2544
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2545 2546
(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.	2547 2548 2549 2550
(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:	2551 2552 2553 2554
(a) The person has been convicted two or more times, in separate criminal actions, of a sexually oriented offense or a child-victim oriented offense. For purposes of this division, convictions that result from or are connected with the same act	2555 2556 2557 2558



or result from offenses committed at the same time are one 2559  
conviction, and a conviction set aside pursuant to law is not a 2560  
conviction. 2561

(b) The person has a documented history from childhood, 2562  
into the juvenile developmental years, that exhibits sexually 2563  
deviant behavior. 2564

(c) Available information or evidence suggests that the 2565  
person chronically commits offenses with a sexual motivation. 2566

(d) The person has committed one or more offenses in which 2567  
the person has tortured or engaged in ritualistic acts with one 2568  
or more victims. 2569

(e) The person has committed one or more offenses in which 2570  
one or more victims were physically harmed to the degree that 2571  
the particular victim's life was in jeopardy. 2572

(f) Any other relevant evidence. 2573

(I) "Sexually violent predator specification" means a 2574  
specification, as described in section 2941.148 of the Revised 2575  
Code, that charges that a person charged with a violent sex 2576  
offense, or a person charged with a designated homicide, 2577  
assault, or kidnapping offense and a sexual motivation 2578  
specification, is a sexually violent predator. 2579

(J) "Sexual motivation" means a purpose to gratify the 2580  
sexual needs or desires of the offender. 2581

(K) "Sexual motivation specification" means a 2582  
specification, as described in section 2941.147 of the Revised 2583  
Code, that charges that a person charged with a designated 2584  
homicide, assault, or kidnapping offense committed the offense 2585  
with a sexual motivation. 2586

(L) "Violent sex offense" means any of the following:	2587
(1) A violation of section 2907.02, 2907.03 <u>if the sexual</u>	2588
<u>activity involved is sexual conduct</u> , or 2907.12 or of division	2589
(A) (4) or (B) of section 2907.05 of the Revised Code;	2590
(2) A felony violation of a former law of this state that	2591
is substantially equivalent to a violation listed in division	2592
(L) (1) of this section or of an existing or former law of the	2593
United States or of another state that is substantially	2594
equivalent to a violation listed in division (L) (1) of this	2595
section;	2596
(3) An attempt to commit or complicity in committing a	2597
violation listed in division (L) (1) or (2) of this section if	2598
the attempt or complicity is a felony.	2599
<b>Sec. 3107.07.</b> Consent to adoption is not required of any	2600
of the following:	2601
(A) A parent of a minor, when it is alleged in the	2602
adoption petition and the court, after proper service of notice	2603
and hearing, finds by clear and convincing evidence that the	2604
parent has failed without justifiable cause to provide more than	2605
de minimis contact with the minor or to provide for the	2606
maintenance and support of the minor as required by law or	2607
judicial decree for a period of at least one year immediately	2608
preceding either the filing of the adoption petition or the	2609
placement of the minor in the home of the petitioner.	2610
(B) The putative father of a minor if either of the	2611
following applies:	2612
(1) The putative father fails to register as the minor's	2613
putative father with the putative father registry established	2614
under section 3107.062 of the Revised Code not later than	2615

fifteen days after the minor's birth;	2616
(2) The court finds, after proper service of notice and hearing, that any of the following are the case:	2617 2618
(a) The putative father is not the father of the minor;	2619
(b) The putative father has willfully abandoned or failed to care for and support the minor;	2620 2621
(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.	2622 2623 2624 2625
(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;	2626 2627 2628 2629
(D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;	2630 2631 2632
(E) A parent who is married to the petitioner and supports the adoption;	2633 2634
(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 <u>if the sexual activity involved is sexual conduct</u> , or a	2635 2636 2637 2638 2639 2640 2641 2642 2643

similar law of another state. 2644

(G) A legal guardian or guardian ad litem of a parent 2645  
judicially declared incompetent in a separate court proceeding 2646  
who has failed to respond in writing to a request for consent, 2647  
for a period of thirty days, or who, after examination of the 2648  
written reasons for withholding consent, is found by the court 2649  
to be withholding consent unreasonably; 2650

(H) Any legal guardian or lawful custodian of the person 2651  
to be adopted, other than a parent, who has failed to respond in 2652  
writing to a request for consent, for a period of thirty days, 2653  
or who, after examination of the written reasons for withholding 2654  
consent, is found by the court to be withholding consent 2655  
unreasonably; 2656

(I) The spouse of the person to be adopted, if the failure 2657  
of the spouse to consent to the adoption is found by the court 2658  
to be by reason of prolonged unexplained absence, 2659  
unavailability, incapacity, or circumstances that make it 2660  
impossible or unreasonably difficult to obtain the consent or 2661  
refusal of the spouse; 2662

(J) Any parent, legal guardian, or other lawful custodian 2663  
in a foreign country, if the person to be adopted has been 2664  
released for adoption pursuant to the laws of the country in 2665  
which the person resides and the release of such person is in a 2666  
form that satisfies the requirements of the immigration and 2667  
naturalization service of the United States department of 2668  
justice for purposes of immigration to the United States 2669  
pursuant to section 101(b)(1)(F) of the "Immigration and 2670  
Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2671  
as amended or reenacted. 2672

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

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

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

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

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

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

**Sec. 3111.04.** (A) (1) Except as provided in division (A) (2) of this section, an action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's caretaker, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title

IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 2702  
U.S.C.A. 651, as amended, or the alleged father's personal 2703  
representative. 2704

(2) A man alleged or alleging himself to be the child's 2705  
father is not eligible to file an action under division (A) (1) 2706  
of this section if the man was convicted of or pleaded guilty to 2707  
rape or sexual battery, the victim of the rape or sexual battery 2708  
was the child's mother, and the child was conceived as a result 2709  
of the rape or sexual battery. 2710

(B) An agreement does not bar an action under this 2711  
section. 2712

(C) If an action under this section is brought before the 2713  
birth of the child and if the action is contested, all 2714  
proceedings, except service of process and the taking of 2715  
depositions to perpetuate testimony, may be stayed until after 2716  
the birth. 2717

(D) A recipient of public assistance or of services under 2718  
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2719  
42 U.S.C.A. 651, as amended, shall cooperate with the child 2720  
support enforcement agency of the county in which a child 2721  
resides to obtain an administrative determination pursuant to 2722  
sections 3111.38 to 3111.54 of the Revised Code, or, if 2723  
necessary, a court determination pursuant to sections 3111.01 to 2724  
3111.18 of the Revised Code, of the existence or nonexistence of 2725  
a parent and child relationship between the father and the 2726  
child. If the recipient fails to cooperate, the agency may 2727  
commence an action to determine the existence or nonexistence of 2728  
a parent and child relationship between the father and the child 2729  
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2730

(E) As used in this section:	2731
(1) "Public assistance" means both of the following:	2732
(a) Medicaid;	2733
(b) Ohio works first under Chapter 5107. of the Revised Code.	2734 2735
(2) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state.	2736 2737
(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.	2738 2739 2740
<b>Sec. 4730.25.</b> (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a physician assistant to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.	2741 2742 2743 2744 2745 2746
(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:	2747 2748 2749 2750 2751 2752 2753 2754
(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	2755 2756 2757 2758

assistant are practicing;	2759
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	2760 2761 2762
(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;	2763 2764 2765 2766
(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;	2767 2768 2769 2770
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;	2771 2772 2773 2774
(6) Administering drugs for purposes other than those authorized under this chapter;	2775 2776
(7) Willfully betraying a professional confidence;	2777
(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.	2778 2779 2780 2781 2782 2783 2784
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a	2785 2786



misrepresentation of fact, is likely to mislead or deceive 2787  
because of a failure to disclose material facts, is intended or 2788  
is likely to create false or unjustified expectations of 2789  
favorable results, or includes representations or implications 2790  
that in reasonable probability will cause an ordinarily prudent 2791  
person to misunderstand or be deceived. 2792

(9) Representing, with the purpose of obtaining 2793  
compensation or other advantage personally or for any other 2794  
person, that an incurable disease or injury, or other incurable 2795  
condition, can be permanently cured; 2796

(10) The obtaining of, or attempting to obtain, money or 2797  
anything of value by fraudulent misrepresentations in the course 2798  
of practice; 2799

(11) A plea of guilty to, a judicial finding of guilt of, 2800  
or a judicial finding of eligibility for intervention in lieu of 2801  
conviction for, a felony; 2802

(12) Commission of an act that constitutes a felony in 2803  
this state, regardless of the jurisdiction in which the act was 2804  
committed; 2805

(13) 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 misdemeanor committed in the course of 2808  
practice; 2809

(14) A plea of guilty to, a judicial finding of guilt of, 2810  
or a judicial finding of eligibility for intervention in lieu of 2811  
conviction for, a misdemeanor involving moral turpitude; 2812

(15) Commission of an act in the course of practice that 2813  
constitutes a misdemeanor in this state, regardless of the 2814  
jurisdiction in which the act was committed; 2815

(16) Commission of an act involving moral turpitude that 2816  
constitutes a misdemeanor in this state, regardless of the 2817  
jurisdiction in which the act was committed; 2818

(17) A plea of guilty to, a judicial finding of guilt of, 2819  
or a judicial finding of eligibility for intervention in lieu of 2820  
conviction for violating any state or federal law regulating the 2821  
possession, distribution, or use of any drug, including 2822  
trafficking in drugs; 2823

(18) Any of the following actions taken by the state 2824  
agency responsible for regulating the practice of physician 2825  
assistants in another state, for any reason other than the 2826  
nonpayment of fees: the limitation, revocation, or suspension of 2827  
an individual's license to practice; acceptance of an 2828  
individual's license surrender; denial of a license; refusal to 2829  
renew or reinstate a license; imposition of probation; or 2830  
issuance of an order of censure or other reprimand; 2831

(19) A departure from, or failure to conform to, minimal 2832  
standards of care of similar physician assistants under the same 2833  
or similar circumstances, regardless of whether actual injury to 2834  
a patient is established; 2835

(20) Violation of the conditions placed by the board on a 2836  
license to practice as a physician assistant; 2837

(21) Failure to use universal blood and body fluid 2838  
precautions established by rules adopted under section 4731.051 2839  
of the Revised Code; 2840

(22) Failure to cooperate in an investigation conducted by 2841  
the board under section 4730.26 of the Revised Code, including 2842  
failure to comply with a subpoena or order issued by the board 2843  
or failure to answer truthfully a question presented by the 2844

board at a deposition or in written interrogatories, except that 2845  
failure to cooperate with an investigation shall not constitute 2846  
grounds for discipline under this section if a court of 2847  
competent jurisdiction has issued an order that either quashes a 2848  
subpoena or permits the individual to withhold the testimony or 2849  
evidence in issue; 2850

(23) Assisting suicide, as defined in section 3795.01 of 2851  
the Revised Code; 2852

(24) Prescribing any drug or device to perform or induce 2853  
an abortion, or otherwise performing or inducing an abortion; 2854

(25) Failure to comply with section 4730.53 of the Revised 2855  
Code, unless the board no longer maintains a drug database 2856  
pursuant to section 4729.75 of the Revised Code; 2857

(26) Failure to comply with the requirements in section 2858  
3719.061 of the Revised Code before issuing for a minor a 2859  
prescription for an opioid analgesic, as defined in section 2860  
3719.01 of the Revised Code; 2861

(27) Having certification by the national commission on 2862  
certification of physician assistants or a successor 2863  
organization expire, lapse, or be suspended or revoked; 2864

(28) The revocation, suspension, restriction, reduction, 2865  
or termination of clinical privileges by the United States 2866  
department of defense or department of veterans affairs or the 2867  
termination or suspension of a certificate of registration to 2868  
prescribe drugs by the drug enforcement administration of the 2869  
United States department of justice; 2870

(29) Failure to comply with terms of a consult agreement 2871  
entered into with a pharmacist pursuant to section 4729.39 of 2872  
the Revised Code. 2873

(C) Disciplinary actions taken by the board under 2874  
divisions (A) and (B) of this section shall be taken pursuant to 2875  
an adjudication under Chapter 119. of the Revised Code, except 2876  
that in lieu of an adjudication, the board may enter into a 2877  
consent agreement with a physician assistant or applicant to 2878  
resolve an allegation of a violation of this chapter or any rule 2879  
adopted under it. A consent agreement, when ratified by an 2880  
affirmative vote of not fewer than six members of the board, 2881  
shall constitute the findings and order of the board with 2882  
respect to the matter addressed in the agreement. If the board 2883  
refuses to ratify a consent agreement, the admissions and 2884  
findings contained in the consent agreement shall be of no force 2885  
or effect. 2886

(D) For purposes of divisions (B) (12), (15), and (16) of 2887  
this section, the commission of the act may be established by a 2888  
finding by the board, pursuant to an adjudication under Chapter 2889  
119. of the Revised Code, that the applicant or license holder 2890  
committed the act in question. The board shall have no 2891  
jurisdiction under these divisions in cases where the trial 2892  
court renders a final judgment in the license holder's favor and 2893  
that judgment is based upon an adjudication on the merits. The 2894  
board shall have jurisdiction under these divisions in cases 2895  
where the trial court issues an order of dismissal upon 2896  
technical or procedural grounds. 2897

(E) The sealing or expungement of conviction records by 2898  
any court shall have no effect upon a prior board order entered 2899  
under the provisions of this section or upon the board's 2900  
jurisdiction to take action under the provisions of this section 2901  
if, based upon a plea of guilty, a judicial finding of guilt, or 2902  
a judicial finding of eligibility for intervention in lieu of 2903  
conviction, the board issued a notice of opportunity for a 2904

hearing prior to the court's order to seal or expunge the 2905  
records. The board shall not be required to seal, destroy, 2906  
redact, or otherwise modify its records to reflect the court's 2907  
sealing or expungement of conviction records. 2908

(F) For purposes of this division, any individual who 2909  
holds a license issued under this chapter, or applies for a 2910  
license issued under this chapter, shall be deemed to have given 2911  
consent to submit to a mental or physical examination when 2912  
directed to do so in writing by the board and to have waived all 2913  
objections to the admissibility of testimony or examination 2914  
reports that constitute a privileged communication. 2915

(1) In enforcing division (B)(4) of this section, the 2916  
board, upon a showing of a possible violation, shall refer any 2917  
individual who holds, or has applied for, a license issued under 2918  
this chapter to the monitoring organization that conducts the 2919  
confidential monitoring program established under section 2920  
4731.25 of the Revised Code. The board also may compel the 2921  
individual to submit to a mental examination, physical 2922  
examination, including an HIV test, or both a mental and 2923  
physical examination. The expense of the examination is the 2924  
responsibility of the individual compelled to be examined. 2925  
Failure to submit to a mental or physical examination or consent 2926  
to an HIV test ordered by the board constitutes an admission of 2927  
the allegations against the individual unless the failure is due 2928  
to circumstances beyond the individual's control, and a default 2929  
and final order may be entered without the taking of testimony 2930  
or presentation of evidence. If the board finds a physician 2931  
assistant unable to practice because of the reasons set forth in 2932  
division (B)(4) of this section, the board shall require the 2933  
physician assistant to submit to care, counseling, or treatment 2934  
by physicians approved or designated by the board, as a 2935

condition for an initial, continued, reinstated, or renewed 2936  
license. An individual affected under this division shall be 2937  
afforded an opportunity to demonstrate to the board the ability 2938  
to resume practicing in compliance with acceptable and 2939  
prevailing standards of care. 2940

(2) For purposes of division (B)(5) of this section, if 2941  
the board has reason to believe that any individual who holds a 2942  
license issued under this chapter or any applicant for a license 2943  
suffers such impairment, the board shall refer the individual to 2944  
the monitoring organization that conducts the confidential 2945  
monitoring program established under section 4731.25 of the 2946  
Revised Code. The board also may compel the individual to submit 2947  
to a mental or physical examination, or both. The expense of the 2948  
examination is the responsibility of the individual compelled to 2949  
be examined. Any mental or physical examination required under 2950  
this division shall be undertaken by a treatment provider or 2951  
physician qualified to conduct such examination and approved 2952  
under section 4731.251 of the Revised Code. 2953

Failure to submit to a mental or physical examination 2954  
ordered by the board constitutes an admission of the allegations 2955  
against the individual unless the failure is due to 2956  
circumstances beyond the individual's control, and a default and 2957  
final order may be entered without the taking of testimony or 2958  
presentation of evidence. If the board determines that the 2959  
individual's ability to practice is impaired, the board shall 2960  
suspend the individual's license or deny the individual's 2961  
application and shall require the individual, as a condition for 2962  
initial, continued, reinstated, or renewed licensure, to submit 2963  
to treatment. 2964

Before being eligible to apply for reinstatement of a 2965

license suspended under this division, the physician assistant 2966  
shall demonstrate to the board the ability to resume practice or 2967  
prescribing in compliance with acceptable and prevailing 2968  
standards of care. The demonstration shall include the 2969  
following: 2970

(a) Certification from a treatment provider approved under 2971  
section 4731.251 of the Revised Code that the individual has 2972  
successfully completed any required inpatient treatment; 2973

(b) Evidence of continuing full compliance with an 2974  
aftercare contract or consent agreement; 2975

(c) Two written reports indicating that the individual's 2976  
ability to practice has been assessed and that the individual 2977  
has been found capable of practicing according to acceptable and 2978  
prevailing standards of care. The reports shall be made by 2979  
individuals or providers approved by the board for making such 2980  
assessments and shall describe the basis for their 2981  
determination. 2982

The board may reinstate a license suspended under this 2983  
division after such demonstration and after the individual has 2984  
entered into a written consent agreement. 2985

When the impaired physician assistant resumes practice or 2986  
prescribing, the board shall require continued monitoring of the 2987  
physician assistant. The monitoring shall include compliance 2988  
with the written consent agreement entered into before 2989  
reinstatement or with conditions imposed by board order after a 2990  
hearing, and, upon termination of the consent agreement, 2991  
submission to the board for at least two years of annual written 2992  
progress reports made under penalty of falsification stating 2993  
whether the physician assistant has maintained sobriety. 2994

~~(G)~~ (G) (1) If either of the following circumstances occur, 2995  
the secretary and supervising member ~~determine~~ may recommend 2996  
that the board suspend the individual's license without a prior 2997  
hearing: 2998

(a) The secretary and supervising member determine that 2999  
there is clear and convincing evidence that a physician 3000  
assistant has violated division (B) of this section and that the 3001  
individual's continued practice or prescribing presents a danger 3002  
of immediate and serious harm to the public, ~~they may recommend~~ 3003  
~~that the board suspend the individual's license without a prior~~ 3004  
~~hearing.~~ 3005

(b) The board receives verifiable information that a 3006  
licensee has been charged in any state or federal court with a 3007  
crime classified as a felony under the charging court's law and 3008  
the conduct charged constitutes a violation of division (B) of 3009  
this section. ~~Written~~ 3010

(2) If a recommendation is made to suspend without a prior 3011  
hearing pursuant to division (G) (1) of this section, written 3012  
allegations shall be prepared for consideration by the board. 3013

The board, upon review of those allegations and by an 3014  
affirmative vote of not fewer than six of its members, excluding 3015  
the secretary and supervising member, may suspend a license 3016  
without a prior hearing. A telephone conference call may be 3017  
utilized for reviewing the allegations and taking the vote on 3018  
the summary suspension. 3019

The board shall serve a written order of suspension in 3020  
accordance with sections 119.05 and 119.07 of the Revised Code. 3021  
The order shall not be subject to suspension by the court during 3022  
pendency of any appeal filed under section 119.12 of the Revised 3023



Code. If the physician assistant requests an adjudicatory 3024  
hearing by the board, the date set for the hearing shall be 3025  
within fifteen days, but not earlier than seven days, after the 3026  
physician assistant requests the hearing, unless otherwise 3027  
agreed to by both the board and the license holder. 3028

(3) A summary suspension imposed under this division shall 3029  
remain in effect, unless reversed on appeal, until a final 3030  
adjudicative order issued by the board pursuant to this section 3031  
and Chapter 119. of the Revised Code becomes effective. The 3032  
board shall issue its final adjudicative order within seventy- 3033  
five days after completion of its hearing. Failure to issue the 3034  
order within seventy-five days shall result in dissolution of 3035  
the summary suspension order, but shall not invalidate any 3036  
subsequent, final adjudicative order. 3037

(H) If the board takes action under division (B) (11), 3038  
(13), or (14) of this section, and the judicial finding of 3039  
guilt, guilty plea, or judicial finding of eligibility for 3040  
intervention in lieu of conviction is overturned on appeal, upon 3041  
exhaustion of the criminal appeal, a petition for 3042  
reconsideration of the order may be filed with the board along 3043  
with appropriate court documents. Upon receipt of a petition and 3044  
supporting court documents, the board shall reinstate the 3045  
individual's license. The board may then hold an adjudication 3046  
under Chapter 119. of the Revised Code to determine whether the 3047  
individual committed the act in question. Notice of opportunity 3048  
for hearing shall be given in accordance with Chapter 119. of 3049  
the Revised Code. If the board finds, pursuant to an 3050  
adjudication held under this division, that the individual 3051  
committed the act, or if no hearing is requested, it may order 3052  
any of the sanctions identified under division (B) of this 3053  
section. 3054

(I) The license to practice issued to a physician 3055  
assistant and the physician assistant's practice in this state 3056  
are automatically suspended as of the date the physician 3057  
assistant pleads guilty to, is found by a judge or jury to be 3058  
guilty of, or is subject to a judicial finding of eligibility 3059  
for intervention in lieu of conviction in this state or 3060  
treatment or intervention in lieu of conviction in another state 3061  
for any of the following criminal offenses in this state or a 3062  
substantially equivalent criminal offense in another 3063  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3064  
felonious assault, trafficking in persons, kidnapping, rape, 3065  
sexual battery, gross sexual imposition, aggravated arson, 3066  
aggravated robbery, or aggravated burglary. Continued practice 3067  
after the suspension shall be considered practicing without a 3068  
license. 3069

The board shall notify the individual subject to the 3070  
suspension in accordance with sections 119.05 and 119.07 of the 3071  
Revised Code. If an individual whose license is suspended under 3072  
this division fails to make a timely request for an adjudication 3073  
under Chapter 119. of the Revised Code, the board shall enter a 3074  
final order permanently revoking the individual's license to 3075  
practice. 3076

(J) In any instance in which the board is required by 3077  
Chapter 119. of the Revised Code to give notice of opportunity 3078  
for hearing and the individual subject to the notice does not 3079  
timely request a hearing in accordance with section 119.07 of 3080  
the Revised Code, the board is not required to hold a hearing, 3081  
but may adopt, by an affirmative vote of not fewer than six of 3082  
its members, a final order that contains the board's findings. 3083  
In that final order, the board may order any of the sanctions 3084  
identified under division (A) or (B) of this section. 3085

(K) Any action taken by the board under division (B) of 3086  
this section resulting in a suspension shall be accompanied by a 3087  
written statement of the conditions under which the physician 3088  
assistant's license may be reinstated. The board shall adopt 3089  
rules in accordance with Chapter 119. of the Revised Code 3090  
governing conditions to be imposed for reinstatement. 3091  
Reinstatement of a license suspended pursuant to division (B) of 3092  
this section requires an affirmative vote of not fewer than six 3093  
members of the board. 3094

(L) When the board refuses to grant or issue to an 3095  
applicant a license to practice as a physician assistant, 3096  
revokes an individual's license, refuses to renew an 3097  
individual's license, or refuses to reinstate an individual's 3098  
license, the board may specify that its action is permanent. An 3099  
individual subject to a permanent action taken by the board is 3100  
forever thereafter ineligible to hold the license and the board 3101  
shall not accept an application for reinstatement of the license 3102  
or for issuance of a new license. 3103

(M) Notwithstanding any other provision of the Revised 3104  
Code, all of the following apply: 3105

(1) The surrender of a license issued under this chapter 3106  
is not effective unless or until accepted by the board. 3107  
Reinstatement of a license surrendered to the board requires an 3108  
affirmative vote of not fewer than six members of the board. 3109

(2) An application made under this chapter for a license 3110  
may not be withdrawn without approval of the board. 3111

(3) Failure by an individual to renew a license in 3112  
accordance with section 4730.14 of the Revised Code does not 3113  
remove or limit the board's jurisdiction to take disciplinary 3114

action under this section against the individual. 3115

(4) The placement of an individual's license on retired 3116  
status, as described in section 4730.141 of the Revised Code, 3117  
does not remove or limit the board's jurisdiction to take any 3118  
disciplinary action against the individual with regard to the 3119  
license as it existed before being placed on retired status. 3120

(N) The board shall not refuse to issue a license to an 3121  
applicant because of a conviction, plea of guilty, judicial 3122  
finding of guilt, judicial finding of eligibility for 3123  
intervention in lieu of conviction, or the commission of an act 3124  
that constitutes a criminal offense, unless the refusal is in 3125  
accordance with section 9.79 of the Revised Code. 3126

**Sec. 4730.26.** (A) The state medical board shall 3127  
investigate evidence that appears to show that any person has 3128  
violated this chapter or a rule adopted under it. In an 3129  
investigation involving the practice or supervision of a 3130  
physician assistant pursuant to the policies of a health care 3131  
facility, the board may require that the health care facility 3132  
provide any information the board considers necessary to 3133  
identify either or both of the following: 3134

(1) The facility's policies for the practice of physician 3135  
assistants within the facility; 3136

(2) The services that the facility has authorized a 3137  
particular physician assistant to provide for the facility. 3138

(B) Any person may report to the board in a signed writing 3139  
any information the person has that appears to show a violation 3140  
of any provision of this chapter or rule adopted under it. In 3141  
the absence of bad faith, a person who reports such information 3142  
or testifies before the board in an adjudication conducted under 3143

Chapter 119. of the Revised Code shall not be liable for civil 3144  
damages as a result of reporting the information or providing 3145  
testimony. Each complaint or allegation of a violation received 3146  
by the board shall be assigned a case number and be recorded by 3147  
the board. 3148

(C) Investigations of alleged violations of this chapter 3149  
or rules adopted under it shall be supervised by the supervising 3150  
member elected by the board in accordance with section 4731.02 3151  
of the Revised Code and by the secretary as provided in section 3152  
4730.33 of the Revised Code. The president may designate another 3153  
member of the board to supervise the investigation in place of 3154  
the supervising member. Upon a vote of the majority of the board 3155  
to authorize the addition of a consumer member in the 3156  
supervision of any part of any investigation, the president 3157  
shall designate a consumer member for supervision of 3158  
investigations as determined by the president. The authorization 3159  
of consumer member participation in investigation supervision 3160  
may be rescinded by a majority vote of the board. A member of 3161  
the board who supervises the investigation of a case shall not 3162  
participate in further adjudication of the case. 3163

(D) In investigating a possible violation of this chapter 3164  
or a rule adopted under it, the board may administer oaths, 3165  
order the taking of depositions, issue subpoenas, and compel the 3166  
attendance of witnesses and production of books, accounts, 3167  
papers, records, documents, and testimony, except that a 3168  
subpoena for patient record information shall not be issued 3169  
without consultation with the attorney general's office and 3170  
approval of the secretary of the board. Before issuance of a 3171  
subpoena for patient record information, the secretary shall 3172  
determine whether there is probable cause to believe that the 3173  
complaint filed alleges a violation of this chapter or a rule 3174

adopted under it and that the records sought are relevant to the 3175  
alleged violation and material to the investigation. The 3176  
subpoena may apply only to records that cover a reasonable 3177  
period of time surrounding the alleged violation. 3178

On failure to comply with any subpoena issued by the board 3179  
and after reasonable notice to the person being subpoenaed, the 3180  
board may move for an order compelling the production of persons 3181  
or records pursuant to the Rules of Civil Procedure. 3182

A subpoena issued by the board may be served by a sheriff, 3183  
the sheriff's deputy, or a board employee designated by the 3184  
board. Service of a subpoena issued by the board may be made by 3185  
delivering a copy of the subpoena to the person named therein, 3186  
reading it to the person, or leaving it at the person's usual 3187  
place of residence. When the person being served is a physician 3188  
assistant, service of the subpoena may be made by certified 3189  
mail, restricted delivery, return receipt requested, and the 3190  
subpoena shall be deemed served on the date delivery is made or 3191  
the date the person refuses to accept delivery. 3192

A sheriff's deputy who serves a subpoena shall receive the 3193  
same fees as a sheriff. Each witness who appears before the 3194  
board in obedience to a subpoena shall receive the fees and 3195  
mileage provided for under section 119.094 of the Revised Code. 3196

(E) All hearings and investigations of the board shall be 3197  
considered civil actions for the purposes of section 2305.252 of 3198  
the Revised Code. 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) (4) or (5) of section 4730.25 of the 3313  
Revised Code has occurred shall report the information upon 3314  
which the belief is based to the monitoring organization 3315  
conducting the confidential monitoring program established under 3316  
section 4731.25 of the Revised Code. If any such report is made 3317  
to the board, it shall be referred to the monitoring 3318  
organization unless the board is aware that the individual who 3319  
is the subject of the report does not meet the program 3320  
eligibility requirements of section 4731.252 of the Revised 3321

Code. 3322

(3) If any individual authorized to practice under this 3323  
chapter or any professional association or society of such 3324  
individuals knows or has reasonable cause to suspect based on 3325  
facts that would cause a reasonable person in a similar position 3326  
to suspect that an individual authorized to practice under this 3327  
chapter has committed or participated in criminal conduct or 3328  
sexual misconduct, the information upon which the belief is 3329  
based shall be reported to the board within thirty days. 3330

This division does not apply to a professional association 3331  
or society whose staff interacts with members of the association 3332  
or society only in advocacy, governance, or educational 3333  
capacities and whose staff does not regularly interact with 3334  
members in practice settings. 3335

(4) In addition to the self-reporting of criminal offenses 3336  
that is required for license renewal, an individual authorized 3337  
to practice under this chapter shall report to the board 3338  
criminal charges regarding criminal conduct, sexual misconduct, 3339  
or any conduct involving the use of a motor vehicle while under 3340  
the influence of alcohol or drugs, including offenses that are 3341  
equivalent offenses under division (A) of section 4511.181 of 3342  
the Revised Code, violations of division (D) of section 4511.194 3343  
of the Revised Code, and violations of division (C) of section 3344  
4511.79 of the Revised Code. Reports under this division shall 3345  
be made within thirty days of the criminal charge being filed. 3346

~~(C)~~(D) Any professional association or society composed 3347  
primarily of physician assistants that suspends or revokes an 3348  
individual's membership for violations of professional ethics, 3349  
or for reasons of professional incompetence or professional 3350  
malpractice, within ~~sixty~~thirty days after a final decision, 3351

shall report to the board, on forms prescribed and provided by 3352  
the board, the name of the individual, the action taken by the 3353  
professional organization, and a summary of the underlying facts 3354  
leading to the action taken. 3355

The filing or nonfiling of a report with the board, 3356  
investigation by the board, or any disciplinary action taken by 3357  
the board, shall not preclude a professional organization from 3358  
taking disciplinary action against a physician assistant. 3359

~~(D)~~ (E) Any insurer providing professional liability 3360  
insurance to any person holding a valid license to practice as a 3361  
physician assistant issued under this chapter or any other 3362  
entity that seeks to indemnify the professional liability of a 3363  
physician assistant shall notify the board within thirty days 3364  
after the final disposition of any written claim for damages 3365  
where such disposition results in a payment exceeding twenty- 3366  
five thousand dollars. The notice shall contain the following 3367  
information: 3368

(1) The name and address of the person submitting the 3369  
notification; 3370

(2) The name and address of the insured who is the subject 3371  
of the claim; 3372

(3) The name of the person filing the written claim; 3373

(4) The date of final disposition; 3374

(5) If applicable, the identity of the court in which the 3375  
final disposition of the claim took place. 3376

~~(E)~~ (F) The board may investigate possible violations of 3377  
this chapter or the rules adopted under it that are brought to 3378  
its attention as a result of the reporting requirements of this 3379

section, except that the board shall conduct an investigation if 3380  
a possible violation involves repeated malpractice. As used in 3381  
this division, "repeated malpractice" means three or more claims 3382  
for malpractice within the previous five-year period, each 3383  
resulting in a judgment or settlement in excess of twenty-five 3384  
thousand dollars in favor of the claimant, and each involving 3385  
negligent conduct by the physician assistant. 3386

~~(F)-(G) All summaries, reports, and records received and 3387  
maintained by the board pursuant to this section shall be held- 3388  
in confidence and shall not be subject to discovery or- 3389  
introduction in evidence in any federal or state civil action- 3390  
involving a physician assistant, supervising physician, or- 3391  
health care facility arising out of matters that are the subject- 3392  
of the reporting required by this section. The board may use the- 3393  
information obtained only as the basis for an investigation, as- 3394  
evidence in a disciplinary hearing against a physician assistant- 3395  
or supervising physician, or in any subsequent trial or appeal- 3396  
of a board action or order.- 3397~~

~~The board may disclose the summaries and reports it 3398  
receives under this section only to health care facility- 3399  
committees within or outside this state that are involved in- 3400  
credentialing or recredentialing a physician assistant or- 3401  
supervising physician or reviewing their privilege to practice- 3402  
within a particular facility. The board shall indicate whether- 3403  
or not the information has been verified. Information- 3404  
transmitted by the board shall be subject to the same- 3405  
confidentiality provisions as when maintained by the- 3406  
board confidential pursuant to division (F) of section 4730.26 of 3407  
the Revised Code. 3408~~

~~(G)-(H) Except for reports filed by an individual pursuant 3409~~

to division ~~(B)~~(B) (2) or (C) of this section, the board shall 3410  
send a copy of any reports or summaries it receives pursuant to 3411  
this section to the physician assistant. The physician assistant 3412  
shall have the right to file a statement with the board 3413  
concerning the correctness or relevance of the information. The 3414  
statement shall at all times accompany that part of the record 3415  
in contention. 3416

~~(H)~~(I) An individual or entity that reports to the board, 3417  
reports to the monitoring organization described in section 3418  
4731.25 of the Revised Code, or refers an impaired physician 3419  
assistant to a treatment provider approved under section 3420  
4731.251 of the Revised Code shall not be subject to suit for 3421  
civil damages as a result of the report, referral, or provision 3422  
of the information. 3423

