

(122nd General Assembly)
(Substitute House Bill Number 606)

AN ACT

To amend sections 109.79, 119.12, 121.22, 503.41, 1785.01, 2151.421, 2317.02, 2925.01, 4713.01, 4713.12, 4713.14, 4730.10, 4730.12, 4730.25, 4730.26, 4730.27, 4730.31, 4730.32, 4730.34, 4731.08, 4731.13, 4731.142, 4731.15, 4731.151, 4731.16 to 4731.20, 4731.22, 4731.221, 4731.222, 4731.223, 4731.224, 4731.225, 4731.25, 4731.281, 4731.29, 4731.291, 4731.341, 4731.41, 4731.61, 4731.99, 4773.01, and 5123.61 and to enact section 4731.98 of the Revised Code to make revisions in the disciplinary procedures used by the State Medical Board and to make other changes regarding the Board's licensing and enforcement duties.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 109.79, 119.12, 121.22, 503.41, 1785.01, 2151.421, 2317.02, 2925.01, 4713.01, 4713.12, 4713.14, 4730.10, 4730.12, 4730.25, 4730.26, 4730.27, 4730.31, 4730.32, 4730.34, 4731.08, 4731.13, 4731.142, 4731.15, 4731.151, 4731.16, 4731.17, 4731.18, 4731.19, 4731.20, 4731.22, 4731.221, 4731.222, 4731.223, 4731.224, 4731.225, 4731.25, 4731.281, 4731.29, 4731.291, 4731.341, 4731.41, 4731.61, 4731.99, 4773.01, and 5123.61 be amended and section 4731.98 of the Revised Code be enacted to read as follows:

Sec. 109.79. (A) The Ohio peace officer training commission shall establish and conduct a training school for law enforcement officers of any political subdivision of the state or of the state public defender's office. The school shall be known as the Ohio peace officer training academy. No bailiff or deputy bailiff of a court of record of this state and no criminal investigator employed by the state public defender shall be permitted to attend the academy for training unless the employing court of the bailiff or deputy bailiff or the state public defender, whichever is applicable, has authorized the bailiff, deputy bailiff, or investigator to attend the academy.

The Ohio peace officer training commission shall develop the training program, which shall include courses in both the civil and criminal functions of law enforcement officers, a course in crisis intervention with six or more hours of training, and training in the handling of missing children and child abuse and neglect cases, and shall establish rules governing qualifications for admission to the academy. The commission may require competitive examinations to determine fitness of prospective trainees, so long as the examinations or other criteria for admission to the academy are consistent with the provisions of Chapter 124. of the Revised Code.

The Ohio peace officer training commission shall determine tuition costs which shall be sufficient in the aggregate to pay the costs of operating the academy. The costs of acquiring and equipping the academy shall be paid from appropriations made by the general assembly to the Ohio peace officer training commission for that purpose, or from gifts or grants received for that purpose.

The law enforcement officers, during the period of their training, shall receive compensation as determined by the political subdivision that sponsors them or, if the officer is a criminal investigator employed by the state public defender, as determined by the state public defender. The political subdivision may pay the tuition costs of the law enforcement officers they sponsor and the state public defender may pay the tuition costs of criminal investigators of that office who attend the academy.

If trainee vacancies exist, the academy may train and issue certificates of satisfactory completion to peace officers who are employed by a campus police department pursuant to section 1713.50 of the Revised Code, by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code, or by a railroad company or who are hospital police officers appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code, provided that no such officer shall be trained at the academy unless the officer meets the qualifications established for admission to the academy and the qualified nonprofit corporation police department, railroad company, or hospital or the private college or university that established the campus police department prepays the entire cost of the training. A qualified nonprofit corporation police department, railroad company, or hospital or a private college or university that has established a campus police department is not entitled to reimbursement from the state for any amount paid for the cost of training the railroad company's peace officers or the peace officers of the qualified nonprofit corporation police department, campus police department, or hospital.

The academy shall permit investigators employed by the state medical board to take selected courses that the board determines are consistent with its responsibilities for initial and continuing training of investigators as required under ~~division (C) of section~~ sections 4730.26 and 4731.05 of the Revised Code. The board shall pay the entire cost of training that investigators receive at the academy.

(B) As used in this section:

(1) "Law enforcement officers" include any undercover drug agent, any bailiff or deputy bailiff of a court of record, and any criminal investigator who is employed by the state public defender.

(2) "Undercover drug agent" means any person who:

(a) Is employed by a county, township, or municipal corporation for the purposes set forth in division (B)(2)(b) of this section but who is not an employee of a county sheriff's department, of a township constable, or of the police department of a municipal corporation or township;

(b) In the course of the person's employment by a county, township, or municipal corporation, investigates and gathers information pertaining to persons who are suspected of violating Chapter 2925. or 3719. of the Revised Code, and generally does not wear a uniform in the performance of the person's duties.

(3) "Crisis intervention training" has the same meaning as in section 109.71 of the Revised Code.

(4) "Missing children" has the same meaning as in section 2901.30 of the Revised Code.

Sec. 119.12. Any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code, may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident, provided that appeals from decisions of the liquor control commission may be to the court of common pleas of Franklin county and appeals from decisions of the state medical board, chiropractic examining board, and board of nursing shall be to the court of common pleas of Franklin county. If any such party is not a resident of and has no place of business in this state, ~~he~~ the party may appeal to the court of common pleas of Franklin county.

Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of

Franklin county, except that appeals from orders of the fire marshal issued under Chapter 3737. of the Revised Code may be to the court of common pleas of the county in which the building of the aggrieved person is located.

This section does not apply to appeals from the department of taxation.

Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and the grounds of ~~his~~ the party's appeal. A copy of such notice of appeal shall also be filed by the appellant with the court. Unless otherwise provided by law relating to a particular agency, such notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section. For purposes of this paragraph, an order includes a determination appealed pursuant to division (C) of section 119.092 of the Revised Code.

The filing of a notice of appeal shall not automatically operate as a suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms. If an appeal is taken from the judgment of the court and the court has previously granted a suspension of the agency's order as provided in this section, such suspension of the agency's order shall not be vacated and shall be given full force and effect until the matter is finally adjudicated. No renewal of a license or permit shall be denied by reason of such suspended order during the period of the appeal from the decision of the court of common pleas. In the case of an appeal from the state medical board or chiropractic examining board, the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

The final order of adjudication may apply to any renewal of a license or permit which has been granted during the period of the appeal.

Notwithstanding any other provision of this section, any order issued by a court of common pleas suspending the effect of an order of the liquor control commission that suspends or revokes a permit issued under Chapter 4303. of the Revised Code, or that allows the payment of a forfeiture under section 4301.252 of the Revised Code, shall terminate not more than fifteen months after the date of the filing of a notice of appeal in the court of common pleas, even if the matter has not been finally adjudicated within that time.

Notwithstanding any other provision of this section, any order issued by a court of common pleas suspending the effect of an order of the state medical board or chiropractic examining board that limits, revokes, suspends, places on probation, or refuses to register or reinstate a certificate issued by the board or reprimands the holder of such a certificate shall terminate not more than fifteen months after the date of the filing of a notice of appeal in the court of common pleas, or upon the rendering of a final decision or order in the appeal by the court of common pleas, whichever occurs first.

Within thirty days after receipt of a notice of appeal from an order in any case in which a hearing is required by sections 119.01 to 119.13 of the Revised Code, the agency shall prepare and certify to the court a complete record of the proceedings in the case. Failure of the agency to comply within the time allowed, upon motion, shall cause the court to enter a finding in favor of the party adversely affected. Additional time, however, may be granted by the court, not to exceed thirty days, when it is shown that the agency has made substantial effort to comply. Such record shall be prepared and transcribed and the expense of it shall be taxed as a part of the costs on the appeal. The appellant shall provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the agency shall furnish at the cost of the party requesting it a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

Notwithstanding any other provision of this section, any party desiring to appeal an order or decision of the state personnel board of review shall, at the time of filing a notice of appeal with the board, provide a security deposit in an amount and manner prescribed in rules that the board shall adopt in accordance with this chapter. In addition, the board is not required to prepare or transcribe the record of any of its proceedings unless the appellant has provided the deposit described above. The failure of the board to prepare or transcribe a record for an appellant who has not provided a security deposit shall not cause a court to enter a finding adverse to the board.

Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.

The court shall conduct a hearing on such appeal and shall give

ference to all proceedings under sections 119.01 to 119.13 of the Revised Code, over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. An appeal from an order of the state medical board issued pursuant to division ~~(D)(G)~~ of either section 4730.25 or 4731.22 of the Revised Code or the chiropractic examining board issued pursuant to section 4734.101 of the Revised Code shall be set down for hearing at the earliest possible time and takes precedence over all other actions. The hearing in the court of common pleas shall proceed as in the trial of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to such action. At such hearing, counsel may be heard on oral argument, briefs may be submitted, and evidence introduced if the court has granted a request for the presentation of additional evidence.

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.

The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken either by the party or the agency, shall proceed as in the case of appeals in civil actions, and shall be pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. Such appeal by the agency shall be taken on questions of law relating to the constitutionality, construction, or interpretation of statutes and rules of the agency, and in such appeal the court may also review and determine the correctness of the judgment of the court of common pleas that the order of the agency is not supported by any reliable, probative, and substantial evidence in the entire record.

The court shall certify its judgment to such agency or take such other action necessary to give its judgment effect.

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

(B) As used in this section:

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

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

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

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

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

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

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

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

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

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

(D) This section does not apply to a grand jury, to an audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit, to the adult parole authority when its hearings are conducted at a correctional institution

for the sole purpose of interviewing inmates to determine parole or pardon, to the organized crime investigations commission established under section 177.01 of the Revised Code, to the state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division ~~(D)(G)~~ of either section 4730.25 or 4731.22 of the Revised Code, to the board of nursing when determining whether to suspend a license without a prior hearing pursuant to division (B) of section 4723.181 of the Revised Code, or to the executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code.

(E) The controlling board, the development financing advisory council, the industrial technology and enterprise advisory council, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

- (1) Marketing plans;
- (2) Specific business strategy;
- (3) Production techniques and trade secrets;
- (4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

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

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

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

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

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any

public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

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

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

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

(6) Specialized details of security arrangements if disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (6) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

Sec. 503.41. (A) A board of township trustees, by resolution, may regulate and require the registration of massage establishments and their employees within the unincorporated territory of the township. In accordance with sections 503.40 to 503.49 of the Revised Code, for that purpose, the board, by a majority vote of all members, may adopt, amend, administer, and enforce regulations within the unincorporated territory of the township.

(B) A board may adopt regulations and amendments under this section only after public hearing at not fewer than two regular sessions of the board. The board shall cause to be published in at least one newspaper of general circulation in the township notice of the public hearings, including the time, date, and place, once a week for two weeks immediately preceding the hearings. The board shall make available proposed regulations or amendments to the public at the office of the board.

(C) Regulations or amendments adopted by the board are effective thirty days after the date of adoption unless, within thirty days after the adoption of the regulations or amendments, the township clerk receives a petition, signed by a number of qualified electors residing in the unincorporated area of the township equal to not less than ten per cent of the total vote cast for all candidates for governor in the area at the most recent general election at which a governor was elected, requesting the board to submit the regulations or amendments to the electors of the area for approval or rejection at the next primary or general election occurring at least seventy-five days after the board receives the petition.

No regulation or amendment for which the referendum vote has been requested is effective unless a majority of the vote cast on the issue is in favor of the regulation or amendment. Upon certification by the board of elections that a majority of the votes cast on the issue was in favor of the regulation or amendment, the regulation or amendment takes immediate effect.

