

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 179**

**SENATOR Wachtmann**

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**A B I L L**

To amend sections 109.36, 1751.21, 2305.25, 2305.251, 1  
2305.38, 3701.74, 4715.03, 4723.28, 4730.26, 2  
4731.22, 4731.36, 4734.45, 4760.14, and 4762.14; to 3  
amend, for the purpose of adopting new section 4  
numbers as indicated in parentheses, sections 5  
2305.25 (2305.251) and 2305.251 (2305.252); and to 6  
enact new section 2305.25 and section 2305.253 of 7  
the Revised Code to modify the law regarding peer 8  
review committees. 9

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

**Section 1.** That sections 109.36, 1751.21, 2305.25, 2305.251, 10  
2305.38, 3701.74, 4715.03, 4723.28, 4730.26, 4731.22, 4731.36, 11  
4734.45, 4760.14, and 4762.14 be amended; sections 2305.25 12  
(2305.251) and 2305.251 (2305.252) be amended for the purpose of 13  
adopting new section numbers as indicated in parentheses; and new 14  
section 2305.25 and section 2305.253 of the Revised Code be 15  
enacted to read as follows: 16

**Sec. 109.36.** As used in this section and sections 109.361 to 17  
109.366 of the Revised Code: 18

(A)(1) "Officer or employee" means any of the following: 19

(a) A person who, at the time a cause of action against the 20

person arises, is serving in an elected or appointed office or 21  
position with the state or is employed by the state ~~or any.~~ 22

(b) A person that, at the time a cause of action against the 23  
person, partnership, or corporation arises, is rendering medical, 24  
nursing, dental, podiatric, optometric, physical therapeutic, 25  
psychiatric, or psychological services pursuant to a personal 26  
services contract or purchased service contract with a department, 27  
agency, or institution of the state; ~~or.~~ 28

(c) A person that, at the time a cause of action against the 29  
person, partnership, or corporation arises, is rendering peer 30  
review, utilization review, or drug utilization review services in 31  
relation to medical, nursing, dental, podiatric, optometric, 32  
physical therapeutic, psychiatric, or psychological services 33  
pursuant to a personal services contract or purchased service 34  
contract with a department, agency, or institution of the state. 35

(d) A person who, at the time a cause of action against the 36  
person arises, is rendering medical services to patients in a 37  
state institution operated by the department of mental health, is 38  
a member of the institution's staff, and is performing the 39  
services pursuant to an agreement between the state institution 40  
and a board of alcohol, drug addiction, and mental health services 41  
described in section 340.021 of the Revised Code. ~~"Officer~~ 42

(2) "Officer or employee" does not include any person 43  
elected, appointed, or employed by any political subdivision of 44  
the state. 45

(B) "State" means the state of Ohio, including but not 46  
limited to, the general assembly, the supreme court, the offices 47  
of all elected state officers, and all departments, boards, 48  
offices, commissions, agencies, institutions, and other 49  
instrumentalities of the state of Ohio. "State" does not include 50  
political subdivisions. 51

(C) "Political subdivisions" of the state means municipal corporations, townships, counties, school districts, and all other bodies corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

(D) "Employer" means the general assembly, the supreme court, any office of an elected state officer, or any department, board, office, commission, agency, institution, or other instrumentality of the state of Ohio that employs or contracts with an officer or employee or to which an officer or employee is elected or appointed.

**Sec. 1751.21.** (A) A peer review committee of a hospital or other health care facility or provider, or of an intermediary organization or health delivery network, with which a health insuring corporation has a contract for health care services may provide to a peer review committee of the health insuring corporation any information, documents, testimony, or other records relating to any matter that is the subject of evaluation or review by the peer review committees, if consent is provided by the health care facility and any physician or other provider whose professional qualifications or activities are the subject of evaluation or review.

(B) Any immunity from liability for damages that is provided under section ~~2305.25~~ 2305.251 of the Revised Code and that would otherwise apply with respect to the conduct of any peer review committee described in division (A) of this section shall continue to apply, notwithstanding the provision of information as permitted under division (A) of this section.