~~(I)~~(J) In the absence of fraud or bad faith, a 3424  
professional association or society of physician assistants that 3425  
sponsors a committee or program to provide peer assistance to a 3426  
physician assistant with substance abuse problems, a 3427  
representative or agent of such a committee or program, a 3428  
representative or agent of the monitoring organization described 3429  
in section 4731.25 of the Revised Code, and a member of the 3430  
state medical board shall not be held liable in damages to any 3431  
person by reason of actions taken to refer a physician assistant 3432  
to a treatment provider approved under section 4731.251 of the 3433  
Revised Code for examination or treatment. 3434

**Sec. 4730.99.** (A) Whoever violates section 4730.02 of the 3435  
Revised Code is guilty of a misdemeanor of the first degree on a 3436  
first offense; on each subsequent offense, the person is guilty 3437  
of a felony of the fourth degree. 3438

~~(B)~~(B) (1) Whoever violates division ~~(A)~~, ~~(B)~~(B) (1), ~~(C)~~(C) 3439

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

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

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

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

(B) Except as provided in division (P) of this section,

the board, by an affirmative vote of not fewer than six members, 3470  
shall, to the extent permitted by law, limit, revoke, or suspend 3471  
a license or certificate to practice or certificate to 3472  
recommend, refuse to issue a license or certificate, refuse to 3473  
renew a license or certificate, refuse to reinstate a license or 3474  
certificate, or reprimand or place on probation the holder of a 3475  
license or certificate for one or more of the following reasons: 3476

(1) Permitting one's name or one's license or certificate 3477  
to practice to be used by a person, group, or corporation when 3478  
the individual concerned is not actually directing the treatment 3479  
given; 3480

(2) Failure to maintain minimal standards applicable to 3481  
the selection or administration of drugs, or failure to employ 3482  
acceptable scientific methods in the selection of drugs or other 3483  
modalities for treatment of disease; 3484

(3) Except as provided in section 4731.97 of the Revised 3485  
Code, selling, giving away, personally furnishing, prescribing, 3486  
or administering drugs for other than legal and legitimate 3487  
therapeutic purposes or a plea of guilty to, a judicial finding 3488  
of guilt of, or a judicial finding of eligibility for 3489  
intervention in lieu of conviction of, a violation of any 3490  
federal or state law regulating the possession, distribution, or 3491  
use of any drug; 3492

(4) Willfully betraying a professional confidence. 3493

For purposes of this division, "willfully betraying a 3494  
professional confidence" does not include providing any 3495  
information, documents, or reports under sections 307.621 to 3496  
307.629 of the Revised Code to a child fatality review board; 3497  
does not include providing any information, documents, or 3498



reports under sections 307.631 to 307.6410 of the Revised Code 3499  
to a drug overdose fatality review committee, a suicide fatality 3500  
review committee, or hybrid drug overdose fatality and suicide 3501  
fatality review committee; does not include providing any 3502  
information, documents, or reports under sections 307.651 to 3503  
307.659 of the Revised Code to a domestic violence fatality 3504  
review board; does not include providing any information, 3505  
documents, or reports to the director of health pursuant to 3506  
guidelines established under section 3701.70 of the Revised 3507  
Code; does not include written notice to a mental health 3508  
professional under section 4731.62 of the Revised Code; does not 3509  
include making a report as described in division (F) of section 3510  
2921.22 and section 4731.224 of the Revised Code; and does not 3511  
include the making of a report of an employee's use of a drug of 3512  
abuse, or a report of a condition of an employee other than one 3513  
involving the use of a drug of abuse, to the employer of the 3514  
employee as described in division (B) of section 2305.33 of the 3515  
Revised Code. Nothing in this division affects the immunity from 3516  
civil liability conferred by section 2305.33 or 4731.62 of the 3517  
Revised Code upon a physician who makes a report in accordance 3518  
with section 2305.33 or notifies a mental health professional in 3519  
accordance with section 4731.62 of the Revised Code. As used in 3520  
this division, "employee," "employer," and "physician" have the 3521  
same meanings as in section 2305.33 of the Revised Code. 3522

(5) Making a false, fraudulent, deceptive, or misleading 3523  
statement in the solicitation of or advertising for patients; in 3524  
relation to the practice of medicine and surgery, osteopathic 3525  
medicine and surgery, podiatric medicine and surgery, or a 3526  
limited branch of medicine; or in securing or attempting to 3527  
secure any license or certificate to practice issued by the 3528  
board. 3529

As used in this division, "false, fraudulent, deceptive, 3530  
or misleading statement" means a statement that includes a 3531  
misrepresentation of fact, is likely to mislead or deceive 3532  
because of a failure to disclose material facts, is intended or 3533  
is likely to create false or unjustified expectations of 3534  
favorable results, or includes representations or implications 3535  
that in reasonable probability will cause an ordinarily prudent 3536  
person to misunderstand or be deceived. 3537

(6) A departure from, or the failure to conform to, 3538  
minimal standards of care of similar practitioners under the 3539  
same or similar circumstances, whether or not actual injury to a 3540  
patient is established; 3541

(7) Representing, with the purpose of obtaining 3542  
compensation or other advantage as personal gain or for any 3543  
other person, that an incurable disease or injury, or other 3544  
incurable condition, can be permanently cured; 3545

(8) The obtaining of, or attempting to obtain, money or 3546  
anything of value by fraudulent misrepresentations in the course 3547  
of practice; 3548

(9) A plea of guilty to, a judicial finding of guilt of, 3549  
or a judicial finding of eligibility for intervention in lieu of 3550  
conviction for, a felony; 3551

(10) Commission of an act that constitutes a felony in 3552  
this state, regardless of the jurisdiction in which the act was 3553  
committed; 3554

(11) A plea of guilty to, a judicial finding of guilt of, 3555  
or a judicial finding of eligibility for intervention in lieu of 3556  
conviction for, a misdemeanor committed in the course of 3557  
practice; 3558

(12) Commission of an act in the course of practice that 3559  
constitutes a misdemeanor in this state, regardless of the 3560  
jurisdiction in which the act was committed; 3561

(13) A plea of guilty to, a judicial finding of guilt of, 3562  
or a judicial finding of eligibility for intervention in lieu of 3563  
conviction for, a misdemeanor involving moral turpitude; 3564

(14) Commission of an act involving moral turpitude that 3565  
constitutes a misdemeanor in this state, regardless of the 3566  
jurisdiction in which the act was committed; 3567

(15) Violation of the conditions of limitation placed by 3568  
the board upon a license or certificate to practice; 3569

(16) Failure to pay license renewal fees specified in this 3570  
chapter; 3571

(17) Except as authorized in section 4731.31 of the 3572  
Revised Code, engaging in the division of fees for referral of 3573  
patients, or the receiving of a thing of value in return for a 3574  
specific referral of a patient to utilize a particular service 3575  
or business; 3576

(18) Subject to section 4731.226 of the Revised Code, 3577  
violation of any provision of a code of ethics of the American 3578  
medical association, the American osteopathic association, the 3579  
American podiatric medical association, or any other national 3580  
professional organizations that the board specifies by rule. The 3581  
state medical board shall obtain and keep on file current copies 3582  
of the codes of ethics of the various national professional 3583  
organizations. The individual whose license or certificate is 3584  
being suspended or revoked shall not be found to have violated 3585  
any provision of a code of ethics of an organization not 3586  
appropriate to the individual's profession. 3587

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

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

In enforcing this division, the board, upon a showing of a possible violation, shall refer any individual who is authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due

to circumstances beyond the individual's control, and a default 3619  
and final order may be entered without the taking of testimony 3620  
or presentation of evidence. If the board finds an individual 3621  
unable to practice because of the reasons set forth in this 3622  
division, the board shall require the individual to submit to 3623  
care, counseling, or treatment by physicians approved or 3624  
designated by the board, as a condition for initial, continued, 3625  
reinstated, or renewed authority to practice. An individual 3626  
affected under this division shall be afforded an opportunity to 3627  
demonstrate to the board the ability to resume practice in 3628  
compliance with acceptable and prevailing standards under the 3629  
provisions of the individual's license or certificate. For the 3630  
purpose of this division, any individual who applies for or 3631  
receives a license or certificate to practice under this chapter 3632  
accepts the privilege of practicing in this state and, by so 3633  
doing, shall be deemed to have given consent to submit to a 3634  
mental or physical examination when directed to do so in writing 3635  
by the board, and to have waived all objections to the 3636  
admissibility of testimony or examination reports that 3637  
constitute a privileged communication. 3638

(20) Except as provided in division (F)(1)(b) of section 3639  
4731.282 of the Revised Code or when civil penalties are imposed 3640  
under section 4731.225 of the Revised Code, and subject to 3641  
section 4731.226 of the Revised Code, violating or attempting to 3642  
violate, directly or indirectly, or assisting in or abetting the 3643  
violation of, or conspiring to violate, any provisions of this 3644  
chapter or any rule promulgated by the board. 3645

This division does not apply to a violation or attempted 3646  
violation of, assisting in or abetting the violation of, or a 3647  
conspiracy to violate, any provision of this chapter or any rule 3648  
adopted by the board that would preclude the making of a report 3649

by a physician of an employee's use of a drug of abuse, or of a 3650  
condition of an employee other than one involving the use of a 3651  
drug of abuse, to the employer of the employee as described in 3652  
division (B) of section 2305.33 of the Revised Code. Nothing in 3653  
this division affects the immunity from civil liability 3654  
conferred by that section upon a physician who makes either type 3655  
of report in accordance with division (B) of that section. As 3656  
used in this division, "employee," "employer," and "physician" 3657  
have the same meanings as in section 2305.33 of the Revised 3658  
Code. 3659

(21) The violation of section 3701.79 of the Revised Code 3660  
or of any abortion rule adopted by the director of health 3661  
pursuant to section 3701.341 of the Revised Code; 3662

(22) Any of the following actions taken by an agency 3663  
responsible for authorizing, certifying, or regulating an 3664  
individual to practice a health care occupation or provide 3665  
health care services in this state or another jurisdiction, for 3666  
any reason other than the nonpayment of fees: the limitation, 3667  
revocation, or suspension of an individual's license to 3668  
practice; acceptance of an individual's license surrender; 3669  
denial of a license; refusal to renew or reinstate a license; 3670  
imposition of probation; or issuance of an order of censure or 3671  
other reprimand; 3672

(23) The violation of section 2919.12 of the Revised Code 3673  
or the performance or inducement of an abortion upon a pregnant 3674  
woman with actual knowledge that the conditions specified in 3675  
division (B) of section 2317.56 of the Revised Code have not 3676  
been satisfied or with a heedless indifference as to whether 3677  
those conditions have been satisfied, unless an affirmative 3678  
defense as specified in division (H) (2) of that section would 3679

apply in a civil action authorized by division (H) (1) of that section; 3680  
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(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice; 3682  
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(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency; 3688  
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(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice. 3691  
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For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications. 3695  
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If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under 3704  
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section 4731.25 of the Revised Code. The board also may compel 3709  
the individual to submit to a mental or physical examination, or 3710  
both. The expense of the examination is the responsibility of 3711  
the individual compelled to be examined. Any mental or physical 3712  
examination required under this division shall be undertaken by 3713  
a treatment provider or physician who is qualified to conduct 3714  
the examination and who is approved under section 4731.251 of 3715  
the Revised Code. 3716

Failure to submit to a mental or physical examination 3717  
ordered by the board constitutes an admission of the allegations 3718  
against the individual unless the failure is due to 3719  
circumstances beyond the individual's control, and a default and 3720  
final order may be entered without the taking of testimony or 3721  
presentation of evidence. If the board determines that the 3722  
individual's ability to practice is impaired, the board shall 3723  
suspend the individual's license or certificate or deny the 3724  
individual's application and shall require the individual, as a 3725  
condition for initial, continued, reinstated, or renewed 3726  
licensure or certification to practice, to submit to treatment. 3727

Before being eligible to apply for reinstatement of a 3728  
license or certificate suspended under this division, the 3729  
impaired practitioner shall demonstrate to the board the ability 3730  
to resume practice in compliance with acceptable and prevailing 3731  
standards of care under the provisions of the practitioner's 3732  
license or certificate. The demonstration shall include, but 3733  
shall not be limited to, the following: 3734

(a) Certification from a treatment provider approved under 3735  
section 4731.251 of the Revised Code that the individual has 3736  
successfully completed any required inpatient treatment; 3737

(b) Evidence of continuing full compliance with an 3738



aftercare contract or consent agreement; 3739

(c) Two written reports indicating that the individual's 3740  
ability to practice has been assessed and that the individual 3741  
has been found capable of practicing according to acceptable and 3742  
prevailing standards of care. The reports shall be made by 3743  
individuals or providers approved by the board for making the 3744  
assessments and shall describe the basis for their 3745  
determination. 3746

The board may reinstate a license or certificate suspended 3747  
under this division after that demonstration and after the 3748  
individual has entered into a written consent agreement. 3749

When the impaired practitioner resumes practice, the board 3750  
shall require continued monitoring of the individual. The 3751  
monitoring shall include, but not be limited to, compliance with 3752  
the written consent agreement entered into before reinstatement 3753  
or with conditions imposed by board order after a hearing, and, 3754  
upon termination of the consent agreement, submission to the 3755  
board for at least two years of annual written progress reports 3756  
made under penalty of perjury stating whether the individual has 3757  
maintained sobriety. 3758

(27) A second or subsequent violation of section 4731.66 3759  
or 4731.69 of the Revised Code; 3760

(28) Except as provided in division (N) of this section: 3761

(a) Waiving the payment of all or any part of a deductible 3762  
or copayment that a patient, pursuant to a health insurance or 3763  
health care policy, contract, or plan that covers the 3764  
individual's services, otherwise would be required to pay if the 3765  
waiver is used as an enticement to a patient or group of 3766  
patients to receive health care services from that individual; 3767

(b) Advertising that the individual will waive the payment 3768  
of all or any part of a deductible or copayment that a patient, 3769  
pursuant to a health insurance or health care policy, contract, 3770  
or plan that covers the individual's services, otherwise would 3771  
be required to pay. 3772

(29) Failure to use universal blood and body fluid 3773  
precautions established by rules adopted under section 4731.051 3774  
of the Revised Code; 3775

(30) Failure to provide notice to, and receive 3776  
acknowledgment of the notice from, a patient when required by 3777  
section 4731.143 of the Revised Code prior to providing 3778  
nonemergency professional services, or failure to maintain that 3779  
notice in the patient's medical record; 3780

(31) Failure of a physician supervising a physician 3781  
assistant to maintain supervision in accordance with the 3782  
requirements of Chapter 4730. of the Revised Code and the rules 3783  
adopted under that chapter; 3784

(32) Failure of a physician or podiatrist to enter into a 3785  
standard care arrangement with a clinical nurse specialist, 3786  
certified nurse-midwife, or certified nurse practitioner with 3787  
whom the physician or podiatrist is in collaboration pursuant to 3788  
section 4731.27 of the Revised Code or failure to fulfill the 3789  
responsibilities of collaboration after entering into a standard 3790  
care arrangement; 3791

(33) Failure to comply with the terms of a consult 3792  
agreement entered into with a pharmacist pursuant to section 3793  
4729.39 of the Revised Code; 3794

(34) Failure to cooperate in an investigation conducted by 3795  
the board under division (F) of this section, including failure 3796

to comply with a subpoena or order issued by the board or 3797  
failure to answer truthfully a question presented by the board 3798  
in an investigative interview, an investigative office 3799  
conference, at a deposition, or in written interrogatories, 3800  
except that failure to cooperate with an investigation shall not 3801  
constitute grounds for discipline under this section if a court 3802  
of competent jurisdiction has issued an order that either 3803  
quashes a subpoena or permits the individual to withhold the 3804  
testimony or evidence in issue; 3805

(35) Failure to supervise an anesthesiologist assistant in 3806  
accordance with Chapter 4760. of the Revised Code and the 3807  
board's rules for supervision of an anesthesiologist assistant; 3808

(36) Assisting suicide, as defined in section 3795.01 of 3809  
the Revised Code; 3810

(37) Failure to comply with the requirements of section 3811  
2317.561 of the Revised Code; 3812

(38) Failure to supervise a radiologist assistant in 3813  
accordance with Chapter 4774. of the Revised Code and the 3814  
board's rules for supervision of radiologist assistants; 3815

(39) Performing or inducing an abortion at an office or 3816  
facility with knowledge that the office or facility fails to 3817  
post the notice required under section 3701.791 of the Revised 3818  
Code; 3819

(40) Failure to comply with the standards and procedures 3820  
established in rules under section 4731.054 of the Revised Code 3821  
for the operation of or the provision of care at a pain 3822  
management clinic; 3823

(41) Failure to comply with the standards and procedures 3824  
established in rules under section 4731.054 of the Revised Code 3825

for providing supervision, direction, and control of individuals 3826  
at a pain management clinic; 3827

(42) Failure to comply with the requirements of section 3828  
4729.79 or 4731.055 of the Revised Code, unless the state board 3829  
of pharmacy no longer maintains a drug database pursuant to 3830  
section 4729.75 of the Revised Code; 3831

(43) Failure to comply with the requirements of section 3832  
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 3833  
to submit to the department of health in accordance with a court 3834  
order a complete report as described in section 2919.171 or 3835  
2919.202 of the Revised Code; 3836

(44) Practicing at a facility that is subject to licensure 3837  
as a category III terminal distributor of dangerous drugs with a 3838  
pain management clinic classification unless the person 3839  
operating the facility has obtained and maintains the license 3840  
with the classification; 3841

(45) Owning a facility that is subject to licensure as a 3842  
category III terminal distributor of dangerous drugs with a pain 3843  
management clinic classification unless the facility is licensed 3844  
with the classification; 3845

(46) Failure to comply with any of the requirements 3846  
regarding making or maintaining medical records or documents 3847  
described in division (A) of section 2919.192, division (C) of 3848  
section 2919.193, division (B) of section 2919.195, or division 3849  
(A) of section 2919.196 of the Revised Code; 3850

(47) Failure to comply with the requirements in section 3851  
3719.061 of the Revised Code before issuing for a minor a 3852  
prescription for an opioid analgesic, as defined in section 3853  
3719.01 of the Revised Code; 3854

(48) Failure to comply with the requirements of section 3855  
4731.30 of the Revised Code or rules adopted under section 3856  
4731.301 of the Revised Code when recommending treatment with 3857  
medical marijuana; 3858

(49) A pattern of continuous or repeated violations of 3859  
division (E) (2) or (3) of section 3963.02 of the Revised Code; 3860

(50) Failure to fulfill the responsibilities of a 3861  
collaboration agreement entered into with an athletic trainer as 3862  
described in section 4755.621 of the Revised Code; 3863

(51) Failure to take the steps specified in section 3864  
4731.911 of the Revised Code following an abortion or attempted 3865  
abortion in an ambulatory surgical facility or other location 3866  
that is not a hospital when a child is born alive. 3867

(C) Disciplinary actions taken by the board under 3868  
divisions (A) and (B) of this section shall be taken pursuant to 3869  
an adjudication under Chapter 119. of the Revised Code, except 3870  
that in lieu of an adjudication, the board may enter into a 3871  
consent agreement with an individual to resolve an allegation of 3872  
a violation of this chapter or any rule adopted under it. A 3873  
consent agreement, when ratified by an affirmative vote of not 3874  
fewer than six members of the board, shall constitute the 3875  
findings and order of the board with respect to the matter 3876  
addressed in the agreement. If the board refuses to ratify a 3877  
consent agreement, the admissions and findings contained in the 3878  
consent agreement shall be of no force or effect. 3879

A telephone conference call may be utilized for 3880  
ratification of a consent agreement that revokes or suspends an 3881  
individual's license or certificate to practice or certificate 3882  
to recommend. The telephone conference call shall be considered 3883

a special meeting under division (F) of section 121.22 of the Revised Code. 3884  
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If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. 3886  
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(D) For purposes of divisions (B) (10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds. 3902  
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(E) The sealing or expungement of conviction records by any court shall have no effect upon a prior board order entered 3912  
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under this section or upon the board's jurisdiction to take 3914  
action under this section if, based upon a plea of guilty, a 3915  
judicial finding of guilt, or a judicial finding of eligibility 3916  
for intervention in lieu of conviction, the board issued a 3917  
notice of opportunity for a hearing prior to the court's order 3918  
to seal or expunge the records. The board shall not be required 3919  
to seal, expunge, destroy, redact, or otherwise modify its 3920  
records to reflect the court's sealing of conviction records. 3921

(F) (1) The board shall investigate evidence that appears 3922  
to show that a person has violated any provision of this chapter 3923  
or any rule adopted under it. Any person may report to the board 3924  
in a signed writing any information that the person may have 3925  
that appears to show a violation of any provision of this 3926  
chapter or any rule adopted under it. In the absence of bad 3927  
faith, any person who reports information of that nature or who 3928  
testifies before the board in any adjudication conducted under 3929  
Chapter 119. of the Revised Code shall not be liable in damages 3930  
in a civil action as a result of the report or testimony. Each 3931  
complaint or allegation of a violation received by the board 3932  
shall be assigned a case number and shall be recorded by the 3933  
board. 3934

(2) Investigations of alleged violations of this chapter 3935  
or any rule adopted under it shall be supervised by the 3936  
supervising member elected by the board in accordance with 3937  
section 4731.02 of the Revised Code and by the secretary as 3938  
provided in section 4731.39 of the Revised Code. The president 3939  
may designate another member of the board to supervise the 3940  
investigation in place of the supervising member. Upon a vote of 3941  
the majority of the board to authorize the addition of a 3942  
consumer member in the supervision of any part of any 3943  
investigation, the president shall designate a consumer member 3944

for supervision of investigations as determined by the 3945  
president. The authorization of consumer member participation in 3946  
investigation supervision may be rescinded by a majority vote of 3947  
the board. No member of the board who supervises the 3948  
investigation of a case shall participate in further 3949  
adjudication of the case. 3950

(3) In investigating a possible violation of this chapter 3951  
or any rule adopted under this chapter, or in conducting an 3952  
inspection under division (E) of section 4731.054 of the Revised 3953  
Code, the board may question witnesses, conduct interviews, 3954  
administer oaths, order the taking of depositions, inspect and 3955  
copy any books, accounts, papers, records, or documents, issue 3956  
subpoenas, and compel the attendance of witnesses and production 3957  
of books, accounts, papers, records, documents, and testimony, 3958  
except that a subpoena for patient record information shall not 3959  
be issued without consultation with the attorney general's 3960  
office and approval of the secretary of the board. 3961

(a) Before issuance of a subpoena for patient record 3962  
information, the secretary shall determine whether there is 3963  
probable cause to believe that the complaint filed alleges a 3964  
violation of this chapter or any rule adopted under it and that 3965  
the records sought are relevant to the alleged violation and 3966  
material to the investigation. The subpoena may apply only to 3967  
records that cover a reasonable period of time surrounding the 3968  
alleged violation. 3969

(b) On failure to comply with any subpoena issued by the 3970  
board and after reasonable notice to the person being 3971  
subpoenaed, the board may move for an order compelling the 3972  
production of persons or records pursuant to the Rules of Civil 3973  
Procedure. 3974



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

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

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

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

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The

board shall not make public the names or any other identifying 4005  
information about patients or complainants unless proper consent 4006  
is given or, in the case of a patient, a waiver of the patient 4007  
privilege exists under division (B) of section 2317.02 of the 4008  
Revised Code, except that consent or a waiver of that nature is 4009  
not required if the board possesses reliable and substantial 4010  
evidence that no bona fide physician-patient relationship 4011  
exists. 4012

The board may share any information it receives pursuant 4013  
to an investigation or inspection, including patient records and 4014  
patient record information, with law enforcement agencies, other 4015  
licensing boards, and other governmental agencies that are 4016  
prosecuting, adjudicating, or investigating alleged violations 4017  
of statutes or administrative rules. An agency or board that 4018  
receives the information shall comply with the same requirements 4019  
regarding confidentiality as those with which the state medical 4020  
board must comply, notwithstanding any conflicting provision of 4021  
the Revised Code or procedure of the agency or board that 4022  
applies when it is dealing with other information in its 4023  
possession. In a judicial proceeding, the information may be 4024  
admitted into evidence only in accordance with the Rules of 4025  
Evidence, but the court shall require that appropriate measures 4026  
are taken to ensure that confidentiality is maintained with 4027  
respect to any part of the information that contains names or 4028  
other identifying information about patients or complainants 4029  
whose confidentiality was protected by the state medical board 4030  
when the information was in the board's possession. Measures to 4031  
ensure confidentiality that may be taken by the court include 4032  
sealing its records or deleting specific information from its 4033  
records. 4034

No person shall knowingly access, use, or disclose 4035

confidential investigatory information in a manner prohibited by 4036  
law. 4037

(6) On a quarterly basis, the board shall prepare a report 4038  
that documents the disposition of all cases during the preceding 4039  
three months. The report shall contain the following information 4040  
for each case with which the board has completed its activities: 4041

(a) The case number assigned to the complaint or alleged 4042  
violation; 4043

(b) The type of license or certificate to practice, if 4044  
any, held by the individual against whom the complaint is 4045  
directed; 4046

(c) A description of the allegations contained in the 4047  
complaint; 4048

(d) Whether witnesses were interviewed; 4049

(e) Whether the individual against whom the complaint is 4050  
directed is the subject of any pending complaints; 4051

(f) The disposition of the case. 4052

The report shall state how many cases are still pending 4053  
and shall be prepared in a manner that protects the identity of 4054  
each person involved in each case. The report shall be a public 4055  
record under section 149.43 of the Revised Code. 4056

(7) The board may provide a status update regarding an 4057  
investigation to a complainant on request if the board verifies 4058  
the complainant's identity. 4059

~~(G)(G) (1) If either of the following circumstances occur,~~ 4060  
the secretary and supervising member ~~determine both of the~~ 4061  
~~following, they may~~ recommend that the board suspend an 4062

individual's license or certificate to practice or certificate 4063  
to recommend without a prior hearing: 4064

~~(1)~~ (a) The secretary and supervising member determine 4065  
both of the following: 4066

(i) That there is clear and convincing evidence that an 4067  
individual has violated division (B) of this section; 4068

~~(2)~~ (ii) That the individual's continued practice presents 4069  
a danger of immediate and serious harm to the public. 4070

~~Written~~ (b) The board receives verifiable information that 4071  
a licensee has been charged in any state or federal court with a 4072  
crime classified as a felony under the charging court's law and 4073  
the conduct constitutes a violation of division (B) of this 4074  
section. 4075

(2) If a recommendation is made to suspend without a prior 4076  
hearing pursuant to division (G)(1) of this section, written 4077  
allegations shall be prepared for consideration by the board. 4078  
The board, upon review of those allegations and by an 4079  
affirmative vote of not fewer than six of its members, excluding 4080  
the secretary and supervising member, may suspend a license or 4081  
certificate without a prior hearing. A telephone conference call 4082  
may be utilized for reviewing the allegations and taking the 4083  
vote on the summary suspension. 4084

The board shall serve a written order of suspension in 4085  
accordance with sections 119.05 and 119.07 of the Revised Code. 4086  
The order shall not be subject to suspension by the court during 4087  
pendency of any appeal filed under section 119.12 of the Revised 4088  
Code. If the individual subject to the summary suspension 4089  
requests an adjudicatory hearing by the board, the date set for 4090  
the hearing shall be within fifteen days, but not earlier than 4091

seven days, after the individual requests the hearing, unless 4092  
otherwise agreed to by both the board and the individual. 4093

(3) Any summary suspension imposed under this division 4094  
shall remain in effect, unless reversed on appeal, until a final 4095  
adjudicative order issued by the board pursuant to this section 4096  
and Chapter 119. of the Revised Code becomes effective. The 4097  
board shall issue its final adjudicative order within seventy- 4098  
five days after completion of its hearing. A failure to issue 4099  
the order within seventy-five days shall result in dissolution 4100  
of the summary suspension order but shall not invalidate any 4101  
subsequent, final adjudicative order. 4102

(H) If the board takes action under division (B) (9), (11), 4103  
or (13) of this section and the judicial finding of guilt, 4104  
guilty plea, or judicial finding of eligibility for intervention 4105  
in lieu of conviction is overturned on appeal, upon exhaustion 4106  
of the criminal appeal, a petition for reconsideration of the 4107  
order may be filed with the board along with appropriate court 4108  
documents. Upon receipt of a petition of that nature and 4109  
supporting court documents, the board shall reinstate the 4110  
individual's license or certificate to practice. The board may 4111  
then hold an adjudication under Chapter 119. of the Revised Code 4112  
to determine whether the individual committed the act in 4113  
question. Notice of an opportunity for a hearing shall be given 4114  
in accordance with Chapter 119. of the Revised Code. If the 4115  
board finds, pursuant to an adjudication held under this 4116  
division, that the individual committed the act or if no hearing 4117  
is requested, the board may order any of the sanctions 4118  
identified under division (B) of this section. 4119

(I) The license or certificate to practice issued to an 4120  
individual under this chapter and the individual's practice in 4121

this state are automatically suspended as of the date of the 4122  
individual's second or subsequent plea of guilty to, or judicial 4123  
finding of guilt of, a violation of section 2919.123 or 2919.124 4124  
of the Revised Code. In addition, the license or certificate to 4125  
practice or certificate to recommend issued to an individual 4126  
under this chapter and the individual's practice in this state 4127  
are automatically suspended as of the date the individual pleads 4128  
guilty to, is found by a judge or jury to be guilty of, or is 4129  
subject to a judicial finding of eligibility for intervention in 4130  
lieu of conviction in this state or treatment or intervention in 4131  
lieu of conviction in another jurisdiction for any of the 4132  
following criminal offenses in this state or a substantially 4133  
equivalent criminal offense in another jurisdiction: aggravated 4134  
murder, murder, voluntary manslaughter, felonious assault, 4135  
trafficking in persons, kidnapping, rape, sexual battery, gross 4136  
sexual imposition, aggravated arson, aggravated robbery, or 4137  
aggravated burglary. Continued practice after suspension shall 4138  
be considered practicing without a license or certificate. 4139

The board shall notify the individual subject to the 4140  
suspension in accordance with sections 119.05 and 119.07 of the 4141  
Revised Code. If an individual whose license or certificate is 4142  
automatically suspended under this division fails to make a 4143  
timely request for an adjudication under Chapter 119. of the 4144  
Revised Code, the board shall do whichever of the following is 4145  
applicable: 4146

(1) If the automatic suspension under this division is for 4147  
a second or subsequent plea of guilty to, or judicial finding of 4148  
guilt of, a violation of section 2919.123 or 2919.124 of the 4149  
Revised Code, the board shall enter an order suspending the 4150  
individual's license or certificate to practice for a period of 4151  
at least one year or, if determined appropriate by the board, 4152

imposing a more serious sanction involving the individual's 4153  
license or certificate to practice. 4154

(2) In all circumstances in which division (I)(1) of this 4155  
section does not apply, enter a final order permanently revoking 4156  
the individual's license or certificate to practice. 4157

(J) If the board is required by Chapter 119. of the 4158  
Revised Code to give notice of an opportunity for a hearing and 4159  
if the individual subject to the notice does not timely request 4160  
a hearing in accordance with section 119.07 of the Revised Code, 4161  
the board is not required to hold a hearing, but may adopt, by 4162  
an affirmative vote of not fewer than six of its members, a 4163  
final order that contains the board's findings. In that final 4164  
order, the board may order any of the sanctions identified under 4165  
division (A) or (B) of this section. 4166

(K) Any action taken by the board under division (B) of 4167  
this section resulting in a suspension from practice shall be 4168  
accompanied by a written statement of the conditions under which 4169  
the individual's license or certificate to practice may be 4170  
reinstated. The board shall adopt rules governing conditions to 4171  
be imposed for reinstatement. Reinstatement of a license or 4172  
certificate suspended pursuant to division (B) of this section 4173  
requires an affirmative vote of not fewer than six members of 4174  
the board. 4175

(L) When the board refuses to grant or issue a license or 4176  
certificate to practice to an applicant, revokes an individual's 4177  
license or certificate to practice, refuses to renew an 4178  
individual's license or certificate to practice, or refuses to 4179  
reinstate an individual's license or certificate to practice, 4180  
the board may specify that its action is permanent. An 4181  
individual subject to a permanent action taken by the board is 4182

forever thereafter ineligible to hold a license or certificate 4183  
to practice and the board shall not accept an application for 4184  
reinstatement of the license or certificate or for issuance of a 4185  
new license or certificate. 4186

(M) Notwithstanding any other provision of the Revised 4187  
Code, all of the following apply: 4188

(1) The surrender of a license or certificate issued under 4189  
this chapter shall not be effective unless or until accepted by 4190  
the board. A telephone conference call may be utilized for 4191  
acceptance of the surrender of an individual's license or 4192  
certificate to practice. The telephone conference call shall be 4193  
considered a special meeting under division (F) of section 4194  
121.22 of the Revised Code. Reinstatement of a license or 4195  
certificate surrendered to the board requires an affirmative 4196  
vote of not fewer than six members of the board. 4197

(2) An application for a license or certificate made under 4198  
the provisions of this chapter may not be withdrawn without 4199  
approval of the board. 4200

(3) Failure by an individual to renew a license or 4201  
certificate to practice in accordance with this chapter or a 4202  
certificate to recommend in accordance with rules adopted under 4203  
section 4731.301 of the Revised Code does not remove or limit 4204  
the board's jurisdiction to take any disciplinary action under 4205  
this section against the individual. 4206

(4) The placement of an individual's license on retired 4207  
status, as described in section 4731.283 of the Revised Code, 4208  
does not remove or limit the board's jurisdiction to take any 4209  
disciplinary action against the individual with regard to the 4210  
license as it existed before being placed on retired status. 4211