(D) The board shall make available regulations it adopts or amends to

the public at the office of the board and shall cause to be published a notice of the availability of the regulations in at least one newspaper of general circulation in the township within ten days after their adoption or amendment.

(E) Nothing in sections 503.40 to 503.49 of the Revised Code shall be construed to allow a board of township trustees to regulate the practice of any limited branch of medicine ~~or surgery in accordance with sections specified in section~~ 4731.15 and 4731.16 of the Revised Code or the practice of providing therapeutic massage by a licensed physician, a licensed chiropractor, a licensed podiatrist, a licensed nurse, or any other licensed health professional. As used in this division, "licensed" means licensed, certified, or registered to practice in this state.

Sec. 1785.01. As used in this chapter:

(A) "Professional service" means any type of professional service that may be performed only pursuant to a license, certificate, or other legal authorization issued pursuant to Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 4734., or 4741., sections 4755.01 to 4755.12, or 4755.40 to 4755.56 of the Revised Code to certified public accountants, licensed public accountants, architects, attorneys, dentists, nurses, optometrists, pharmacists, physician assistants, doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, practitioners of the limited branches of medicine ~~or surgery~~ specified in section 4731.15 of the Revised Code, psychologists, professional engineers, chiropractors, veterinarians, occupational therapists, and physical therapists.

(B) "Professional association" means an association organized under this chapter for the sole purpose of rendering one of the professional services authorized under Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 4734., or 4741., sections 4755.01 to 4755.12, or 4755.40 to 4755.56 of the Revised Code, a combination of the professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.53 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731.

of the Revised Code.

Sec. 2151.421. (A)(1)(a) No person described ~~listed~~ in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, shall fail to immediately report that knowledge or suspicion to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine ~~or surgery~~ as ~~defined~~ specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; or a person rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion.

(2) An attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney ~~or~~ physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical

or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The attorney-client or physician-patient relationship does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(B) Anyone, who knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child, may report or cause reports to be made of that knowledge or suspicion to the public children services agency or to a municipal or county peace officer.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's known or suspected injuries, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect.

Any person, who is required by division (A) of this section to report known or suspected child abuse or child neglect, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D)(1) Upon the receipt of a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) On receipt of a report pursuant to this division or division (A) or (B) of this section, the public children services agency shall comply with section 2151.422 of the Revised Code.

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's

parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)(1) Except as provided in section 2151.422 of the Revised Code, the public children services agency shall investigate, within twenty-four hours, each report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to a central registry which the state department of human services shall maintain in order to determine whether prior reports have been made in other counties concerning the child or other principals in the case. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the

ticipation in the judicial proceeding. **Notwithstanding**

(b) **Notwithstanding** section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)(1) Except as provided in divisions (H)(4), (M), and (N) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The

agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(J)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county; ~~public~~

(g) If the public children services agency is not the county department of human services ~~agency~~, the county department of human services.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:

(a) The roles and responsibilities for handling emergency and non-emergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of

the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided with the following information:

- (a) Whether the agency has initiated an investigation of the report;
- (b) Whether the agency is continuing to investigate the report;
- (c) Whether the agency is otherwise involved with the child who is the subject of the report;
- (d) The general status of the health and safety of the child who is the subject of the report;
- (e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section

.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K) of this section.

(L) The department of human services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(M) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(N) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A) An attorney, concerning a communication made to the attorney by ~~the attorney's~~ a client in that relation or the attorney's advice to ~~the~~ a client, except that the attorney may testify by express consent of the client or, if the

client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client and except that, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject;

(B)(1) A physician or a dentist concerning a communication made to the physician or dentist by ~~the physician's or dentist's~~ a patient in that relation or the physician's or dentist's advice to ~~the~~ a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.11 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, or alcohol and a drug of abuse in the patient's blood, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(c) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or

permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, or alcohol and a drug of abuse in the person's blood, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the

physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(b) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4)(a) As used in divisions (B)(1) to (3) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" has the same meaning as in section 3729.01 of the Revised Code.

(5) Divisions (B)(1), (2), (3), and (4) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(6) Nothing in divisions (B)(1) to (5) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in this division (B)(6) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C) A member of the clergy, rabbi, priest, or regularly ordained, accredited, or licensed minister of an established and legally cognizable

church, denomination, or sect, when the ~~cleric member of the clergy~~, rabbi, priest, or minister remains accountable to the authority of that church, denomination, or sect, concerning a confession made, or any information confidentially communicated, ~~to the clergyman member of the clergy~~, rabbi, priest, or minister for a religious counseling purpose in the ~~clergyman's member of the clergy's~~, rabbi's, priest's, or minister's professional character; however, the ~~cleric member of the clergy~~, rabbi, priest, or minister may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of ~~the clergyman's rabbi's, priest's, or minister's~~ a sacred trust.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist.

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, or independent social worker, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication ~~such person such person's~~ received from a client in that relation or ~~such person's~~ the person's advice to ~~the~~ a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the

ised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of visitation rights in relation to their children.

(I) A communications assistant, acting within the scope of the communication ~~that~~ assistant's authority, when providing telecommunications relay service pursuant to section 4931.35 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service.

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

Sec. 2925.01. As used in this chapter:

(A) "Administer," "controlled substance," "dispense," "distribute," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code.

(B) "Drug dependent person" and "drug of abuse" have the same

nings as in section 3719.011 of the Revised Code.

(C) "Drug," "dangerous drug," "licensed health professional authorized to prescribe drugs," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(D) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (D)(2) or (5) of this section, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;

(d) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant that is in a final dosage form manufactured by a person authorized by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the federal drug abuse control laws, as defined in section 3719.01 of the Revised Code, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;

(g) An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a

schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III opiate or opium derivative;

(4) An amount equal to or exceeding two hundred fifty milliliters or two hundred fifty grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule V substance;

(5) An amount equal to or exceeding two hundred solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid.

(E) "Unit dose" means an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(F) "Cultivate" includes planting, watering, fertilizing, or tilling.

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code;

(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in

committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section.

(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant;

(4) Any anesthetic gas.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(M) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:

(1) "The National Formulary";

(2) "The United States Pharmacopeia," prepared by authority of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the state board of pharmacy.

(N) "Juvenile" means a person under eighteen years of age.

(O) "Counterfeit controlled substance" means any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

(P) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(Q) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

(R) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(S) "School building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(T) "Disciplinary counsel" means the disciplinary counsel appointed by the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(U) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state of Ohio that complies with the criteria set forth in Rule V, section 6 of the Rules for the Government of the Bar of Ohio.

(V) "Professional license" means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in divisions (W)(1) to (35) of this section and that qualifies a person as a professionally licensed person.

(W) "Professionally licensed person" means any of the following:

(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under Chapter 3719. of the Revised Code;

(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Chapter 4701. of the Revised Code and who holds a live permit issued under that chapter;

(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;

(4) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;

(5) A person licensed as an auctioneer or apprentice auctioneer or licensed to operate an auction company under Chapter 4707. of the Revised Code;

(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;

(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;

(8) A person who has been issued a cosmetologist's license, manicurist's license, esthetician's license, managing cosmetologist's license, managing manicurist's license, managing esthetician's license, cosmetology instructor's license, manicurist instructor's license, esthetician instructor's license, or tanning facility permit under Chapter 4713. of the Revised Code;

(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;

(10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;

(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;

(12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;

(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;

(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;

(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;

(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;

(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine ~~or~~ surgery, or podiatry under Chapter 4731. of the Revised Code;

(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;

(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;

(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;

(21) A person licensed to act as a real estate broker, real estate salesperson, limited real estate broker, or limited real estate salesperson under Chapter 4735. of the Revised Code;

(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;

(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;

(24) A person who has been issued a motor vehicle salvage dealer's

nse under Chapter 4738. of the Revised Code;

(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;

(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;

(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;

(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;

(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;

(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;

(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;

(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Chapter 4757. of the Revised Code;

(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;

(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;

(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code.

(X) "Cocaine" means any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;

(3) A salt, compound, derivative, or preparation of a substance identified in division (X)(1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

(Y) "L.S.D." means lysergic acid diethylamide.

(Z) "Hashish" means the resin or a preparation of the resin contained in

marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include hashish.

(BB) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(CC) "Presumption for a prison term" or "presumption that a prison term shall be imposed" means a presumption, as described in division (D) of section 2929.13 of the Revised Code, that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.

(DD) "Major drug offender" has the same meaning as in section 2929.01 of the Revised Code.

(EE) "Minor drug possession offense" means either of the following:

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;

(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.

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

(GG) "Crack cocaine" means a compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.

Sec. 4713.01. As used in sections 4713.01 to 4713.21 of the Revised Code:

(A) The practice of cosmetology includes work done for pay, free, or otherwise, by any person, which work is usually performed by hairdressers, cosmetologists, cosmeticians, or beauty culturists, however denominated, in beauty salons; which work is for the embellishment, cleanliness, and beautification of hair, wigs, and postiches, such as arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, weaving, or similar work, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work by the use of manual massage techniques or mechanical or electrically operated apparatus or appliances, or cosmetics, preparations, tonics, antiseptics, creams, or lotions,

and of manicuring the nails or application of artificial nails, which enumerated practices shall be inclusive of the practice of cosmetology, but not in limitation thereof. Sections 4713.01 to 4713.21 of the Revised Code do not permit any of the services or arts described in this division to be used for the treatment or cure of any physical or mental diseases or ailments.

The retail sale or the trial demonstration by application to the skin for purposes of retail sale of cosmetics, preparations, tonics, antiseptics, creams, lotions, wigs, and postiches shall not be considered the practice of cosmetology.

(B) "Cosmetologist," "cosmetician," "beauty culturist," or "hairdresser," means any person who, for pay, free, or otherwise, engages in the practice of cosmetology.

(C) "Manicurist" means any person who, for pay, free, or otherwise, engages only in the occupation of manicuring the nails of any person or the application of artificial or sculptured nails, or both.

(D) "The practice of esthetics" includes work done for pay, free, or otherwise, by any person, which work is the application of cosmetics, tonics, antiseptics, creams, lotions, or other preparations for the purpose of skin beautification and includes preparation of the skin by manual massage techniques or by use of electrical, mechanical, or other apparatus.

(E) "Esthetician" means any person who, for pay, free, or otherwise, engages only in the practice of esthetics.

(F) "Beauty salon" means any premises, building, or part of a building, in which any branch of cosmetology, except the occupation of a manicurist when carried on in a barber shop licensed under Chapter 4709. of the Revised Code, or the occupation of a cosmetologist is practiced.

(G) "Student" means any person who is engaged in learning or acquiring knowledge of the occupation of a cosmetologist, manicurist, or esthetician in a school of cosmetology.

(H) "School of cosmetology" means any premises, building, or part of a building in which students are instructed in the theories and practices of cosmetology, manicuring, and esthetics.

(I) "Managing cosmetologist" means any person who has met the requirements of division (D) of section 4713.04 of the Revised Code, and has applied for and received a managing cosmetologist license.

(J) "Cosmetology instructor" means any person who has met the requirements of division (E) of section 4713.04 of the Revised Code, and has applied for and received an instructor's license.

(K) "Apprentice instructor" means any licensee of the state board of cosmetology who is engaged in learning or acquiring knowledge of the

occupation of an instructor, in any branch of cosmetology in a duly licensed school of cosmetology.

(L) "Cosmetic therapy" ~~and "cosmetic therapist"~~ have has the same meanings meaning as in section 4731.15 of the Revised Code.

(M) "Nail salon" means any premises, building, or part of a building in which manicurists engage only in the occupation of manicuring the nails of any person or the application of artificial or sculptured nails, or both. For administrative purposes, a nail salon is deemed the equivalent of a beauty salon and is subject to appropriate rules with respect to sanitation and sterilization. A licensed manicurist may practice the occupation of manicuring nails in a nail salon, in a beauty salon, or in a barber shop.