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

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

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

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

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

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

(2) Select providers of educational and assessment

services, including a quality intervention program panel of case reviewers; 4241  
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(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program. 4243  
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(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate; 4248  
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(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program. 4252  
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An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program. 4255  
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(P) The board shall not refuse to issue a license to an applicant because of a conviction, plea of guilty, judicial finding of guilt, judicial finding of eligibility for intervention in lieu of conviction, or the commission of an act that constitutes a criminal offense, unless the refusal is in accordance with section 9.79 of the Revised Code. 4258  
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(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 4264  
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relinquished in lieu of discipline by an agency responsible for 4270  
authorizing, certifying, or regulating an individual to practice 4271  
a health care occupation or provide health care services in this 4272  
state or another jurisdiction. The automatic suspension begins 4273  
immediately upon entry of the order by the agency and lasts for 4274  
ninety days to permit the board to investigate the basis for the 4275  
action under this chapter. Continued practice during the 4276  
automatic suspension shall be considered practicing without a 4277  
license or certificate. 4278

The board shall notify the individual subject to the 4279  
automatic suspension by certified mail or in person in 4280  
accordance with section 119.07 of the Revised Code. If an 4281  
individual subject to an automatic suspension under this 4282  
division fails to make a timely request for an adjudication 4283  
under Chapter 119. of the Revised Code, the board is not 4284  
required to hold a hearing, but may adopt, by an affirmative 4285  
vote of not fewer than six of its members, a final order that 4286  
contains the board's findings. In that final order, the board 4287  
may order any of the sanctions identified under division (A) or 4288  
(B) of this section. 4289

**Sec. 4731.224.** (A) As used in this section: 4290

(1) "Criminal conduct" means any conduct that would 4291  
constitute a felony, a misdemeanor committed in the course of 4292  
medical practice, an offense of violence, or a sexually oriented 4293  
offense, as defined in section 2950.01 of the Revised Code, 4294  
regardless of whether a criminal charge has been filed or the 4295  
location in this state where the conduct occurred. 4296

(2) "Sexual misconduct" means conduct that exploits the 4297  
licensee-patient relationship in a sexual way, whether verbal or 4298  
physical, and may include the expression of thoughts, feelings, 4299

or gestures that are sexual or that reasonably may be construed 4300  
by a patient as sexual. Sexual misconduct includes sexual 4301  
impropriety, sexual contact, and sexual interaction as defined 4302  
by the state medical board in rules adopted in accordance with 4303  
Chapter 119. of the Revised Code. 4304

(B) (1) Within ~~sixty~~thirty days after the imposition of 4305  
any formal disciplinary action taken by any health care 4306  
facility, including a hospital, health care facility operated by 4307  
a health insuring corporation, ambulatory surgical center, or 4308  
similar facility, against any individual holding a valid license 4309  
or certificate to practice issued pursuant to this chapter, the 4310  
chief administrator or executive officer of the facility shall 4311  
report to the state medical board the name of the individual, 4312  
the action taken by the facility, and a summary of the 4313  
underlying facts leading to the action taken. Upon request, the 4314  
board shall be provided certified copies of the patient records 4315  
that were the basis for the facility's action. Prior to release 4316  
to the board, the summary shall be approved by the peer review 4317  
committee that reviewed the case or by the governing board of 4318  
the facility. As used in this division, "formal disciplinary 4319  
action" means any action resulting in the revocation, 4320  
restriction, reduction, or termination of clinical privileges 4321  
for violations of professional ethics, or for reasons of medical 4322  
incompetence or medical malpractice. "Formal disciplinary 4323  
action" includes a summary action, an action that takes effect 4324  
notwithstanding any appeal rights that may exist, and an action 4325  
that results in an individual surrendering clinical privileges 4326  
while under investigation and during proceedings regarding the 4327  
action being taken or in return for not being investigated or 4328  
having proceedings held. "Formal disciplinary action" does not 4329  
include any action taken for the sole reason of failure to 4330

maintain records on a timely basis or failure to attend staff or 4331  
section meetings. 4332

The filing or nonfiling of a report with the board, 4333  
investigation by the board, or any disciplinary action taken by 4334  
the board, shall not preclude any action by a health care 4335  
facility to suspend, restrict, or revoke the individual's 4336  
clinical privileges. 4337

In the absence of fraud or bad faith, no individual or 4338  
entity that provides patient records to the board shall be 4339  
liable in damages to any person as a result of providing the 4340  
records. 4341

(2) Within thirty days after commencing an investigation 4342  
regarding criminal conduct or sexual misconduct against any 4343  
individual holding a valid license or certificate to practice 4344  
issued pursuant to this chapter, a health care facility, 4345  
including a hospital, health care facility operated by a health 4346  
insuring corporation, ambulatory surgical center, or similar 4347  
facility, shall report to the board the name of the individual 4348  
and a summary of the underlying facts related to the 4349  
investigation being commenced. 4350

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 4351  
of this section and subject to division (C)(3) of this section, 4352  
if any individual authorized to practice under this chapter or 4353  
any professional association or society of such individuals 4354  
believes that a violation of any provision of this chapter, 4355  
Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of 4356  
the Revised Code, or any rule of the board has occurred, the 4357  
individual, association, or society shall report to the board 4358  
the information upon which the belief is based. 4359

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B) (19) or (26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

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

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

(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct,

or any conduct involving the use of a motor vehicle while under 4390  
the influence of alcohol or drugs, including offenses that are 4391  
equivalent offenses under division (A) of section 4511.181 of 4392  
the Revised Code, violations of division (D) of section 4511.194 4393  
of the Revised Code, and violations of division (C) of section 4394  
4511.79 of the Revised Code. Reports under this division shall 4395  
be made within thirty days of the criminal charge being filed. 4396

~~(C)~~ (D) Any professional association or society composed 4397  
primarily of doctors of medicine and surgery, doctors of 4398  
osteopathic medicine and surgery, doctors of podiatric medicine 4399  
and surgery, or practitioners of limited branches of medicine 4400  
that suspends or revokes an individual's membership for 4401  
violations of professional ethics, or for reasons of 4402  
professional incompetence or professional malpractice, within 4403  
~~sixty~~ thirty days after a final decision shall report to the 4404  
board, on forms prescribed and provided by the board, the name 4405  
of the individual, the action taken by the professional 4406  
organization, and a summary of the underlying facts leading to 4407  
the action taken. 4408

The filing of a report with the board or decision not to 4409  
file a report, investigation by the board, or any disciplinary 4410  
action taken by the board, does not preclude a professional 4411  
organization from taking disciplinary action against an 4412  
individual. 4413

~~(D)~~ (E) Any insurer providing professional liability 4414  
insurance to an individual authorized to practice under this 4415  
chapter, or any other entity that seeks to indemnify the 4416  
professional liability of such an individual, shall notify the 4417  
board within thirty days after the final disposition of any 4418  
written claim for damages where such disposition results in a 4419

payment exceeding twenty-five thousand dollars. The notice shall 4420  
contain the following information: 4421

(1) The name and address of the person submitting the 4422  
notification; 4423

(2) The name and address of the insured who is the subject 4424  
of the claim; 4425

(3) The name of the person filing the written claim; 4426

(4) The date of final disposition; 4427

(5) If applicable, the identity of the court in which the 4428  
final disposition of the claim took place. 4429

~~(E)~~ (F) The board may investigate possible violations of 4430  
this chapter or the rules adopted under it that are brought to 4431  
its attention as a result of the reporting requirements of this 4432  
section, except that the board shall conduct an investigation if 4433  
a possible violation involves repeated malpractice. As used in 4434  
this division, "repeated malpractice" means three or more claims 4435  
for medical malpractice within the previous five-year period, 4436  
each resulting in a judgment or settlement in excess of twenty- 4437  
five thousand dollars in favor of the claimant, and each 4438  
involving negligent conduct by the practicing individual. 4439

~~(F)~~ (G) All summaries, reports, and records received and 4440  
maintained by the board pursuant to this section shall be held 4441  
~~in confidence and shall not be subject to discovery or~~ 4442  
~~introduction in evidence in any federal or state civil action~~ 4443  
~~involving a health care professional or facility arising out of~~ 4444  
~~matters that are the subject of the reporting required by this~~ 4445  
~~section. The board may use the information obtained only as the~~ 4446  
~~basis for an investigation, as evidence in a disciplinary~~ 4447  
~~hearing against an individual whose practice is regulated under~~ 4448



~~this chapter, or in any subsequent trial or appeal of a board  
action or order.~~ 4449  
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~~The board may disclose the summaries and reports it  
receives under this section only to health care facility  
committees within or outside this state that are involved in  
credentialing or recredentialing the individual or in reviewing  
the individual's clinical privileges. The board shall indicate  
whether or not the information has been verified. Information  
transmitted by the board shall be subject to the same  
confidentiality provisions as when maintained by the  
board~~ confidential pursuant to division (F) (5) of section 4731.22  
of the Revised Code. 4451  
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~~(G)~~ (H) Except for reports filed by an individual pursuant  
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall  
send a copy of any reports or summaries it receives pursuant to  
this section to the individual who is the subject of the reports  
or summaries. The individual shall have the right to file a  
statement with the board concerning the correctness or relevance  
of the information. The statement shall at all times accompany  
that part of the record in contention. 4461  
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~~(H)~~ (I) An individual or entity that, pursuant to this  
section, reports to the board, reports to the monitoring  
organization described in section 4731.25 of the Revised Code,  
or refers an impaired practitioner to a treatment provider  
approved by the board under section 4731.251 of the Revised Code  
shall not be subject to suit for civil damages as a result of  
the report, referral, or provision of the information. 4469  
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~~(I)~~ (J) In the absence of fraud or bad faith, no  
professional association or society of individuals authorized to  
practice under this chapter that sponsors a committee or program 4476  
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to provide peer assistance to practitioners with substance abuse 4479  
problems, no representative or agent of such a committee or 4480  
program, no representative or agent of the monitoring 4481  
organization described in section 4731.25 of the Revised Code, 4482  
and no member of the state medical board shall be held liable in 4483  
damages to any person by reason of actions taken to refer a 4484  
practitioner to a treatment provider approved under section 4485  
4731.251 of the Revised Code for examination or treatment. 4486

Sec. 4731.2210. (A) As used in this section: 4487

(1) "Key third party" means an individual closely involved 4488  
in a patient's decision-making regarding health care services, 4489  
including a patient's spouse or partner, parents, children, 4490  
siblings, or guardians. An individual's status as a key third 4491  
party ceases upon termination of a practitioner-patient 4492  
relationship or termination of the relationship between a 4493  
patient and the individual. 4494

(2) "Practitioner" means any of the following: 4495

(a) An individual authorized under this chapter to 4496  
practice medicine and surgery, osteopathic medicine and surgery, 4497  
podiatric medicine and surgery, or a limited branch of medicine; 4498

(b) An individual licensed under Chapter 4730. of the 4499  
Revised Code to practice as a physician assistant; 4500

(c) An individual authorized under Chapter 4759. of the 4501  
Revised Code to practice as a dietitian; 4502

(d) An individual authorized under Chapter 4760. of the 4503  
Revised Code to practice as an anesthesiologist assistant; 4504

(e) An individual authorized under Chapter 4761. of the 4505  
Revised Code to practice respiratory care; 4506

(f) An individual authorized under Chapter 4762. of the 4507  
Revised Code to practice as an acupuncturist or oriental 4508  
medicine practitioner; 4509

(g) An individual authorized under Chapter 4774. of the 4510  
Revised Code to practice as a radiologist assistant; 4511

(h) An individual licensed under Chapter 4778. of the 4512  
Revised Code to practice as a genetic counselor. 4513

(3) "Sexual misconduct" has the same meaning as in section 4514  
4731.224 of the Revised Code. 4515

(B) Except as provided in division (D) of this section, 4516  
the state medical board may require a practitioner that is 4517  
subject to a probationary order of the board that is made on or 4518  
after the effective date of this section, and that involves a 4519  
circumstance described in division (C) of this section, to 4520  
provide to each patient, or to the patient's guardian or a key 4521  
third party, a written disclosure signed by the practitioner 4522  
that includes all of the following: 4523

(1) The practitioner's probation status; 4524

(2) The total length of the probation; 4525

(3) The probation end date; 4526

(4) Practice restrictions placed on the practitioner by 4527  
the board; 4528

(5) The board's telephone number; 4529

(6) An explanation of how the patient can find additional 4530  
information regarding the probation on the practitioner's 4531  
profile page on the board's internet web site. 4532

The written disclosure, if required by the board, shall be 4533

provided before the patient's first visit following the 4534  
probationary order of the board. The practitioner shall obtain a 4535  
copy of the disclosure signed by the patient, or the patient's 4536  
guardian or a key third party, and maintain the signed copy in 4537  
the patient's medical record. The signed copy shall be made 4538  
available to the board immediately upon request. 4539

(C) The written disclosure described in division (B) of 4540  
this section applies in both of the following circumstances: 4541

(1) Issuance by the board of a final order, final 4542  
adjudicative order under Chapter 119. of the Revised Code, or a 4543  
consent agreement that is ratified by an affirmative vote of not 4544  
fewer than six members of the board establishing any of the 4545  
following: 4546

(a) Commission of any act of sexual misconduct with a 4547  
patient or key third party; 4548

(b) Drug or alcohol abuse directly resulting in patient 4549  
harm, or that impairs the ability of the practitioner to 4550  
practice safely; 4551

(c) Criminal conviction directly resulting in harm to 4552  
patient health; 4553

(d) Inappropriate prescribing directly resulting in 4554  
patient harm. 4555

(2) A statement of issues alleged that the practitioner 4556  
committed any of the acts described in divisions (C) (1) (a) 4557  
through (d) and, notwithstanding a lack of admission of guilt, a 4558  
consent agreement ratified by an affirmative vote of not fewer 4559  
than six members of the board includes express acknowledgement 4560  
that the disclosure requirements of this section would serve to 4561  
protect the public interest. 4562

(D) Written disclosure as described in this section is not 4563  
required in the following circumstances: 4564

(1) The patient is unconscious or otherwise unable to 4565  
comprehend the disclosure and sign it, and a guardian or a key 4566  
third party is unavailable to comprehend and sign it; 4567

(2) The direct patient interaction occurs in an emergency 4568  
department or otherwise occurs as an immediate result of a 4569  
medical emergency; 4570

(3) The practitioner does not have a direct treatment 4571  
relationship with the patient and does not have direct contact 4572  
or direct communication with the patient. 4573

(E) The board shall provide the following information 4574  
regarding practitioners on probation and those practicing under 4575  
probationary status, in plain view on a practitioner's profile 4576  
page on the board's internet web site: 4577

(1) Formal action documents detailing the citation, 4578  
reports and recommendations, board order, and consent agreement; 4579

(2) The length of the probation and the end date; 4580

(3) Practice restrictions placed on the practitioner by 4581  
the board. 4582

(F) The board shall provide a sample probation disclosure 4583  
letter on its internet web site to be used by practitioners to 4584  
comply with this section. 4585

**Sec. 4731.99.** (A) Whoever violates section 4731.41, 4586  
4731.43, or 4731.60 of the Revised Code is guilty of a felony of 4587  
the fifth degree on a first offense and a felony of the fourth 4588  
degree on each subsequent offense. 4589

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 4590  
of the Revised Code is guilty of a misdemeanor of the fourth 4591  
degree on a first offense and a misdemeanor of the first degree 4592  
on each subsequent offense. 4593

(C) Whoever violates section 4731.46 or 4731.47 of the 4594  
Revised Code is guilty of a felony of the fifth degree. 4595

(D) Whoever violates section 4731.48 of the Revised Code 4596  
is guilty of a misdemeanor of the fourth degree. 4597

~~(E)~~ (E) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 4598  
(1), ~~or (C) (2)~~, (D), or (E) of section 4731.224 of the Revised 4599  
Code is guilty of a minor misdemeanor on a first offense and a 4600  
misdemeanor of the fourth degree on each subsequent offense, 4601  
except that an individual guilty of a subsequent offense shall 4602  
not be subject to imprisonment, but to a fine alone of up to one 4603  
thousand dollars for each offense. 4604

(2) Whoever violates division (B) (2) or (C) (3) of section 4605  
4731.224 of the Revised Code is guilty of failure to report 4606  
criminal conduct or sexual misconduct, a misdemeanor of the 4607  
fourth degree. If the offender has previously been convicted of 4608  
a violation of this division, the failure to report is a 4609  
misdemeanor of the first degree. 4610

(F) Whoever violates section 4731.481 of the Revised Code 4611  
is guilty of a misdemeanor of the first degree. 4612

(G) Whoever violates division (F) (5) of section 4731.22 of 4613  
the Revised Code is guilty of disclosing confidential 4614  
investigatory information, a misdemeanor of the first degree. 4615

**Sec. 4759.05.** (A) Except as provided in division (E) of 4616  
this section, the state medical board shall adopt, amend, or 4617  
rescind rules pursuant to Chapter 119. of the Revised Code to 4618

carry out the provisions of this chapter, including rules	4619
governing the following:	4620
(1) Selection and approval of a dietitian licensure	4621
examination offered by the commission on dietetic registration	4622
or any other examination;	4623
(2) The examination of applicants for licensure as a	4624
dietitian, as required under division (A) of section 4759.06 of	4625
the Revised Code;	4626
(3) Requirements for pre-professional dietetic experience	4627
of applicants for licensure as a dietitian that are at least	4628
equivalent to the requirements adopted by the commission on	4629
dietetic registration;	4630
(4) Requirements for a person holding a limited permit	4631
under division (G) of section 4759.06 of the Revised Code,	4632
including the duration of validity of a limited permit and	4633
procedures for renewal;	4634
(5) Continuing education requirements for renewal of a	4635
license, including rules providing for pro rata reductions by	4636
month of the number of hours of continuing education that must	4637
be completed for license holders who have been disabled by	4638
illness or accident or have been absent from the country. Rules	4639
adopted under this division shall be consistent with the	4640
continuing education requirements adopted by the commission on	4641
dietetic registration.	4642
(6) Any additional education requirements the board	4643
considers necessary, for applicants who have not practiced	4644
dietetics within five years of the initial date of application	4645
for licensure;	4646
(7) Standards of professional responsibility and practice	4647

for persons licensed under this chapter that are consistent with 4648  
those standards of professional responsibility and practice 4649  
adopted by the academy of nutrition and dietetics; 4650

(8) Formulation of an application form for licensure or 4651  
license renewal; 4652

(9) Procedures for license renewal; 4653

(10) Requirements for criminal records checks of 4654  
applicants under section 4776.03 of the Revised Code. 4655

(B) (1) The board shall investigate evidence that appears 4656  
to show that a person has violated any provision of this chapter 4657  
or any rule adopted under it. Any person may report to the board 4658  
in a signed writing any information that the person may have 4659  
that appears to show a violation of any provision of this 4660  
chapter or any rule adopted under it. In the absence of bad 4661  
faith, any person who reports information of that nature or who 4662  
testifies before the board in any adjudication conducted under 4663  
Chapter 119. of the Revised Code shall not be liable in damages 4664  
in a civil action as a result of the report or testimony. Each 4665  
complaint or allegation of a violation received by the board 4666  
shall be assigned a case number and shall be recorded by the 4667  
board. 4668

(2) Investigations of alleged violations of this chapter 4669  
or any rule adopted under it shall be supervised by the 4670  
supervising member elected by the board in accordance with 4671  
section 4731.02 of the Revised Code and by the secretary as 4672  
provided in section 4759.012 of the Revised Code. The president 4673  
may designate another member of the board to supervise the 4674  
investigation in place of the supervising member. Upon a vote of 4675  
the majority of the board to authorize the addition of a 4676



consumer member in the supervision of any part of any 4677  
investigation, the president shall designate a consumer member 4678  
for supervision of investigations as determined by the 4679  
president. The authorization of consumer member participation in 4680  
investigation supervision may be rescinded by a majority vote of 4681  
the board. No member of the board who supervises the 4682  
investigation of a case shall participate in further 4683  
adjudication of the case. 4684

(3) In investigating a possible violation of this chapter 4685  
or any rule adopted under this chapter, the board may issue 4686  
subpoenas, question witnesses, conduct interviews, administer 4687  
oaths, order the taking of depositions, inspect and copy any 4688  
books, accounts, papers, records, or documents, and compel the 4689  
attendance of witnesses and the production of books, accounts, 4690  
papers, records, documents, and testimony, except that a 4691  
subpoena for patient record information shall not be issued 4692  
without consultation with the attorney general's office and 4693  
approval of the secretary of the board. 4694

Before issuance of a subpoena for patient record 4695  
information, the secretary shall determine whether there is 4696  
probable cause to believe that the complaint filed alleges a 4697  
violation of this chapter or any rule adopted under it and that 4698  
the records sought are relevant to the alleged violation and 4699  
material to the investigation. The subpoena may apply only to 4700  
records that cover a reasonable period of time surrounding the 4701  
alleged violation. 4702

On failure to comply with any subpoena issued by the board 4703  
and after reasonable notice to the person being subpoenaed, the 4704  
board may move for an order compelling the production of persons 4705  
or records pursuant to the Rules of Civil Procedure. 4706

A subpoena issued by the board may be served by a sheriff, 4707  
the sheriff's deputy, or a board employee or agent designated by 4708  
the board. Service of a subpoena issued by the board may be made 4709  
by delivering a copy of the subpoena to the person named 4710  
therein, reading it to the person, or leaving it at the person's 4711  
usual place of residence, usual place of business, or address on 4712  
file with the board. When serving a subpoena to an applicant for 4713  
or the holder of a license or limited permit issued under this 4714  
chapter, service of the subpoena may be made by certified mail, 4715  
return receipt requested, and the subpoena shall be deemed 4716  
served on the date delivery is made or the date the person 4717  
refuses to accept delivery. If the person being served refuses 4718  
to accept the subpoena or is not located, service may be made to 4719  
an attorney who notifies the board that the attorney is 4720  
representing the person. 4721

A sheriff's deputy who serves a subpoena shall receive the 4722  
same fees as a sheriff. Each witness who appears before the 4723  
board in obedience to a subpoena shall receive the fees and 4724  
mileage provided for under section 119.094 of the Revised Code. 4725

(4) All hearings, investigations, and inspections of the 4726  
board shall be considered civil actions for the purposes of 4727  
section 2305.252 of the Revised Code. 4728

(5) A report required to be submitted to the board under 4729  
this chapter, a complaint, or information received by the board 4730  
pursuant to an investigation is confidential and not subject to 4731  
discovery in any civil action. 4732

The board shall conduct all investigations or inspections 4733  
and proceedings in a manner that protects the confidentiality of 4734  
patients and persons who file complaints with the board. The 4735  
board shall not make public the names or any other identifying 4736

information about patients or complainants unless proper consent 4737  
is given. 4738

The board may share any information it receives pursuant 4739  
to an investigation or inspection, including patient records and 4740  
patient record information, with law enforcement agencies, other 4741  
licensing boards, and other governmental agencies that are 4742  
prosecuting, adjudicating, or investigating alleged violations 4743  
of statutes or administrative rules. An agency or board that 4744  
receives the information shall comply with the same requirements 4745  
regarding confidentiality as those with which the state medical 4746  
board must comply, notwithstanding any conflicting provision of 4747  
the Revised Code or procedure of the agency or board that 4748  
applies when it is dealing with other information in its 4749  
possession. In a judicial proceeding, the information may be 4750  
admitted into evidence only in accordance with the Rules of 4751  
Evidence, but the court shall require that appropriate measures 4752  
are taken to ensure that confidentiality is maintained with 4753  
respect to any part of the information that contains names or 4754  
other identifying information about patients or complainants 4755  
whose confidentiality was protected by the state medical board 4756  
when the information was in the board's possession. Measures to 4757  
ensure confidentiality that may be taken by the court include 4758  
sealing its records or deleting specific information from its 4759  
records. 4760

No person shall knowingly access, use, or disclose 4761  
confidential investigatory information in a manner prohibited by 4762  
law. 4763

(6) On a quarterly basis, the board shall prepare a report 4764  
that documents the disposition of all cases during the preceding 4765  
three months. The report shall contain the following information 4766

for each case with which the board has completed its activities:	4767
(a) The case number assigned to the complaint or alleged violation;	4768 4769
(b) The type of license, if any, held by the individual against whom the complaint is directed;	4770 4771
(c) A description of the allegations contained in the complaint;	4772 4773
(d) <u>Whether witnesses were interviewed;</u>	4774
(e) <u>Whether the individual against whom the complaint is directed is the subject of any pending complaints;</u>	4775 4776
(f) <u>The disposition of the case.</u>	4777
The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.	4778 4779 4780 4781
(7) <u>The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.</u>	4782 4783 4784
(C) The board shall keep records as are necessary to carry out the provisions of this chapter.	4785 4786
(D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.	4787 4788 4789
(E) The board shall issue a license or limited permit to practice dietetics in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following apply:	4790 4791 4792
(1) The applicant holds a license or permit in another	4793

state. 4794

(2) The applicant has satisfactory work experience, a 4795  
government certification, or a private certification as 4796  
described in that chapter as a dietitian in a state that does 4797  
not issue that license. 4798

**Sec. 4759.07.** (A) The state medical board, by an 4799  
affirmative vote of not fewer than six members, shall, except as 4800  
provided in division (B) of this section, and to the extent 4801  
permitted by law, limit, revoke, or suspend an individual's 4802  
license or limited permit, refuse to issue a license or limited 4803  
permit to an individual, refuse to renew a license or limited 4804  
permit, refuse to reinstate a license or limited permit, or 4805  
reprimand or place on probation the holder of a license or 4806  
limited permit for one or more of the following reasons: 4807

(1) Except when civil penalties are imposed under section 4808  
4759.071 of the Revised Code, violating or attempting to 4809  
violate, directly or indirectly, or assisting in or abetting the 4810  
violation of, or conspiring to violate, any provision of this 4811  
chapter or the rules adopted by the board; 4812

(2) Making a false, fraudulent, deceptive, or misleading 4813  
statement in the solicitation of or advertising for patients; in 4814  
relation to the practice of dietetics; or in securing or 4815  
attempting to secure any license or permit issued by the board 4816  
under this chapter. 4817

As used in division (A) (2) of this section, "false, 4818  
fraudulent, deceptive, or misleading statement" means a 4819  
statement that includes a misrepresentation of fact, is likely 4820  
to mislead or deceive because of a failure to disclose material 4821  
facts, is intended or is likely to create false or unjustified 4822

expectations of favorable results, or includes representations 4823  
or implications that in reasonable probability will cause an 4824  
ordinarily prudent person to misunderstand or be deceived. 4825

(3) Committing fraud during the administration of the 4826  
examination for a license to practice or committing fraud, 4827  
misrepresentation, or deception in applying for, renewing, or 4828  
securing any license or permit issued by the board; 4829

(4) A plea of guilty to, a judicial finding of guilt of, 4830  
or a judicial finding of eligibility for intervention in lieu of 4831  
conviction for, a felony; 4832

(5) Commission of an act that constitutes a felony in this 4833  
state, regardless of the jurisdiction in which the act was 4834  
committed; 4835

(6) A plea of guilty to, a judicial finding of guilt of, 4836  
or a judicial finding of eligibility for intervention in lieu of 4837  
conviction for, a misdemeanor committed in the course of 4838  
practice; 4839

(7) Commission of an act in the course of practice that 4840  
constitutes a misdemeanor in this state, regardless of the 4841  
jurisdiction in which the act was committed; 4842

(8) A plea of guilty to, a judicial finding of guilt of, 4843  
or a judicial finding of eligibility for intervention in lieu of 4844  
conviction for, a misdemeanor involving moral turpitude; 4845

(9) Commission of an act involving moral turpitude that 4846  
constitutes a misdemeanor in this state, regardless of the 4847  
jurisdiction in which the act was committed; 4848

(10) A record of engaging in incompetent or negligent 4849  
conduct in the practice of dietetics; 4850

(11) A departure from, or failure to conform to, minimal 4851  
standards of care of similar practitioners under the same or 4852  
similar circumstances, whether or not actual injury to a patient 4853  
is established; 4854

(12) The obtaining of, or attempting to obtain, money or 4855  
anything of value by fraudulent misrepresentations in the course 4856  
of practice; 4857

(13) Violation of the conditions of limitation placed by 4858  
the board on a license or permit; 4859

(14) Inability to practice according to acceptable and 4860  
prevailing standards of care by reason of mental illness or 4861  
physical illness, including, physical deterioration that 4862  
adversely affects cognitive, motor, or perceptive skills; 4863

(15) Any of the following actions taken by an agency 4864  
responsible for authorizing, certifying, or regulating an 4865  
individual to practice a health care occupation or provide 4866  
health care services in this state or another jurisdiction, for 4867  
any reason other than the nonpayment of fees: the limitation, 4868  
revocation, or suspension of an individual's license; acceptance 4869  
of an individual's license surrender; denial of a license; 4870  
refusal to renew or reinstate a license; imposition of 4871  
probation; or issuance of an order of censure or other 4872  
reprimand; 4873

(16) The revocation, suspension, restriction, reduction, 4874  
or termination of practice privileges by the United States 4875  
department of defense or department of veterans affairs; 4876

(17) Termination or suspension from participation in the 4877  
medicare or medicaid programs by the department of health and 4878  
human services or other responsible agency for any act or acts 4879

that also would constitute a violation of division (A) (11), 4880  
(12), or (14) of this section; 4881

(18) Impairment of ability to practice according to 4882  
acceptable and prevailing standards of care because of substance 4883  
use disorder or excessive use or abuse of drugs, alcohol, or 4884  
other substances that may impair ability to practice; 4885

(19) Failure to cooperate in an investigation conducted by 4886  
the board under division (B) of section 4759.05 of the Revised 4887  
Code, including failure to comply with a subpoena or order 4888  
issued by the board or failure to answer truthfully a question 4889  
presented by the board in an investigative interview, an 4890  
investigative office conference, at a deposition, or in written 4891  
interrogatories, except that failure to cooperate with an 4892  
investigation shall not constitute grounds for discipline under 4893  
this section if a court of competent jurisdiction has issued an 4894  
order that either quashes a subpoena or permits the individual 4895  
to withhold the testimony or evidence in issue; 4896

(20) Representing with the purpose of obtaining 4897  
compensation or other advantage as personal gain or for any 4898  
other person, that an incurable disease or injury, or other 4899  
incurable condition, can be permanently cured. 4900

(B) The board shall not refuse to issue a license or 4901  
limited permit to an applicant because of a plea of guilty to, a 4902  
judicial finding of guilt of, or a judicial finding of 4903  
eligibility for intervention in lieu of conviction for an 4904  
offense unless the refusal is in accordance with section 9.79 of 4905  
the Revised Code. 4906

(C) Any action taken by the board under division (A) of 4907  
this section resulting in a suspension from practice shall be 4908



accompanied by a written statement of the conditions under which 4909  
the individual's license or permit may be reinstated. The board 4910  
shall adopt rules governing conditions to be imposed for 4911  
reinstatement. Reinstatement of a license or permit suspended 4912  
pursuant to division (A) of this section requires an affirmative 4913  
vote of not fewer than six members of the board. 4914

(D) When the board refuses to grant or issue a license or 4915  
permit to an applicant, revokes an individual's license or 4916  
permit, refuses to renew an individual's license or permit, or 4917  
refuses to reinstate an individual's license or permit, the 4918  
board may specify that its action is permanent. An individual 4919  
subject to a permanent action taken by the board is forever 4920  
thereafter ineligible to hold a license or permit and the board 4921  
shall not accept an application for reinstatement of the license 4922  
or permit or for issuance of a new license or permit. 4923

(E) Disciplinary actions taken by the board under division 4924  
(A) of this section shall be taken pursuant to an adjudication 4925  
under Chapter 119. of the Revised Code, except that in lieu of 4926  
an adjudication, the board may enter into a consent agreement 4927  
with an individual to resolve an allegation of a violation of 4928  
this chapter or any rule adopted under it. A consent agreement, 4929  
when ratified by an affirmative vote of not fewer than six 4930  
members of the board, shall constitute the findings and order of 4931  
the board with respect to the matter addressed in the agreement. 4932  
If the board refuses to ratify a consent agreement, the 4933  
admissions and findings contained in the consent agreement shall 4934  
be of no force or effect. 4935

A telephone conference call may be utilized for 4936  
ratification of a consent agreement that revokes or suspends an 4937  
individual's license or permit. The telephone conference call 4938

shall be considered a special meeting under division (F) of 4939  
section 121.22 of the Revised Code. 4940

(F) In enforcing division (A)(14) of this section, the 4941  
board, upon a showing of a possible violation, shall refer any 4942  
individual authorized to practice by this chapter or who has 4943  
submitted an application pursuant to this chapter to the 4944  
monitoring organization that conducts the confidential 4945  
monitoring program established under section 4731.25 of the 4946  
Revised Code. The board also may compel the individual to submit 4947  
to a mental examination, physical examination, including an HIV 4948  
test, or both a mental and a physical examination. The expense 4949  
of the examination is the responsibility of the individual 4950  
compelled to be examined. Failure to submit to a mental or 4951  
physical examination or consent to an HIV test ordered by the 4952  
board constitutes an admission of the allegations against the 4953  
individual unless the failure is due to circumstances beyond the 4954  
individual's control, and a default and final order may be 4955  
entered without the taking of testimony or presentation of 4956  
evidence. If the board finds an individual unable to practice 4957  
because of the reasons set forth in division (A)(14) of this 4958  
section, the board shall require the individual to submit to 4959  
care, counseling, or treatment by physicians approved or 4960  
designated by the board, as a condition for initial, continued, 4961  
reinstated, or renewed authority to practice. An individual 4962  
affected under this division shall be afforded an opportunity to 4963  
demonstrate to the board the ability to resume practice in 4964  
compliance with acceptable and prevailing standards under the 4965  
provisions of the individual's license or permit. For the 4966  
purpose of division (A)(14) of this section, any individual who 4967  
applies for or receives a license or permit under this chapter 4968  
accepts the privilege of practicing in this state and, by so 4969

doing, shall be deemed to have given consent to submit to a 4970  
mental or physical examination when directed to do so in writing 4971  
by the board, and to have waived all objections to the 4972  
admissibility of testimony or examination reports that 4973  
constitute a privileged communication. 4974