(N) "Esthetics salon" means any premises, building, or part of a building in which esthetics is performed by a person licensed as a cosmetologist or esthetician. For administrative purposes, an esthetics salon is deemed the equivalent of a beauty salon and is subject to the appropriate rules with respect to sanitation and sterilization.

(O) "Managing manicurist" means any person who has met the requirements of division (H) of section 4713.04 of the Revised Code, and has applied for and received a managing manicurist license.

(P) "Manicurist instructor" means any person who meets the requirements of division (L) of section 4713.04 of the Revised Code and who has applied for and received a manicurist instructor license.

(Q) "Managing esthetician" means any person who has met the requirements of division (J) of section 4713.04 of the Revised Code, and has applied for and received a managing esthetician's license.

(R) "Esthetics instructor" means any person who meets the requirements of division (K) of section 4713.04 of the Revised Code and who has applied for and received an esthetics instructor license.

(S) "Glamour photography" means the combination of a photographic service or product with the delivery of a cosmetology service advertised or sold to the public.

Sec. 4713.12. Sections 4713.01 to 4713.21 of the Revised Code do not prohibit service in cases of emergency or domestic administration, without compensation. The following persons shall be exempt from the provisions of such sections:

(A) All persons authorized to practice medicine, surgery, dentistry, and nursing or any of its branches in this state;

(B) Commissioned surgical and medical officers of the United States army, navy, or marine hospital service when engaged in the actual performance of their official duties, and attendants attached to same;

(C) Barbers, insofar as their usual and ordinary vocation and profession is concerned;

(D) Funeral directors, embalmers, and apprentices licensed or registered under Chapter 4717. of the Revised Code;

(E) Persons who are engaged in the retail sale, cleaning, or beautification of wigs and postiches but who do not engage in any other act constituting the practice of cosmetology;

(F) Volunteers of hospitals, and homes as defined in section 3721.01 of the Revised Code, who render service to registered patients and inpatients who reside in such hospitals or homes. Such volunteers shall not use or work with any chemical products such as permanent wave, hair dye, or chemical hair relaxer, which without proper training would pose a health or safety problem to the patient.

(G) Nurses aides and other employees of hospitals and homes as defined in section 3721.01 of the Revised Code, who render cosmetology services to registered patients only as part of general patient care services and who do not charge patients directly on a fee for service basis;

(H) Cosmetic therapists who hold current, valid certificates to practice cosmetic therapy ~~in premises approved issued~~ by the state medical board under ~~Chapter 4731. section 4731.15~~ of the Revised Code;

(I) Photographers engaged in delivering a glamour photography service in a licensed salon, so long as the person advertising and operating the glamour photography service is properly licensed under this chapter by the state board of cosmetology.

Sec. 4713.14. (A) Beauty salons shall be in charge of and under the immediate supervision of a licensed managing cosmetologist and esthetics salons shall be in charge of and under the immediate supervision of a licensed managing cosmetologist or a licensed managing esthetician. Beauty salons and esthetics salons shall be equipped to provide potable running hot and cold water and proper drainage, to sanitize all instruments and supplies used therein in the practice of cosmetology and any of its branches, and to sterilize all instruments and supplies used therein by cosmetic therapists ~~licensed authorized to practice~~ under section 4731.15 of the Revised Code. Except as provided in division (C) of this section, rooms licensed as beauty salons or esthetics salons shall be used only for the practice of services regulated and licensed under this chapter and section 4731.15 of the Revised Code, be kept in a clean and sanitary condition, and be properly ventilated. Nothing in this section shall be construed to forbid the retailing of cosmetics, preparations, tonics, antiseptics, creams, lotions, wigs, postiches, and other items related to the practice of cosmetology, including clothing, or

forbid the provision of glamour photography, in a beauty salon or esthetics salon. No food shall be sold in rooms used as beauty salons or esthetics salons.

(B) Nail salons shall be in charge of and under the immediate supervision of a licensed managing manicurist or a licensed managing cosmetologist. Nail salons shall be equipped to provide potable running hot and cold water and proper drainage, and to sanitize all instruments and supplies used therein in the manicuring of nails or in the practice of massage. Rooms licensed as nail salons shall be used only for the practice of services regulated and licensed under this chapter, and must be kept in a clean and sanitary condition and be properly ventilated. Nothing in this section shall be construed to forbid the retailing of cosmetics, creams, lotions, and other items related to the manicuring of nails, including clothing, in a nail salon. No food shall be sold in rooms used as nail salons.

(C) Where the owner or operator of a beauty salon, nail salon, or a school of cosmetology has a permit issued under section 4713.25 of the Revised Code, tanning facilities may be operated in beauty salons, nail salons, and schools of cosmetology in accordance with rules that the state board of cosmetology may adopt pertaining to the operation of tanning facilities in beauty salons, nail salons, and schools.

(D) The owner or operator of a beauty salon or nail salon may provide massage services at the salon if the services are provided in accordance with any rules adopted under section 4713.02 of the Revised Code and the person giving the service holds a current, valid certificate issued under section 4731.15 of the Revised Code. Any room used to provide massage services in a salon shall be used for only that purpose and is subject to the requirements relating to cleanliness and ventilation established in division (A) of this section.

Sec. 4730.10. (A) An individual seeking a certificate of registration as a physician assistant shall file with the state medical board a written application on a form prescribed and supplied by the board. The application shall include all of the following:

(1) Satisfactory proof that the applicant is at least eighteen years of age and of good moral character;

(2) The status of the applicant with respect to eligibility for and application to take, or satisfactory completion of, the examination of the national commission for certification of physician assistants or a successor organization that is recognized by the board;

(3) Any other information the board requires.

(B) The board shall review all applications received under this section.

The board shall determine whether an applicant meets the requirements to receive a certificate of registration not later than sixty days after receiving a complete application. The affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate.

A certificate of registration shall not be issued to an applicant unless the applicant is certified by the national commission on certification of physician assistants or a successor organization that is recognized by the board, except that the board may issue a temporary certificate of registration to an applicant who has not yet taken the examination of the commission or its successor organization but is eligible for and has made application to take the examination. A temporary certificate shall be valid only until the results of the next examinations are available to the board.

(C) At the time of making application for a certificate of registration, the applicant shall pay the board a fee of one hundred dollars, no part of which shall be returned. Such fees shall be deposited in accordance with section 4731.24 of the Revised Code.

Sec. 4730.12. (A) A person seeking to renew a certificate of registration as a physician assistant shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall send renewal notices at least one month prior to the expiration date.

Applications shall be submitted to the board on forms the board shall prescribe and furnish. Each application shall be accompanied by a biennial renewal fee of fifty dollars. The board shall deposit the fees in accordance with section 4731.24 of the Revised Code.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate of registration under section 4730.25 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or to which the applicant has entered a plea of guilty or no contest for which the applicant has been found eligible for treatment in lieu of conviction, since last receiving signing an application for a certificate of registration as a physician assistant.

(B) To be eligible for renewal, a physician assistant must certify to the board both of the following:

(1) That the physician assistant has maintained certification by the national commission on certification of physician assistants or a successor organization that is recognized by the board by meeting the commission's standards to hold current certification from the commission or its successor, including completion of continuing medical education requirements and

passing periodic recertification examinations;

(2) Except as provided in ~~divisions~~ division (D) of this section, that the physician assistant has completed during the current registration period not less than one hundred hours of continuing medical education acceptable to the board. The board shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the types of continuing medical education that must be completed to fulfill the board's requirements. The board shall not adopt rules that require a physician assistant to complete in any registration period more than one hundred hours of continuing medical education acceptable to the board. In fulfilling the board's requirements, a physician assistant may use continuing medical education courses or programs completed to maintain certification by the national commission on certification of physician assistants or a successor organization that is recognized by the board if the ~~commission's~~ standards for acceptable courses and programs of the commission or its successor are at least equivalent to the standards established by the board.

(C) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed certificate of registration as a physician assistant. The board may require a random sample of physician assistants to submit materials documenting certification by the national commission on certification of physician assistants or a successor organization that is required by the board and completion of the required number of hours of continuing medical education.

(D) The board shall provide for pro rata reductions by month of the number of hours of continuing education that must be completed for individuals who are in their first registration period, who have been disabled due to illness or accident, or who have been absent from the country. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement this division.

(E) A certificate of registration that is not renewed on or before its expiration date is automatically lapsed suspended on that its expiration date. The state medical board, ~~in its discretion, may~~ shall reinstate a lapsed certificate suspended for failure to renew upon the payment an applicant's submission of all delinquent the biennial renewal fees, a fee, the applicable monetary penalty of twenty five dollars, and successful completion of certification that the number of hours of continuing education necessary to have a lapsed certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty for reinstatement shall be twenty-five dollars if the

certificate has been suspended for two years or less and fifty dollars if the certificate has been suspended for more than two years. The board shall deposit penalties in accordance with section 4731.24 of the Revised Code.

(F) If an individual certifies that the individual has completed the number of hours and type of continuing medical education required for renewal or reinstatement of a certificate of registration as a physician assistant, and the board finds through a random sample conducted under division (C) of this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars. The board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members.

A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4730.25 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

Sec. 4730.25. (A) The state medical board, ~~pursuant to an adjudication under Chapter 119. of the Revised Code and by a~~ an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate of registration as a physician assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(B) The board, ~~pursuant to an adjudication under Chapter 119. of the Revised Code and by a~~ an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend ~~a~~ an individual's certificate of registration as a physician assistant, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

(1) Failure to practice in accordance with the conditions under which the supervising physician's supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice only according to the standard or supplemental utilization plan the board approved for that physician;

(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) 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;

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

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

(7) Willfully betraying a professional confidence;

(8) ~~Soliciting patients or publishing Making~~ a false, fraudulent, deceptive, or misleading statement.As in soliciting or advertising for patients, in relation to the practice of medicine as it pertains to physician assistants, or in securing or attempting to secure a certificate of registration to practice as a physician assistant or approval of a supervision agreement.

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

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

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

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

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

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

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

(15) 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, ~~if the act was committed in the course of practice~~;

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

(17) ~~Trafficking in drugs, or a~~ A plea of guilty to ~~or~~, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs:

(18) ~~The Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension by another state of a an individual's license; certificate, or registration to practice issued by the proper licensing authority of that state, the; acceptance of an individual's license surrender; denial of a license; refusal to license, certify, register, renew or reinstate an applicant by that authority, the a license; imposition of probation by that authority,; or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees;~~

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

(20) Violation of the conditions placed by the board on a certificate of registration, physician assistant utilization plan, or supervision agreement;

(21) Violation of the conditions on which a temporary certificate of registration is issued;

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

(23) Failure to cooperate in an investigation conducted by the board under section 4730.26 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.

(C) 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 physician assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer

than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

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

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

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

(1) In enforcing division (B)(4) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a certificate of registration issued under this chapter or who has applied for a certificate of registration pursuant to this chapter to submit to a mental or examination, physical examination, including an HIV test, or both, as required by and at the expense of the board a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure of any individual to submit to a mental or physical examination when directed or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of

testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in ~~this division (B)(4) of this section~~, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate of registration. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

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

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

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

- (a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for

making such assessments and shall describe the basis for ~~this their~~ determination.

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

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

(E)(G) If the secretary and supervising member determine that there is clear and convincing evidence that a physician assistant has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board ~~members~~.