(G) For the purposes of division (A) (18) of this section, 4975  
any individual authorized to practice by this chapter accepts 4976  
the privilege of practicing in this state subject to supervision 4977  
by the board. By filing an application for or holding a license 4978  
or permit under this chapter, an individual shall be deemed to 4979  
have given consent to submit to a mental or physical examination 4980  
when ordered to do so by the board in writing, and to have 4981  
waived all objections to the admissibility of testimony or 4982  
examination reports that constitute privileged communications. 4983

If it has reason to believe that any individual authorized 4984  
to practice by this chapter or any applicant for a license or 4985  
permit suffers such impairment, the board shall refer the 4986  
individual to the monitoring organization that conducts the 4987  
confidential monitoring program established under section 4988  
4731.25 of the Revised Code. The board also may compel the 4989  
individual to submit to a mental or physical examination, or 4990  
both. The expense of the examination is the responsibility of 4991  
the individual compelled to be examined. Any mental or physical 4992  
examination required under this division shall be undertaken by 4993  
a treatment provider or physician who is qualified to conduct 4994  
the examination and who is approved under section 4731.251 of 4995  
the Revised Code. 4996

Failure to submit to a mental or physical examination 4997  
ordered by the board constitutes an admission of the allegations 4998  
against the individual unless the failure is due to 4999

circumstances beyond the individual's control, and a default and 5000  
final order may be entered without the taking of testimony or 5001  
presentation of evidence. If the board determines that the 5002  
individual's ability to practice is impaired, the board shall 5003  
suspend the individual's license or permit or deny the 5004  
individual's application and shall require the individual, as a 5005  
condition for an initial, continued, reinstated, or renewed 5006  
license or permit, to submit to treatment. 5007

Before being eligible to apply for reinstatement of a 5008  
license or permit suspended under this division, the impaired 5009  
practitioner shall demonstrate to the board the ability to 5010  
resume practice in compliance with acceptable and prevailing 5011  
standards of care under the provisions of the practitioner's 5012  
license or permit. The demonstration shall include, but shall 5013  
not be limited to, the following: 5014

(1) Certification from a treatment provider approved under 5015  
section 4731.251 of the Revised Code that the individual has 5016  
successfully completed any required inpatient treatment; 5017

(2) Evidence of continuing full compliance with an 5018  
aftercare contract or consent agreement; 5019

(3) Two written reports indicating that the individual's 5020  
ability to practice has been assessed and that the individual 5021  
has been found capable of practicing according to acceptable and 5022  
prevailing standards of care. The reports shall be made by 5023  
individuals or providers approved by the board for making the 5024  
assessments and shall describe the basis for their 5025  
determination. 5026

The board may reinstate a license or permit suspended 5027  
under this division after that demonstration and after the 5028

individual has entered into a written consent agreement. 5029

When the impaired practitioner resumes practice, the board 5030  
shall require continued monitoring of the individual. The 5031  
monitoring shall include, but not be limited to, compliance with 5032  
the written consent agreement entered into before reinstatement 5033  
or with conditions imposed by board order after a hearing, and, 5034  
upon termination of the consent agreement, submission to the 5035  
board for at least two years of annual written progress reports 5036  
made under penalty of perjury stating whether the individual has 5037  
maintained sobriety. 5038

~~(H)~~ (H) (1) If either of the following circumstances occur, 5039  
the secretary and supervising member ~~determine both of the~~ 5040  
~~following, they~~ may recommend that the board suspend an 5041  
individual's license or permit without a prior hearing: 5042

~~(1)~~ (a) The secretary and supervising member determine 5043  
both of the following: 5044

(i) That there is clear and convincing evidence that an 5045  
individual has violated division (A) of this section; 5046

~~(2)~~ (ii) That the individual's continued practice presents 5047  
a danger of immediate and serious harm to the public. 5048

~~Written~~ (b) The board receives verifiable information that 5049  
a licensee has been charged in any state or federal court for a 5050  
crime classified as a felony under the charging court's law and 5051  
the conduct charged constitutes a violation of division (A) of 5052  
this section. 5053

(2) If a recommendation is made to suspend without a prior 5054  
hearing pursuant to division (H) (1) of this section, written 5055  
allegations shall be prepared for consideration by the board. 5056

The board, upon review of those allegations and by an 5057  
affirmative vote of not fewer than six of its members, excluding 5058  
the secretary and supervising member, may suspend a license or 5059  
permit without a prior hearing. A telephone conference call may 5060  
be utilized for reviewing the allegations and taking the vote on 5061  
the summary suspension. 5062

The board shall serve a written order of suspension in 5063  
accordance with sections 119.05 and 119.07 of the Revised Code. 5064  
The order shall not be subject to suspension by the court during 5065  
pendency of any appeal filed under section 119.12 of the Revised 5066  
Code. If the individual subject to the summary suspension 5067  
requests an adjudicatory hearing by the board, the date set for 5068  
the hearing shall be within fifteen days, but not earlier than 5069  
seven days, after the individual requests the hearing, unless 5070  
otherwise agreed to by both the board and the individual. 5071

(3) Any summary suspension imposed under this division 5072  
shall remain in effect, unless reversed on appeal, until a final 5073  
adjudicative order issued by the board pursuant to this section 5074  
and Chapter 119. of the Revised Code becomes effective. The 5075  
board shall issue its final adjudicative order within seventy- 5076  
five days after completion of its hearing. A failure to issue 5077  
the order within seventy-five days shall result in dissolution 5078  
of the summary suspension order but shall not invalidate any 5079  
subsequent, final adjudicative order. 5080

(I) If the board is required by Chapter 119. of the 5081  
Revised Code to give notice of an opportunity for a hearing and 5082  
if the individual subject to the notice does not timely request 5083  
a hearing in accordance with section 119.07 of the Revised Code, 5084  
the board is not required to hold a hearing, but may adopt, by 5085  
an affirmative vote of not fewer than six of its members, a 5086

final order that contains the board's findings. In the final 5087  
order, the board may order any of the sanctions identified under 5088  
division (A) of this section. 5089

(J) For purposes of divisions (A) (5), (7), and (9) of this 5090  
section, the commission of the act may be established by a 5091  
finding by the board, pursuant to an adjudication under Chapter 5092  
119. of the Revised Code, that the individual committed the act. 5093  
The board does not have jurisdiction under those divisions if 5094  
the trial court renders a final judgment in the individual's 5095  
favor and that judgment is based upon an adjudication on the 5096  
merits. The board has jurisdiction under those divisions if the 5097  
trial court issues an order of dismissal upon technical or 5098  
procedural grounds. 5099

(K) The sealing or expungement of conviction records by 5100  
any court shall have no effect upon a prior board order entered 5101  
under this section or upon the board's jurisdiction to take 5102  
action under this section if, based upon a plea of guilty, a 5103  
judicial finding of guilt, or a judicial finding of eligibility 5104  
for intervention in lieu of conviction, the board issued a 5105  
notice of opportunity for a hearing prior to the court's order 5106  
to seal or expunge the records. The board shall not be required 5107  
to seal, destroy, redact, or otherwise modify its records to 5108  
reflect the court's sealing or expungement of conviction 5109  
records. 5110

(L) If the board takes action under division (A) (4), (6), 5111  
or (8) of this section, and the judicial finding of guilt, 5112  
guilty plea, or judicial finding of eligibility for intervention 5113  
in lieu of conviction is overturned on appeal, upon exhaustion 5114  
of the criminal appeal, a petition for reconsideration of the 5115  
order may be filed with the board along with appropriate court 5116

documents. Upon receipt of a petition for reconsideration and 5117  
supporting court documents, the board shall reinstate the 5118  
individual's license or permit. The board may then hold an 5119  
adjudication under Chapter 119. of the Revised Code to determine 5120  
whether the individual committed the act in question. Notice of 5121  
an opportunity for a hearing shall be given in accordance with 5122  
Chapter 119. of the Revised Code. If the board finds, pursuant 5123  
to an adjudication held under this division, that the individual 5124  
committed the act or if no hearing is requested, the board may 5125  
order any of the sanctions identified under division (A) of this 5126  
section. 5127

(M) The license or permit issued to an individual under 5128  
this chapter and the individual's practice in this state are 5129  
automatically suspended as of the date the individual pleads 5130  
guilty to, is found by a judge or jury to be guilty of, or is 5131  
subject to a judicial finding of eligibility for intervention in 5132  
lieu of conviction in this state or treatment or intervention in 5133  
lieu of conviction in another jurisdiction for any of the 5134  
following criminal offenses in this state or a substantially 5135  
equivalent criminal offense in another jurisdiction: aggravated 5136  
murder, murder, voluntary manslaughter, felonious assault, 5137  
trafficking in persons, kidnapping, rape, sexual battery, gross 5138  
sexual imposition, aggravated arson, aggravated robbery, or 5139  
aggravated burglary. Continued practice after suspension shall 5140  
be considered practicing without a license or permit. 5141

The board shall serve the individual subject to the 5142  
suspension in accordance with sections 119.05 and 119.07 of the 5143  
Revised Code. If an individual whose license or permit is 5144  
automatically suspended under this division fails to make a 5145  
timely request for an adjudication under Chapter 119. of the 5146  
Revised Code, the board shall enter a final order permanently 5147



revoking the individual's license or permit. 5148

(N) Notwithstanding any other provision of the Revised 5149  
Code, all of the following apply: 5150

(1) The surrender of a license or permit issued under this 5151  
chapter shall not be effective unless or until accepted by the 5152  
board. A telephone conference call may be utilized for 5153  
acceptance of the surrender of an individual's license or 5154  
permit. The telephone conference call shall be considered a 5155  
special meeting under division (F) of section 121.22 of the 5156  
Revised Code. Reinstatement of a license or permit surrendered 5157  
to the board requires an affirmative vote of not fewer than six 5158  
members of the board. 5159

(2) An application for a license or permit made under the 5160  
provisions of this chapter may not be withdrawn without approval 5161  
of the board. 5162

(3) Failure by an individual to renew a license or permit 5163  
in accordance with this chapter does not remove or limit the 5164  
board's jurisdiction to take any disciplinary action under this 5165  
section against the individual. 5166

(4) The placement of an individual's license on retired 5167  
status, as described in section 4759.064 of the Revised Code, 5168  
does not remove or limit the board's jurisdiction to take any 5169  
disciplinary action against the individual with regard to the 5170  
license as it existed before being placed on retired status. 5171

(5) At the request of the board, a license or permit 5172  
holder shall immediately surrender to the board a license or 5173  
permit that the board has suspended, revoked, or permanently 5174  
revoked. 5175

**Sec. 4759.14.** (A) As used in this section, "criminal 5176

conduct" and "sexual misconduct" have the same meanings as in 5177  
section 4731.224 of the Revised Code. 5178

(B)(1) Within thirty days after commencing an 5179  
investigation regarding criminal conduct or sexual misconduct 5180  
against any individual holding a valid license to practice 5181  
issued pursuant to this chapter, a health care facility, 5182  
including a hospital, health care facility operated by a health 5183  
insuring corporation, ambulatory surgical facility, or similar 5184  
facility, shall report to the board the name of the individual 5185  
and a summary of the underlying facts related to the 5186  
investigation being commenced. 5187

(2) If any individual authorized to practice under this 5188  
chapter or any professional association or society of such 5189  
individuals knows or has reasonable cause to suspect based on 5190  
facts that would cause a reasonable person in a similar position 5191  
to suspect that an individual authorized to practice under this 5192  
chapter has committed or participated in criminal conduct or 5193  
sexual misconduct the information upon which the belief is based 5194  
shall be reported to the board within thirty days. 5195

This division does not apply to a professional association 5196  
or society whose staff interacts with members of the association 5197  
or society only in advocacy, governance, or educational 5198  
capacities and whose staff does not regularly interact with 5199  
members in practice settings. 5200

(3) In addition to the self-reporting of criminal offenses 5201  
that is required for license renewal, an individual authorized 5202  
to practice under this chapter shall report to the board 5203  
criminal charges regarding criminal conduct, sexual misconduct, 5204  
or any conduct involving the use of a motor vehicle while under 5205  
the influence of alcohol or drugs, including offenses that are 5206

equivalent offenses under division (A) of section 4511.181 of 5207  
the Revised Code, violations of division (D) of section 4511.194 5208  
of the Revised Code, and violations of division (C) of section 5209  
4511.79 of the Revised Code. Reports under this division shall 5210  
be made within thirty days of the criminal charge being filed. 5211

**Sec. 4759.99.** Whoever violates section 4759.02 of the 5212  
Revised Code is guilty of a minor misdemeanor. If the offender 5213  
has been previously convicted once of a violation of the 5214  
section, then the violation is a misdemeanor of the fourth 5215  
degree. If the offender has been previously convicted more than 5216  
once of a violation of the section, then the violation is a 5217  
misdemeanor of the first degree. 5218

Whoever violates division (B) (1) or (2) of section 4759.14 5219  
of the Revised Code is guilty of failure to report criminal 5220  
conduct or sexual misconduct, a misdemeanor of the fourth 5221  
degree. If the offender has previously been convicted of a 5222  
violation of this division, the failure to report is a 5223  
misdemeanor of the first degree. 5224

Whoever violates division (B) of section 4759.05 of the 5225  
Revised Code is guilty of disclosing confidential investigatory 5226  
information, a misdemeanor of the first degree. 5227

**Sec. 4760.13.** (A) The state medical board, by an 5228  
affirmative vote of not fewer than six members, may refuse to 5229  
grant a license to practice as an anesthesiologist assistant to, 5230  
or may revoke the license held by, an individual found by the 5231  
board to have committed fraud, misrepresentation, or deception 5232  
in applying for or securing the license. 5233

(B) The board, by an affirmative vote of not fewer than 5234  
six members, shall, except as provided in division (C) of this 5235

section, and to the extent permitted by law, limit, revoke, or 5236  
suspend an individual's license to practice as an 5237  
anesthesiologist assistant, refuse to issue a license to an 5238  
applicant, refuse to renew a license, refuse to reinstate a 5239  
license, or reprimand or place on probation the holder of a 5240  
license for any of the following reasons: 5241

(1) Permitting the holder's name or license to be used by 5242  
another person; 5243

(2) Failure to comply with the requirements of this 5244  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5245  
by the board; 5246

(3) Violating or attempting to violate, directly or 5247  
indirectly, or assisting in or abetting the violation of, or 5248  
conspiring to violate, any provision of this chapter, Chapter 5249  
4731. of the Revised Code, or the rules adopted by the board; 5250

(4) A departure from, or failure to conform to, minimal 5251  
standards of care of similar practitioners under the same or 5252  
similar circumstances whether or not actual injury to the 5253  
patient is established; 5254

(5) Inability to practice according to acceptable and 5255  
prevailing standards of care by reason of mental illness or 5256  
physical illness, including physical deterioration that 5257  
adversely affects cognitive, motor, or perceptive skills; 5258

(6) Impairment of ability to practice according to 5259  
acceptable and prevailing standards of care because of substance 5260  
use disorder or excessive use or abuse of drugs, alcohol, or 5261  
other substances that may impair ability to practice; 5262

(7) Willfully betraying a professional confidence; 5263

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as an anesthesiologist assistant. 5264  
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As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived. 5267  
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(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice; 5275  
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(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony; 5278  
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(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 5281  
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(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice; 5284  
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(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 5288  
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(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the 5291  
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jurisdiction in which the act was committed;	5293
(15) Commission of an act involving moral turpitude that	5294
constitutes a misdemeanor in this state, regardless of the	5295
jurisdiction in which the act was committed;	5296
(16) A plea of guilty to, a judicial finding of guilt of,	5297
or a judicial finding of eligibility for intervention in lieu of	5298
conviction for violating any state or federal law regulating the	5299
possession, distribution, or use of any drug, including	5300
trafficking in drugs;	5301
(17) Any of the following actions taken by the state	5302
agency responsible for regulating the practice of	5303
anesthesiologist assistants in another jurisdiction, for any	5304
reason other than the nonpayment of fees: the limitation,	5305
revocation, or suspension of an individual's license to	5306
practice; acceptance of an individual's license surrender;	5307
denial of a license; refusal to renew or reinstate a license;	5308
imposition of probation; or issuance of an order of censure or	5309
other reprimand;	5310
(18) Violation of the conditions placed by the board on a	5311
license to practice;	5312
(19) Failure to use universal blood and body fluid	5313
precautions established by rules adopted under section 4731.051	5314
of the Revised Code;	5315
(20) Failure to cooperate in an investigation conducted by	5316
the board under section 4760.14 of the Revised Code, including	5317
failure to comply with a subpoena or order issued by the board	5318
or failure to answer truthfully a question presented by the	5319
board at a deposition or in written interrogatories, except that	5320
failure to cooperate with an investigation shall not constitute	5321

grounds for discipline under this section if a court of 5322  
competent jurisdiction has issued an order that either quashes a 5323  
subpoena or permits the individual to withhold the testimony or 5324  
evidence in issue; 5325

(21) Failure to comply with any code of ethics established 5326  
by the national commission for the certification of 5327  
anesthesiologist assistants; 5328

(22) Failure to notify the state medical board of the 5329  
revocation or failure to maintain certification from the 5330  
national commission for certification of anesthesiologist 5331  
assistants. 5332

(C) The board shall not refuse to issue a certificate to 5333  
an applicant because of a plea of guilty to, a judicial finding 5334  
of guilt of, or a judicial finding of eligibility for 5335  
intervention in lieu of conviction for an offense unless the 5336  
refusal is in accordance with section 9.79 of the Revised Code. 5337

(D) Disciplinary actions taken by the board under 5338  
divisions (A) and (B) of this section shall be taken pursuant to 5339  
an adjudication under Chapter 119. of the Revised Code, except 5340  
that in lieu of an adjudication, the board may enter into a 5341  
consent agreement with an anesthesiologist assistant or 5342  
applicant to resolve an allegation of a violation of this 5343  
chapter or any rule adopted under it. A consent agreement, when 5344  
ratified by an affirmative vote of not fewer than six members of 5345  
the board, shall constitute the findings and order of the board 5346  
with respect to the matter addressed in the agreement. If the 5347  
board refuses to ratify a consent agreement, the admissions and 5348  
findings contained in the consent agreement shall be of no force 5349  
or effect. 5350

(E) For purposes of divisions (B) (11), (14), and (15) of 5351  
this section, the commission of the act may be established by a 5352  
finding by the board, pursuant to an adjudication under Chapter 5353  
119. of the Revised Code, that the applicant or license holder 5354  
committed the act in question. The board shall have no 5355  
jurisdiction under these divisions in cases where the trial 5356  
court renders a final judgment in the license holder's favor and 5357  
that judgment is based upon an adjudication on the merits. The 5358  
board shall have jurisdiction under these divisions in cases 5359  
where the trial court issues an order of dismissal on technical 5360  
or procedural grounds. 5361

(F) The sealing or expungement of conviction records by 5362  
any court shall have no effect on a prior board order entered 5363  
under the provisions of this section or on the board's 5364  
jurisdiction to take action under the provisions of this section 5365  
if, based upon a plea of guilty, a judicial finding of guilt, or 5366  
a judicial finding of eligibility for intervention in lieu of 5367  
conviction, the board issued a notice of opportunity for a 5368  
hearing prior to the court's order to seal or expunge the 5369  
records. The board shall not be required to seal, destroy, 5370  
redact, or otherwise modify its records to reflect the court's 5371  
sealing or expungement of conviction records. 5372

(G) For purposes of this division, any individual who 5373  
holds a license to practice issued under this chapter, or 5374  
applies for a license to practice, shall be deemed to have given 5375  
consent to submit to a mental or physical examination when 5376  
directed to do so in writing by the board and to have waived all 5377  
objections to the admissibility of testimony or examination 5378  
reports that constitute a privileged communication. 5379

(1) In enforcing division (B) (5) of this section, the 5380



board, on a showing of a possible violation, shall refer any 5381  
individual who holds, or has applied for, a license issued under 5382  
this chapter to the monitoring organization that conducts the 5383  
confidential monitoring program established under section 5384  
4731.25 of the Revised Code. The board also may compel the 5385  
individual to this chapter to submit to a mental or physical 5386  
examination, or both. A physical examination may include an HIV 5387  
test. The expense of the examination is the responsibility of 5388  
the individual compelled to be examined. Failure to submit to a 5389  
mental or physical examination or consent to an HIV test ordered 5390  
by the board constitutes an admission of the allegations against 5391  
the individual unless the failure is due to circumstances beyond 5392  
the individual's control, and a default and final order may be 5393  
entered without the taking of testimony or presentation of 5394  
evidence. If the board finds an anesthesiologist assistant 5395  
unable to practice because of the reasons set forth in division 5396  
(B) (5) of this section, the board shall require the 5397  
anesthesiologist assistant to submit to care, counseling, or 5398  
treatment by physicians approved or designated by the board, as 5399  
a condition for an initial, continued, reinstated, or renewed 5400  
license to practice. An individual affected by this division 5401  
shall be afforded an opportunity to demonstrate to the board the 5402  
ability to resume practicing in compliance with acceptable and 5403  
prevailing standards of care. 5404

(2) For purposes of division (B) (6) of this section, if 5405  
the board has reason to believe that any individual who holds a 5406  
license to practice issued under this chapter or any applicant 5407  
for a license to practice suffers such impairment, the board 5408  
shall report the individual to the monitoring organization that 5409  
conducts the confidential monitoring program established under 5410  
section 4731.25 of the Revised Code. The board also may compel 5411

the individual to submit to a mental or physical examination, or 5412  
both. The expense of the examination is the responsibility of 5413  
the individual compelled to be examined. Any mental or physical 5414  
examination required under this division shall be undertaken by 5415  
a treatment provider or physician qualified to conduct such 5416  
examination and approved under section 4731.251 of the Revised 5417  
Code. 5418

Failure to submit to a mental or physical examination 5419  
ordered by the board constitutes an admission of the allegations 5420  
against the individual unless the failure is due to 5421  
circumstances beyond the individual's control, and a default and 5422  
final order may be entered without the taking of testimony or 5423  
presentation of evidence. If the board determines that the 5424  
individual's ability to practice is impaired, the board shall 5425  
suspend the individual's license or deny the individual's 5426  
application and shall require the individual, as a condition for 5427  
an initial, continued, reinstated, or renewed license to 5428  
practice, to submit to treatment. 5429

Before being eligible to apply for reinstatement of a 5430  
license suspended under this division, the anesthesiologist 5431  
assistant shall demonstrate to the board the ability to resume 5432  
practice in compliance with acceptable and prevailing standards 5433  
of care. The demonstration shall include the following: 5434

(a) Certification from a treatment provider approved under 5435  
section 4731.251 of the Revised Code that the individual has 5436  
successfully completed any required inpatient treatment; 5437

(b) Evidence of continuing full compliance with an 5438  
aftercare contract or consent agreement; 5439

(c) Two written reports indicating that the individual's 5440

ability to practice has been assessed and that the individual 5441  
has been found capable of practicing according to acceptable and 5442  
prevailing standards of care. The reports shall be made by 5443  
individuals or providers approved by the board for making such 5444  
assessments and shall describe the basis for their 5445  
determination. 5446

The board may reinstate a license suspended under this 5447  
division after such demonstration and after the individual has 5448  
entered into a written consent agreement. 5449

When the impaired anesthesiologist assistant resumes 5450  
practice, the board shall require continued monitoring of the 5451  
anesthesiologist assistant. The monitoring shall include 5452  
monitoring of compliance with the written consent agreement 5453  
entered into before reinstatement or with conditions imposed by 5454  
board order after a hearing, and, on termination of the consent 5455  
agreement, submission to the board for at least two years of 5456  
annual written progress reports made under penalty of 5457  
falsification stating whether the anesthesiologist assistant has 5458  
maintained sobriety. 5459

~~(H)~~ (H) (1) If either of the following circumstances occur, 5460  
the secretary and supervising member ~~determine may recommend~~ 5461  
that the board suspend the individual's license without a prior 5462  
hearing: 5463

(a) The secretary and supervising member determine that 5464  
there is clear and convincing evidence that an anesthesiologist 5465  
assistant has violated division (B) of this section and that the 5466  
individual's continued practice presents a danger of immediate 5467  
and serious harm to the public, ~~they may recommend that the~~ 5468  
~~board suspend the individual's license without a prior hearing.~~ 5469

(b) The board receives verifiable information that a 5470  
licensee has been charged in any state or federal court for a 5471  
crime classified as a felony under the charging court's law and 5472  
the conduct charged constitutes a violation of division (B) of 5473  
this section. ~~Written~~ 5474

(2) If a recommendation is made to suspend without a prior 5475  
hearing pursuant to division (H) (1) of this section, written 5476  
allegations shall be prepared for consideration by the board. 5477

The board, on review of the allegations and by an 5478  
affirmative vote of not fewer than six of its members, excluding 5479  
the secretary and supervising member, may suspend a license 5480  
without a prior hearing. A telephone conference call may be 5481  
utilized for reviewing the allegations and taking the vote on 5482  
the summary suspension. 5483

The board shall serve a written order of suspension in 5484  
accordance with sections 119.05 and 119.07 of the Revised Code. 5485  
The order shall not be subject to suspension by the court during 5486  
pendency of any appeal filed under section 119.12 of the Revised 5487  
Code. If the anesthesiologist assistant requests an adjudicatory 5488  
hearing by the board, the date set for the hearing shall be 5489  
within fifteen days, but not earlier than seven days, after the 5490  
anesthesiologist assistant requests the hearing, unless 5491  
otherwise agreed to by both the board and the license holder. 5492

(3) A summary suspension imposed under this division shall 5493  
remain in effect, unless reversed on appeal, until a final 5494  
adjudicative order issued by the board pursuant to this section 5495  
and Chapter 119. of the Revised Code becomes effective. The 5496  
board shall issue its final adjudicative order within sixty days 5497  
after completion of its hearing. Failure to issue the order 5498  
within sixty days shall result in dissolution of the summary 5499

suspension order, but shall not invalidate any subsequent, final 5500  
adjudicative order. 5501

(I) If the board takes action under division (B) (11), 5502  
(13), or (14) of this section, and the judicial finding of 5503  
guilt, guilty plea, or judicial finding of eligibility for 5504  
intervention in lieu of conviction is overturned on appeal, on 5505  
exhaustion of the criminal appeal, a petition for 5506  
reconsideration of the order may be filed with the board along 5507  
with appropriate court documents. On receipt of a petition and 5508  
supporting court documents, the board shall reinstate the 5509  
license to practice. The board may then hold an adjudication 5510  
under Chapter 119. of the Revised Code to determine whether the 5511  
individual committed the act in question. Notice of opportunity 5512  
for hearing shall be given in accordance with Chapter 119. of 5513  
the Revised Code. If the board finds, pursuant to an 5514  
adjudication held under this division, that the individual 5515  
committed the act, or if no hearing is requested, it may order 5516  
any of the sanctions specified in division (B) of this section. 5517

(J) The license to practice of an anesthesiologist 5518  
assistant and the assistant's practice in this state are 5519  
automatically suspended as of the date the anesthesiologist 5520  
assistant pleads guilty to, is found by a judge or jury to be 5521  
guilty of, or is subject to a judicial finding of eligibility 5522  
for intervention in lieu of conviction in this state or 5523  
treatment ~~of~~ or intervention in lieu of conviction in another 5524  
jurisdiction for any of the following criminal offenses in this 5525  
state or a substantially equivalent criminal offense in another 5526  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 5527  
felonious assault, trafficking in persons, kidnapping, rape, 5528  
sexual battery, gross sexual imposition, aggravated arson, 5529  
aggravated robbery, or aggravated burglary. Continued practice 5530

after the suspension shall be considered practicing without a 5531  
license. 5532

The board shall serve the individual subject to the 5533  
suspension in accordance with sections 119.05 and 119.07 of the 5534  
Revised Code. If an individual whose license is suspended under 5535  
this division fails to make a timely request for an adjudication 5536  
under Chapter 119. of the Revised Code, the board shall enter a 5537  
final order permanently revoking the individual's license to 5538  
practice. 5539

(K) In any instance in which the board is required by 5540  
Chapter 119. of the Revised Code to give notice of opportunity 5541  
for hearing and the individual subject to the notice does not 5542  
timely request a hearing in accordance with section 119.07 of 5543  
the Revised Code, the board is not required to hold a hearing, 5544  
but may adopt, by an affirmative vote of not fewer than six of 5545  
its members, a final order that contains the board's findings. 5546  
In the final order, the board may order any of the sanctions 5547  
identified under division (A) or (B) of this section. 5548

(L) Any action taken by the board under division (B) of 5549  
this section resulting in a suspension shall be accompanied by a 5550  
written statement of the conditions under which the 5551  
anesthesiologist assistant's license may be reinstated. The 5552  
board shall adopt rules in accordance with Chapter 119. of the 5553  
Revised Code governing conditions to be imposed for 5554  
reinstatement. Reinstatement of a license suspended pursuant to 5555  
division (B) of this section requires an affirmative vote of not 5556  
fewer than six members of the board. 5557

(M) When the board refuses to grant or issue a license to 5558  
practice as an anesthesiologist assistant to an applicant, 5559  
revokes an individual's license, refuses to renew an 5560

individual's license, or refuses to reinstate an individual's 5561  
license, the board may specify that its action is permanent. An 5562  
individual subject to a permanent action taken by the board is 5563  
forever thereafter ineligible to hold a license to practice as 5564  
an anesthesiologist assistant and the board shall not accept an 5565  
application for reinstatement of the license or for issuance of 5566  
a new license. 5567

(N) Notwithstanding any other provision of the Revised 5568  
Code, all of the following apply: 5569

(1) The surrender of a license to practice issued under 5570  
this chapter is not effective unless or until accepted by the 5571  
board. Reinstatement of a license surrendered to the board 5572  
requires an affirmative vote of not fewer than six members of 5573  
the board. 5574

(2) An application made under this chapter for a license 5575  
to practice may not be withdrawn without approval of the board. 5576

(3) Failure by an individual to renew a license to 5577  
practice in accordance with section 4760.06 of the Revised Code 5578  
does not remove or limit the board's jurisdiction to take 5579  
disciplinary action under this section against the individual. 5580

(4) The placement of an individual's license on retired 5581  
status, as described in section 4760.062 of the Revised Code, 5582  
does not remove or limit the board's jurisdiction to take any 5583  
disciplinary action against the individual with regard to the 5584  
license as it existed before being placed on retired status. 5585

**Sec. 4760.14.** (A) The state medical board shall 5586  
investigate evidence that appears to show that any person has 5587  
violated this chapter or the rules adopted under it. Any person 5588  
may report to the board in a signed writing any information the 5589

person has that appears to show a violation of any provision of 5590  
this chapter or the rules adopted under it. In the absence of 5591  
bad faith, a person who reports such information or testifies 5592  
before the board in an adjudication conducted under Chapter 119. 5593  
of the Revised Code shall not be liable for civil damages as a 5594  
result of reporting the information or providing testimony. Each 5595  
complaint or allegation of a violation received by the board 5596  
shall be assigned a case number and be recorded by the board. 5597

(B) Investigations of alleged violations of this chapter 5598  
or rules adopted under it shall be supervised by the supervising 5599  
member elected by the board in accordance with section 4731.02 5600  
of the Revised Code and by the secretary as provided in section 5601  
4760.15 of the Revised Code. The board's president may designate 5602  
another member of the board to supervise the investigation in 5603  
place of the supervising member. Upon a vote of the majority of 5604  
the board to authorize the addition of a consumer member in the 5605  
supervision of any part of any investigation, the president 5606  
shall designate a consumer member for supervision of 5607  
investigations as determined by the president. The authorization 5608  
of consumer member participation in investigation supervision 5609  
may be rescinded by a majority vote of the board. A member of 5610  
the board who supervises the investigation of a case shall not 5611  
participate in further adjudication of the case. 5612

(C) In investigating a possible violation of this chapter 5613  
or the rules adopted under it, the board may administer oaths, 5614  
order the taking of depositions, issue subpoenas, and compel the 5615  
attendance of witnesses and production of books, accounts, 5616  
papers, records, documents, and testimony, except that a 5617  
subpoena for patient record information shall not be issued 5618  
without consultation with the attorney general's office and 5619  
approval of the secretary of the board. Before issuance of a 5620



subpoena for patient record information, the secretary shall 5621  
determine whether there is probable cause to believe that the 5622  
complaint filed alleges a violation of this chapter or the rules 5623  
adopted under it and that the records sought are relevant to the 5624  
alleged violation and material to the investigation. The 5625  
subpoena may apply only to records that cover a reasonable 5626  
period of time surrounding the alleged violation. 5627

On failure to comply with any subpoena issued by the board 5628  
and after reasonable notice to the person being subpoenaed, the 5629  
board may move for an order compelling the production of persons 5630  
or records pursuant to the Rules of Civil Procedure. 5631

A subpoena issued by the board may be served by a sheriff, 5632  
the sheriff's deputy, or a board employee designated by the 5633  
board. Service of a subpoena issued by the board may be made by 5634  
delivering a copy of the subpoena to the person named therein, 5635  
reading it to the person, or leaving it at the person's usual 5636  
place of residence. When the person being served is an 5637  
anesthesiologist assistant, service of the subpoena may be made 5638  
by certified mail, restricted delivery, return receipt 5639  
requested, and the subpoena shall be deemed served on the date 5640  
delivery is made or the date the person refuses to accept 5641  
delivery. 5642

A sheriff's deputy who serves a subpoena shall receive the 5643  
same fees as a sheriff. Each witness who appears before the 5644  
board in obedience to a subpoena shall receive the fees and 5645  
mileage provided for under section 119.094 of the Revised Code. 5646

(D) All hearings and investigations of the board shall be 5647  
considered civil actions for the purposes of section 2305.252 of 5648  
the Revised Code. 5649

(E) Information received by the board pursuant to an 5650  
investigation is confidential and not subject to discovery in 5651  
any civil action. 5652

The board shall conduct all investigations and proceedings 5653  
in a manner that protects the confidentiality of patients and 5654  
persons who file complaints with the board. The board shall not 5655  
make public the names or any other identifying information about 5656  
patients or complainants unless proper consent is given. 5657

The board may share any information it receives pursuant 5658  
to an investigation, including patient records and patient 5659  
record information, with law enforcement agencies, other 5660  
licensing boards, and other governmental agencies that are 5661  
prosecuting, adjudicating, or investigating alleged violations 5662  
of statutes or administrative rules. An agency or board that 5663  
receives the information shall comply with the same requirements 5664  
regarding confidentiality as those with which the state medical 5665  
board must comply, notwithstanding any conflicting provision of 5666  
the Revised Code or procedure of the agency or board that 5667  
applies when it is dealing with other information in its 5668  
possession. In a judicial proceeding, the information may be 5669  
admitted into evidence only in accordance with the Rules of 5670  
Evidence, but the court shall require that appropriate measures 5671  
are taken to ensure that confidentiality is maintained with 5672  
respect to any part of the information that contains names or 5673  
other identifying information about patients or complainants 5674  
whose confidentiality was protected by the state medical board 5675  
when the information was in the board's possession. Measures to 5676  
ensure confidentiality that may be taken by the court include 5677  
sealing its records or deleting specific information from its 5678  
records. 5679

No person shall knowingly access, use, or disclose 5680  
confidential investigatory information in a manner prohibited by 5681  
law. 5682

(F) The state medical board shall develop requirements for 5683  
and provide appropriate initial training and continuing 5684  
education for investigators employed by the board to carry out 5685  
its duties under this chapter. The training and continuing 5686  
education may include enrollment in courses operated or approved 5687  
by the Ohio peace officer training commission that the board 5688  
considers appropriate under conditions set forth in section 5689  
109.79 of the Revised Code. 5690

(G) On a quarterly basis, the board shall prepare a report 5691  
that documents the disposition of all cases during the preceding 5692  
three months. The report shall contain the following information 5693  
for each case with which the board has completed its activities: 5694

(1) The case number assigned to the complaint or alleged 5695  
violation; 5696

(2) The type of license to practice, if any, held by the 5697  
individual against whom the complaint is directed; 5698

(3) A description of the allegations contained in the 5699  
complaint; 5700

(4) Whether witnesses were interviewed; 5701

(5) Whether the individual against whom the complaint is 5702  
directed is the subject of any pending complaints; 5703

(6) The disposition of the case. 5704

The report shall state how many cases are still pending, 5705  
and shall be prepared in a manner that protects the identity of 5706  
each person involved in each case. The report is a public record 5707

for purposes of section 149.43 of the Revised Code. 5708

(H) The board may provide a status update regarding an 5709  
investigation to a complainant on request if the board verifies 5710  
the complainant's identity. 5711

**Sec. 4760.16.** (A) As used in this section, "criminal 5712  
conduct" and "sexual misconduct" have the same meanings as in 5713  
section 4731.224 of the Revised Code. 5714

(B) (1) Within ~~sixty~~thirty days after the imposition of 5715  
any formal disciplinary action taken by any health care 5716  
facility, including a hospital, health care facility operated by 5717  
a health insuring corporation, ambulatory surgical facility, or 5718  
similar facility, against any individual holding a valid license 5719  
to practice as an anesthesiologist assistant, the chief 5720  
administrator or executive officer of the facility shall report 5721  
to the state medical board the name of the individual, the 5722  
action taken by the facility, and a summary of the underlying 5723  
facts leading to the action taken. On request, the board shall 5724  
be provided certified copies of the patient records that were 5725  
the basis for the facility's action. Prior to release to the 5726  
board, the summary shall be approved by the peer review 5727  
committee that reviewed the case or by the governing board of 5728  
the facility. 5729

The filing of a report with the board or decision not to 5730  
file a report, investigation by the board, or any disciplinary 5731  
action taken by the board, does not preclude a health care 5732  
facility from taking disciplinary action against an 5733  
anesthesiologist assistant. 5734

In the absence of fraud or bad faith, no individual or 5735  
entity that provides patient records to the board shall be 5736

liable in damages to any person as a result of providing the 5737  
records. 5738

(2) Within thirty days after commencing an investigation 5739  
regarding criminal conduct or sexual misconduct against any 5740  
individual holding a valid license to practice issued pursuant 5741  
to this chapter, a health care facility, including a hospital, 5742  
health care facility operated by a health insuring corporation, 5743  
ambulatory surgical center, or similar facility, shall report to 5744  
the board the name of the individual and a summary of the 5745  
underlying facts related to the investigation being commenced. 5746

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 5747  
of this section and subject to division (C)(3) of this section, 5748  
an anesthesiologist assistant, professional association or 5749  
society of anesthesiologist assistants, physician, or 5750  
professional association or society of physicians that believes 5751  
a violation of any provision of this chapter, Chapter 4731. of 5752  
the Revised Code, or rule of the board has occurred shall report 5753  
to the board the information on which the belief is based. 5754

(2) An anesthesiologist assistant, professional 5755  
association or society of anesthesiologist assistants, 5756  
physician, or professional association or society of physicians 5757  
that believes that a violation of division (B)(5) or (6) of 5758  
section 4760.13 of the Revised Code has occurred shall report 5759  
the information upon which the belief is based to the monitoring 5760  
organization conducting the confidential monitoring program 5761  
established under section 4731.25 of the Revised Code. If any 5762  
such report is made to the board, it shall be referred to the 5763  
monitoring organization unless the board is aware that the 5764  
individual who is the subject of the report does not meet the 5765  
program eligibility requirements of section 4731.252 of the 5766

Revised Code. 5767

(3) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct, the information upon which the belief is based shall be reported to the board within thirty days. 5768  
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This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings. 5776  
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(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed. 5781  
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~~(C)~~(D) Any professional association or society composed primarily of anesthesiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within ~~sixty~~thirty days after a 5792  
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final decision, shall report to the board, on forms prescribed 5797  
and provided by the board, the name of the individual, the 5798  
action taken by the professional organization, and a summary of 5799  
the underlying facts leading to the action taken. 5800

The filing of a report with the board or decision not to 5801  
file a report, investigation by the board, or any disciplinary 5802  
action taken by the board, does not preclude a professional 5803  
organization from taking disciplinary action against an 5804  
anesthesiologist assistant. 5805

~~(D)~~ (E) Any insurer providing professional liability 5806  
insurance to any person holding a valid license to practice as 5807  
an anesthesiologist assistant or any other entity that seeks to 5808  
indemnify the professional liability of an anesthesiologist 5809  
assistant shall notify the board within thirty days after the 5810  
final disposition of any written claim for damages where such 5811  
disposition results in a payment exceeding twenty-five thousand 5812  
dollars. The notice shall contain the following information: 5813

(1) The name and address of the person submitting the 5814  
notification; 5815

(2) The name and address of the insured who is the subject 5816  
of the claim; 5817

(3) The name of the person filing the written claim; 5818

(4) The date of final disposition; 5819

(5) If applicable, the identity of the court in which the 5820  
final disposition of the claim took place. 5821

~~(E)~~ (F) The board may investigate possible violations of 5822  
this chapter or the rules adopted under it that are brought to 5823  
its attention as a result of the reporting requirements of this 5824

section, except that the board shall conduct an investigation if 5825  
a possible violation involves repeated malpractice. As used in 5826  
this division, "repeated malpractice" means three or more claims 5827  
for malpractice within the previous five-year period, each 5828  
resulting in a judgment or settlement in excess of twenty-five 5829  
thousand dollars in favor of the claimant, and each involving 5830  
negligent conduct by the anesthesiologist assistant. 5831

~~(F)-(G) All summaries, reports, and records received and 5832  
maintained by the board pursuant to this section shall be held- 5833  
in confidence and shall not be subject to discovery or- 5834  
introduction in evidence in any federal or state civil action- 5835  
involving an anesthesiologist assistant, supervising physician,- 5836  
or health care facility arising out of matters that are the- 5837  
subject of the reporting required by this section. The board may- 5838  
use the information obtained only as the basis for an- 5839  
investigation, as evidence in a disciplinary hearing against an- 5840  
anesthesiologist assistant or supervising physician, or in any- 5841  
subsequent trial or appeal of a board action or order.- 5842~~

~~The board may disclose the summaries and reports it 5843  
receives under this section only to health care facility- 5844  
committees within or outside this state that are involved in- 5845  
credentialing or recredentialing an anesthesiologist assistant- 5846  
or supervising physician or reviewing their privilege to- 5847  
practice within a particular facility. The board shall indicate- 5848  
whether or not the information has been verified. Information- 5849  
transmitted by the board shall be subject to the same- 5850  
confidentiality provisions as when maintained by the- 5851  
board confidential pursuant to division (E) of section 4760.14 of 5852  
the Revised Code. 5853~~

~~(G)-(H) Except for reports filed by an individual pursuant 5854~~



to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 5855  
send a copy of any reports or summaries it receives pursuant to 5856  
this section to the anesthesiologist assistant. The 5857  
anesthesiologist assistant shall have the right to file a 5858  
statement with the board concerning the correctness or relevance 5859  
of the information. The statement shall at all times accompany 5860  
that part of the record in contention. 5861

~~(H)~~ (I) An individual or entity that reports to the board, 5862  
reports to the monitoring organization described in section 5863  
4731.25 of the Revised Code, or refers an impaired 5864  
anesthesiologist assistant to a treatment provider approved 5865  
under section 4731.251 of the Revised Code shall not be subject 5866  
to suit for civil damages as a result of the report, referral, 5867  
or provision of the information. 5868

~~(I)~~ (J) In the absence of fraud or bad faith, a 5869  
professional association or society of anesthesiologist 5870  
assistants that sponsors a committee or program to provide peer 5871  
assistance to an anesthesiologist assistant with substance abuse 5872  
problems, a representative or agent of such a committee or 5873  
program, a representative or agent of the monitoring 5874  
organization described in section 4731.25 of the Revised Code, 5875  
and a member of the state medical board shall not be held liable 5876  
in damages to any person by reason of actions taken to refer an 5877  
anesthesiologist assistant to a treatment provider approved 5878  
under section 4731.251 of the Revised Code for examination or 5879  
treatment. 5880

**Sec. 4760.99.** (A) Whoever violates section 4760.02 of the 5881  
Revised Code is guilty of a misdemeanor of the first degree on a 5882  
first offense; on each subsequent offense, the person is guilty 5883  
of a felony of the fourth degree. 5884

~~(B)(B)(1)~~ Whoever violates division ~~(A), (B)(B)(1), (C)(C)~~ 5885  
~~(1), or (C)(2), (D), or (E)~~ of section 4760.16 of the Revised 5886  
Code is guilty of a minor misdemeanor on a first offense; on 5887  
each subsequent offense the person is guilty of a misdemeanor of 5888  
the fourth degree, except that an individual guilty of a 5889  
subsequent offense shall not be subject to imprisonment, but to 5890  
a fine alone of up to one thousand dollars for each offense. 5891

(2) Whoever violates division (B)(2) or (C)(3) of section 5892  
4760.16 of the Revised Code is guilty of failure to report 5893  
criminal conduct or sexual misconduct, a misdemeanor of the 5894  
fourth degree. If the offender has previously been convicted of 5895  
a violation of this division, the failure to report is a 5896  
misdemeanor of the first degree. 5897

(C) Whoever violates division (E) of section 4760.14 of 5898  
the Revised Code is guilty of disclosing confidential 5899  
investigatory information, a misdemeanor of the first degree. 5900

**Sec. 4761.03.** (A) The state medical board shall regulate 5901  
the practice of respiratory care in this state and the persons 5902  
to whom the board issues licenses and limited permits under this 5903  
chapter. Rules adopted under this chapter that deal with the 5904  
provision of respiratory care in a hospital, other than rules 5905  
regulating the issuance of licenses or limited permits, shall be 5906  
consistent with the conditions for participation under medicare, 5907  
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 5908  
42 U.S.C.A. 1395, as amended, and with the respiratory care 5909  
accreditation standards of the joint commission or the American 5910  
osteopathic association. 5911

(B) The board shall adopt, and may rescind or amend, rules 5912  
in accordance with Chapter 119. of the Revised Code to carry out 5913  
the purposes of this chapter, including rules prescribing the 5914

following:	5915
(1) The form and manner for filing applications under sections 4761.05 and 4761.06 of the Revised Code;	5916 5917
(2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;	5918 5919 5920
(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;	5921 5922 5923
(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;	5924 5925 5926 5927 5928 5929 5930
(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;	5931 5932 5933
(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;	5934 5935 5936 5937 5938
(7) Standards of ethical conduct for the practice of respiratory care;	5939 5940
(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist	5941 5942

pursuant to division (B) (3) of section 4761.10 of the Revised Code; 5943  
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(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code. 5945  
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(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit. 5947  
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(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code. 5951  
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(E) (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board. 5955  
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(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as 5968  
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provided in section 4761.012 of the Revised Code. The president 5972  
may designate another member of the board to supervise the 5973  
investigation in place of the supervising member. Upon a vote of 5974  
the majority of the board to authorize the addition of a 5975  
consumer member in the supervision of any part of any 5976  
investigation, the president shall designate a consumer member 5977  
for supervision of investigations as determined by the 5978  
president. The authorization of consumer member participation in 5979  
investigation supervision may be rescinded by a majority vote of 5980  
the board. No member of the board who supervises the 5981  
investigation of a case shall participate in further 5982  
adjudication of the case. 5983

(3) In investigating a possible violation of this chapter 5984  
or any rule adopted under it, the board may issue subpoenas, 5985  
administer oaths, question witnesses, conduct interviews, order 5986  
the taking of depositions, inspect and copy any books, accounts, 5987  
papers, records, or documents, and compel the attendance of 5988  
witnesses and production of books, accounts, papers, records, 5989  
documents, and testimony, except that a subpoena for patient 5990  
record information shall not be issued without consultation with 5991  
the attorney general's office and approval of the secretary of 5992  
the board. 5993

Before issuance of a subpoena for patient record 5994  
information, the secretary shall determine whether there is 5995  
probable cause to believe that the complaint filed alleges a 5996  
violation of this chapter or any rule adopted under it and that 5997  
the records sought are relevant to the alleged violation and 5998  
material to the investigation. The subpoena may apply only to 5999  
records that cover a reasonable period of time surrounding the 6000  
alleged violation. 6001

On failure to comply with any subpoena issued by the board 6002  
and after reasonable notice to the person being subpoenaed, the 6003  
board may move for an order compelling the production of persons 6004  
or records pursuant to the Rules of Civil Procedure. 6005

A subpoena issued by the board may be served by a sheriff, 6006  
the sheriff's deputy, or a board employee or agent designated by 6007  
the board. Service of a subpoena issued by the board may be made 6008  
by delivering a copy of the subpoena to the person named 6009  
therein, reading it to the person, or leaving it at the person's 6010  
usual place of residence, usual place of business, or address on 6011  
file with the board. When serving a subpoena to an applicant for 6012  
or the holder of a license or limited permit issued under this 6013  
chapter, service of the subpoena may be made by certified mail, 6014  
return receipt requested, and the subpoena shall be deemed 6015  
served on the date delivery is made or the date the person 6016  
refuses to accept delivery. If the person being served refuses 6017  
to accept the subpoena or is not located, service may be made to 6018  
an attorney who notifies the board that the attorney is 6019  
representing the person. 6020

A sheriff's deputy who serves a subpoena shall receive the 6021  
same fees as a sheriff. Each witness who appears before the 6022  
board in obedience to a subpoena shall receive the fees and 6023  
mileage provided for under section 119.094 of the Revised Code. 6024

(4) All hearings, investigations, and inspections of the 6025  
board shall be considered civil actions for the purposes of 6026  
section 2305.252 of the Revised Code. 6027

(5) A report required to be submitted to the board under 6028  
this chapter, a complaint, or information received by the board 6029  
pursuant to an investigation is confidential and not subject to 6030  
discovery in any civil action. 6031

The board shall conduct all investigations or inspections 6032  
and proceedings in a manner that protects the confidentiality of 6033  
patients and persons who file complaints with the board. The 6034  
board shall not make public the names or any other identifying 6035  
information about patients or complainants unless proper consent 6036  
is given. 6037

The board may share any information it receives pursuant 6038  
to an investigation or inspection, including patient records and 6039  
patient record information, with law enforcement agencies, other 6040  
licensing boards, and other governmental agencies that are 6041  
prosecuting, adjudicating, or investigating alleged violations 6042  
of statutes or administrative rules. An agency or board that 6043  
receives the information shall comply with the same requirements 6044  
regarding confidentiality as those with which the state medical 6045  
board must comply, notwithstanding any conflicting provision of 6046  
the Revised Code or procedure of the agency or board that 6047  
applies when it is dealing with other information in its 6048  
possession. In a judicial proceeding, the information may be 6049  
admitted into evidence only in accordance with the Rules of 6050  
Evidence, but the court shall require that appropriate measures 6051  
are taken to ensure that confidentiality is maintained with 6052  
respect to any part of the information that contains names or 6053  
other identifying information about patients or complainants 6054  
whose confidentiality was protected by the state medical board 6055  
when the information was in the board's possession. Measures to 6056  
ensure confidentiality that may be taken by the court include 6057  
sealing its records or deleting specific information from its 6058  
records. 6059

No person shall knowingly access, use, or disclose 6060  
confidential investigatory information in a manner prohibited by 6061  
law. 6062

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

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

(b) The type of license or limited permit, if any, held by the individual against whom the complaint is directed;

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

(d) Whether witnesses were interviewed;

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

(f) The disposition of the case.

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

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

(F) The board shall keep records of its proceedings and do other things as are necessary and proper to carry out and enforce the provisions of this chapter.

(G) The board shall maintain and publish on its internet web site all of the following:

(1) The requirements for the issuance of licenses and



limited permits under this chapter and rules adopted by the 6090  
board; 6091

(2) A list of the names and locations of the institutions 6092  
that each year granted degrees or certificates of completion in 6093  
respiratory care. 6094

**Sec. 4761.09.** (A) The state medical board, by an 6095  
affirmative vote of not fewer than six members, shall, except as 6096  
provided in division (B) of this section, and to the extent 6097  
permitted by law, limit, revoke, or suspend an individual's 6098  
license or limited permit, refuse to issue a license or limited 6099  
permit to an individual, refuse to renew a license or limited 6100  
permit, refuse to reinstate a license or limited permit, or 6101  
reprimand or place on probation the holder of a license or 6102  
limited permit for one or more of the following reasons: 6103

(1) A plea of guilty to, a judicial finding of guilt of, 6104  
or a judicial finding of eligibility for intervention in lieu of 6105  
conviction for, a felony; 6106

(2) Commission of an act that constitutes a felony in this 6107  
state, regardless of the jurisdiction in which the act was 6108  
committed; 6109

(3) A plea of guilty to, a judicial finding of guilt of, 6110  
or a judicial finding of eligibility for intervention in lieu of 6111  
conviction for, a misdemeanor committed in the course of 6112  
practice; 6113

(4) Commission of an act in the course of practice that 6114  
constitutes a misdemeanor in this state, regardless of the 6115  
jurisdiction in which the act was committed; 6116

(5) A plea of guilty to, a judicial finding of guilt of, 6117  
or a judicial finding of eligibility for intervention in lieu of 6118

conviction for, a misdemeanor involving moral turpitude; 6119

(6) Commission of an act involving moral turpitude that 6120  
constitutes a misdemeanor in this state, regardless of the 6121  
jurisdiction in which the act was committed; 6122

(7) Except when civil penalties are imposed under section 6123  
4761.091 of the Revised Code, violating or attempting to 6124  
violate, directly or indirectly, or assisting in or abetting the 6125  
violation of, or conspiring to violate, any provision of this 6126  
chapter or the rules adopted by the board; 6127

(8) Making a false, fraudulent, deceptive, or misleading 6128  
statement in the solicitation of or advertising for patients; in 6129  
relation to the practice of respiratory care; or in securing or 6130  
attempting to secure any license or permit issued by the board 6131  
under this chapter. 6132

As used in division (A) (8) of this section, "false, 6133  
fraudulent, deceptive, or misleading statement" means a 6134  
statement that includes a misrepresentation of fact, is likely 6135  
to mislead or deceive because of a failure to disclose material 6136  
facts, is intended or is likely to create false or unjustified 6137  
expectations of favorable results, or includes representations 6138  
or implications that in reasonable probability will cause an 6139  
ordinarily prudent person to misunderstand or be deceived. 6140

(9) Committing fraud during the administration of the 6141  
examination for a license to practice or committing fraud, 6142  
misrepresentation, or deception in applying for, renewing, or 6143  
securing any license or permit issued by the board; 6144

(10) A departure from, or failure to conform to, minimal 6145  
standards of care of similar practitioners under the same or 6146  
similar circumstances, whether or not actual injury to a patient 6147

is established; 6148

(11) Violating the standards of ethical conduct adopted by 6149  
the board, in the practice of respiratory care; 6150

(12) The obtaining of, or attempting to obtain, money or 6151  
anything of value by fraudulent misrepresentations in the course 6152  
of practice; 6153

(13) Violation of the conditions of limitation placed by 6154  
the board upon a license or permit; 6155

(14) Inability to practice according to acceptable and 6156  
prevailing standards of care by reason of mental illness or 6157  
physical illness, including physical deterioration that 6158  
adversely affects cognitive, motor, or perceptive skills; 6159

(15) Any of the following actions taken by an agency 6160  
responsible for authorizing, certifying, or regulating an 6161  
individual to practice a health care occupation or provide 6162  
health care services in this state or another jurisdiction, for 6163  
any reason other than the nonpayment of fees: the limitation, 6164  
revocation, or suspension of an individual's license; acceptance 6165  
of an individual's license surrender; denial of a license; 6166  
refusal to renew or reinstate a license; imposition of 6167  
probation; or issuance of an order of censure or other 6168  
reprimand; 6169

(16) The revocation, suspension, restriction, reduction, 6170  
or termination of practice privileges by the United States 6171  
department of defense or department of veterans affairs; 6172

(17) Termination or suspension from participation in the 6173  
medicare or medicaid programs by the department of health and 6174  
human services or other responsible agency for any act or acts 6175  
that also would constitute a violation of division (A) (10), 6176

- (12), or (14) of this section; 6177
- (18) Impairment of ability to practice according to 6178  
acceptable and prevailing standards of care because of substance 6179  
use disorder or excessive use or abuse of drugs, alcohol, or 6180  
other substances that may impair ability to practice; 6181
- (19) Failure to cooperate in an investigation conducted by 6182  
the board under division (E) of section 4761.03 of the Revised 6183  
Code, including failure to comply with a subpoena or order 6184  
issued by the board or failure to answer truthfully a question 6185  
presented by the board in an investigative interview, an 6186  
investigative office conference, at a deposition, or in written 6187  
interrogatories, except that failure to cooperate with an 6188  
investigation shall not constitute grounds for discipline under 6189  
this section if a court of competent jurisdiction has issued an 6190  
order that either quashes a subpoena or permits the individual 6191  
to withhold the testimony or evidence in issue; 6192
- (20) Practicing in an area of respiratory care for which 6193  
the person is clearly untrained or incompetent or practicing in 6194  
a manner that conflicts with section 4761.17 of the Revised 6195  
Code; 6196
- (21) Employing, directing, or supervising a person who is 6197  
not authorized to practice respiratory care under this chapter 6198  
in the performance of respiratory care procedures; 6199
- (22) Misrepresenting educational attainments or authorized 6200  
functions for the purpose of obtaining some benefit related to 6201  
the practice of respiratory care; 6202
- (23) Assisting suicide as defined in section 3795.01 of 6203  
the Revised Code; 6204
- (24) Representing, with the purpose of obtaining 6205

compensation or other advantage as personal gain or for any 6206  
other person, that an incurable disease or injury, or other 6207  
incurable condition, can be permanently cured. 6208

Disciplinary actions taken by the board under division (A) 6209  
of this section shall be taken pursuant to an adjudication under 6210  
Chapter 119. of the Revised Code, except that in lieu of an 6211  
adjudication, the board may enter into a consent agreement with 6212  
an individual to resolve an allegation of a violation of this 6213  
chapter or any rule adopted under it. A consent agreement, when 6214  
ratified by an affirmative vote of not fewer than six members of 6215  
the board, shall constitute the findings and order of the board 6216  
with respect to the matter addressed in the agreement. If the 6217  
board refuses to ratify a consent agreement, the admissions and 6218  
findings contained in the consent agreement shall be of no 6219  
effect. 6220

A telephone conference call may be utilized for 6221  
ratification of a consent agreement that revokes or suspends an 6222  
individual's license or permit. The telephone conference call 6223  
shall be considered a special meeting under division (F) of 6224  
section 121.22 of the Revised Code. 6225

(B) The board shall not refuse to issue a license or 6226  
limited permit to an applicant because of a plea of guilty to, a 6227  
judicial finding of guilt of, or a judicial finding of 6228  
eligibility for intervention in lieu of conviction for an 6229  
offense unless the refusal is in accordance with section 9.79 of 6230  
the Revised Code. 6231

(C) Any action taken by the board under division (A) of 6232  
this section resulting in a suspension from practice shall be 6233  
accompanied by a written statement of the conditions under which 6234  
the individual's license or permit may be reinstated. The board 6235

shall adopt rules governing conditions to be imposed for 6236  
reinstatement. Reinstatement of a license or permit suspended 6237  
pursuant to division (A) of this section requires an affirmative 6238  
vote of not fewer than six members of the board. 6239

(D) When the board refuses to grant or issue a license or 6240  
permit to an applicant, revokes an individual's license or 6241  
permit, refuses to renew an individual's license or permit, or 6242  
refuses to reinstate an individual's license or permit, the 6243  
board may specify that its action is permanent. An individual 6244  
subject to a permanent action taken by the board is forever 6245  
thereafter ineligible to hold a license or permit and the board 6246  
shall not accept an application for reinstatement of the license 6247  
or permit or for issuance of a new license or permit. 6248

(E) If the board is required by Chapter 119. of the 6249  
Revised Code to give notice of an opportunity for a hearing and 6250  
if the individual subject to the notice does not timely request 6251  
a hearing in accordance with section 119.07 of the Revised Code, 6252  
the board is not required to hold a hearing, but may adopt, by 6253  
an affirmative vote of not fewer than six of its members, a 6254  
final order that contains the board's findings. In the final 6255  
order, the board may order any of the sanctions identified under 6256  
division (A) of this section. 6257

(F) In enforcing division (A)(14) of this section, the 6258  
board, upon a showing of a possible violation, shall refer any 6259  
individual authorized to practice by this chapter or who has 6260  
submitted an application pursuant to this chapter to the 6261  
monitoring organization that conducts the confidential 6262  
monitoring program established under section 4731.25 of the 6263  
Revised Code. The board also may compel the individual to submit 6264  
to a mental examination, physical examination, including an HIV 6265

test, or both a mental and a physical examination. The expense 6266  
of the examination is the responsibility of the individual 6267  
compelled to be examined. Failure to submit to a mental or 6268  
physical examination or consent to an HIV test ordered by the 6269  
board constitutes an admission of the allegations against the 6270  
individual unless the failure is due to circumstances beyond the 6271  
individual's control, and a default and final order may be 6272  
entered without the taking of testimony or presentation of 6273  
evidence. If the board finds an individual unable to practice 6274  
because of the reasons set forth in division (A) (14) of this 6275  
section, the board shall require the individual to submit to 6276  
care, counseling, or treatment by physicians approved or 6277  
designated by the board, as a condition for initial, continued, 6278  
reinstated, or renewed authority to practice. An individual 6279  
affected under this division shall be afforded an opportunity to 6280  
demonstrate to the board the ability to resume practice in 6281  
compliance with acceptable and prevailing standards under the 6282  
provisions of the individual's license or permit. For the 6283  
purpose of division (A) (14) of this section, any individual who 6284  
applies for or receives a license or permit to practice under 6285  
this chapter accepts the privilege of practicing in this state 6286  
and, by so doing, shall be deemed to have given consent to 6287  
submit to a mental or physical examination when directed to do 6288  
so in writing by the board, and to have waived all objections to 6289  
the admissibility of testimony or examination reports that 6290  
constitute a privileged communication. 6291

(G) For the purposes of division (A) (18) of this section, 6292  
any individual authorized to practice by this chapter accepts 6293  
the privilege of practicing in this state subject to supervision 6294  
by the board. By filing an application for or holding a license 6295  
or permit under this chapter, an individual shall be deemed to 6296

have given consent to submit to a mental or physical examination 6297  
when ordered to do so by the board in writing, and to have 6298  
waived all objections to the admissibility of testimony or 6299  
examination reports that constitute privileged communications. 6300

If it has reason to believe that any individual authorized 6301  
to practice by this chapter or any applicant for a license or 6302  
permit suffers such impairment, the board shall refer the 6303  
individual to the monitoring organization that conducts the 6304  
confidential monitoring program established under section 6305  
4731.25 of the Revised Code. The board also may compel the 6306  
individual to submit to a mental or physical examination, or 6307  
both. The expense of the examination is the responsibility of 6308  
the individual compelled to be examined. Any mental or physical 6309  
examination required under this division shall be undertaken by 6310  
a treatment provider or physician who is qualified to conduct 6311  
the examination and who is approved under section 4731.251 of 6312  
the Revised Code. 6313

Failure to submit to a mental or physical examination 6314  
ordered by the board constitutes an admission of the allegations 6315  
against the individual unless the failure is due to 6316  
circumstances beyond the individual's control, and a default and 6317  
final order may be entered without the taking of testimony or 6318  
presentation of evidence. If the board determines that the 6319  
individual's ability to practice is impaired, the board shall 6320  
suspend the individual's license or permit or deny the 6321  
individual's application and shall require the individual, as a 6322  
condition for an initial, continued, reinstated, or renewed 6323  
license or permit, to submit to treatment. 6324

Before being eligible to apply for reinstatement of a 6325  
license or permit suspended under this division, the impaired 6326



practitioner shall demonstrate to the board the ability to 6327  
resume practice in compliance with acceptable and prevailing 6328  
standards of care under the provisions of the practitioner's 6329  
license or permit. The demonstration shall include, but shall 6330  
not be limited to, the following: 6331

(1) Certification from a treatment provider approved under 6332  
section 4731.251 of the Revised Code that the individual has 6333  
successfully completed any required inpatient treatment; 6334

(2) Evidence of continuing full compliance with an 6335  
aftercare contract or consent agreement; 6336

(3) Two written reports indicating that the individual's 6337  
ability to practice has been assessed and that the individual 6338  
has been found capable of practicing according to acceptable and 6339  
prevailing standards of care. The reports shall be made by 6340  
individuals or providers approved by the board for making the 6341  
assessments and shall describe the basis for their 6342  
determination. 6343

The board may reinstate a license or permit suspended 6344  
under this division after that demonstration and after the 6345  
individual has entered into a written consent agreement. 6346

When the impaired practitioner resumes practice, the board 6347  
shall require continued monitoring of the individual. The 6348  
monitoring shall include, but not be limited to, compliance with 6349  
the written consent agreement entered into before reinstatement 6350  
or with conditions imposed by board order after a hearing, and, 6351  
upon termination of the consent agreement, submission to the 6352  
board for at least two years of annual written progress reports 6353  
made under penalty of perjury stating whether the individual has 6354  
maintained sobriety. 6355

~~(H)~~-(H) (1) If either of the following circumstances occur, 6356  
the secretary and supervising member ~~determine both of the~~ 6357  
~~following, they may~~ recommend that the board suspend an 6358  
individual's license or permit without a prior hearing: 6359

~~(1)~~-(a) The secretary and supervising member determine 6360  
both of the following: 6361

(i) That there is clear and convincing evidence that an 6362  
individual has violated division (A) of this section; 6363

~~(2)~~-(ii) That the individual's continued practice presents 6364  
a danger of immediate and serious harm to the public. 6365

~~Written~~-(b) The board receives verifiable information that 6366  
a licensee has been charged in any state or federal court for a 6367  
crime classified as a felony under the charging court's law and 6368  
the conduct charged constitutes a violation of division (A) of 6369  
this section. 6370

(2) If a recommendation is made to suspend without a prior 6371  
hearing pursuant to division (H) (1) of this section, written 6372  
allegations shall be prepared for consideration by the board. 6373  
The board, upon review of those allegations and by an 6374  
affirmative vote of not fewer than six of its members, excluding 6375  
the secretary and supervising member, may suspend a license or 6376  
permit without a prior hearing. A telephone conference call may 6377  
be utilized for reviewing the allegations and taking the vote on 6378  
the summary suspension. 6379

The board shall serve a written order of suspension in 6380  
accordance with sections 119.05 and 119.07 of the Revised Code. 6381  
The order shall not be subject to suspension by the court during 6382  
pendency of any appeal filed under section 119.12 of the Revised 6383  
Code. If the individual subject to the summary suspension 6384

requests an adjudicatory hearing by the board, the date set for 6385  
the hearing shall be within fifteen days, but not earlier than 6386  
seven days, after the individual requests the hearing, unless 6387  
otherwise agreed to by both the board and the individual. 6388

(3) Any summary suspension imposed under this division 6389  
shall remain in effect, unless reversed on appeal, until a final 6390  
adjudicative order issued by the board pursuant to this section 6391  
and Chapter 119. of the Revised Code becomes effective. The 6392  
board shall issue its final adjudicative order within seventy- 6393  
five days after completion of its hearing. A failure to issue 6394  
the order within seventy-five days shall result in dissolution 6395  
of the summary suspension order but shall not invalidate any 6396  
subsequent, final adjudicative order. 6397

(I) For purposes of divisions (A) (2), (4), and (6) of this 6398  
section, the commission of the act may be established by a 6399  
finding by the board, pursuant to an adjudication under Chapter 6400  
119. of the Revised Code, that the individual committed the act. 6401  
The board does not have jurisdiction under those divisions if 6402  
the trial court renders a final judgment in the individual's 6403  
favor and that judgment is based upon an adjudication on the 6404  
merits. The board has jurisdiction under those divisions if the 6405  
trial court issues an order of dismissal upon technical or 6406  
procedural grounds. 6407

(J) The sealing or expungement of conviction records by 6408  
any court shall have no effect upon a prior board order entered 6409  
under this section or upon the board's jurisdiction to take 6410  
action under this section if, based upon a plea of guilty, a 6411  
judicial finding of guilt, or a judicial finding of eligibility 6412  
for intervention in lieu of conviction, the board issued a 6413  
notice of opportunity for a hearing prior to the court's order 6414

to seal or expunge the records. The board shall not be required 6415  
to seal, destroy, redact, or otherwise modify its records to 6416  
reflect the court's sealing or expungement of conviction 6417  
records. 6418

(K) If the board takes action under division (A) (1), (3), 6419  
or (5) of this section, and the judicial finding of guilt, 6420  
guilty plea, or judicial finding of eligibility for intervention 6421  
in lieu of conviction is overturned on appeal, upon exhaustion 6422  
of the criminal appeal, a petition for reconsideration of the 6423  
order may be filed with the board along with appropriate court 6424  
documents. Upon receipt of a petition for reconsideration and 6425  
supporting court documents, the board shall reinstate the 6426  
individual's license or permit. The board may then hold an 6427  
adjudication under Chapter 119. of the Revised Code to determine 6428  
whether the individual committed the act in question. Notice of 6429  
an opportunity for a hearing shall be given in accordance with 6430  
Chapter 119. of the Revised Code. If the board finds, pursuant 6431  
to an adjudication held under this division, that the individual 6432  
committed the act or if no hearing is requested, the board may 6433  
order any of the sanctions identified under division (A) of this 6434  
section. 6435

(L) The license or permit issued to an individual under 6436  
this chapter and the individual's practice in this state are 6437  
automatically suspended as of the date the individual pleads 6438  
guilty to, is found by a judge or jury to be guilty of, or is 6439  
subject to a judicial finding of eligibility for intervention in 6440  
lieu of conviction in this state or treatment or intervention in 6441  
lieu of conviction in another jurisdiction for any of the 6442  
following criminal offenses in this state or a substantially 6443  
equivalent criminal offense in another jurisdiction: aggravated 6444  
murder, murder, voluntary manslaughter, felonious assault, 6445

trafficking in persons, kidnapping, rape, sexual battery, gross 6446  
sexual imposition, aggravated arson, aggravated robbery, or 6447  
aggravated burglary. Continued practice after suspension shall 6448  
be considered practicing without a license or permit. 6449

The board shall serve the individual subject to the 6450  
suspension in accordance with sections 119.05 and 119.07 of the 6451  
Revised Code. If an individual whose license or permit is 6452  
automatically suspended under this division fails to make a 6453  
timely request for an adjudication under Chapter 119. of the 6454  
Revised Code, the board shall enter a final order permanently 6455  
revoking the individual's license or permit. 6456

(M) Notwithstanding any other provision of the Revised 6457  
Code, all of the following apply: 6458

(1) The surrender of a license or permit issued under this 6459  
chapter shall not be effective unless or until accepted by the 6460  
board. A telephone conference call may be utilized for 6461  
acceptance of the surrender of an individual's license or 6462  
permit. The telephone conference call shall be considered a 6463  
special meeting under division (F) of section 121.22 of the 6464  
Revised Code. Reinstatement of a license or permit surrendered 6465  
to the board requires an affirmative vote of not fewer than six 6466  
members of the board. 6467

(2) An application for a license or permit made under the 6468  
provisions of this chapter may not be withdrawn without approval 6469  
of the board. 6470

(3) Failure by an individual to renew a license or permit 6471  
in accordance with this chapter does not remove or limit the 6472  
board's jurisdiction to take any disciplinary action under this 6473  
section against the individual. 6474

(4) The placement of an individual's license on retired status, as described in section 4761.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

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

**Sec. 4761.14.** (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B) (1) An employer that disciplines or terminates the employment of a respiratory care professional or individual holding a limited permit issued under this chapter because of conduct that would be grounds for disciplinary action under section 4761.09 of the Revised Code shall, not later than ~~sixty~~ thirty days after the discipline or termination, report the action to the state medical board. The report shall state the name of the respiratory care professional or individual holding the limited permit and the reason the employer took the action. If an employer fails to report to the board, the board may seek an order from the Franklin county court of common pleas, or any other court of competent jurisdiction, compelling submission of the report.