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

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

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

(F)(H) If the board ~~should take~~ takes action under division (B)(11), (13), or (14) of this section, and the ~~conviction~~, judicial finding of guilt, or guilty plea, or judicial finding of eligibility for treatment in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the petitioner's certificate of registration. The board may then hold an adjudication under Chapter 119. Of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions identified under division (B) of this section.

(G)(I) The certificate of registration of a physician assistant and the physician assistant's practice in this state are automatically suspended as of the date the physician assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for treatment in lieu of conviction for either any of the following:

(1) ~~In this state, aggravated criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary;~~

(2) ~~In another jurisdiction, any criminal offense substantially equivalent to those specified in division (G)(1) of this section. Continued~~

Continued practice after the suspension shall be considered practicing without a certificate. The

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudicatory hearing adjudication under Chapter 119. Of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate of registration.

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

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

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

(J) ~~An individual's failure to renew a certificate of registration as a physician assistant shall have no effect on the board's jurisdiction to take any action under this section against the individual.~~

(K)(L) ~~When the board refuses to grant a certificate of registration as a physician assistant to an applicant, revokes an individual's certificate of registration, refuses to issue a certificate of registration, or refuses to reinstate an individual's certificate of registration, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate of registration as a physician assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.~~

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

(1) ~~The~~ surrender of a certificate of registration as a physician assistant issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

~~Notwithstanding any other provision of the Revised Code, no~~ (2) An application made under this chapter for a certificate of registration, approval of a standard or supplemental utilization plan, or approval of a supervision agreement may not be withdrawn without approval of the board.

~~(3) Failure by an individual to renew a certificate of registration in accordance with section 4730.12 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.~~

Sec. 4730.26. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or a rule adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or rule adopted under it. In the absence of bad faith, a person

who reports such information or testifies before the board in an adjudication ~~hearing conducted under Chapter 119. Of the Revised Code~~ shall not be liable for civil damages as a result of reporting the information or providing testimony. Each

~~Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board. Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.~~

(B) Investigations of alleged violations of this chapter or rules 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 provided in section 4730.33 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or a rule adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary ~~of the board, the and~~ supervising member, ~~and a member of the board who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.~~ Before issuance of a subpoena ~~for patient record information, the three board members secretary and supervising member~~ shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or a rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records must that cover a reasonable period of time surrounding the alleged violation. ~~On~~

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

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee 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. When the person being served is a physician assistant, service of the subpoena may be made by certified mail, restricted delivery, 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.

A sheriff's deputy who serves such a subpoena shall receive the same fees as a sheriff, and each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.251 of the Revised Code.

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

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

(B) The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with other licensing boards and governmental agencies that are investigating alleged professional misconduct and with law enforcement agencies and other governmental agencies that are investigating or prosecuting alleged criminal offenses. A board or agency that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the board or agency that applies when the board or agency is dealing with other information in its possession. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or

deleting specific information from its records.

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

(E)(G) 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:

- (1) The case number assigned to the complaint or alleged violation ~~pursuant to division (A) of this section;~~
- (2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

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

Sec. 4730.27. If the state medical board has reason to believe that any person who has been granted a certificate of registration under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which such person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of the secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section.

If a physician assistant is adjudged by a probate court to be mentally ill or mentally incompetent, the individual's certificate of registration shall be automatically suspended until the individual has filed with the board a certified copy of an adjudication by a probate court of being restored to competency or has submitted to the board proof, satisfactory to the board, of having been discharged as being restored to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the court shall immediately notify the board of an adjudication of incompetence and note any suspension of a certificate in the margin of the court's record of

the certificate. ~~In the absence of fraud or bad faith, neither the board nor any member, agent, representative, or employee of the board shall be held liable in damages by any person by reason of the filing of the affidavit referred to in this section.~~

Sec. 4730.31. (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) Whenever any person holding a valid certificate issued pursuant to this chapter pleads guilty to ~~or is convicted of, is subject to a judicial finding of guilt of, or is subject to a judicial finding of eligibility for treatment in lieu of conviction for~~ a violation of Chapter 2907., 2925., or 3719. of the Revised Code or of any substantively comparable ordinance of a municipal corporation in connection with practicing as a physician assistant, the prosecutor in the case shall, on forms prescribed and provided by the state medical board, promptly notify the board of the conviction. Within thirty days of receipt of such information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the certificate under section 4730.31 of the Revised Code.

(C) The prosecutor in any case against any person holding a valid certificate issued pursuant to this chapter shall, on forms prescribed and provided by the state medical board, notify the board of any of the following:

(1) A plea of guilty to, ~~or~~ a judicial finding of guilt of, ~~or judicial finding of eligibility for treatment in lieu of conviction for~~ a felony, or a case where the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;

(2) A plea of guilty to, ~~or~~ a judicial finding of guilt of, ~~or judicial finding or eligibility for treatment in lieu of conviction for~~ a misdemeanor committed in the course of practice, or a case where the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;

(3) A plea of guilty to, ~~or~~ a judicial finding of guilt of, ~~or judicial finding of eligibility for treatment in lieu of conviction for~~ a misdemeanor involving moral turpitude, or a case where the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude.

The report shall include the name and address of the certificate holder, the nature of the offense for which the action was taken, and the certified court documents recording the action.

Sec. 4730.32. (A) Within sixty days after the ~~completion imposition~~ of any formal disciplinary ~~procedure action~~ taken by any ~~health care facility~~,

including a hospital, health care facility operated by an insuring corporation, ambulatory surgical center, or other health care similar facility, against any person individual holding a valid certificate of registration as a physician assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the ~~certificate holder individual~~, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records ~~minus patient identifiers which that~~ were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee ~~which that~~ reviewed the case or by the governing board of the facility.

The filing ~~or nonfiling~~ of a report with the board ~~or decision not to file a report~~, investigation by the board, or any disciplinary action taken by the board, ~~shall does~~ not preclude a health care facility from taking disciplinary action against a physician assistant.

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

(B) A physician assistant, professional association or society of physician assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information upon which the belief is based. This division does not require any person or organization that is a treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to a physician assistant participating in treatment or aftercare so for substance abuse as long as the physician assistant maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the person treatment provider or organization employee, agent, or representative of the provider has no reason to believe that the physician assistant has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a hospital health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of physician assistants to provide peer assistance to physician assistants with substance abuse problems with respect to a physician assistant who has been referred for examination to a treatment program approved by the board under section 4731.25 of the

Revised Code if the physician assistant cooperates with the referral for examination and with any determination that the physician assistant should enter treatment and ~~so as~~ long as the committee member, representative, or agent has no reason to believe that the physician assistant has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.

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

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

(D) Any insurer providing professional liability insurance to any person holding a valid certificate of registration as a physician assistant or any other entity that seeks to indemnify the professional liability of a physician assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) ~~On the basis of the reporting provisions in this section, the~~ The board may investigate possible violations of this chapter or the rules adopted under it. ~~The board may also investigate that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves~~ repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each

resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the physician assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a physician assistant, supervising physician, or health care facility arising out of matters that are the subject of ~~such the reporting to the board required by this section~~. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a physician assistant 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 a physician assistant 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 ~~thus~~ transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, ~~the board shall send~~ a copy of any reports or summaries ~~received by the board it receives~~ pursuant to this section ~~shall be sent~~ to the physician assistant ~~by the board~~. The physician assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. ~~Such~~ The statement shall at all times accompany that part of the record in contention.

(H) ~~A person, health care facility, association, society, An individual or insurer entity~~ that reports to the board or refers an impaired physician assistant to a treatment provider approved by the board under section 4731.25 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) In the absence of fraud or bad faith, a professional association or society of physician assistants that sponsors a committee or program to provide peer assistance to a physician assistant with substance abuse problems, a representative or agent of such a committee or program, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a physician assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4730.34. In the absence of fraud or bad faith, ~~neither the state~~

medical board nor any. A current or former board member, an agent of the board, a person formally requested by the board to be the board's representative, or an employee of the board shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If a current or former member, agent, representative, or employee any such person requests to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and if the request is made in writing at a reasonable time before trial and the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for ~~such~~ the person's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay that any part of a claim or judgment ~~which~~ that is for punitive or exemplary damages.

Sec. 4731.08. Except as provided in sections 4731.29 and 4731.291 to 4731.294 of the Revised Code, and until November 15, 1998, in section 4731.295 Of the Revised Code, each person who desires to practice medicine and surgery or osteopathic medicine and surgery in this state shall file with the secretary of the state medical board a written application for admission to the examination conducted by the board under section 4731.13 of the Revised Code. The applicant shall file the application under oath on a form prescribed by the board. The applicant shall furnish evidence satisfactory to the board that ~~he~~ the applicant is more than eighteen years of age and of good moral character.

Sec. 4731.13. Except as provided in sections 4731.29 and 4731.291 to 4731.294 of the Revised Code, and until November 15, 1998, in section 4731.295 Of the Revised Code, the state medical board shall examine each individual who desires to practice medicine and surgery or osteopathic medicine and surgery in this state. The board shall conduct the examination of these individuals in accordance with rules the board shall adopt. Each individual shall be examined in such subjects as the board requires. The board shall examine in subjects pertinent to current medical educational standards.

The board may use as its examination all or part of a standard medical licensing examination established for purposes of determining the competence of individuals to practice medicine and surgery or osteopathic medicine and surgery in the United States.

Sec. 4731.142. (A) Except as provided in division ~~(C)~~(B) of this section, an individual must demonstrate proficiency in spoken English to receive a

certificate to practice issued under section 4731.14 of the Revised Code if the individual's eligibility for the certificate is based in part on certification from the educational commission for foreign medical graduates and fulfillment of the undergraduate requirements established by section 4731.09 of the Revised Code at an institution outside the United States. The individual may demonstrate such proficiency only by one of the following:

(1) Obtaining obtaining a score of fifty forty or higher on the test of spoken English conducted by the educational testing service;

(2) Obtaining a score of at least forty but less than fifty on the test of spoken English conducted by the educational testing service and being determined by the state medical board, following an appearance before the board, to be able to communicate adequately in spoken English for the practice of medicine and surgery or osteopathic medicine and surgery.

(B) At an individual's request, the board shall afford the individual subject to division (A)(2) of this section an opportunity to appear before the board to demonstrate proficiency in spoken English. The determination of whether the individual is able to communicate adequately in spoken English shall be made by vote of the majority of members present. The individual is not entitled to appeal under Chapter 119. of the Revised Code a determination by the board that the individual's ability to communicate in spoken English is not adequate for the practice of medicine and surgery or osteopathic medicine and surgery.

(C) An individual is not required to demonstrate proficiency in spoken English in accordance with division (A) of this section if the individual was required to demonstrate such proficiency as a condition of certification from the educational commission for foreign medical graduates.

Sec. 4731.15. (A)(1) The state medical board also shall examine and register persons desiring to practice a limited branch of medicine or surgery, and shall establish rules governing such limited practice. Such regulate the following limited branches of medicine or surgery are: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 Of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. Of the Revised Code.

(2) As used in this chapter:

(a) "Approved electric modalities" means electric modalities approved by the state medical board for use in cosmetic therapy.

(b) "Cosmetic cosmetic therapy" means the systematic friction, stroking, slapping, and kneading or tapping to the face, neck, scalp, or shoulders through the use of approved electric modalities, and additionally

~~may include the permanent removal of hair from the human body through the use of approved electric modalities approved by the board for use in cosmetic therapy, and additionally may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.~~

(e) "Cosmetic therapist" means a person who holds a certificate to practice cosmetic therapy issued by the state medical board under this chapter and who is registered with the board under this chapter.