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

corporation, ambulatory surgical center, or similar facility or 6505  
employer, shall report to the board the name of the individual 6506  
and a summary of the underlying facts related to the 6507  
investigation being commenced. 6508

(C) If any individual authorized to practice under this 6509  
chapter or any professional association or society of such 6510  
individuals knows or has reasonable cause to suspect based on 6511  
facts that would cause a reasonable person in a similar position 6512  
to suspect that an individual authorized to practice under this 6513  
chapter has committed or participated in criminal conduct or 6514  
sexual misconduct the information upon which the belief is based 6515  
shall be reported to the board within thirty days. 6516

This division does not apply to a professional association 6517  
or society whose staff interacts with members of the association 6518  
or society only in advocacy, governance, or educational 6519  
capacities and whose staff does not regularly interact with 6520  
members in practice settings. 6521

(D) In addition to the self-reporting of criminal offenses 6522  
that is required for license renewal, an individual authorized 6523  
to practice under this chapter shall report to the board 6524  
criminal charges regarding criminal conduct, sexual misconduct, 6525  
or any conduct involving the use of a motor vehicle while under 6526  
the influence of alcohol or drugs, including offenses that are 6527  
equivalent offenses under division (A) of section 4511.181 of 6528  
the Revised Code, violations of division (D) of section 4511.194 6529  
of the Revised Code, and violations of division (C) of section 6530  
4511.79 of the Revised Code. Reports under this division shall 6531  
be made within thirty days of the criminal charge being filed. 6532

**Sec. 4761.99.** Whoever violates division (A) of section 6533  
4761.10 of the Revised Code is guilty of a minor misdemeanor on 6534

a first offense. On a second offense, the person is guilty of a 6535  
misdemeanor of the fourth degree. On each subsequent offense, 6536  
the person is guilty of a misdemeanor of the first degree. 6537

Whoever violates division (B) (2) or (C) of section 4761.14 6538  
of the Revised Code is guilty of failure to report criminal 6539  
conduct or sexual misconduct, a misdemeanor of the fourth 6540  
degree. If the offender has previously been convicted of a 6541  
violation of this division, the failure to report is a 6542  
misdemeanor of the first degree. 6543

Whoever violates division (E) (5) of section 4761.03 of the 6544  
Revised Code is guilty of disclosing confidential investigatory 6545  
information, a misdemeanor of the first degree. 6546

**Sec. 4762.13.** (A) The state medical board, by an 6547  
affirmative vote of not fewer than six members, may refuse to 6548  
grant a license to practice as an oriental medicine practitioner 6549  
or license to practice as an acupuncturist to, or may revoke the 6550  
license held by, an individual found by the board to have 6551  
committed fraud, misrepresentation, or deception in applying for 6552  
or securing the license. 6553

(B) The board, by an affirmative vote of not fewer than 6554  
six members, shall, except as provided in division (C) of this 6555  
section, and to the extent permitted by law, limit, revoke, or 6556  
suspend an individual's license to practice, refuse to issue a 6557  
license to an applicant, refuse to renew a license, refuse to 6558  
reinstate a license, or reprimand or place on probation the 6559  
holder of a license for any of the following reasons: 6560

(1) Permitting the holder's name or license to be used by 6561  
another person; 6562

(2) Failure to comply with the requirements of this 6563



chapter, Chapter 4731. of the Revised Code, or any rules adopted 6564  
by the board; 6565

(3) Violating or attempting to violate, directly or 6566  
indirectly, or assisting in or abetting the violation of, or 6567  
conspiring to violate, any provision of this chapter, Chapter 6568  
4731. of the Revised Code, or the rules adopted by the board; 6569

(4) A departure from, or failure to conform to, minimal 6570  
standards of care of similar practitioners under the same or 6571  
similar circumstances whether or not actual injury to the 6572  
patient is established; 6573

(5) Inability to practice according to acceptable and 6574  
prevailing standards of care by reason of mental illness or 6575  
physical illness, including physical deterioration that 6576  
adversely affects cognitive, motor, or perceptive skills; 6577

(6) Impairment of ability to practice according to 6578  
acceptable and prevailing standards of care because of substance 6579  
use disorder or excessive use or abuse of drugs, alcohol, or 6580  
other substances that may impair ability to practice; 6581

(7) Willfully betraying a professional confidence; 6582

(8) Making a false, fraudulent, deceptive, or misleading 6583  
statement in soliciting or advertising for patients or in 6584  
securing or attempting to secure a license to practice as an 6585  
oriental medicine practitioner or license to practice as an 6586  
acupuncturist. 6587

As used in this division, "false, fraudulent, deceptive, 6588  
or misleading statement" means a statement that includes a 6589  
misrepresentation of fact, is likely to mislead or deceive 6590  
because of a failure to disclose material facts, is intended or 6591  
is likely to create false or unjustified expectations of 6592

favorable results, or includes representations or implications 6593  
that in reasonable probability will cause an ordinarily prudent 6594  
person to misunderstand or be deceived. 6595

(9) Representing, with the purpose of obtaining 6596  
compensation or other advantage personally or for any other 6597  
person, that an incurable disease or injury, or other incurable 6598  
condition, can be permanently cured; 6599

(10) The obtaining of, or attempting to obtain, money or a 6600  
thing of value by fraudulent misrepresentations in the course of 6601  
practice; 6602

(11) A plea of guilty to, a judicial finding of guilt of, 6603  
or a judicial finding of eligibility for intervention in lieu of 6604  
conviction for, a felony; 6605

(12) Commission of an act that constitutes a felony in 6606  
this state, regardless of the jurisdiction in which the act was 6607  
committed; 6608

(13) A plea of guilty to, a judicial finding of guilt of, 6609  
or a judicial finding of eligibility for intervention in lieu of 6610  
conviction for, a misdemeanor committed in the course of 6611  
practice; 6612

(14) A plea of guilty to, a judicial finding of guilt of, 6613  
or a judicial finding of eligibility for intervention in lieu of 6614  
conviction for, a misdemeanor involving moral turpitude; 6615

(15) Commission of an act in the course of practice that 6616  
constitutes a misdemeanor in this state, regardless of the 6617  
jurisdiction in which the act was committed; 6618

(16) Commission of an act involving moral turpitude that 6619  
constitutes a misdemeanor in this state, regardless of the 6620

jurisdiction in which the act was committed; 6621

(17) A plea of guilty to, a judicial finding of guilt of, 6622  
or a judicial finding of eligibility for intervention in lieu of 6623  
conviction for violating any state or federal law regulating the 6624  
possession, distribution, or use of any drug, including 6625  
trafficking in drugs; 6626

(18) Any of the following actions taken by the state 6627  
agency responsible for regulating the practice of oriental 6628  
medicine or acupuncture in another jurisdiction, for any reason 6629  
other than the nonpayment of fees: the limitation, revocation, 6630  
or suspension of an individual's license to practice; acceptance 6631  
of an individual's license surrender; denial of a license; 6632  
refusal to renew or reinstate a license; imposition of 6633  
probation; or issuance of an order of censure or other 6634  
reprimand; 6635

(19) Violation of the conditions placed by the board on a 6636  
license to practice as an oriental medicine practitioner or 6637  
license to practice as an acupuncturist; 6638

(20) Failure to use universal blood and body fluid 6639  
precautions established by rules adopted under section 4731.051 6640  
of the Revised Code; 6641

(21) Failure to cooperate in an investigation conducted by 6642  
the board under section 4762.14 of the Revised Code, including 6643  
failure to comply with a subpoena or order issued by the board 6644  
or failure to answer truthfully a question presented by the 6645  
board at a deposition or in written interrogatories, except that 6646  
failure to cooperate with an investigation shall not constitute 6647  
grounds for discipline under this section if a court of 6648  
competent jurisdiction has issued an order that either quashes a 6649

subpoena or permits the individual to withhold the testimony or 6650  
evidence in issue; 6651

(22) Failure to comply with the standards of the national 6652  
certification commission for acupuncture and oriental medicine 6653  
regarding professional ethics, commitment to patients, 6654  
commitment to the profession, and commitment to the public; 6655

(23) Failure to have adequate professional liability 6656  
insurance coverage in accordance with section 4762.22 of the 6657  
Revised Code; 6658

(24) Failure to maintain a current and active designation 6659  
as a diplomate in oriental medicine, diplomate of acupuncture 6660  
and Chinese herbology, or diplomate in acupuncture, as 6661  
applicable, from the national certification commission for 6662  
acupuncture and oriental medicine, including revocation by the 6663  
commission of the individual's designation, failure by the 6664  
individual to meet the commission's requirements for 6665  
redesignation, or failure to notify the board that the 6666  
appropriate designation has not been maintained. 6667

(C) The board shall not refuse to issue a certificate to 6668  
an applicant because of a plea of guilty to, a judicial finding 6669  
of guilt of, or a judicial finding of eligibility for 6670  
intervention in lieu of conviction for an offense unless the 6671  
refusal is in accordance with section 9.79 of the Revised Code. 6672

(D) Disciplinary actions taken by the board under 6673  
divisions (A) and (B) of this section shall be taken pursuant to 6674  
an adjudication under Chapter 119. of the Revised Code, except 6675  
that in lieu of an adjudication, the board may enter into a 6676  
consent agreement with an oriental medicine practitioner or 6677  
acupuncturist or applicant to resolve an allegation of a 6678

violation of this chapter or any rule adopted under it. A 6679  
consent agreement, when ratified by an affirmative vote of not 6680  
fewer than six members of the board, shall constitute the 6681  
findings and order of the board with respect to the matter 6682  
addressed in the agreement. If the board refuses to ratify a 6683  
consent agreement, the admissions and findings contained in the 6684  
consent agreement shall be of no force or effect. 6685

(E) For purposes of divisions (B) (12), (15), and (16) of 6686  
this section, the commission of the act may be established by a 6687  
finding by the board, pursuant to an adjudication under Chapter 6688  
119. of the Revised Code, that the applicant or license holder 6689  
committed the act in question. The board shall have no 6690  
jurisdiction under these divisions in cases where the trial 6691  
court renders a final judgment in the license holder's favor and 6692  
that judgment is based upon an adjudication on the merits. The 6693  
board shall have jurisdiction under these divisions in cases 6694  
where the trial court issues an order of dismissal upon 6695  
technical or procedural grounds. 6696

(F) The sealing or expungement of conviction records by 6697  
any court shall have no effect upon a prior board order entered 6698  
under the provisions of this section or upon the board's 6699  
jurisdiction to take action under the provisions of this section 6700  
if, based upon a plea of guilty, a judicial finding of guilt, or 6701  
a judicial finding of eligibility for intervention in lieu of 6702  
conviction, the board issued a notice of opportunity for a 6703  
hearing or entered into a consent agreement prior to the court's 6704  
order to seal or expunge the records. The board shall not be 6705  
required to seal, destroy, redact, or otherwise modify its 6706  
records to reflect the court's sealing or expungement of 6707  
conviction records. 6708

(G) For purposes of this division, any individual who 6709  
holds a license to practice issued under this chapter, or 6710  
applies for a license to practice, shall be deemed to have given 6711  
consent to submit to a mental or physical examination when 6712  
directed to do so in writing by the board and to have waived all 6713  
objections to the admissibility of testimony or examination 6714  
reports that constitute a privileged communication. 6715

(1) In enforcing division (B) (5) of this section, the 6716  
board, upon a showing of a possible violation, shall refer any 6717  
individual who holds, or has applied for, a license under this 6718  
chapter to the monitoring organization that conducts the 6719  
confidential monitoring program established under section 6720  
4731.25 of the Revised Code. The board also may compel the 6721  
individual to submit to a mental examination, physical 6722  
examination, including an HIV test, or both a mental and 6723  
physical examination. The expense of the examination is the 6724  
responsibility of the individual compelled to be examined. 6725  
Failure to submit to a mental or physical examination or consent 6726  
to an HIV test ordered by the board constitutes an admission of 6727  
the allegations against the individual unless the failure is due 6728  
to circumstances beyond the individual's control, and a default 6729  
and final order may be entered without the taking of testimony 6730  
or presentation of evidence. If the board finds an oriental 6731  
medicine practitioner or acupuncturist unable to practice 6732  
because of the reasons set forth in division (B) (5) of this 6733  
section, the board shall require the individual to submit to 6734  
care, counseling, or treatment by physicians approved or 6735  
designated by the board, as a condition for an initial, 6736  
continued, reinstated, or renewed license to practice. An 6737  
individual affected by this division shall be afforded an 6738  
opportunity to demonstrate to the board the ability to resume 6739

practicing in compliance with acceptable and prevailing 6740  
standards of care. 6741

(2) For purposes of division (B)(6) of this section, if 6742  
the board has reason to believe that any individual who holds a 6743  
license to practice issued under this chapter or any applicant 6744  
for a license suffers such impairment, the board shall refer the 6745  
individual to the monitoring organization that conducts the 6746  
confidential monitoring program established under section 6747  
4731.25 of the Revised Code. The board also may compel the 6748  
individual to submit to a mental or physical examination, or 6749  
both. The expense of the examination is the responsibility of 6750  
the individual compelled to be examined. Any mental or physical 6751  
examination required under this division shall be undertaken by 6752  
a treatment provider or physician qualified to conduct such 6753  
examination and approved under section 4731.251 of the Revised 6754  
Code. 6755

Failure to submit to a mental or physical examination 6756  
ordered by the board constitutes an admission of the allegations 6757  
against the individual unless the failure is due to 6758  
circumstances beyond the individual's control, and a default and 6759  
final order may be entered without the taking of testimony or 6760  
presentation of evidence. If the board determines that the 6761  
individual's ability to practice is impaired, the board shall 6762  
suspend the individual's license or deny the individual's 6763  
application and shall require the individual, as a condition for 6764  
an initial, continued, reinstated, or renewed license, to submit 6765  
to treatment. 6766

Before being eligible to apply for reinstatement of a 6767  
license suspended under this division, the oriental medicine 6768  
practitioner or acupuncturist shall demonstrate to the board the 6769

ability to resume practice in compliance with acceptable and 6770  
prevailing standards of care. The demonstration shall include 6771  
the following: 6772

(a) Certification from a treatment provider approved under 6773  
section 4731.251 of the Revised Code that the individual has 6774  
successfully completed any required inpatient treatment; 6775

(b) Evidence of continuing full compliance with an 6776  
aftercare contract or consent agreement; 6777

(c) Two written reports indicating that the individual's 6778  
ability to practice has been assessed and that the individual 6779  
has been found capable of practicing according to acceptable and 6780  
prevailing standards of care. The reports shall be made by 6781  
individuals or providers approved by the board for making such 6782  
assessments and shall describe the basis for their 6783  
determination. 6784

The board may reinstate a license suspended under this 6785  
division after such demonstration and after the individual has 6786  
entered into a written consent agreement. 6787

When the impaired individual resumes practice, the board 6788  
shall require continued monitoring of the individual. The 6789  
monitoring shall include monitoring of compliance with the 6790  
written consent agreement entered into before reinstatement or 6791  
with conditions imposed by board order after a hearing, and, 6792  
upon termination of the consent agreement, submission to the 6793  
board for at least two years of annual written progress reports 6794  
made under penalty of falsification stating whether the 6795  
individual has maintained sobriety. 6796

~~(H)~~ (H) (1) If either of the following circumstances occur, 6797  
the secretary and supervising member ~~determine both of the~~ 6798



following, they may recommend that the board suspend an 6799  
individual's license to practice without a prior hearing: 6800

~~(1)~~ (a) The secretary and supervising member determine 6801  
both of the following: 6802

(i) That there is clear and convincing evidence that an 6803  
oriental medicine practitioner or acupuncturist has violated 6804  
division (B) of this section; 6805

~~(2)~~ (ii) That the individual's continued practice presents 6806  
a danger of immediate and serious harm to the public. 6807

~~Written~~ (b) The board receives verifiable information that 6808  
a licensee has been charged in any state or federal court for a 6809  
crime classified as a felony under the charging court's law and 6810  
the conduct charged constitutes a violation of division (B) of 6811  
this section. 6812

(2) If a recommendation is made to suspend without a prior 6813  
hearing pursuant to division (H) (1) of this section, written 6814  
allegations shall be prepared for consideration by the board. 6815  
The board, upon review of the allegations and by an affirmative 6816  
vote of not fewer than six of its members, excluding the 6817  
secretary and supervising member, may suspend a license without 6818  
a prior hearing. A telephone conference call may be utilized for 6819  
reviewing the allegations and taking the vote on the summary 6820  
suspension. 6821

The board shall serve a written order of suspension in 6822  
accordance with sections 119.05 and 119.07 of the Revised Code. 6823  
The order shall not be subject to suspension by the court during 6824  
pendency of any appeal filed under section 119.12 of the Revised 6825  
Code. If the oriental medicine practitioner or acupuncturist 6826  
requests an adjudicatory hearing by the board, the date set for 6827

the hearing shall be within fifteen days, but not earlier than 6828  
seven days, after the hearing is requested, unless otherwise 6829  
agreed to by both the board and the license holder. 6830

(3) A summary suspension imposed under this division shall 6831  
remain in effect, unless reversed on appeal, until a final 6832  
adjudicative order issued by the board pursuant to this section 6833  
and Chapter 119. of the Revised Code becomes effective. The 6834  
board shall issue its final adjudicative order within sixty days 6835  
after completion of its hearing. Failure to issue the order 6836  
within sixty days shall result in dissolution of the summary 6837  
suspension order, but shall not invalidate any subsequent, final 6838  
adjudicative order. 6839

(I) If the board takes action under division (B) (11), 6840  
(13), or (14) of this section, and the judicial finding of 6841  
guilt, guilty plea, or judicial finding of eligibility for 6842  
intervention in lieu of conviction is overturned on appeal, upon 6843  
exhaustion of the criminal appeal, a petition for 6844  
reconsideration of the order may be filed with the board along 6845  
with appropriate court documents. Upon receipt of a petition and 6846  
supporting court documents, the board shall reinstate the 6847  
license. The board may then hold an adjudication under Chapter 6848  
119. of the Revised Code to determine whether the individual 6849  
committed the act in question. Notice of opportunity for hearing 6850  
shall be given in accordance with Chapter 119. of the Revised 6851  
Code. If the board finds, pursuant to an adjudication held under 6852  
this division, that the individual committed the act, or if no 6853  
hearing is requested, it may order any of the sanctions 6854  
specified in division (B) of this section. 6855

(J) The license to practice of an oriental medicine 6856  
practitioner or acupuncturist and the practitioner's or 6857

acupuncturist's practice in this state are automatically 6858  
suspended as of the date the practitioner or acupuncturist 6859  
pleads guilty to, is found by a judge or jury to be guilty of, 6860  
or is subject to a judicial finding of eligibility for 6861  
intervention in lieu of conviction in this state or treatment or 6862  
intervention in lieu of conviction in another jurisdiction for 6863  
any of the following criminal offenses in this state or a 6864  
substantially equivalent criminal offense in another 6865  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 6866  
felonious assault, trafficking in persons, kidnapping, rape, 6867  
sexual battery, gross sexual imposition, aggravated arson, 6868  
aggravated robbery, or aggravated burglary. Continued practice 6869  
after the suspension shall be considered practicing without a 6870  
license. 6871

The board shall serve the individual subject to the 6872  
suspension in accordance with sections 119.05 and 119.07 of the 6873  
Revised Code. If an individual whose license is suspended under 6874  
this division fails to make a timely request for an adjudication 6875  
under Chapter 119. of the Revised Code, the board shall enter a 6876  
final order permanently revoking the individual's license. 6877

(K) In any instance in which the board is required by 6878  
Chapter 119. of the Revised Code to give notice of opportunity 6879  
for hearing and the individual subject to the notice does not 6880  
timely request a hearing in accordance with section 119.07 of 6881  
the Revised Code, the board is not required to hold a hearing, 6882  
but may adopt, by an affirmative vote of not fewer than six of 6883  
its members, a final order that contains the board's findings. 6884  
In the final order, the board may order any of the sanctions 6885  
identified under division (A) or (B) of this section. 6886

(L) Any action taken by the board under division (B) of 6887

this section resulting in a suspension shall be accompanied by a 6888  
written statement of the conditions under which the license may 6889  
be reinstated. The board shall adopt rules in accordance with 6890  
Chapter 119. of the Revised Code governing conditions to be 6891  
imposed for reinstatement. Reinstatement of a license suspended 6892  
pursuant to division (B) of this section requires an affirmative 6893  
vote of not fewer than six members of the board. 6894

(M) When the board refuses to grant or issue a license to 6895  
an applicant, revokes an individual's license, refuses to renew 6896  
an individual's license, or refuses to reinstate an individual's 6897  
license, the board may specify that its action is permanent. An 6898  
individual subject to a permanent action taken by the board is 6899  
forever thereafter ineligible to hold a license to practice as 6900  
an oriental medicine practitioner or license to practice as an 6901  
acupuncturist and the board shall not accept an application for 6902  
reinstatement of the license or for issuance of a new license. 6903

(N) Notwithstanding any other provision of the Revised 6904  
Code, all of the following apply: 6905

(1) The surrender of a license to practice as an oriental 6906  
medicine practitioner or license to practice as an acupuncturist 6907  
issued under this chapter is not effective unless or until 6908  
accepted by the board. Reinstatement of a license surrendered to 6909  
the board requires an affirmative vote of not fewer than six 6910  
members of the board. 6911

(2) An application made under this chapter for a license 6912  
may not be withdrawn without approval of the board. 6913

(3) Failure by an individual to renew a license in 6914  
accordance with section 4762.06 of the Revised Code does not 6915  
remove or limit the board's jurisdiction to take disciplinary 6916

action under this section against the individual. 6917

(4) The placement of an individual's license on retired 6918  
status, as described in section 4762.062 of the Revised Code, 6919  
does not remove or limit the board's jurisdiction to take any 6920  
disciplinary action against the individual with regard to the 6921  
license as it existed before being placed on retired status. 6922

**Sec. 4762.14.** (A) The state medical board shall 6923  
investigate evidence that appears to show that any person has 6924  
violated this chapter or the rules adopted under it. Any person 6925  
may report to the board in a signed writing any information the 6926  
person has that appears to show a violation of any provision of 6927  
this chapter or the rules adopted under it. In the absence of 6928  
bad faith, a person who reports such information or testifies 6929  
before the board in an adjudication conducted under Chapter 119. 6930  
of the Revised Code shall not be liable for civil damages as a 6931  
result of reporting the information or providing testimony. Each 6932  
complaint or allegation of a violation received by the board 6933  
shall be assigned a case number and be recorded by the board. 6934

(B) Investigations of alleged violations of this chapter 6935  
or rules adopted under it shall be supervised by the supervising 6936  
member elected by the board in accordance with section 4731.02 6937  
of the Revised Code and by the secretary as provided in section 6938  
4762.17 of the Revised Code. The board's president may designate 6939  
another member of the board to supervise the investigation in 6940  
place of the supervising member. Upon a vote of the majority of 6941  
the board to authorize the addition of a consumer member in the 6942  
supervision of any part of any investigation, the president 6943  
shall designate a consumer member for supervision of 6944  
investigations as determined by the president. The authorization 6945  
of consumer member participation in investigation supervision 6946

may be rescinded by a majority vote of the board. A member of 6947  
the board who supervises the investigation of a case shall not 6948  
participate in further adjudication of the case. 6949

(C) In investigating a possible violation of this chapter 6950  
or the rules adopted under it, the board may administer oaths, 6951  
order the taking of depositions, issue subpoenas, and compel the 6952  
attendance of witnesses and production of books, accounts, 6953  
papers, records, documents, and testimony, except that a 6954  
subpoena for patient record information shall not be issued 6955  
without consultation with the attorney general's office and 6956  
approval of the secretary of the board. Before issuance of a 6957  
subpoena for patient record information, the secretary shall 6958  
determine whether there is probable cause to believe that the 6959  
complaint filed alleges a violation of this chapter or the rules 6960  
adopted under it and that the records sought are relevant to the 6961  
alleged violation and material to the investigation. The 6962  
subpoena may apply only to records that cover a reasonable 6963  
period of time surrounding the alleged violation. 6964

On failure to comply with any subpoena issued by the board 6965  
and after reasonable notice to the person being subpoenaed, the 6966  
board may move for an order compelling the production of persons 6967  
or records pursuant to the Rules of Civil Procedure. 6968

A subpoena issued by the board may be served by a sheriff, 6969  
the sheriff's deputy, or a board employee designated by the 6970  
board. Service of a subpoena issued by the board may be made by 6971  
delivering a copy of the subpoena to the person named therein, 6972  
reading it to the person, or leaving it at the person's usual 6973  
place of residence. When the person being served is an oriental 6974  
medicine practitioner or acupuncturist, service of the subpoena 6975  
may be made by certified mail, restricted delivery, return 6976

receipt requested, and the subpoena shall be deemed served on 6977  
the date delivery is made or the date the person refuses to 6978  
accept delivery. 6979

A sheriff's deputy who serves a subpoena shall receive the 6980  
same fees as a sheriff. Each witness who appears before the 6981  
board in obedience to a subpoena shall receive the fees and 6982  
mileage provided for under section 119.094 of the Revised Code. 6983

(D) All hearings and investigations of the board shall be 6984  
considered civil actions for the purposes of section 2305.252 of 6985  
the Revised Code. 6986

(E) Information received by the board pursuant to an 6987  
investigation is confidential and not subject to discovery in 6988  
any civil action. 6989

The board shall conduct all investigations and proceedings 6990  
in a manner that protects the confidentiality of patients and 6991  
persons who file complaints with the board. The board shall not 6992  
make public the names or any other identifying information about 6993  
patients or complainants unless proper consent is given. 6994

The board may share any information it receives pursuant 6995  
to an investigation, including patient records and patient 6996  
record information, with law enforcement agencies, other 6997  
licensing boards, and other governmental agencies that are 6998  
prosecuting, adjudicating, or investigating alleged violations 6999  
of statutes or administrative rules. An agency or board that 7000  
receives the information shall comply with the same requirements 7001  
regarding confidentiality as those with which the state medical 7002  
board must comply, notwithstanding any conflicting provision of 7003  
the Revised Code or procedure of the agency or board that 7004  
applies when it is dealing with other information in its 7005

possession. In a judicial proceeding, the information may be 7006  
admitted into evidence only in accordance with the Rules of 7007  
Evidence, but the court shall require that appropriate measures 7008  
are taken to ensure that confidentiality is maintained with 7009  
respect to any part of the information that contains names or 7010  
other identifying information about patients or complainants 7011  
whose confidentiality was protected by the state medical board 7012  
when the information was in the board's possession. Measures to 7013  
ensure confidentiality that may be taken by the court include 7014  
sealing its records or deleting specific information from its 7015  
records. 7016

No person shall knowingly access, use, or disclose 7017  
confidential investigatory information in a manner prohibited by 7018  
law. 7019

(F) The state medical board shall develop requirements for 7020  
and provide appropriate initial training and continuing 7021  
education for investigators employed by the board to carry out 7022  
its duties under this chapter. The training and continuing 7023  
education may include enrollment in courses operated or approved 7024  
by the Ohio peace officer training commission that the board 7025  
considers appropriate under conditions set forth in section 7026  
109.79 of the Revised Code. 7027

(G) On a quarterly basis, the board shall prepare a report 7028  
that documents the disposition of all cases during the preceding 7029  
three months. The report shall contain the following information 7030  
for each case with which the board has completed its activities: 7031

(1) The case number assigned to the complaint or alleged 7032  
violation; 7033

(2) The type of license, if any, held by the individual 7034



against whom the complaint is directed; 7035

(3) A description of the allegations contained in the 7036  
complaint; 7037

(4) Whether witnesses were interviewed; 7038

(5) Whether the individual against whom the complaint is 7039  
directed is the subject of any pending complaints; 7040

(6) The disposition of the case. 7041

The report shall state how many cases are still pending, 7042  
and shall be prepared in a manner that protects the identity of 7043  
each person involved in each case. The report is a public record 7044  
for purposes of section 149.43 of the Revised Code. 7045

(H) The board may provide a status update regarding an 7046  
investigation to a complainant on request if the board verifies 7047  
the complainant's identity. 7048

**Sec. 4762.16.** (A) As used in this section, "criminal 7049  
conduct" and "sexual misconduct" have the same meanings as in 7050  
section 4731.224 of the Revised Code. 7051

(B) (1) Within ~~sixty~~ thirty days after the imposition of 7052  
any formal disciplinary action taken by any health care 7053  
facility, including a hospital, health care facility operated by 7054  
a health insuring corporation, ambulatory surgical center, or 7055  
similar facility, against any individual holding a valid license 7056  
to practice as an oriental medicine practitioner or valid 7057  
license to practice as an acupuncturist, the chief administrator 7058  
or executive officer of the facility shall report to the state 7059  
medical board the name of the individual, the action taken by 7060  
the facility, and a summary of the underlying facts leading to 7061  
the action taken. Upon request, the board shall be provided 7062

certified copies of the patient records that were the basis for 7063  
the facility's action. Prior to release to the board, the 7064  
summary shall be approved by the peer review committee that 7065  
reviewed the case or by the governing board of the facility. 7066

The filing of a report with the board or decision not to 7067  
file a report, investigation by the board, or any disciplinary 7068  
action taken by the board, does not preclude a health care 7069  
facility from taking disciplinary action against an oriental 7070  
medicine practitioner or acupuncturist. 7071

In the absence of fraud or bad faith, no individual or 7072  
entity that provides patient records to the board shall be 7073  
liable in damages to any person as a result of providing the 7074  
records. 7075

(2) Within thirty days after commencing an investigation 7076  
regarding criminal conduct or sexual misconduct against any 7077  
individual holding a valid license to practice issued pursuant 7078  
to this chapter, a health care facility, including a hospital, 7079  
health care facility operated by a health insuring corporation, 7080  
ambulatory surgical center, or similar facility, shall report to 7081  
the board the name of the individual and a summary of the 7082  
underlying facts related to the investigation being commenced. 7083

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 7084  
of this section and subject to division (C)(3) of this section, 7085  
an oriental medicine practitioner or acupuncturist, professional 7086  
association or society of oriental medicine practitioners or 7087  
acupuncturists, physician, or professional association or 7088  
society of physicians that believes a violation of any provision 7089  
of this chapter, Chapter 4731. of the Revised Code, or rule of 7090  
the board has occurred shall report to the board the information 7091  
upon which the belief is based. 7092