(B) All persons who hold a certificate to practice a limited branch of medicine ~~or surgery~~ issued by the state medical board, whether residents of this state or not, shall on or before the first day of June 1983, and on or before the first day of June every second year thereafter of each odd-numbered year, register with the state medical board on a form prescribed by the board and shall pay at such time a biennial registration fee of fifty dollars. At least one month in advance of the date of registration, a written notice that the biennial registration fee is due on or before the first day of June shall be sent to each holder of a certificate to practice a limited branch of medicine ~~or surgery~~, at the person's last known address. All persons who hold a certificate to practice a limited branch of medicine ~~or surgery~~ issued by the state medical board shall provide the board written notice of any change of address. A

A certificate to practice a limited branch of medicine ~~or surgery~~ shall be automatically suspended if the fee is not paid by the first day of September of the year it is due, ~~and continued. Continued~~ practice after the suspension of the certificate to practice shall be considered as practicing ~~without a license~~ in violation of sections 4731.34 and 4731.41 of the Revised Code. ~~An applicant for reinstatement of Subject to section 4731.222 of the Revised Code, the board shall reinstate~~ a certificate to practice suspended for failure to register shall submit the applicant's current and delinquent registration fees and a On an applicant's payment of the biennial registration fee and the applicable monetary penalty. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty of for reinstatement shall be twenty-five dollars if the certificate has been suspended for two years or less and fifty dollars if the certificate has been suspended for more than two years.

Sec. 4731.151. (A) Notwithstanding the provisions of section 4731.15 of the Revised Code specifying the types of limited branches of medicine or

~~surgery to be examined and registered by the state medical board; naprapaths Naprapaths~~ who received a certificate to practice from the board prior to March 2, 1992, may continue to practice naprapathy, as defined in rules adopted by the board. Such naprapaths shall practice in accordance with rules adopted by the board.

(B)(1) As used in this division:

- (a) "Mechanotherapy" means all of the following:
 - (i) Examining patients by verbal inquiry;
 - (ii) Examination of the musculoskeletal system by hand;
 - (iii) Visual inspection and observation;

(iv) Diagnosing a patient's condition only as to whether the patient has a disorder of the musculoskeletal system;

(v) In the treatment of patients, employing the techniques of advised or supervised exercise; electrical neuromuscular stimulation; massage or manipulation; or air, water, heat, cold, sound, or infrared ray therapy only to those disorders of the musculoskeletal system that are amenable to treatment by such techniques and that are identifiable by examination performed in accordance with division (B)(1)(a)(i) of this section and diagnosable in accordance with division (B)(1)(a)(ii) of this section.

(b) "Educational requirements" means the completion of a course of study appropriate for certification to practice mechanotherapy on or before November 3, 1985, as determined by rules adopted under this chapter.

(2) ~~Notwithstanding the provisions of section 4731.15 of the Revised Code specifying the types of limited branches of medicine or surgery to be examined and registered by the board, mechanotherapists~~ Mechanotherapists who received a certificate to practice from the board prior to March 2, 1992, may continue to practice mechanotherapy, as defined in rules adopted by the board. Such mechanotherapists shall practice in accordance with rules adopted by the board.

A person authorized by this division to practice as a mechanotherapist may examine, diagnose, and assume responsibility for the care of patients with due regard for first aid and the hygienic and nutritional care of the patients. Roentgen rays shall be used by a mechanotherapist only for diagnostic purposes.

(3) A person who holds a certificate to practice mechanotherapy and completed educational requirements in mechanotherapy on or before November 3, 1985, is entitled to use the title "doctor of mechanotherapy" and is a "physician" who performs "medical services" for the purposes of Chapters 4121. and 4123. of the Revised Code and the program established under section 5111.01 of the Revised Code, and shall receive payment or

reimbursement as provided under those chapters and that section.

~~(C) Rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4731.16. The ~~examination~~ state medical board shall conduct examinations of all applicants for certification to practice a ~~the limited branch~~ branches of medicine or surgery of massage therapy and cosmetic therapy. The examinations shall be conducted under rules prescribed adopted by the state medical board and at such times and places as the board may determine. ~~Such~~ The fee for either examination is two hundred fifty dollars.

For the purpose of conducting examinations, the board may call to its aid any person of established reputation and known ability in the limited branch of medicine for which the examination is being held. A person called to assist in an examination shall be reimbursed for the person's services. Reimbursement shall be not more than one hundred dollars per day and an amount fixed and allowed by the board for the person's actual and necessary expenses.

Each examination shall be given in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis, and ~~in such~~ any other subjects appropriate to the limited ~~branches~~ branch of medicine or surgery for which certification is requested as the board may require. Applicants, except that applicants for certificates to practice massage or Swedish movement therapy shall not be examined in pathology and diagnosis.

If an applicant fails an examination more than twice, in whole or in part, the board may require that the applicant obtain additional training as a condition of being eligible for further examination.

Sec. 4731.17. For the purpose of conducting examinations provided for in sections 4731.15 and 4731.16 of the Revised Code, the state medical board shall call to its aid any person of established reputation and known ability in the particular limited branch in which the examination is being held. Any person called by the board to its aid, as provided in this section, shall be reimbursed for the person's services not more than one hundred dollars per day and the person's actual and necessary expenses to be fixed and allowed by the board.

If the ~~an~~ applicant passes ~~such~~ the examination to practice massage therapy or cosmetic therapy conducted under section 4731.16 Of the Revised Code and has paid the fee of two hundred fifty dollars required under that section, the state medical board shall issue its to the applicant the appropriate certificate to that effect practice. Such certificate shall authorize the holder thereof to practice ~~such~~ the limited branch of medicine or surgery

~~as may be~~ specified therein, but shall not permit the holder to practice any other limited branch of medicine ~~or surgery~~, nor shall it permit the holder to treat infectious, contagious, or venereal diseases, ~~or~~ to prescribe or administer drugs, or to perform surgery or practice medicine in any other form.

Sec. 4731.18. The state medical board may dispense with the examination of applicants for ~~limited~~ certificates to practice a the limited branch branches of medicine ~~or surgery upon of massage therapy and cosmetic therapy in~~ the same reciprocal conditions with respect to such ~~limited branches as are provided in~~ manner that certificates are issued under section 4731.29 of the Revised Code with respect to physicians and surgeons generally to individuals to practice medicine and surgery or osteopathic medicine and surgery. In such cases the state medical ~~the~~ board shall may recognize any national examining boards of the appropriate limited branches of medicine.

Sec. 4731.19. The state medical board shall determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine or surgery of massage therapy and cosmetic therapy. If there shall at any time be such schools, colleges, or institutions giving instruction in such limited branches, the applicant for a certificate to practice a limited branch of medicine ~~or surgery~~ shall, as a condition of admission to the examination, produce a diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction.

The entrance examiner of the board shall determine the sufficiency of the preliminary education of applicants for ~~such limited certificate as is provided in a certificate to practice massage therapy or cosmetic therapy in the same manner that sufficiency of preliminary education is determined under~~ section 4731.09 of the Revised Code. ~~The, except that the~~ board may adopt rules defining and establishing for any the limited branch of medicine ~~or surgery~~ such preliminary educational requirements; that are less exacting than those prescribed by such section, as the nature of the case may require.

Sec. 4731.20. ~~Sections 4731.07, 4731.08, and 4731.14 to 4731.26 of the Revised Code shall govern The powers and duties conferred by this chapter on the state medical board, including all of the board's officers mentioned therein, and the applicants for and recipients of limited certificates to practice a limited branch of medicine or surgery. In addition to For purposes of regulating the practices of medicine and surgery, osteopathic medicine and surgery, and podiatry, shall apply in the same manner, with any modifications the board considers necessary, for purposes of regulating the~~

~~practices of limited branches of medicine, including the power of the board to revoke and suspend certificates provided for in take disciplinary actions under section 2301.373 or 4731.22 of the Revised Code it may also revoke or suspend the certificate of any one to whom a limited certificate has been issued upon proof of violation of the rules established by the board governing such limited practice.~~

Sec. 4731.22. (A) The state medical board, ~~pursuant to an adjudication under Chapter 119. of the Revised Code and by a an affirmative~~ vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud ~~in passing during the administration of~~ the examination ~~for a certificate to practice~~ or to have committed fraud, misrepresentation, or deception in applying for or securing any license ~~or~~ certificate ~~to practice or certificate of registration~~ issued by the board.

(B) The board, ~~pursuant to an adjudication under Chapter 119. of the Revised Code and by a an affirmative~~ vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend ~~a an individual's certificate to practice~~, refuse to register ~~or~~ ~~an individual~~, refuse to reinstate ~~an applicant a certificate~~, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's ~~certificate to practice or~~ certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to ~~use reasonable care diserimination in maintain minimal standards applicable to the selection or~~ administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, ~~or~~ a judicial finding of guilt of, ~~or a judicial finding of eligibility for treatment in lieu of conviction of~~, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence. ~~For~~

~~For~~ purposes of this division, "willfully betraying a professional confidence" does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code,~~and nothing. 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.

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

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

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

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

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

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

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

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

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

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

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

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice ~~or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued;~~

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

(17) Engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18)(a) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations ~~as—~~are determined, that the board specifies by rule, ~~by the state medical board.~~ The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The practitioner individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the practitioner's individual's profession.

(b) For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision ~~of a code of ethics of a specified national professional organization~~ 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, ~~and nothing. 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~~

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual ~~licensed or certified authorized~~ to practice by this chapter or who has ~~applied for licensure or certification submitted an application~~ pursuant to this chapter to submit to a mental ~~or examination, physical examination, including an HIV test, or both, as required by and at the expense of the board a mental and a physical examination. The expense of the examination is the responsibility of the~~

individual compelled to be examined. Failure of any individual to submit to a mental or physical examination ~~when directed or consent to an HIV test ordered by the board~~ constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds ~~a physician~~ an individual unable to practice because of the reasons set forth in this division, the board shall require the ~~physician~~ individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed ~~license~~ ensure authority to practice. An individual ~~licensed by this chapter~~ affected under this division shall be afforded an opportunity to demonstrate to the board ~~that the individual can the ability to~~ resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual ~~licensed or certified who applies for or receives a certificate~~ to practice ~~by~~ under this chapter accepts the privilege of practicing in this state and, by so doing ~~or by the making and filing of a registration or application to practice in this state,~~ shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except as provided in division (B)(27) of this section and when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board. ~~This~~

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule ~~promulgated adopted~~ by the board 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, ~~and nothing. 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.

(21) The violation of any abortion rule adopted by the public health council pursuant to section 3701.341 of the Revised Code;

(22) ~~The Any of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension by another state of a an individual's license or certificate to practice issued by the proper licensing authority of that state, the acceptance of an individual's license surrender; denial of a license; refusal to license, register, renew or reinstate an applicant by that authority, the a license; imposition of probation by that authority; or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees;~~

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

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the ~~United States~~ department of defense; or ~~the department of veterans administration of the United States, for any act or acts that also would constitute a violation of this chapter 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;~~

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

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

For the purposes of this division, any individual ~~licensed or certified under authorized to practice by~~ this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing a ~~registration or an~~ application for licensure or ~~by 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.

If it has reason to believe that any individual ~~licensed or certified under authorized to practice by~~ this chapter or any applicant for a license or certification ~~to practice~~ suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The ~~expense of the examination shall be at is the expense responsibility of the board individual compelled to be examined~~. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

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

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

- (a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the ~~practitioner~~ individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for ~~this~~ their determination.

The board may reinstate a ~~license~~ certificate suspended under this division after that demonstration and after the individual has entered into a

written consent agreement.