(2) An oriental medicine practitioner or acupuncturist, 7093  
professional association or society of oriental medicine 7094  
practitioners or acupuncturists, physician, or professional 7095  
association or society of physicians that believes a violation 7096  
of division (B) (5) or (6) of section 4762.13 of the Revised Code 7097  
has occurred shall report the information upon which the belief 7098  
is based to the monitoring organization conducting the 7099  
confidential monitoring program established under section 7100  
4731.25 of the Revised Code. If any such report is made to the 7101  
board, it shall be referred to the monitoring organization 7102  
unless the board is aware that the individual who is the subject 7103  
of the report does not meet the program eligibility requirements 7104  
of section 4731.252 of the Revised Code. 7105

(3) If any individual authorized to practice under this 7106  
chapter or any professional association or society of such 7107  
individuals knows or has reasonable cause to suspect based on 7108  
facts that would cause a reasonable person in a similar position 7109  
to suspect that an individual authorized to practice under this 7110  
chapter has committed or participated in criminal conduct or 7111  
sexual misconduct, the information upon which the belief is 7112  
based shall be reported to the board within thirty days. 7113

This division does not apply to a professional association 7114  
or society whose staff interacts with members of the association 7115  
or society only in advocacy, governance, or educational 7116  
capacities and whose staff does not regularly interact with 7117  
members in practice settings. 7118

(4) In addition to the self-reporting of criminal offenses 7119  
that is required for license renewal, an individual authorized 7120  
to practice under this chapter shall report to the board 7121  
criminal charges regarding criminal conduct, sexual misconduct, 7122

or any conduct involving the use of a motor vehicle while under 7123  
the influence of alcohol or drugs, including offenses that are 7124  
equivalent offenses under division (A) of section 4511.181 of 7125  
the Revised Code, violations of division (D) of section 4511.194 7126  
of the Revised Code, and violations of division (C) of section 7127  
4511.79 of the Revised Code. Reports under this division shall 7128  
be made within thirty days of the criminal charge being filed. 7129

~~(C)~~ (D) Any professional association or society composed 7130  
primarily of oriental medicine practitioners or acupuncturists 7131  
that suspends or revokes an individual's membership for 7132  
violations of professional ethics, or for reasons of 7133  
professional incompetence or professional malpractice, within 7134  
~~sixty~~ thirty days after a final decision, shall report to the 7135  
board, on forms prescribed and provided by the board, the name 7136  
of the individual, the action taken by the professional 7137  
organization, and a summary of the underlying facts leading to 7138  
the action taken. 7139

The filing of a report with the board or decision not to 7140  
file a report, investigation by the board, or any disciplinary 7141  
action taken by the board, does not preclude a professional 7142  
organization from taking disciplinary action against an 7143  
individual. 7144

~~(D)~~ (E) Any insurer providing professional liability 7145  
insurance to any person holding a valid license to practice as 7146  
an oriental medicine practitioner or valid license to practice 7147  
as an acupuncturist or any other entity that seeks to indemnify 7148  
the professional liability of an oriental medicine practitioner 7149  
or acupuncturist shall notify the board within thirty days after 7150  
the final disposition of any written claim for damages where 7151  
such disposition results in a payment exceeding twenty-five 7152

thousand dollars. The notice shall contain the following 7153  
information: 7154

(1) The name and address of the person submitting the 7155  
notification; 7156

(2) The name and address of the insured who is the subject 7157  
of the claim; 7158

(3) The name of the person filing the written claim; 7159

(4) The date of final disposition; 7160

(5) If applicable, the identity of the court in which the 7161  
final disposition of the claim took place. 7162

~~(E)~~ (F) The board may investigate possible violations of 7163  
this chapter or the rules adopted under it that are brought to 7164  
its attention as a result of the reporting requirements of this 7165  
section, except that the board shall conduct an investigation if 7166  
a possible violation involves repeated malpractice. As used in 7167  
this division, "repeated malpractice" means three or more claims 7168  
for malpractice within the previous five-year period, each 7169  
resulting in a judgment or settlement in excess of twenty-five 7170  
thousand dollars in favor of the claimant, and each involving 7171  
negligent conduct by the oriental medicine practitioner or 7172  
acupuncturist. 7173

~~(F)~~ (G) All summaries, reports, and records received and 7174  
maintained by the board pursuant to this section shall be held 7175  
~~in confidence and shall not be subject to discovery or~~ 7176  
~~introduction in evidence in any federal or state civil action~~ 7177  
~~involving an oriental medicine practitioner, acupuncturist,~~ 7178  
~~supervising physician, or health care facility arising out of~~ 7179  
~~matters that are the subject of the reporting required by this~~ 7180  
~~section. The board may use the information obtained only as the~~ 7181

~~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 4731.25 of the Revised Code, or refers an impaired oriental medicine practitioner or impaired acupuncturist to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

~~(I)~~ (J) In the absence of fraud or bad faith, a 7212  
professional association or society of oriental medicine 7213  
practitioners or acupuncturists that sponsors a committee or 7214  
program to provide peer assistance to an oriental medicine 7215  
practitioner or acupuncturist with substance abuse problems, a 7216  
representative or agent of such a committee or program, a 7217  
representative or agent of the monitoring organization described 7218  
in section 4731.25 of the Revised Code, and a member of the 7219  
state medical board shall not be held liable in damages to any 7220  
person by reason of actions taken to refer an oriental medicine 7221  
practitioner or acupuncturist to a treatment provider approved 7222  
under section 4731.251 of the Revised Code for examination or 7223  
treatment. 7224

**Sec. 4762.99.** (A) Whoever violates section 4762.02 of the 7225  
Revised Code is guilty of a misdemeanor of the first degree on a 7226  
first offense; on each subsequent offense, the person is guilty 7227  
of a felony of the fourth degree. 7228

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7229  
(1), ~~(C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7230  
Code is guilty of a minor misdemeanor on a first offense; on 7231  
each subsequent offense the person is guilty of a misdemeanor of 7232  
the fourth degree, except that an individual guilty of a 7233  
subsequent offense shall not be subject to imprisonment, but to 7234  
a fine alone of up to one thousand dollars for each offense. 7235

(2) Whoever violates division (B) (2) or (C) (3) of section 7236  
4762.16 of the Revised Code is guilty of failure to report 7237  
criminal conduct or sexual misconduct, a misdemeanor of the 7238  
fourth degree. If the offender has previously been convicted of 7239  
a violation of this division, the failure to report is a 7240  
misdemeanor of the first degree. 7241

(C) Whoever violates division (E) of section 4762.14 of 7242  
the Revised Code is guilty of disclosing confidential 7243  
investigatory information, a misdemeanor of the first degree. 7244

**Sec. 4774.13.** (A) The state medical board, by an 7245  
affirmative vote of not fewer than six members, may refuse to 7246  
grant a license to practice as a radiologist assistant to, or 7247  
may revoke the license held by, an individual found by the board 7248  
to have committed fraud, misrepresentation, or deception in 7249  
applying for or securing the license. 7250

(B) The board, by an affirmative vote of not fewer than 7251  
six members, shall, except as provided in division (C) of this 7252  
section, and to the extent permitted by law, limit, revoke, or 7253  
suspend an individual's license to practice as a radiologist 7254  
assistant, refuse to issue a license to an applicant, refuse to 7255  
renew a license, refuse to reinstate a license, or reprimand or 7256  
place on probation the holder of a license for any of the 7257  
following reasons: 7258

(1) Permitting the holder's name or license to be used by 7259  
another person; 7260

(2) Failure to comply with the requirements of this 7261  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7262  
by the board; 7263

(3) Violating or attempting to violate, directly or 7264  
indirectly, or assisting in or abetting the violation of, or 7265  
conspiring to violate, any provision of this chapter, Chapter 7266  
4731. of the Revised Code, or the rules adopted by the board; 7267

(4) A departure from, or failure to conform to, minimal 7268  
standards of care of similar practitioners under the same or 7269  
similar circumstances whether or not actual injury to the 7270



patient is established;	7271
(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	7272 7273 7274 7275
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;	7276 7277 7278 7279
(7) Willfully betraying a professional confidence;	7280
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a radiologist assistant.	7281 7282 7283
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.	7284 7285 7286 7287 7288 7289 7290 7291
(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;	7292 7293 7294
(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	7295 7296 7297
(11) Commission of an act that constitutes a felony in	7298

this state, regardless of the jurisdiction in which the act was committed;	7299 7300
(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	7301 7302 7303 7304
(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;	7305 7306 7307
(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	7308 7309 7310
(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	7311 7312 7313
(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;	7314 7315 7316 7317 7318
(17) Any of the following actions taken by the state agency responsible for regulating the practice of radiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	7319 7320 7321 7322 7323 7324 7325 7326
(18) Violation of the conditions placed by the board on a	7327

license to practice as a radiologist assistant; 7328

(19) Failure to use universal blood and body fluid 7329  
precautions established by rules adopted under section 4731.051 7330  
of the Revised Code; 7331

(20) Failure to cooperate in an investigation conducted by 7332  
the board under section 4774.14 of the Revised Code, including 7333  
failure to comply with a subpoena or order issued by the board 7334  
or failure to answer truthfully a question presented by the 7335  
board at a deposition or in written interrogatories, except that 7336  
failure to cooperate with an investigation shall not constitute 7337  
grounds for discipline under this section if a court of 7338  
competent jurisdiction has issued an order that either quashes a 7339  
subpoena or permits the individual to withhold the testimony or 7340  
evidence in issue; 7341

(21) Failure to maintain a license as a radiographer under 7342  
Chapter 4773. of the Revised Code; 7343

(22) Failure to maintain certification as a registered 7344  
radiologist assistant from the American registry of radiologic 7345  
technologists, including revocation by the registry of the 7346  
assistant's certification or failure by the assistant to meet 7347  
the registry's requirements for annual registration, or failure 7348  
to notify the board that the certification as a registered 7349  
radiologist assistant has not been maintained; 7350

(23) Failure to comply with any of the rules of ethics 7351  
included in the standards of ethics established by the American 7352  
registry of radiologic technologists, as those rules apply to an 7353  
individual who holds the registry's certification as a 7354  
registered radiologist assistant. 7355

(C) The board shall not refuse to issue a license to an 7356

applicant because of a plea of guilty to, a judicial finding of 7357  
guilt of, or a judicial finding of eligibility for intervention 7358  
in lieu of conviction for an offense unless the refusal is in 7359  
accordance with section 9.79 of the Revised Code. 7360

(D) Disciplinary actions taken by the board under 7361  
divisions (A) and (B) of this section shall be taken pursuant to 7362  
an adjudication under Chapter 119. of the Revised Code, except 7363  
that in lieu of an adjudication, the board may enter into a 7364  
consent agreement with a radiologist assistant or applicant to 7365  
resolve an allegation of a violation of this chapter or any rule 7366  
adopted under it. A consent agreement, when ratified by an 7367  
affirmative vote of not fewer than six members of the board, 7368  
shall constitute the findings and order of the board with 7369  
respect to the matter addressed in the agreement. If the board 7370  
refuses to ratify a consent agreement, the admissions and 7371  
findings contained in the consent agreement shall be of no force 7372  
or effect. 7373

(E) For purposes of divisions (B) (11), (14), and (15) of 7374  
this section, the commission of the act may be established by a 7375  
finding by the board, pursuant to an adjudication under Chapter 7376  
119. of the Revised Code, that the applicant or license holder 7377  
committed the act in question. The board shall have no 7378  
jurisdiction under these divisions in cases where the trial 7379  
court renders a final judgment in the license holder's favor and 7380  
that judgment is based upon an adjudication on the merits. The 7381  
board shall have jurisdiction under these divisions in cases 7382  
where the trial court issues an order of dismissal on technical 7383  
or procedural grounds. 7384

(F) The sealing or expungement of conviction records by 7385  
any court shall have no effect on a prior board order entered 7386

under the provisions of this section or on the board's 7387  
jurisdiction to take action under the provisions of this section 7388  
if, based upon a plea of guilty, a judicial finding of guilt, or 7389  
a judicial finding of eligibility for intervention in lieu of 7390  
conviction, the board issued a notice of opportunity for a 7391  
hearing prior to the court's order to seal or expunge the 7392  
records. The board shall not be required to seal, destroy, 7393  
redact, or otherwise modify its records to reflect the court's 7394  
sealing or expungement of conviction records. 7395

(G) For purposes of this division, any individual who 7396  
holds a license to practice as a radiologist assistant issued 7397  
under this chapter, or applies for a license, shall be deemed to 7398  
have given consent to submit to a mental or physical examination 7399  
when directed to do so in writing by the board and to have 7400  
waived all objections to the admissibility of testimony or 7401  
examination reports that constitute a privileged communication. 7402

(1) In enforcing division (B) (5) of this section, the 7403  
board, on a showing of a possible violation, shall refer any 7404  
individual who holds, or has applied for, a license to practice 7405  
as a radiologist assistant issued under this chapter to the 7406  
monitoring organization that conducts the confidential 7407  
monitoring program established under section 4731.25 of the 7408  
Revised Code. The board also may compel the individual to submit 7409  
to a mental or physical examination, or both. A physical 7410  
examination may include an HIV test. The expense of the 7411  
examination is the responsibility of the individual compelled to 7412  
be examined. Failure to submit to a mental or physical 7413  
examination or consent to an HIV test ordered by the board 7414  
constitutes an admission of the allegations against the 7415  
individual unless the failure is due to circumstances beyond the 7416  
individual's control, and a default and final order may be 7417

entered without the taking of testimony or presentation of 7418  
evidence. If the board finds a radiologist assistant unable to 7419  
practice because of the reasons set forth in division (B) (5) of 7420  
this section, the board shall require the radiologist assistant 7421  
to submit to care, counseling, or treatment by physicians 7422  
approved or designated by the board, as a condition for an 7423  
initial, continued, reinstated, or renewed license. An 7424  
individual affected by this division shall be afforded an 7425  
opportunity to demonstrate to the board the ability to resume 7426  
practicing in compliance with acceptable and prevailing 7427  
standards of care. 7428

(2) For purposes of division (B) (6) of this section, if 7429  
the board has reason to believe that any individual who holds a 7430  
license to practice as a radiologist assistant issued under this 7431  
chapter or any applicant for a license suffers such impairment, 7432  
the board shall refer the individual to the monitoring 7433  
organization that conducts the confidential monitoring program 7434  
established under section 4731.25 of the Revised Code. The board 7435  
also may compel the individual to submit to a mental or physical 7436  
examination, or both. The expense of the examination is the 7437  
responsibility of the individual compelled to be examined. Any 7438  
mental or physical examination required under this division 7439  
shall be undertaken by a treatment provider or physician 7440  
qualified to conduct such examination and approved under section 7441  
4731.251 of the Revised Code. 7442

Failure to submit to a mental or physical examination 7443  
ordered by the board constitutes an admission of the allegations 7444  
against the individual unless the failure is due to 7445  
circumstances beyond the individual's control, and a default and 7446  
final order may be entered without the taking of testimony or 7447  
presentation of evidence. If the board determines that the 7448

individual's ability to practice is impaired, the board shall 7449  
suspend the individual's license or deny the individual's 7450  
application and shall require the individual, as a condition for 7451  
an initial, continued, reinstated, or renewed license to 7452  
practice, to submit to treatment. 7453

Before being eligible to apply for reinstatement of a 7454  
license suspended under this division, the radiologist assistant 7455  
shall demonstrate to the board the ability to resume practice in 7456  
compliance with acceptable and prevailing standards of care. The 7457  
demonstration shall include the following: 7458

(a) Certification from a treatment provider approved under 7459  
section 4731.251 of the Revised Code that the individual has 7460  
successfully completed any required inpatient treatment; 7461

(b) Evidence of continuing full compliance with an 7462  
aftercare contract or consent agreement; 7463

(c) Two written reports indicating that the individual's 7464  
ability to practice has been assessed and that the individual 7465  
has been found capable of practicing according to acceptable and 7466  
prevailing standards of care. The reports shall be made by 7467  
individuals or providers approved by the board for making such 7468  
assessments and shall describe the basis for their 7469  
determination. 7470

The board may reinstate a license suspended under this 7471  
division after such demonstration and after the individual has 7472  
entered into a written consent agreement. 7473

When the impaired radiologist assistant resumes practice, 7474  
the board shall require continued monitoring of the radiologist 7475  
assistant. The monitoring shall include monitoring of compliance 7476  
with the written consent agreement entered into before 7477

reinstatement or with conditions imposed by board order after a 7478  
hearing, and, on termination of the consent agreement, 7479  
submission to the board for at least two years of annual written 7480  
progress reports made under penalty of falsification stating 7481  
whether the radiologist assistant has maintained sobriety. 7482

~~(H)~~ (H) (1) If either of the following circumstances occur, 7483  
the secretary and supervising member ~~determine~~ may recommend 7484  
that the board suspend the individual's license to practice 7485  
without a prior hearing: 7486

(a) The secretary and supervising member determine that 7487  
there is clear and convincing evidence that a radiologist 7488  
assistant has violated division (B) of this section and that the 7489  
individual's continued practice presents a danger of immediate 7490  
and serious harm to the public, ~~they may recommend that the~~ 7491  
~~board suspend the individual's license to practice without a~~ 7492  
~~prior hearing.~~ 7493

(b) The board receives verifiable information that a 7494  
licensee has been charged in any state or federal court for a 7495  
crime classified as a felony under the charging court's law and 7496  
the conduct charged constitutes a violation of division (B) of 7497  
this section. ~~Written~~ 7498

(2) If a recommendation is made to suspend without a prior 7499  
hearing pursuant to division (H) (1) of this section, written 7500  
allegations shall be prepared for consideration by the board. 7501

The board, on review of the allegations and by an 7502  
affirmative vote of not fewer than six of its members, excluding 7503  
the secretary and supervising member, may suspend a license 7504  
without a prior hearing. A telephone conference call may be 7505  
utilized for reviewing the allegations and taking the vote on 7506



the summary suspension. 7507

The board shall serve a written order of suspension in 7508  
accordance with sections 119.05 and 119.07 of the Revised Code. 7509  
The order shall not be subject to suspension by the court during 7510  
pendency of any appeal filed under section 119.12 of the Revised 7511  
Code. If the radiologist assistant requests an adjudicatory 7512  
hearing by the board, the date set for the hearing shall be 7513  
within fifteen days, but not earlier than seven days, after the 7514  
radiologist assistant requests the hearing, unless otherwise 7515  
agreed to by both the board and the license holder. 7516

(3) A summary suspension imposed under this division shall 7517  
remain in effect, unless reversed on appeal, until a final 7518  
adjudicative order issued by the board pursuant to this section 7519  
and Chapter 119. of the Revised Code becomes effective. The 7520  
board shall issue its final adjudicative order within sixty days 7521  
after completion of its hearing. Failure to issue the order 7522  
within sixty days shall result in dissolution of the summary 7523  
suspension order, but shall not invalidate any subsequent, final 7524  
adjudicative order. 7525

(I) If the board takes action under division (B) (10), 7526  
(12), or (13) of this section, and the judicial finding of 7527  
guilt, guilty plea, or judicial finding of eligibility for 7528  
intervention in lieu of conviction is overturned on appeal, on 7529  
exhaustion of the criminal appeal, a petition for 7530  
reconsideration of the order may be filed with the board along 7531  
with appropriate court documents. On receipt of a petition and 7532  
supporting court documents, the board shall reinstate the 7533  
license to practice as a radiologist assistant. The board may 7534  
then hold an adjudication under Chapter 119. of the Revised Code 7535  
to determine whether the individual committed the act in 7536

question. Notice of opportunity for hearing shall be given in 7537  
accordance with Chapter 119. of the Revised Code. If the board 7538  
finds, pursuant to an adjudication held under this division, 7539  
that the individual committed the act, or if no hearing is 7540  
requested, it may order any of the sanctions specified in 7541  
division (B) of this section. 7542

(J) The license to practice of a radiologist assistant and 7543  
the assistant's practice in this state are automatically 7544  
suspended as of the date the radiologist assistant pleads guilty 7545  
to, is found by a judge or jury to be guilty of, or is subject 7546  
to a judicial finding of eligibility for intervention in lieu of 7547  
conviction in this state or treatment ~~of or~~ intervention in lieu 7548  
of conviction in another jurisdiction for any of the following 7549  
criminal offenses in this state or a substantially equivalent 7550  
criminal offense in another jurisdiction: aggravated murder, 7551  
murder, voluntary manslaughter, felonious assault, trafficking 7552  
in persons, kidnapping, rape, sexual battery, gross sexual 7553  
imposition, aggravated arson, aggravated robbery, or aggravated 7554  
burglary. Continued practice after the suspension shall be 7555  
considered practicing without a license. 7556

The board shall serve the individual subject to the 7557  
suspension in accordance with sections 119.05 and 119.07 of the 7558  
Revised Code. If an individual whose license is suspended under 7559  
this division fails to make a timely request for an adjudication 7560  
under Chapter 119. of the Revised Code, the board shall enter a 7561  
final order permanently revoking the individual's license. 7562

(K) In any instance in which the board is required by 7563  
Chapter 119. of the Revised Code to give notice of opportunity 7564  
for hearing and the individual subject to the notice does not 7565  
timely request a hearing in accordance with section 119.07 of 7566

the Revised Code, the board is not required to hold a hearing, 7567  
but may adopt, by an affirmative vote of not fewer than six of 7568  
its members, a final order that contains the board's findings. 7569  
In the final order, the board may order any of the sanctions 7570  
identified under division (A) or (B) of this section. 7571

(L) Any action taken by the board under division (B) of 7572  
this section resulting in a suspension shall be accompanied by a 7573  
written statement of the conditions under which the radiologist 7574  
assistant's license may be reinstated. The board shall adopt 7575  
rules in accordance with Chapter 119. of the Revised Code 7576  
governing conditions to be imposed for reinstatement. 7577  
Reinstatement of a license suspended pursuant to division (B) of 7578  
this section requires an affirmative vote of not fewer than six 7579  
members of the board. 7580

(M) When the board refuses to grant or issue a license to 7581  
practice as a radiologist assistant to an applicant, revokes an 7582  
individual's license, refuses to renew an individual's license, 7583  
or refuses to reinstate an individual's license, the board may 7584  
specify that its action is permanent. An individual subject to a 7585  
permanent action taken by the board is forever thereafter 7586  
ineligible to hold a license to practice as a radiologist 7587  
assistant and the board shall not accept an application for 7588  
reinstatement of the license or for issuance of a new license. 7589

(N) Notwithstanding any other provision of the Revised 7590  
Code, all of the following apply: 7591

(1) The surrender of a license to practice as a 7592  
radiologist assistant issued under this chapter is not effective 7593  
unless or until accepted by the board. Reinstatement of a 7594  
license surrendered to the board requires an affirmative vote of 7595  
not fewer than six members of the board. 7596

(2) An application made under this chapter for a license 7597  
to practice may not be withdrawn without approval of the board. 7598

(3) Failure by an individual to renew a license to 7599  
practice in accordance with section 4774.06 of the Revised Code 7600  
does not remove or limit the board's jurisdiction to take 7601  
disciplinary action under this section against the individual. 7602

(4) The placement of an individual's license on retired 7603  
status, as described in section 4774.062 of the Revised Code, 7604  
does not remove or limit the board's jurisdiction to take any 7605  
disciplinary action against the individual with regard to the 7606  
license as it existed before being placed on retired status. 7607

**Sec. 4774.14.** (A) The state medical board shall 7608  
investigate evidence that appears to show that any person has 7609  
violated this chapter or the rules adopted under it. Any person 7610  
may report to the board in a signed writing any information the 7611  
person has that appears to show a violation of any provision of 7612  
this chapter or the rules adopted under it. In the absence of 7613  
bad faith, a person who reports such information or testifies 7614  
before the board in an adjudication conducted under Chapter 119. 7615  
of the Revised Code shall not be liable for civil damages as a 7616  
result of reporting the information or providing testimony. Each 7617  
complaint or allegation of a violation received by the board 7618  
shall be assigned a case number and be recorded by the board. 7619

(B) Investigations of alleged violations of this chapter 7620  
or rules adopted under it shall be supervised by the supervising 7621  
member elected by the board in accordance with section 4731.02 7622  
of the Revised Code and by the secretary as provided in section 7623  
4774.17 of the Revised Code. The board's president may designate 7624  
another member of the board to supervise the investigation in 7625  
place of the supervising member. Upon a vote of the majority of 7626

the board to authorize the addition of a consumer member in the 7627  
supervision of any part of any investigation, the president 7628  
shall designate a consumer member for supervision of 7629  
investigations as determined by the president. The authorization 7630  
of consumer member participation in investigation supervision 7631  
may be rescinded by a majority vote of the board. A member of 7632  
the board who supervises the investigation of a case shall not 7633  
participate in further adjudication of the case. 7634

(C) In investigating a possible violation of this chapter 7635  
or the rules adopted under it, the board may administer oaths, 7636  
order the taking of depositions, issue subpoenas, and compel the 7637  
attendance of witnesses and production of books, accounts, 7638  
papers, records, documents, and testimony, except that a 7639  
subpoena for patient record information shall not be issued 7640  
without consultation with the attorney general's office and 7641  
approval of the secretary of the board. Before issuance of a 7642  
subpoena for patient record information, the secretary shall 7643  
determine whether there is probable cause to believe that the 7644  
complaint filed alleges a violation of this chapter or the rules 7645  
adopted under it and that the records sought are relevant to the 7646  
alleged violation and material to the investigation. The 7647  
subpoena may apply only to records that cover a reasonable 7648  
period of time surrounding the alleged violation. 7649

On failure to comply with any subpoena issued by the board 7650  
and after reasonable notice to the person being subpoenaed, the 7651  
board may move for an order compelling the production of persons 7652  
or records pursuant to the Rules of Civil Procedure. 7653

A subpoena issued by the board may be served by a sheriff, 7654  
the sheriff's deputy, or a board employee designated by the 7655  
board. Service of a subpoena issued by the board may be made by 7656

delivering a copy of the subpoena to the person named therein, 7657  
reading it to the person, or leaving it at the person's usual 7658  
place of residence. When the person being served is a 7659  
radiologist assistant, service of the subpoena may be made by 7660  
certified mail, restricted delivery, return receipt requested, 7661  
and the subpoena shall be deemed served on the date delivery is 7662  
made or the date the person refuses to accept delivery. 7663

A sheriff's deputy who serves a subpoena shall receive the 7664  
same fees as a sheriff. Each witness who appears before the 7665  
board in obedience to a subpoena shall receive the fees and 7666  
mileage provided for witnesses in civil cases in the courts of 7667  
common pleas. 7668

(D) All hearings and investigations of the board shall be 7669  
considered civil actions for the purposes of section 2305.252 of 7670  
the Revised Code. 7671

(E) Information received by the board pursuant to an 7672  
investigation is confidential and not subject to discovery in 7673  
any civil action. 7674

The board shall conduct all investigations and proceedings 7675  
in a manner that protects the confidentiality of patients and 7676  
persons who file complaints with the board. The board shall not 7677  
make public the names or any other identifying information about 7678  
patients or complainants unless proper consent is given. 7679

The board may share any information it receives pursuant 7680  
to an investigation, including patient records and patient 7681  
record information, with law enforcement agencies, other 7682  
licensing boards, and other governmental agencies that are 7683  
prosecuting, adjudicating, or investigating alleged violations 7684  
of statutes or administrative rules. An agency or board that 7685

receives the information shall comply with the same requirements 7686  
regarding confidentiality as those with which the state medical 7687  
board must comply, notwithstanding any conflicting provision of 7688  
the Revised Code or procedure of the agency or board that 7689  
applies when it is dealing with other information in its 7690  
possession. In a judicial proceeding, the information may be 7691  
admitted into evidence only in accordance with the Rules of 7692  
Evidence, but the court shall require that appropriate measures 7693  
are taken to ensure that confidentiality is maintained with 7694  
respect to any part of the information that contains names or 7695  
other identifying information about patients or complainants 7696  
whose confidentiality was protected by the state medical board 7697  
when the information was in the board's possession. Measures to 7698  
ensure confidentiality that may be taken by the court include 7699  
sealing its records or deleting specific information from its 7700  
records. 7701

No person shall knowingly access, use, or disclose 7702  
confidential investigatory information in a manner prohibited by 7703  
law. 7704

(F) The state medical board shall develop requirements for 7705  
and provide appropriate initial training and continuing 7706  
education for investigators employed by the board to carry out 7707  
its duties under this chapter. The training and continuing 7708  
education may include enrollment in courses operated or approved 7709  
by the Ohio peace officer training commission that the board 7710  
considers appropriate under conditions set forth in section 7711  
109.79 of the Revised Code. 7712

(G) On a quarterly basis, the board shall prepare a report 7713  
that documents the disposition of all cases during the preceding 7714  
three months. The report shall contain the following information 7715

for each case with which the board has completed its activities:	7716
(1) The case number assigned to the complaint or alleged violation;	7717 7718
(2) The type of license, if any, held by the individual against whom the complaint is directed;	7719 7720
(3) A description of the allegations contained in the complaint;	7721 7722
(4) <u>Whether witnesses were interviewed;</u>	7723
(5) <u>Whether the individual against whom the complaint is directed is the subject of any pending complaints;</u>	7724 7725
(6) <u>The disposition of the case.</u>	7726
The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.	7727 7728 7729 7730
<u>(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.</u>	7731 7732 7733
<b>Sec. 4774.16.</b> (A) <u>As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.</u>	7734 7735 7736
(B) (1) <u>Within <del>sixty</del> thirty days</u> after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid license to practice as a radiologist assistant, the chief administrator	7737 7738 7739 7740 7741 7742



or executive officer of the facility shall report to the state 7743  
medical board the name of the individual, the action taken by 7744  
the facility, and a summary of the underlying facts leading to 7745  
the action taken. On request, the board shall be provided 7746  
certified copies of the patient records that were the basis for 7747  
the facility's action. Prior to release to the board, the 7748  
summary shall be approved by the peer review committee that 7749  
reviewed the case or by the governing board of the facility. 7750

The filing of a report with the board or decision not to 7751  
file a report, investigation by the board, or any disciplinary 7752  
action taken by the board, does not preclude a health care 7753  
facility from taking disciplinary action against a radiologist 7754  
assistant. 7755

In the absence of fraud or bad faith, no individual or 7756  
entity that provides patient records to the board shall be 7757  
liable in damages to any person as a result of providing the 7758  
records. 7759

(2) Within thirty days after commencing an investigation 7760  
regarding criminal conduct or sexual misconduct against any 7761  
individual holding a valid license to practice issued pursuant 7762  
to this chapter, a health care facility, including a hospital, 7763  
health care facility operated by a health insuring corporation, 7764  
ambulatory surgical center, or similar facility, shall report to 7765  
the board the name of the individual and a summary of the 7766  
underlying facts related to the investigation being commenced. 7767

~~(B) (1)~~ (C) (1) Except as provided in division ~~(B) (2)~~ (C) (2) 7768  
of this section and subject to division (C) (3) of this section, 7769  
a radiologist assistant, professional association or society of 7770  
radiologist assistants, physician, or professional association 7771  
or society of physicians that believes a violation of any 7772

provision of this chapter, Chapter 4731. of the Revised Code, or 7773  
rule of the board has occurred shall report to the board the 7774  
information on which the belief is based. 7775

(2) A radiologist assistant, professional association or 7776  
society of radiologist assistants, physician, or professional 7777  
association or society of physicians that believes a violation 7778  
of division (B) (5) or (6) of section 4774.13 of the Revised Code 7779  
has occurred shall report the information upon which the belief 7780  
is based to the monitoring organization conducting the 7781  
confidential monitoring program established under section 7782  
4731.25 of the Revised Code. If any such report is made to the 7783  
board, it shall be referred to the monitoring organization 7784  
unless the board is aware that the individual who is the subject 7785  
of the report does not meet the program eligibility requirements 7786  
of section 4731.252 of the Revised Code. 7787

(3) If any individual authorized to practice under this 7788  
chapter or any professional association or society of such 7789  
individuals knows or has reasonable cause to suspect based on 7790  
facts that would cause a reasonable person in a similar position 7791  
to suspect that an individual authorized to practice under this 7792  
chapter has committed or participated in criminal conduct or 7793  
sexual misconduct, the information upon which the belief is 7794  
based shall be reported to the board within thirty days. 7795

This division does not apply to a professional association 7796  
or society whose staff interacts with members of the association 7797  
or society only in advocacy, governance, or educational 7798  
capacities and whose staff does not regularly interact with 7799  
members in practice settings. 7800

(4) In addition to the self-reporting of criminal offenses 7801  
that is required for license renewal, an individual authorized 7802

to practice under this chapter shall report to the board 7803  
criminal charges regarding criminal conduct, sexual misconduct, 7804  
or any conduct involving the use of a motor vehicle while under 7805  
the influence of alcohol or drugs, including offenses that are 7806  
equivalent offenses under division (A) of section 4511.181 of 7807  
the Revised Code, violations of division (D) of section 4511.194 7808  
of the Revised Code, and violations of division (C) of section 7809  
4511.79 of the Revised Code. Reports under this division shall 7810  
be made within thirty days of the criminal charge being filed. 7811

~~(C)~~ (D) Any professional association or society composed 7812  
primarily of radiologist assistants that suspends or revokes an 7813  
individual's membership for violations of professional ethics, 7814  
or for reasons of professional incompetence or professional 7815  
malpractice, within ~~sixty~~ thirty days after a final decision, 7816  
shall report to the board, on forms prescribed and provided by 7817  
the board, the name of the individual, the action taken by the 7818  
professional organization, and a summary of the underlying facts 7819  
leading to the action taken. 7820

The filing of a report with the board or decision not to 7821  
file a report, investigation by the board, or any disciplinary 7822  
action taken by the board, does not preclude a professional 7823  
organization from taking disciplinary action against a 7824  
radiologist assistant. 7825

~~(D)~~ (E) Any insurer providing professional liability 7826  
insurance to any person holding a valid license to practice as a 7827  
radiologist assistant or any other entity that seeks to 7828  
indemnify the professional liability of a radiologist assistant 7829  
shall notify the board within thirty days after the final 7830  
disposition of any written claim for damages where such 7831  
disposition results in a payment exceeding twenty-five thousand 7832

dollars. The notice shall contain the following information: 7833

(1) The name and address of the person submitting the 7834  
notification; 7835

(2) The name and address of the insured who is the subject 7836  
of the claim; 7837

(3) The name of the person filing the written claim; 7838

(4) The date of final disposition; 7839

(5) If applicable, the identity of the court in which the 7840  
final disposition of the claim took place. 7841

~~(E)~~ (F) The board may investigate possible violations of 7842  
this chapter or the rules adopted under it that are brought to 7843  
its attention as a result of the reporting requirements of this 7844  
section, except that the board shall conduct an investigation if 7845  
a possible violation involves repeated malpractice. As used in 7846  
this division, "repeated malpractice" means three or more claims 7847  
for malpractice within the previous five-year period, each 7848  
resulting in a judgment or settlement in excess of twenty-five 7849  
thousand dollars in favor of the claimant, and each involving 7850  
negligent conduct by the radiologist assistant. 7851

~~(F)~~ (G) All summaries, reports, and records received and 7852  
maintained by the board pursuant to this section shall be held 7853  
~~in confidence and shall not be subject to discovery or~~ 7854  
~~introduction in evidence in any federal or state civil action~~ 7855  
~~involving a radiologist assistant, supervising physician, or~~ 7856  
~~health care facility arising out of matters that are the subject~~ 7857  
~~of the reporting required by this section. The board may use the~~ 7858  
~~information obtained only as the basis for an investigation, as~~ 7859  
~~evidence in a disciplinary hearing against a radiologist~~ 7860  
~~assistant or supervising radiologist, or in any subsequent trial~~ 7861

~~or appeal of a board action or order.~~ 7862

~~The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a radiologist assistant or supervising radiologist or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.~~ 7863  
~~confidential pursuant to division (E) of section 4774.14 of the Revised Code.~~ 7864  
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~~(G)~~ (H) Except for reports filed by an individual pursuant to division ~~(B)~~ (B) (2) or (C) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the radiologist assistant. The radiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention. 7874  
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~~(H)~~ (I) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.25 of the Revised Code, or refers an impaired radiologist assistant to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information. 7882  
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~~(I)~~ (J) In the absence of fraud or bad faith, a professional association or society of radiologist assistants that sponsors a committee or program to provide peer assistance 7889  
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to a radiologist assistant with substance abuse problems, a 7892  
representative or agent of such a committee or program, a 7893  
representative or agent of the monitoring organization described 7894  
in section 4731.25 of the Revised Code, and a member of the 7895  
state medical board shall not be held liable in damages to any 7896  
person by reason of actions taken to refer a radiologist 7897  
assistant to a treatment provider approved under section 7898  
4731.251 of the Revised Code for examination or treatment. 7899

**Sec. 4774.99.** (A) Whoever violates division (A) (1) or (2) 7900  
of section 4774.02 of the Revised Code is guilty of a 7901  
misdemeanor of the first degree on a first offense; on each 7902  
subsequent offense, the person is guilty of a felony of the 7903  
fourth degree. 7904

~~(B) (B) (1)~~ Whoever violates division ~~(A)~~, ~~(B) (B) (1)~~, ~~(C) (C)~~ 7905  
(1), ~~or (C) (2)~~, (D), or (E) of section 4774.16 of the Revised 7906  
Code is guilty of a minor misdemeanor on a first offense; on 7907  
each subsequent offense the person is guilty of a misdemeanor of 7908  
the fourth degree, except that an individual guilty of a 7909  
subsequent offense shall not be subject to imprisonment, but to 7910  
a fine alone of up to one thousand dollars for each offense. 7911

(2) Whoever violates division (B) (2) or (C) (3) of section 7912  
4774.16 of the Revised Code is guilty of failure to report 7913  
criminal conduct or sexual misconduct, a misdemeanor of the 7914  
fourth degree. If the offender has previously been convicted of 7915  
a violation of this division, the failure to report is a 7916  
misdemeanor of the first degree. 7917

(C) Whoever violates division (E) of section 4774.14 of 7918  
the Revised Code is guilty of disclosing confidential 7919  
investigatory information, a misdemeanor of the first degree. 7920

**Sec. 4778.14.** (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a genetic counselor to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

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

(1) Permitting the holder's name or license to be used by another person;

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

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

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

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or

physical illness, including physical deterioration that 7950  
adversely affects cognitive, motor, or perceptive skills; 7951

(6) Impairment of ability to practice according to 7952  
acceptable and prevailing standards of care because of substance 7953  
use disorder or excessive use or abuse of drugs, alcohol, or 7954  
other substances that may impair ability to practice; 7955

(7) Willfully betraying a professional confidence; 7956

(8) Making a false, fraudulent, deceptive, or misleading 7957  
statement in securing or attempting to secure a license to 7958  
practice as a genetic counselor. 7959

As used in this division, "false, fraudulent, deceptive, 7960  
or misleading statement" means a statement that includes a 7961  
misrepresentation of fact, is likely to mislead or deceive 7962  
because of a failure to disclose material facts, is intended or 7963  
is likely to create false or unjustified expectations of 7964  
favorable results, or includes representations or implications 7965  
that in reasonable probability will cause an ordinarily prudent 7966  
person to misunderstand or be deceived. 7967

(9) The obtaining of, or attempting to obtain, money or a 7968  
thing of value by fraudulent misrepresentations in the course of 7969  
practice; 7970

(10) A plea of guilty to, a judicial finding of guilt of, 7971  
or a judicial finding of eligibility for intervention in lieu of 7972  
conviction for, a felony; 7973

(11) Commission of an act that constitutes a felony in 7974  
this state, regardless of the jurisdiction in which the act was 7975  
committed; 7976

(12) A plea of guilty to, a judicial finding of guilt of, 7977



or a judicial finding of eligibility for intervention in lieu of 7978  
conviction for, a misdemeanor committed in the course of 7979  
practice; 7980

(13) A plea of guilty to, a judicial finding of guilt of, 7981  
or a judicial finding of eligibility for intervention in lieu of 7982  
conviction for, a misdemeanor involving moral turpitude; 7983

(14) Commission of an act in the course of practice that 7984  
constitutes a misdemeanor in this state, regardless of the 7985  
jurisdiction in which the act was committed; 7986

(15) Commission of an act involving moral turpitude that 7987  
constitutes a misdemeanor in this state, regardless of the 7988  
jurisdiction in which the act was committed; 7989

(16) A plea of guilty to, a judicial finding of guilt of, 7990  
or a judicial finding of eligibility for intervention in lieu of 7991  
conviction for violating any state or federal law regulating the 7992  
possession, distribution, or use of any drug, including 7993  
trafficking in drugs; 7994

(17) Any of the following actions taken by an agency 7995  
responsible for authorizing, certifying, or regulating an 7996  
individual to practice a health care occupation or provide 7997  
health care services in this state or in another jurisdiction, 7998  
for any reason other than the nonpayment of fees: the 7999  
limitation, revocation, or suspension of an individual's license 8000  
to practice; acceptance of an individual's license surrender; 8001  
denial of a license; refusal to renew or reinstate a license; 8002  
imposition of probation; or issuance of an order of censure or 8003  
other reprimand; 8004

(18) Violation of the conditions placed by the board on a 8005  
license to practice as a genetic counselor; 8006

(19) Failure to cooperate in an investigation conducted by the board under section 4778.18 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Failure to maintain the individual's status as a certified genetic counselor;

(21) Failure to comply with the code of ethics established by the national society of genetic counselors.

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

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

findings contained in the consent agreement shall be of no force 8037  
or effect. 8038

A telephone conference call may be utilized for 8039  
ratification of a consent agreement that revokes or suspends an 8040  
individual's license. The telephone conference call shall be 8041  
considered a special meeting under division (F) of section 8042  
121.22 of the Revised Code. 8043

(E) For purposes of divisions (B) (11), (14), and (15) of 8044  
this section, the commission of the act may be established by a 8045  
finding by the board, pursuant to an adjudication under Chapter 8046  
119. of the Revised Code, that the applicant or license holder 8047  
committed the act in question. The board shall have no 8048  
jurisdiction under these divisions in cases where the trial 8049  
court renders a final judgment in the license holder's favor and 8050  
that judgment is based upon an adjudication on the merits. The 8051  
board shall have jurisdiction under these divisions in cases 8052  
where the trial court issues an order of dismissal on technical 8053  
or procedural grounds. 8054

(F) The sealing or expungement of conviction records by 8055  
any court shall have no effect on a prior board order entered 8056  
under the provisions of this section or on the board's 8057  
jurisdiction to take action under the provisions of this section 8058  
if, based upon a plea of guilty, a judicial finding of guilt, or 8059  
a judicial finding of eligibility for intervention in lieu of 8060  
conviction, the board issued a notice of opportunity for a 8061  
hearing or took other formal action under Chapter 119. of the 8062  
Revised Code prior to the court's order to seal or expunge the 8063  
records. The board shall not be required to seal, destroy, 8064  
redact, or otherwise modify its records to reflect the court's 8065  
sealing or expungement of conviction records. 8066

(G) For purposes of this division, any individual who 8067  
holds a license to practice as a genetic counselor, or applies 8068  
for a license, shall be deemed to have given consent to submit 8069  
to a mental or physical examination when directed to do so in 8070  
writing by the board and to have waived all objections to the 8071  
admissibility of testimony or examination reports that 8072  
constitute a privileged communication. 8073

(1) In enforcing division (B)(5) of this section, the 8074  
board, on a showing of a possible violation, shall refer any 8075  
individual who holds, or has applied for, a license to practice 8076  
as a genetic counselor to the monitoring organization that 8077  
conducts the confidential monitoring program established under 8078  
section 4731.25 of the Revised Code. The board also may compel 8079  
the individual to submit to a mental or physical examination, or 8080  
both. A physical examination may include an HIV test. The 8081  
expense of the examination is the responsibility of the 8082  
individual compelled to be examined. Failure to submit to a 8083  
mental or physical examination or consent to an HIV test ordered 8084  
by the board constitutes an admission of the allegations against 8085  
the individual unless the failure is due to circumstances beyond 8086  
the individual's control, and a default and final order may be 8087  
entered without the taking of testimony or presentation of 8088  
evidence. If the board finds a genetic counselor unable to 8089  
practice because of the reasons set forth in division (B)(5) of 8090  
this section, the board shall require the genetic counselor to 8091  
submit to care, counseling, or treatment by physicians approved 8092  
or designated by the board, as a condition for an initial, 8093  
continued, reinstated, or renewed license to practice. An 8094  
individual affected by this division shall be afforded an 8095  
opportunity to demonstrate to the board the ability to resume 8096  
practicing in compliance with acceptable and prevailing 8097

standards of care. 8098

(2) For purposes of division (B)(6) of this section, if 8099  
the board has reason to believe that any individual who holds a 8100  
license to practice as a genetic counselor or any applicant for 8101  
a license suffers such impairment, the board shall refer the 8102  
individual to the monitoring organization that conducts the 8103  
confidential monitoring program established under section 8104  
4731.25 of the Revised Code. The board also may compel the 8105  
individual to submit to a mental or physical examination, or 8106  
both. The expense of the examination is the responsibility of 8107  
the individual compelled to be examined. Any mental or physical 8108  
examination required under this division shall be undertaken by 8109  
a treatment provider or physician qualified to conduct such 8110  
examination and approved under section 4731.251 of the Revised 8111  
Code. 8112

Failure to submit to a mental or physical examination 8113  
ordered by the board constitutes an admission of the allegations 8114  
against the individual unless the failure is due to 8115  
circumstances beyond the individual's control, and a default and 8116  
final order may be entered without the taking of testimony or 8117  
presentation of evidence. If the board determines that the 8118  
individual's ability to practice is impaired, the board shall 8119  
suspend the individual's license or deny the individual's 8120  
application and shall require the individual, as a condition for 8121  
an initial, continued, reinstated, or renewed license, to submit 8122  
to treatment. 8123

Before being eligible to apply for reinstatement of a 8124  
license suspended under this division, the genetic counselor 8125  
shall demonstrate to the board the ability to resume practice in 8126  
compliance with acceptable and prevailing standards of care. The 8127

demonstration shall include the following: 8128

(a) Certification from a treatment provider approved under 8129  
section 4731.251 of the Revised Code that the individual has 8130  
successfully completed any required inpatient treatment; 8131

(b) Evidence of continuing full compliance with an 8132  
aftercare contract or consent agreement; 8133

(c) Two written reports indicating that the individual's 8134  
ability to practice has been assessed and that the individual 8135  
has been found capable of practicing according to acceptable and 8136  
prevailing standards of care. The reports shall be made by 8137  
individuals or providers approved by the board for making such 8138  
assessments and shall describe the basis for their 8139  
determination. 8140

The board may reinstate a license suspended under this 8141  
division after such demonstration and after the individual has 8142  
entered into a written consent agreement. 8143

When the impaired genetic counselor resumes practice, the 8144  
board shall require continued monitoring of the genetic 8145  
counselor. The monitoring shall include monitoring of compliance 8146  
with the written consent agreement entered into before 8147  
reinstatement or with conditions imposed by board order after a 8148  
hearing, and, on termination of the consent agreement, 8149  
submission to the board for at least two years of annual written 8150  
progress reports made under penalty of falsification stating 8151  
whether the genetic counselor has maintained sobriety. 8152

~~(H)~~ (H) (1) If either of the following circumstances occur, 8153  
the secretary and supervising member ~~determine both of the~~ 8154  
~~following, they~~ may recommend that the board suspend an 8155  
individual's license to practice without a prior hearing: 8156

~~(1)~~-(a) The secretary and supervising member determine 8157  
both of the following: 8158

(i) That there is clear and convincing evidence that a 8159  
genetic counselor has violated division (B) of this section; 8160

~~(2)~~-(ii) That the individual's continued practice presents 8161  
a danger of immediate and serious harm to the public. 8162

~~Written~~-(b) The board receives verifiable information that 8163  
a licensee has been charged in any state or federal court for a 8164  
crime classified as a felony under the charging court's law and 8165  
the conduct charged constitutes a violation of division (B) of 8166  
this section. 8167

(2) If a recommendation is made to suspend without a prior 8168  
hearing pursuant to division (H)(1) of this section, written 8169  
allegations shall be prepared for consideration by the board. 8170  
The board, on review of the allegations and by an affirmative 8171  
vote of not fewer than six of its members, excluding the 8172  
secretary and supervising member, may suspend a license without 8173  
a prior hearing. A telephone conference call may be utilized for 8174  
reviewing the allegations and taking the vote on the summary 8175  
suspension. 8176

The board shall serve a written order of suspension in 8177  
accordance with sections 119.05 and 119.07 of the Revised Code. 8178  
The order shall not be subject to suspension by the court during 8179  
pendency of any appeal filed under section 119.12 of the Revised 8180  
Code. If the genetic counselor requests an adjudicatory hearing 8181  
by the board, the date set for the hearing shall be within 8182  
fifteen days, but not earlier than seven days, after the genetic 8183  
counselor requests the hearing, unless otherwise agreed to by 8184  
both the board and the genetic counselor. 8185

(3) A summary suspension imposed under this division shall 8186  
remain in effect, unless reversed on appeal, until a final 8187  
adjudicative order issued by the board pursuant to this section 8188  
and Chapter 119. of the Revised Code becomes effective. The 8189  
board shall issue its final adjudicative order within sixty days 8190  
after completion of its hearing. Failure to issue the order 8191  
within sixty days shall result in dissolution of the summary 8192  
suspension order, but shall not invalidate any subsequent, final 8193  
adjudicative order. 8194

(I) If the board takes action under division (B) (10), 8195  
(12), or (13) of this section, and the judicial finding of 8196  
guilt, guilty plea, or judicial finding of eligibility for 8197  
intervention in lieu of conviction is overturned on appeal, on 8198  
exhaustion of the criminal appeal, a petition for 8199  
reconsideration of the order may be filed with the board along 8200  
with appropriate court documents. On receipt of a petition and 8201  
supporting court documents, the board shall reinstate the 8202  
license to practice as a genetic counselor. The board may then 8203  
hold an adjudication under Chapter 119. of the Revised Code to 8204  
determine whether the individual committed the act in question. 8205  
Notice of opportunity for hearing shall be given in accordance 8206  
with Chapter 119. of the Revised Code. If the board finds, 8207  
pursuant to an adjudication held under this division, that the 8208  
individual committed the act, or if no hearing is requested, it 8209  
may order any of the sanctions specified in division (B) of this 8210  
section. 8211

(J) The license to practice as a genetic counselor and the 8212  
counselor's practice in this state are automatically suspended 8213  
as of the date the genetic counselor pleads guilty to, is found 8214  
by a judge or jury to be guilty of, or is subject to a judicial 8215  
finding of eligibility for intervention in lieu of conviction in 8216



this state or treatment ~~of~~ or intervention in lieu of conviction 8217  
in another jurisdiction for any of the following criminal 8218  
offenses in this state or a substantially equivalent criminal 8219  
offense in another jurisdiction: aggravated murder, murder, 8220  
voluntary manslaughter, felonious assault, trafficking in 8221  
persons, kidnapping, rape, sexual battery, gross sexual 8222  
imposition, aggravated arson, aggravated robbery, or aggravated 8223  
burglary. Continued practice after the suspension shall be 8224  
considered practicing without a license. 8225

The board shall serve the individual subject to the 8226  
suspension in accordance with sections 119.05 and 119.07 of the 8227  
Revised Code. If an individual whose license is suspended under 8228  
this division fails to make a timely request for an adjudication 8229  
under Chapter 119. of the Revised Code, the board shall enter a 8230  
final order permanently revoking the individual's license to 8231  
practice. 8232

(K) In any instance in which the board is required by 8233  
Chapter 119. of the Revised Code to give notice of opportunity 8234  
for hearing and the individual subject to the notice does not 8235  
timely request a hearing in accordance with section 119.07 of 8236  
the Revised Code, the board is not required to hold a hearing, 8237  
but may adopt, by an affirmative vote of not fewer than six of 8238  
its members, a final order that contains the board's findings. 8239  
In the final order, the board may order any of the sanctions 8240  
identified under division (A) or (B) of this section. 8241

(L) Any action taken by the board under division (B) of 8242  
this section resulting in a suspension shall be accompanied by a 8243  
written statement of the conditions under which the license of 8244  
the genetic counselor may be reinstated. The board shall adopt 8245  
rules in accordance with Chapter 119. of the Revised Code 8246

governing conditions to be imposed for reinstatement. 8247  
Reinstatement of a license suspended pursuant to division (B) of 8248  
this section requires an affirmative vote of not fewer than six 8249  
members of the board. 8250

(M) When the board refuses to grant or issue a license to 8251  
practice as a genetic counselor to an applicant, revokes an 8252  
individual's license, refuses to renew an individual's license, 8253  
or refuses to reinstate an individual's license, the board may 8254  
specify that its action is permanent. An individual subject to a 8255  
permanent action taken by the board is forever thereafter 8256  
ineligible to hold a license to practice as a genetic counselor 8257  
and the board shall not accept an application for reinstatement 8258  
of the license or for issuance of a new license. 8259

(N) Notwithstanding any other provision of the Revised 8260  
Code, all of the following apply: 8261

(1) The surrender of a license to practice as a genetic 8262  
counselor is not effective unless or until accepted by the 8263  
board. A telephone conference call may be utilized for 8264  
acceptance of the surrender of an individual's license. The 8265  
telephone conference call shall be considered a special meeting 8266  
under division (F) of section 121.22 of the Revised Code. 8267  
Reinstatement of a license surrendered to the board requires an 8268  
affirmative vote of not fewer than six members of the board. 8269

(2) An application made under this chapter for a license 8270  
to practice may not be withdrawn without approval of the board. 8271

(3) Failure by an individual to renew a license in 8272  
accordance with section 4778.06 of the Revised Code does not 8273  
remove or limit the board's jurisdiction to take disciplinary 8274  
action under this section against the individual. 8275

(4) The placement of an individual's license on retired status, as described in section 4778.072 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4778.171. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

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

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

(3) In addition to the self-reporting of criminal offenses 8306  
that is required for license renewal, an individual authorized 8307  
to practice under this chapter shall report to the board 8308  
criminal charges regarding criminal conduct, sexual misconduct, 8309  
or any conduct involving the use of a motor vehicle while under 8310  
the influence of alcohol or drugs, including offenses that are 8311  
equivalent offenses under division (A) of section 4511.181 of 8312  
the Revised Code, violations of division (D) of section 4511.194 8313  
of the Revised Code, and violations of division (C) of section 8314  
4511.79 of the Revised Code. Reports under this division shall 8315  
be made within thirty days of the criminal charge being filed. 8316

**Sec. 4778.18.** (A) The state medical board shall 8317  
investigate evidence that appears to show that any individual 8318  
has violated this chapter or the rules adopted under it. Any 8319  
person may report to the board in a signed writing any 8320  
information the person has that appears to show a violation of 8321  
this chapter or rules adopted under it. In the absence of bad 8322  
faith, a person who reports such information or testifies before 8323  
the board in an adjudication conducted under Chapter 119. of the 8324  
Revised Code shall not be liable for civil damages as a result 8325  
of reporting the information or providing testimony. Each 8326  
complaint or allegation of a violation received by the board 8327  
shall be assigned a case number and be recorded by the board. 8328

(B) Investigations of alleged violations of this chapter 8329  
or rules adopted under it shall be supervised by the supervising 8330  
member elected by the board in accordance with section 4731.02 8331  
of the Revised Code and by the board's secretary, pursuant to 8332  
section 4778.20 of the Revised Code. The board's president may 8333  
designate another member of the board to supervise the 8334  
investigation in place of the supervising member. Upon a vote of 8335  
the majority of the board to authorize the addition of a 8336

consumer member in the supervision of any part of any 8337  
investigation, the president shall designate a consumer member 8338  
for supervision of investigations as determined by the 8339  
president. The authorization of consumer member participation in 8340  
investigation supervision may be rescinded by a majority vote of 8341  
the board. A member of the board who supervises the 8342  
investigation of a case shall not participate in further 8343  
adjudication of the case. 8344

(C) In investigating a possible violation of this chapter 8345  
or the rules adopted under it, the board may administer oaths, 8346  
order the taking of depositions, inspect and copy any books, 8347  
accounts, papers, records, or documents, issue subpoenas, and 8348  
compel the attendance of witnesses and production of books, 8349  
accounts, papers, records, documents, and testimony, except that 8350  
a subpoena for patient record information shall not be issued 8351  
without consultation with the attorney general's office and 8352  
approval of the secretary of the board. Before issuance of a 8353  
subpoena for patient record information, the secretary shall 8354  
determine whether there is probable cause to believe that the 8355  
complaint filed alleges a violation of this chapter or the rules 8356  
adopted under it and that the records sought are relevant to the 8357  
alleged violation and material to the investigation. The 8358  
subpoena may apply only to records that cover a reasonable 8359  
period of time surrounding the alleged violation. 8360

On failure to comply with any subpoena issued by the board 8361  
and after reasonable notice to the person being subpoenaed, the 8362  
board may move for an order compelling the production of persons 8363  
or records pursuant to the Rules of Civil Procedure. 8364

A subpoena issued by the board may be served by a sheriff, 8365  
the sheriff's deputy, or a board employee designated by the 8366

board. Service of a subpoena issued by the board may be made by 8367  
delivering a copy of the subpoena to the person named therein, 8368  
reading it to the person, or leaving it at the person's usual 8369  
place of residence. When the person being served is a genetic 8370  
counselor, service of the subpoena may be made by certified 8371  
mail, restricted delivery, return receipt requested, and the 8372  
subpoena shall be deemed served on the date delivery is made or 8373  
the date the person refuses to accept delivery. 8374

A sheriff's deputy who serves a subpoena shall receive the 8375  
same fees as a sheriff. Each witness who appears before the 8376  
board in obedience to a subpoena shall receive the fees and 8377  
mileage provided for witnesses in civil cases in the courts of 8378  
common pleas. 8379

(D) All hearings and investigations of the board shall be 8380  
considered civil actions for the purposes of section 2305.252 of 8381  
the Revised Code. 8382

(E) Information received by the board pursuant to an 8383  
investigation is confidential and not subject to discovery in 8384  
any civil action. 8385

The board shall conduct all investigations and proceedings 8386  
in a manner that protects the confidentiality of patients and 8387  
persons who file complaints with the board. The board shall not 8388  
make public the names or any other identifying information about 8389  
patients or complainants unless proper consent is given. 8390

The board may share any information it receives pursuant 8391  
to an investigation, including patient records and patient 8392  
record information, with law enforcement agencies, other 8393  
licensing boards, and other governmental agencies that are 8394  
prosecuting, adjudicating, or investigating alleged violations 8395

of statutes or administrative rules. An agency or board that 8396  
receives the information shall comply with the same requirements 8397  
regarding confidentiality as those with which the state medical 8398  
board must comply, notwithstanding any conflicting provision of 8399  
the Revised Code or procedure of the agency or board that 8400  
applies when it is dealing with other information in its 8401  
possession. In a judicial proceeding, the information may be 8402  
admitted into evidence only in accordance with the Rules of 8403  
Evidence, but the court shall require that appropriate measures 8404  
are taken to ensure that confidentiality is maintained with 8405  
respect to any part of the information that contains names or 8406  
other identifying information about patients or complainants 8407  
whose confidentiality was protected by the state medical board 8408  
when the information was in the board's possession. Measures to 8409  
ensure confidentiality that may be taken by the court include 8410  
sealing its records or deleting specific information from its 8411  
records. 8412

No person shall knowingly access, use, or disclose 8413  
confidential investigatory information in a manner prohibited by 8414  
law. 8415

(F) The state medical board shall develop requirements for 8416  
and provide appropriate initial training and continuing 8417  
education for investigators employed by the board to carry out 8418  
its duties under this chapter. The training and continuing 8419  
education may include enrollment in courses operated or approved 8420  
by the Ohio peace officer training commission that the board 8421  
considers appropriate under conditions set forth in section 8422  
109.79 of the Revised Code. 8423

(G) On a quarterly basis, the board shall prepare a report 8424  
that documents the disposition of all cases during the preceding 8425

three months. The report shall contain the following information 8426  
for each case with which the board has completed its activities: 8427

(1) The case number assigned to the complaint or alleged 8428  
violation; 8429

(2) The type of license, if any, held by the individual 8430  
against whom the complaint is directed; 8431

(3) A description of the allegations contained in the 8432  
complaint; 8433

(4) Whether witnesses were interviewed; 8434

(5) Whether the individual against whom the complaint is 8435  
directed is the subject of any pending complaints; 8436

(6) The disposition of the case. 8437

The report shall state how many cases are still pending, 8438  
and shall be prepared in a manner that protects the identity of 8439  
each individual involved in each case. The report is a public 8440  
record for purposes of section 149.43 of the Revised Code. 8441

(H) The board may provide a status update regarding an 8442  
investigation to a complainant on request if the board verifies 8443  
the complainant's identity. 8444

**Sec. 4778.99.** Whoever violates section 4778.02 of the 8445  
Revised Code is guilty of a misdemeanor of the first degree on a 8446  
first offense and felony of the fifth degree on each subsequent 8447  
offense. 8448

Whoever violates division (B) (1) or (2) of section 8449  
4778.171 of the Revised Code is guilty of failure to report 8450  
criminal conduct or sexual misconduct, a misdemeanor of the 8451  
fourth degree. If the offender has previously been convicted of 8452



a violation of this division, the failure to report is a 8453  
misdemeanor of the first degree. 8454

Whoever violates division (E) of section 4778.18 of the 8455  
Revised Code is guilty of disclosing confidential investigatory 8456  
information, a misdemeanor of the first degree. 8457

**Section 2.** That existing sections 149.43, 2105.062, 8458  
2305.111, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 8459  
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 8460  
3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 8461  
4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 8462  
4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 8463  
4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 8464  
4778.18, and 4778.99 of the Revised Code are hereby repealed. 8465

**Section 3.** That the version of section 2305.111 of the 8466  
Revised Code that is scheduled to take effect October 12, 2028, 8467  
be amended to read as follows: 8468

**Sec. 2305.111.** (A) As used in this section: 8469

(1) "Childhood sexual abuse" means any conduct that 8470  
constitutes any of the violations identified in division (A)(1) 8471  
(a) or (b) of this section and would constitute a criminal 8472  
offense under the specified section ~~or division~~ of the Revised 8473  
Code, if the victim of the violation is at the time of the 8474  
violation a child under eighteen years of age or a child with a 8475  
developmental disability or physical impairment under twenty-one 8476  
years of age. The court need not find that any person has been 8477  
convicted of or pleaded guilty to the offense under the 8478  
specified section ~~or division~~ of the Revised Code in order for 8479  
the conduct that is the violation constituting the offense to be 8480  
childhood sexual abuse for purposes of this division. This 8481

division applies to any of the following violations committed in 8482  
the following specified circumstances: 8483

(a) A violation of section 2907.02 or ~~of division (A) (1),~~ 8484  
~~(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03~~ 8485  
of the Revised Code; 8486

(b) A violation of section 2907.05 or 2907.06 of the 8487  
Revised Code if, at the time of the violation, any of the 8488  
following apply: 8489

(i) The actor is the victim's natural parent, adoptive 8490  
parent, or stepparent or the guardian, custodian, or person in 8491  
loco parentis of the victim. 8492

(ii) The victim is in custody of law or a patient in a 8493  
hospital or other institution, and the actor has supervisory or 8494  
disciplinary authority over the victim. 8495

(iii) The actor is a teacher, administrator, coach, or 8496  
other person in authority employed by or serving in a school for 8497  
which the director of education and workforce prescribes minimum 8498  
standards pursuant to division (D) of section 3301.07 of the 8499  
Revised Code, the victim is enrolled in or attends that school, 8500  
and the actor is not enrolled in and does not attend that 8501  
school. 8502

(iv) The actor is a teacher, administrator, coach, or 8503  
other person in authority employed by or serving in an 8504  
institution of higher education, and the victim is enrolled in 8505  
or attends that institution. 8506

(v) The actor is the victim's athletic or other type of 8507  
coach, is the victim's instructor, is the leader of a scouting 8508  
troop of which the victim is a member, or is a person with 8509  
temporary or occasional disciplinary control over the victim. 8510

(vi) The actor is a mental health professional, the victim 8511  
is a mental health client or patient of the actor, and the actor 8512  
induces the victim to submit by falsely representing to the 8513  
victim that the sexual contact involved in the violation is 8514  
necessary for mental health treatment purposes. 8515

(vii) The actor is a licensed medical professional, the 8516  
victim is a patient of the actor, and the sexual contact occurs 8517  
in the course of medical treatment. 8518

(viii) The victim is confined in a detention facility, and 8519  
the actor is an employee of that detention facility. 8520

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 8521  
member of, or attends, the church or congregation served by the 8522  
cleric. 8523

(2) "Cleric" has the same meaning as in section 2317.02 of 8524  
the Revised Code. 8525

(3) "Licensed medical professional" has the same meaning 8526  
as in section 2907.01 of the Revised Code. 8527

(4) "Mental health client or patient" has the same meaning 8528  
as in section 2305.51 of the Revised Code. 8529

~~(4)~~ (5) "Mental health professional" has the same meaning 8530  
as in section 2305.115 of the Revised Code. 8531

~~(5)~~ (6) "Sexual contact" has the same meaning as in 8532  
section 2907.01 of the Revised Code. 8533

~~(6)~~ (7) "Victim" means, except as provided in division (B) 8534  
of this section, a victim of childhood sexual abuse. 8535

(B) Except as provided in section 2305.115 of the Revised 8536  
Code and subject to division (C) of this section, an action for 8537

assault or battery shall be brought within one year after the 8538  
cause of the action accrues. For purposes of this section, a 8539  
cause of action for assault or battery accrues upon the later of 8540  
the following: 8541

(1) The date on which the alleged assault or battery 8542  
occurred; 8543

(2) If the plaintiff did not know the identity of the 8544  
person who allegedly committed the assault or battery on the 8545  
date on which it allegedly occurred, the earlier of the 8546  
following dates: 8547

(a) The date on which the plaintiff learns the identity of 8548  
that person; 8549

(b) The date on which, by the exercise of reasonable 8550  
diligence, the plaintiff should have learned the identity of 8551  
that person. 8552

(C) An action for assault or battery brought by a victim 8553  
of childhood sexual abuse based on childhood sexual abuse, or an 8554  
action brought by a victim of childhood sexual abuse asserting 8555  
any claim resulting from childhood sexual abuse, shall be 8556  
brought within twelve years after the cause of action accrues. 8557  
For purposes of this section, a cause of action for assault or 8558  
battery based on childhood sexual abuse, or a cause of action 8559  
for a claim resulting from childhood sexual abuse, accrues upon 8560  
the date on which the victim reaches the age of majority. If the 8561  
defendant in an action brought by a victim of childhood sexual 8562  
abuse asserting a claim resulting from childhood sexual abuse 8563  
that occurs on or after August 3, 2006, has fraudulently 8564  
concealed from the plaintiff facts that form the basis of the 8565  
claim, the running of the limitations period with regard to that 8566

claim is tolled until the time when the plaintiff discovers or 8567  
in the exercise of due diligence should have discovered those 8568  
facts. 8569

**Section 4.** That the existing version of section 2305.111 8570  
of the Revised Code that is scheduled to take effect October 12, 8571  
2028, is hereby repealed. 8572

**Section 5.** Sections 3 and 4 of this act take effect 8573  
October 12, 2028. 8574

**Section 6.** The General Assembly, applying the principle 8575  
stated in division (B) of section 1.52 of the Revised Code that 8576  
amendments are to be harmonized if reasonably capable of 8577  
simultaneous operation, finds that the following sections, 8578  
presented in this act as composites of the sections as amended 8579  
by the acts indicated, are the resulting versions of the 8580  
sections in effect prior to the effective date of the sections 8581  
as presented in this act: 8582

The version of section 2305.111 of the Revised Code 8583  
effective until October 12, 2028, as amended by both H.B. 33 and 8584  
H.B. 35 of the 135th General Assembly. 8585

The version of section 2305.111 of the Revised Code that 8586  
is scheduled to take effect October 12, 2028, as amended by both 8587  
H.B. 33 and H.B. 35 of the 135th General Assembly. 8588

Section 3107.07 of the Revised Code as amended by both 8589  
S.B. 207 and S.B. 250 of the 130th General Assembly. 8590