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

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

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

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

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

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

(30) Failure of a collaborating physician to perform the responsibilities agreed to by the physician in the protocol established between the physician and an advanced practice nurse in accordance with section 4723.56 of the Revised Code;

(31) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

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

(33) Failure of a physician or podiatrist to maintain a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code and practice

in accordance with the arrangement;

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

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

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

(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 ~~applicant or certificate holder~~ individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the ~~certificate holder's~~ 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.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if a notice of an opportunity for a hearing has been issued, based upon a conviction, plea of guilty, or a judicial finding of guilt prior to the court order, or a judicial finding of eligibility for treatment in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that

~~any~~ 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 ~~hearing~~ 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

~~Each~~ complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board. ~~Information received by the board pursuant to an investigation shall be confidential and not subject to discovery in any civil action.~~

(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 provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

~~For the purpose of investigation of (3) In investigating a possible violation of division (B)(3), (8), (9), (11), or (15) of this section, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.~~

~~In investigating possible violations of all remaining divisions of this section and sections of this chapter or any rule adopted under this chapter, the board also may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony. However, in those instances, other than for patient records provided to the board pursuant to the reporting provisions of division (A) of section 4731.224 of the Revised Code, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board, the ~~and~~ supervising member, and a member of the board who holds a certificate issued under this chapter authorizing the practice of medicine and surgery, osteopathic medicine and surgery, or pediatry. Before issuance of a subpoena of that nature for patient record information, the three board members secretary and supervising member~~ shall determine whether there is probable cause to believe that the complaint

filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. ~~Those~~ The subpoena may apply only to records ~~must~~ that cover a reasonable period of time surrounding the alleged violation. ~~Upon~~

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

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee 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. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, restricted delivery, 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.

~~A sheriff's deputy who serves a subpoena of that nature shall receive the same fees as a sheriff, and each witness who appears before the board in obedience to a subpoena, before the board, shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.~~

(4) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.251 of the Revised Code.

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

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

(2) ~~In the absence of fraud or bad faith, neither the board, nor any current or former member, agent, representative, or employee of the board, nor any provider of educational and assessment services selected by the board for the quality intervention program shall be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this~~

~~chapter. If a current or former member, agent, representative, or employee of the board or a provider of educational and assessment services selected by the board for the quality intervention program requests the state to defend against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, if the request is made in writing at a reasonable time before trial, and if the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay that part of a claim or judgment that is for punitive or exemplary damages.~~

~~(3) On~~ The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with other licensing boards and governmental agencies that are investigating alleged professional misconduct and with law enforcement agencies and other governmental agencies that are investigating or prosecuting alleged criminal offenses. A board or agency that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision Of the Revised Code or procedure of the board or agency that applies when the board or agency is dealing with other information in its possession. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

~~(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 pursuant to division (C)(1) of this section;
- (b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) 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.

(D)(G) If the secretary and supervising member determine that there is clear and convincing evidence that ~~a certificate holder~~ an individual has violated division (B) of this section and that the ~~certificate holder's~~ individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the ~~certificate holder's~~ individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board members.

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

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the ~~certificate holder~~ individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for ~~that~~ the hearing shall be within fifteen days, but not earlier than seven days, after the ~~certificate holder has requested a~~ individual requests the hearing, unless otherwise agreed to by both the board and the ~~certificate holder~~ individual.

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

(E)(H) If the board takes action under division (B)(9), (11), or (13) of this section and the ~~conviction~~, judicial finding of guilt, ~~or guilty plea, or~~ judicial finding of eligibility for treatment in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the ~~petitioner's~~

ndividual's certificate to practice. The board may then hold an adjudication under Chapter 119. Of the Revised Code to determine whether the applicant or certificate holder individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the applicant or certificate holder individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section. ~~The board does not have jurisdiction under division (B)(10), (12), or (14) of this section if the trial court renders a final judgment in the certificate holder'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.~~

(F)(I) The certificate or license to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for treatment in lieu of conviction for either any of the following:

(1) In this state, aggravated criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary;

(2) In another jurisdiction, any criminal offense substantially equivalent to those specified in division (F)(1) of this section. Continued

~~Continued~~ practice after suspension of the individual's certificate or license shall be considered practicing without a certificate or license. The

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

(G)(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the applicant or certificate holder individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a an affirmative vote of not fewer than six of its members, a final order that contains the board's

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

(H)(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate holder to practice may be reinstated ~~to practitioner~~. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(H)(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, ~~no all of the following apply:~~

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

~~Notwithstanding any other provision of the Revised Code, no~~

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

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(J)(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.

(K)(O) Under the board's investigative duties described in this section and subject to division (C)(F) of this section, the board shall develop and implement a quality intervention program designed to improve ~~physicians' clinical and communication skills~~ through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatry. 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 ~~to physicians~~ pursuant to an investigation the board conducts under this section;
- (2) Select providers of educational and assessment services ~~for physicians~~, including a quality intervention program panel of case reviewers;
- (3) ~~Refer physicians~~ 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 ~~physician~~ individual undertaking ~~an a recommended individual~~ educational program ~~of that nature~~.
- (4) Determine what constitutes successful completion of an individual educational program ~~undertaken by a referred physician~~ and require further monitoring of ~~a physician the individual who completed the program~~ or other action that the board determines to be appropriate;
- (5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

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

Sec. 4731.221. If the state medical board has reason to believe that any person who has been granted a certificate under Chapter 4731. of the Revised Code is mentally ill or mentally incompetent, it may file in the probate court of the county in which such person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of ~~his~~ the board secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section.

If any person who has been granted a certificate is adjudged by a probate court to be mentally ill or mentally incompetent, ~~his~~ the person's certificate shall be automatically suspended until such person has filed with

the state medical board a certified copy of an adjudication by a probate court of ~~his the person's~~ subsequent restoration to competency or has submitted to such board proof, satisfactory to the board, that ~~he the person~~ has been discharged as having a restoration to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of such court shall forthwith notify the state medical board of an adjudication of incompetence, and shall note any suspension of a certificate in the margin of the court's record of such certificate. ~~In the absence of fraud or bad faith, neither the state medical board nor any member, agent, representative, or employee thereof shall be held liable in damages by any person by reason of the filing of the affidavit referred to in this section.~~

Sec. 4731.222. Before restoring to good standing a certificate issued under this chapter that has been in a suspended or inactive state for any cause for more than two years, or before issuing a certificate pursuant to section 4731.18, 4731.29, 4731.295, 4731.57, or 4731.571 of the Revised Code to an applicant who for more than two years has not been engaged in the practice of medicine, osteopathic medicine, ~~or podiatry, or a limited branch of medicine~~ as an active practitioner, as a participant in a ~~postgraduate training program approved by the state medical board, or program of graduate medical education, as defined in section 4731.091 Of the Revised Code,~~ as a student in ~~good standing at a medical or osteopathic school or a college of podiatry approved determined by the board to be in good standing, or as a student in a school, college, or institution giving instruction in a limited branch of medicine determined by the board to be in good standing under section 4731.19 Of the Revised Code,~~ the state medical board may require the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice.

The authority of the board to impose terms and conditions includes the following:

- (A) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;
- (B) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity, in accordance with section 4731.08 of the Revised Code.

Sec. 4731.223. (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) Whenever any person holding a valid certificate issued pursuant to this chapter ~~is convicted of or pleads guilty to, is subject to a judicial finding~~

of guilt of, or is subject to a judicial finding of eligibility for treatment in lieu of conviction for a violation of Chapter 2907., 2925., or 3719. of the Revised Code or of any substantively comparable ordinance of a municipal corporation in connection with the person's practice, the prosecutor in the case, on forms prescribed and provided by the state medical board, shall promptly notify the board of the conviction or guilty plea. Within thirty days of receipt of that information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the certificate under section 4731.22 of the Revised Code.

(C) The prosecutor in any case against any person holding a valid certificate issued pursuant to this chapter, on forms prescribed and provided by the state medical board, shall notify the board of any of the following:

(1) A plea of guilty to, ~~or~~ a finding of guilt by a jury or court of, or judicial finding of eligibility for treatment in lieu of conviction for a felony, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;

(2) A plea of guilty to, ~~or~~ a finding of guilt by a jury or court of, or judicial finding of eligibility for treatment in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;

(3) A plea of guilty to, ~~or~~ a finding of guilt by a jury or court of, or judicial finding of eligibility for treatment in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude.

The report shall include the name and address of the certificate holder, the nature of the offense for which the action was taken, and the certified court documents recording the action.

Sec. 4731.224. (A) Within sixty days after the completion imposition of any formal disciplinary procedure action taken by any health care facility, including a hospital ~~or~~, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any person individual holding a valid certificate to practice issued pursuant to this chapter, the chief administrator or executive officer of the facility shall report to the state medical board the name of the certificate holder individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records ~~minus patient identifiers which that~~

were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee ~~which~~ that reviewed the case or by the governing board of the facility. As used in this division, "formal disciplinary ~~procedure~~ action" means any ~~procedure~~ action resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence, medical malpractice, or drug or alcohol abuse. "Formal disciplinary action" includes a summary action, an action that takes effect notwithstanding any appeal rights that may exist, and an action that results in an individual surrendering clinical privileges while under investigation and during proceedings regarding the action being taken or in return for not being investigated or having proceedings held. "Formal disciplinary ~~procedure~~ action" does not include any action taken for the sole reason of failure to maintain records on a timely basis or failure to attend staff or section meetings.

The filing or nonfiling of a report with the board, investigation by the board, or any disciplinary action taken by the board, shall not preclude any action by a health care facility ~~or professional society~~ to suspend, restrict, or revoke the individual's clinical privileges or membership of such physician.

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

(B) If any individual authorized to practice under this chapter or any ~~professional~~ association or society of such individuals ~~authorized to practice under this chapter~~ believes that a violation of any provision of this chapter, Chapter 4730. of the Revised Code, or any rule of the board has occurred, the individual, association, or society shall report to the board the information upon which the belief is based. This division does not require any ~~person or organization that is a~~ treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to ~~a~~ an impaired practitioner participating in treatment or aftercare ~~so for substance abuse as~~ long as the practitioner maintains participation in accordance with the requirements of section 4731.25 of the Revised Code, and ~~so as~~ long as the ~~association, society, or individual treatment provider or employee, agent, or representative of the provider~~ has no reason to believe that the practitioner has violated any provision of this chapter or any rule adopted under it, other than the provisions of division (B)(26) of section 4731.22 of the Revised Code. This division does not require reporting by any member of an impaired practitioner committee established by a ~~hospital~~ health care

facility or by any representative or agent of a committee or program sponsored by a professional association or society of individuals authorized to practice under this chapter to provide peer assistance to practitioners with substance abuse problems with respect to a practitioner who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the practitioner cooperates with the referral for examination and with any determination that the physician assistant practitioner should enter treatment and so as long as the committee member, representative, or agent has no reason to believe that the practitioner has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or any rule adopted under it, other than the provisions of division (B)(26) of section 4731.22 of the Revised Code.

(C) Any professional association or society composed primarily of doctors of medicine and surgery, doctors of osteopathic medicine and surgery, ~~or~~ doctors of podiatry, or practitioners of limited branches of medicine that suspends or revokes an individual's membership ~~in that~~ society for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision shall report to the board, on forms prescribed and provided by the board, the name of the member individual, the action taken by the society professional organization, and a summary of the underlying facts leading to the action taken.

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

(D) Any insurer providing professional liability insurance to any person holding a valid certificate issued pursuant to an individual authorized to practice under this chapter, or any other entity that seeks to indemnify the professional liability of any person holding a valid certificate issued pursuant to this chapter such an individual, shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment ~~which exceeds exceeding~~ twenty-five thousand dollars. ~~Such~~ The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition

f the claim took place.

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

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

The board may only disclose the summaries and reports which it receives under this section only to hospital health care facility committees within or outside Ohio which this state that are involved in credentialing credentialing or recredentialing recredentialing the certificate holder individual or in reviewing his the individual's clinical privileges. The board shall indicate whether or not the information has been verified. Information thus transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries received by the board it receives pursuant to this section shall be sent to the certificate holder by the board individual who is the subject of the reports or summaries. The certificate holder individual shall have the right to file a statement with the board concerning the correctness or relevance of the information. Such The statement shall at all times accompany that part of the record in contention.

(H) Any person, health care facility, association, society, An individual or insurer who entity that, pursuant to this section, reports to the board or who refers an impaired practitioner to a treatment provider approved by the board under section 4731.25 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) 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 to provide peer assistance to practitioners with substance abuse problems, no representative or agent of such a committee or program, and no member of the state medical board shall be held liable in damages to any person by reason of actions taken to refer a practitioner to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4731.225. If the holder of a certificate issued under this chapter violates division (A), (B), or (C) of section 4731.66 or section 4731.69 of the Revised Code, or if any other person violates division (B) or (C) of section 4731.66 or section 4731.69 of the Revised Code, the state medical board, pursuant to an adjudication ~~hearing conducted in accordance with~~ under Chapter 119. of the Revised Code and a an affirmative vote of not fewer than six of its members, shall:

- (A) For a first violation, impose a civil penalty of not more than five thousand dollars;
- (B) For each subsequent violation, impose a civil penalty of not more than twenty thousand dollars and, if the violator is a certificate holder, proceed under division (B)(27) of section 4731.22 of the Revised Code.

Sec. 4731.25. The state medical board, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend and rescind rules establishing standards for approval of physicians and facilities as treatment providers for impaired practitioners who are regulated under this chapter or Chapter 4730. of the Revised Code. The rules shall include standards for both inpatient and outpatient treatment. The rules shall provide that in order to be approved, a treatment provider must have the capability of making an initial examination to determine what type of treatment an impaired practitioner requires. Subject to the rules, the board shall review and approve treatment providers on a regular basis. The board, at its discretion, may withdraw or deny approval subject to the rules.

An approved impaired practitioner treatment provider shall:

(A) Report to the board the name of any practitioner suffering or showing evidence of suffering impairment as described in division (B)(~~17~~)(5) of section 4730.25 of the Revised Code or division (B)(26) of section 4731.22 of the Revised Code who fails to comply within one week with a referral for examination;

(B) Report to the board the name of any impaired practitioner who fails

to enter treatment within forty-eight hours following the provider's determination that the practitioner needs treatment;

(C) Require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare;

(D) Require a practitioner to suspend practice upon entry into any required inpatient treatment;

(E) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare;

(F) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care;

(G) Require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for approval of treatment providers;

(H) Report the identity of any practitioner practicing under the terms of an aftercare contract to hospital administrators, medical chiefs of staff, and chairpersons of impaired practitioner committees of all health care institutions at which the practitioner holds clinical privileges or otherwise practices. If the practitioner does not hold clinical privileges at any health care institution, the treatment provider shall report the practitioner's identity to the impaired physicians practitioner committee of the county medical society, osteopathic academy, or podiatric medical association in every county in which the practitioner practices. If there are no impaired physicians practitioner committees in the county, the treatment provider shall report the practitioner's identity to the president or other designated member of the county medical society, osteopathic academy, or podiatric medical association.

(I) Report to the board the identity of any practitioner who suffers a relapse at any time during or following aftercare.

Any individual authorized to practice under this chapter who enters into treatment by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

In the absence of fraud or bad faith, no person or organization that conducts an approved impaired practitioner treatment program, no member of such an organization, and no employee, representative, or agent of the

treatment provider shall be held liable in damages to any person by reason of actions taken or recommendations made by the treatment provider or its employees, representatives, or agents.

Sec. 4731.281. (A) On or before the deadline established under division (B) of this section for applying for renewal of a certificate of registration, each person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry shall certify to the state medical board that in the preceding two years the person has completed one hundred hours of continuing medical education. The certification shall be made upon the application for biennial registration ~~furnished by the board submitted pursuant to division (B) of this section. For purposes of meeting this requirement, The board shall adopt rules providing for pro rata reductions by month of the number of hours of continuing education required for persons who are in their first registration period, who have a registration period of less than two years due to initial implementation of the staggered renewal schedule established under division (B) of this section, who have been disabled due to illness or accident, or who have been absent from the country.~~

In determining whether a course, program, or activity qualifies for credit as continuing medical education, the board shall approve all continuing medical education taken by persons holding a certificate to practice medicine and surgery ~~shall be that is~~ certified by the Ohio state medical association ~~and approved by the board;~~, all continuing medical education taken by persons holding a certificate to practice osteopathic medicine and surgery ~~shall be that is~~ certified by the Ohio osteopathic association ~~and approved by the board;~~, and all continuing medical education taken by persons holding a certificate to practice podiatry ~~shall be that is~~ certified by the Ohio podiatric medical association ~~and approved by the board.~~ The board shall adopt rules providing for pro rata adjustments by month of the hours of continuing education required by this section for persons who are in their first registration period, who have a registration period of less than two years due to initial implementation of the staggered renewal schedule established under division (B) of this section, who have been disabled due to illness or accident, or who have been absent from the country. Each person holding a certificate to practice under this chapter shall be given sufficient choice of continuing education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level. The

The board may require a random sample of persons holding a certificate

to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

(B)(1) Every person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry wishing to renew that certificate shall apply to the board for a certificate of registration upon an application furnished by the board, and pay to the board at the time of application a fee of two hundred seventy-five dollars ~~to the board~~, according to the following schedule:

(a) Persons whose last name begins with the letters "A" through "B," on or before April 1, 2001, and the first day of April of every odd-numbered year thereafter;

(b) Persons whose last name begins with the letters "C" through "D," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(c) Persons whose last name begins with the letters "E" through "G," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(d) Persons whose last name begins with the letters "H" through "K," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;

(e) Persons whose last name begins with the letters "L" through "M," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(f) Persons whose last name begins with the letters "N" through "R," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(g) Persons whose last name begins with the letter "S," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(h) Persons whose last name begins with the letters "T" through "Z," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter.

The board shall deposit the fee in accordance with section 4731.24 of the Revised Code, except that, until July 30, 2001, the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

~~The board shall assess a penalty of twenty-five dollars for late applications. The board shall deposit penalties in accordance with section~~

~~4731.24 of the Revised Code.~~

(2) The board shall mail or cause to be mailed to every person registered to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, an application for registration addressed to the person's last known post-office address ~~of such person~~ or may cause ~~such~~ the application to be sent to ~~such~~ the person through the secretary of any recognized medical, osteopathic, or podiatric society, according to the following schedule:

(a) To persons whose last name begins with the letters "A" through "B," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(b) To persons whose last name begins with the letters "C" through "D," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(c) To persons whose last name begins with the letters "E" through "G," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;

(d) To persons whose last name begins with the letters "H" through "K," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(e) To persons whose last name begins with the letters "L" through "M," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(f) To persons whose last name begins with the letters "N" through "R," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(g) To persons whose last name begins with the letter "S," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter;

(h) To persons whose last name begins with the letters "T" through "Z," on or before April 1, 1999, and the first day of April of every odd-numbered year thereafter.

Failure of any person to receive an application from the board shall not excuse the person from the requirements contained in this section. The application shall contain proper spaces for the applicant's signature and the insertion of the required information, including a statement that the person has fulfilled the continuing education requirements imposed by this section.

The applicant shall write or cause to be written upon the application so furnished the applicant's full name, principal practice address and residence address, the number of the applicant's certificate to practice, and any other facts for the identification of the applicant as a person holding a certificate

to practice under this chapter as the board considers necessary. The applicant shall include with the application a list of the names and addresses of any clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners with whom the applicant is currently collaborating, as defined in section 4723.02 of the Revised Code. The applicant shall execute and deliver the application to the board by mail or in person. Every person registered under this section shall give written notice to the board of any change of principal practice address or residence address or in the list within thirty days of the change.

The applicant shall report any criminal offense that constitutes grounds for refusal of registration under section 4731.22 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or ~~to which the applicant has entered a plea of guilty or no contest for which the applicant has been found eligible for treatment in lieu of conviction~~, since ~~the last signing of the applicant's latest preceding~~ an application for a certificate to practice medicine or surgery of registration.

(C) The board shall issue to any person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, upon application and qualification therefor in accordance with this section, a certificate of registration under the seal of the board. ~~Such A~~ A certificate of registration shall be valid for a two-year period, commencing on the first day of the third month after the registration fee is due and expiring on the last day of the month two years thereafter.

The board shall publish and cause to be mailed to each person registered under this section, upon request, a printed list of the persons so registered.

(D) Failure of any certificate holder to register and comply with this section shall operate automatically to suspend the holder's certificate to practice, ~~and the continued~~. Continued practice after the suspension of the certificate to practice shall be considered as practicing without a license in violation of section 4731.41, 4731.43, or 4731.60 of the Revised Code. A Subject to section 4731.222 of the Revised Code, the board shall reinstate a certificate to practice suspended for less than two years for failure to register shall be reinstated by the board upon an applicant's submission of the current and delinquent biennial registration fees fee, the twenty-five-dollar applicable monetary penalty for late applications, and certification by signature of the applicant that the applicant has completed the requisite continuing medical education. The penalty for reinstatement shall be fifty dollars if the certificate has been suspended for two years or less and one hundred dollars if the certificate has been suspended for more than two years. The board shall deposit the penalties in accordance with section

4731.24 of the Revised Code.

(E) If an individual certifies completion of the number of hours and type of continuing medical education required to receive a certificate of registration or reinstatement of a certificate to practice, and the board finds through the random samples it conducts under this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars. The board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members.

A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4731.22 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

(E)(F) The state medical board may obtain information not protected by statutory or common law privilege from courts and other sources concerning malpractice claims against any person holding a certificate to practice under this chapter or practicing as provided in section 4731.36 of the Revised Code.

Sec. 4731.29. (A) When a person licensed to practice medicine and surgery or osteopathic medicine and surgery by the licensing department of another state, a diplomate of the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons, or a licentiate of the medical council of Canada wishes to remove to this state to practice ~~his profession~~, ~~he~~ the person shall file an application with the state medical board. The board may, in its discretion, by an affirmative vote of not less than six of its members, issue ~~to him a~~ its certificate to practice medicine and surgery or osteopathic medicine and surgery without requiring the applicant to submit to examination, provided ~~he~~ the applicant submits evidence satisfactory to the board ~~that he meets of meeting~~ the same age, moral character, and educational requirements individuals must meet under sections 4731.08, 4731.09, 4731.091, and 4731.14 of the Revised Code and, if applicable, ~~that he~~ demonstrates proficiency in spoken English in accordance with division (E) of this section.

(B) The state medical board shall issue or deny its certificate to practice within sixty days after the receipt of a complete application ~~to practise medicine and surgery, or osteopathic medicine and surgery,~~ under division (A) of this section. Within thirty days after receipt of an application, the state medical board shall provide the applicant with written notice, ~~by certified mail~~, of any information required before an application can be

considered complete for purposes of this section.

(C) If an applicant is under investigation pursuant to section 4731.22 of the Revised Code, the state medical board shall conclude the investigation within ninety days of receipt of a complete application unless extended by written consent of the applicant or unless the board determines that a substantial question of ~~such a violation of this chapter or the rules adopted under it exists and the board has notified the applicant in writing of the reasons for the continuation of the investigation. If the board determines that the applicant has is not violated section 4731.22 of the Revised Code in violation,~~ it shall issue a certificate within forty-five days of that determination.

(D) A fee of three hundred dollars shall be submitted with each application for certification under this section.

(E)(1) Except as ~~otherwise~~ provided in ~~this division (E)(2) of this section~~, an applicant licensed to practice medicine and surgery or osteopathic medicine and surgery by the licensing department of another state who received that license based in part on certification from the educational commission for foreign medical graduates shall demonstrate proficiency in spoken English if ~~he the applicant~~ fulfilled the undergraduate requirements for a certificate issued under this section at an institution outside the United States. The applicant may demonstrate such proficiency only in the manner described in section 4731.142 of the Revised Code for individuals attempting to receive certificates issued under section 4731.14 of the Revised Code. ~~An~~

(2) An applicant ~~described in division (E)(1) of this section~~ is not required to demonstrate proficiency in spoken English if either of the following apply:

(1)(a) During the five years immediately preceding the date of his application, the applicant's license has been unrestricted and the applicant has been actively practicing medicine and surgery or osteopathic medicine and surgery in the United States.

(2)(b) The applicant was required to demonstrate such proficiency as a condition of his ~~receiving~~ certification from the educational commission for foreign medical graduates.

Sec. 4731.291. (A) ~~The state medical board may issue, without examination, a training certificate to any person who wishes An individual seeking to pursue an internship, residency, or clinical fellowship program in this state, who does not hold a certificate to practice medicine and surgery or osteopathic medicine or surgery issued under this chapter, shall apply to the state medical board for a training certificate. The application shall be made~~

on forms that the board shall furnish and shall be accompanied by an application fee of seventy-five dollars.

(B) An applicant for a training certificate shall furnish ~~proof satisfactory~~ to the board of all the following:

(1) The Evidence satisfactory to the board that the applicant is at least eighteen years of age and is of good moral character.

(2) The Evidence satisfactory to the board that the applicant has been accepted or appointed to participate in this state in one of the following:

(a) An internship or residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association;

(b) A clinical fellowship program at an institution with a residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association that is in a clinical field the same as or related to the clinical field of the fellowship program;

The applicant shall indicate:

(3) Information identifying the beginning and ending dates of the period for which the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program;

(4) Any other information that the board requires.

(C) A (B) If no grounds for denying a certificate under section 4731.22 of the Revised Code apply, and the applicant meets the requirements of division (A) of this section, the board shall issue a training certificate to the applicant. The board shall not require an examination as a condition of receiving a training certificate.

A training certificate issued pursuant to this section shall be valid only for the period of one year, but may in the discretion of the board and upon application duly made, be renewed annually for a maximum of five years. The fee for renewal of a training certificate ~~or any renewal thereof~~ shall be thirty-five dollars. The

The board shall maintain a register of all individuals who hold training certificates.

(D)(C) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to the holder's internship, residency, or clinical fellowship program, but the holder shall not be entitled otherwise to engage in the practice of medicine and surgery or osteopathic medicine and surgery in this state. The holder shall limit activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall train only under

the supervision of the physicians responsible for supervision as part of the internship, residency, or clinical fellowship program. A training certificate may be revoked by the board upon proof, satisfactory to the board, that the holder thereof has engaged in practice in this state outside the scope of the internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon proof, satisfactory to the board, that the holder thereof has engaged in unethical conduct or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

(E)(D) The board may adopt rules as the board finds necessary to effect the purpose of this section.

Sec. 4731.341. The practice of medicine in all of its branches or the treatment of human ailments without the use of drugs or medicines and without operative surgery by any person not at that time holding a valid and current certificate as provided by Chapter 4723., 4725., or 4731. of the Revised Code is hereby declared to be inimical to the public welfare and to constitute a public nuisance. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in the practice of medicine without having first obtained a certificate to do so pursuant to such chapters, may on or after January 1, 1969, in accord with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful practice of medicine in all of its branches, or the treatment of human ailments without the use of drugs or medicines and without operative surgery, by applying for an injunction in any court of competent jurisdiction.

Prior to application for such injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice of medicine or any of its branches by registered mail that the secretary has received information indicating that this person is so engaged. Said person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of Chapter 4723. or 4731. of the Revised Code. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding

as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in Chapters 4723. and 4731. of the Revised Code.

Sec. 4731.41. No person shall practice medicine or and surgery, or any of its branches, without a the appropriate certificate from the state medical board; ~~no to engage in the practice. No~~ person shall advertise or ~~announce himself as claim to the public to be~~ a practitioner of medicine or and surgery, or any of its branches, without a certificate from the board; ~~no~~. No person ~~not being a licensee~~ shall open or conduct an office or other place for such practice without a certificate from the board; ~~no~~. No person shall conduct an office in the name of some person who has a certificate to practice medicine or and surgery, or any of its branches; ~~and no~~. No person shall practice medicine or and surgery, or any of its branches, after a the person's certificate has been revoked, or, if suspended, during the time of such suspension. Any person licensed as a cosmetic therapist and holding a certificate issued by the state medical board pursuant to Chapter 4731. of the Revised Code may advertise and offer the service of cosmetic therapy and conduct an office for the practice thereof under such rules and regulations as may be prescribed by the state medical board. Section 1701.03 of the Revised Code is not applicable to the practice of cosmetic therapy, except that no corporation shall be licensed to practice cosmetic therapy.

A certificate signed by the secretary of the board to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such certificate to practice medicine or and surgery, or any of its branches, in the this state has been issued to any such the person specified therein, or that a certificate to practice, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record of such the board in any court or before any officer of the state.

Sec. 4731.61. The certificate of a podiatrist may be revoked, limited, or suspended; the holder of a certificate may be placed on probation or reprimanded; or an applicant may be refused registration or reinstatement for violations of section 4731.22 or sections 4731.51 to 4731.60 of the Revised Code by a an affirmative vote of not less than six members of the state medical board.

This section does not preclude the application to, or limit the operation or effect upon, podiatrists of other sections of Chapter 4731. of the Revised Code.

Sec. 4731.98. In the absence of fraud or bad faith, the state medical

board, a current or former board member, an agent of the board, a person formally requested by the board to be the board's representative, an employee of the board, or a provider of educational and assessment services selected by the board for the quality intervention program shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If any such person asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and if the request is made in writing at a reasonable time before trial and the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the person's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay any part of a claim or judgment that is for punitive or exemplary damages.

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

(B) Whoever violates section 4731.49, 4731.50, 4731.60, or 4731.81 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

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

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

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

Sec. 4773.01. As used in this chapter:

(A) "General x-ray machine operator" means an individual who performs standard, diagnostic, radiologic procedures; whose performance of radiologic procedures is limited to specific body sites; and who does not, to any significant degree, determine the site or dosage of radiation to which a patient is exposed.

(B) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(C) "Ionizing radiation" means any electromagnetic or particulate radiation that interacts with atoms to produce ionization in matter, including x-rays, gamma rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles.

(D) "Physician" means an individual who holds a certificate issued under Chapter 4731. of the Revised Code authorizing him the individual to practice medicine and surgery or osteopathic medicine and surgery.

(E) "Podiatrist" means an individual who holds a certificate issued under Chapter 4731. of the Revised Code authorizing him the individual to practice podiatry.

(F) "Nuclear medicine technologist" means an individual who prepares and administers radio-pharmaceuticals to human beings and conducts in vivo or in vitro detection and measurement of radioactivity for medical purposes.

(G) "Radiation therapy technologist" means an individual who utilizes ionizing radiation-generating equipment for therapeutic purposes on human subjects.

(H) "Radiographer" means an individual who performs a comprehensive scope of diagnostic radiologic procedures employing equipment that emits ionizing radiation, exposes radiographs, and performs other procedures that contribute significantly to determining the site or dosage of ionizing radiation to which a patient is exposed.

(I) "Mechanotherapist" means an individual who holds a certificate issued under section ~~4731.154~~ 4731.15 of the Revised Code authorizing him the individual to practice mechanotherapy.

Sec. 5123.61. (A) As used in this section:

(1) "Mentally retarded or developmentally disabled adult" means a person who is eighteen years of age or older and is a mentally retarded or developmentally disabled person.

(2) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(B) The department of mental retardation and developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse and neglect made to the department under this section and reports received from county boards of mental retardation and developmental disabilities under section 5126.31 of the Revised Code.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a mentally retarded or developmentally disabled adult has suffered any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that adult, shall immediately report

or cause reports to be made of such information to a law enforcement agency or to the county board of mental retardation and developmental disabilities, except that if the report concerns a resident of a facility operated by the department of mental retardation and developmental disabilities the report shall be made either to a law enforcement agency or to the department.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine ~~or surgery as defined specified~~ in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of an adult care facility licensed under Chapter 3722. ~~of the~~ Revised Code, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, clergyman, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of mental retardation and developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; or an administrator, board member, or employee of any other public or private provider of services to a mentally retarded or developmentally disabled adult;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of mental retardation and developmental disabilities under section 5123.092 of the Revised Code;

(e) A person who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3) The reporting requirements of this division do not apply to members of the legal rights service commission or to employees of the legal rights service.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the mentally retarded or developmentally disabled adult and the adult's custodian, if known;

(2) The mentally retarded or developmentally disabled adult's age and the nature and extent of the adult's injuries or physical neglect, including any evidence of previous injuries or physical neglect;

(3) Any other information which might be helpful in establishing the cause of the injury, abuse, or physical neglect.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a mentally retarded or developmentally disabled adult has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a mentally retarded or developmentally disabled adult has suffered abuse or neglect may report the belief, or cause a report to be made, to a law enforcement agency or the county board of mental retardation and developmental disabilities, or, if the adult is a resident of a facility operated by the department of mental retardation and developmental disabilities, to a law enforcement agency or to the department.

(G)(1) Upon the receipt of a report concerning the possible nonaccidental infliction of a physical injury upon a mentally retarded or developmentally disabled adult, the law enforcement agency shall inform the county board of mental retardation and developmental disabilities or, if the adult is a resident of a facility operated by the department of mental retardation and developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section, the department of mental retardation and developmental disabilities shall notify the law enforcement agency.

(3) When a county board of mental retardation and developmental disabilities receives a report under this section, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency and the department of mental retardation and developmental disabilities.

(H) The superintendent of the board may designate an individual to be responsible for notifying the law enforcement agency and the department when the county board receives a report under this section.

(I) A mentally retarded or developmentally disabled adult about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised

Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect made under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning the mentally retarded or developmentally disabled adult or other principals in the case. The department shall submit a report of its investigation, in writing, to the law enforcement agency, and with the consent of the adult, shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the adult is not a resident of a facility operated by the department, the county board of mental retardation and developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the adult who is the subject of the report, to the adult's legal counsel, and to agencies authorized to receive

information in the report by the department or by a county board of mental retardation and developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a mentally retarded or developmentally disabled adult's injuries or physical neglect or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

SECTION 2. That existing sections 109.79, 119.12, 121.22, 503.41, 1785.01, 2151.421, 2317.02, 2925.01, 4713.01, 4713.12, 4713.14, 4730.10, 4730.12, 4730.25, 4730.26, 4730.27, 4730.31, 4730.32, 4730.34, 4731.08, 4731.13, 4731.142, 4731.15, 4731.151, 4731.16, 4731.17, 4731.18, 4731.19, 4731.20, 4731.22, 4731.221, 4731.222, 4731.223, 4731.224, 4731.225, 4731.25, 4731.281, 4731.29, 4731.291, 4731.341, 4731.41, 4731.61, 4731.99, 4773.01, and 5123.61 of the Revised Code are hereby repealed.

SECTION 3. Section 2151.421 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 215 and Sub. H.B. 408 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. Section 2317.02 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 223 and Am. Sub. S.B. 230 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 2925.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 66 and Am. S.B. 117 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 606

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the _____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____