(C) The information, documents, testimony, or other records described in division (A) of this section, if otherwise protected under section ~~2305.251~~ 2305.252 of the Revised Code, shall not be

construed as being available for discovery or for use in any civil 83  
action solely on the basis that they were provided by the peer 84  
review committee as permitted under division (A) of this section. 85

Sec. 2305.25. As used in sections 2305.25 to 2305.253 of the 86  
Revised Code: 87

(A) "Health care entity" means a government entity, a 88  
for-profit or nonprofit corporation, a limited liability company, 89  
a partnership, a professional corporation, a utilization committee 90  
of a state or local society composed of doctors of medicine, 91  
doctors of osteopathic medicine, or doctors of podiatric medicine, 92  
or another health care organization, including, but not limited 93  
to, a health care entity described in division (A) of section 94  
2305.251 of the Revised Code, whether acting on its own behalf or 95  
on behalf of or in affiliation with other health care entities, 96  
that conducts as part of its purpose professional credentialing or 97  
quality review activities involving the competence or professional 98  
conduct of health care practitioners or providers. 99

(B) "Hospital" means either of the following: 100

(1) An institution that has been registered or licensed by 101  
the Ohio department of health as a hospital; 102

(2) An entity, other than an insurance company authorized to 103  
do business in this state, that owns, controls, or is affiliated 104  
with an institution that has been registered or licensed by the 105  
Ohio department of health as a hospital. 106

(C) "Incident report or risk management report" means a 107  
report of an incident involving injury or potential injury to a 108  
patient as a result of patient care by a health care entity that 109  
is prepared by or for the use of a review board, committee, risk 110  
management personnel, or corporation and is within the scope of 111  
the functions of that review board, committee, risk management 112  
personnel, or corporation. 113

(D) "Peer review committee" means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee that conducts professional credentialing or quality review activities involving the competence or professional conduct of health care practitioners or health care providers.

(E) "Qualified person" means a member of the medical staff of a hospital or a person who has requested or who has clinical privileges at a hospital pursuant to section 3701.351 of the Revised Code.

(F) "Review board, committee, risk management personnel, or corporation" means any of the following:

(1) A peer review committee of a hospital or long-term care facility, a nonprofit health care corporation or long-term care facility that is a member of the hospital or of which the hospital or facility is a member, or a community mental health center;

(2) A board or committee of a hospital, long-term care facility or of a health care entity when reviewing professional qualifications or activities of a qualified person or a provider;

(3) A utilization committee of a state or local society composed of doctors of medicine, doctors of osteopathic medicine and surgery, or doctors of podiatric medicine;

(4) A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of doctors of medicine, doctors of osteopathic medicine and surgery, doctors of dentistry, doctors of optometry, doctors of podiatric medicine, psychologists, or registered pharmacists;

(5) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional

conduct of health care providers that adversely affects or could  
adversely affect the health or welfare of any patient. For  
purposes of this division, "health insuring corporation" includes  
wholly owned subsidiaries of a health insuring corporation.

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(6) A peer review committee of any insurer authorized under  
Title XXXIX of the Revised Code to do the business of sickness and  
accident insurance in this state that has at least a two-thirds  
majority of physicians in active practice and that conducts  
professional credentialing and quality review activities involving  
the competence or professional conduct of health care providers  
that adversely affects or could adversely affect the health or  
welfare of any patient;

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(7) A peer review committee of any insurer authorized under  
Title XXXIX of the Revised Code to do the business of sickness and  
accident insurance in this state that has at least a two-thirds  
majority of physicians in active practice and that conducts  
professional credentialing and quality review activities involving  
the competence or professional conduct of a health care facility  
that has contracted with the insurer to provide health care  
services to insureds, which conduct adversely affects, or could  
adversely affect, the health or welfare of any patient;

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(8) A peer review committee of any insurer authorized under  
Title XXXIX of the Revised Code to do the business of medical  
professional liability insurance in this state that conducts  
professional quality review activities involving the competence or  
professional conduct of health care providers that adversely  
affects or could affect the health or welfare of any patient;

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(9) A peer review committee of a health care entity.

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(G) "Tort action" means a civil action for damages for  
injury, death, or loss to a patient of a health care entity. "Tort  
action" includes a product liability claim but does not include a

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civil action for a breach of contract or another agreement between  
persons.

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~~Sec. 2305.25~~ 2305.251. (A) No hospital, no state or local  
society, health care entity and no individual who is a member of  
or ~~employee works on behalf of any of the following committees a~~  
board or committee of a health care entity or of a corporation  
shall be liable in damages to any person for any acts, omissions,  
decisions, or other conduct within the scope of the functions of  
the board, committee, or corporation.

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~~(A) A utilization review committee, quality assurance, or  
tissue committee of a hospital or long-term care facility, a  
nonprofit health care corporation which is a member of the  
hospital or long-term care facility or of which the hospital or  
facility is a member, or a community mental health center;~~

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~~(B) A board or committee of a hospital or long-term care  
facility or of a nonprofit health care corporation which is a  
member of the hospital or long-term care facility or of which the  
hospital or long-term care facility is a member reviewing  
professional qualifications or activities of the medical staff of  
the hospital or long-term care facility or applicants for  
admission to the medical staff;~~

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~~(C) A utilization committee of a state or local society  
composed of doctors of medicine, doctors of osteopathic medicine,  
or doctors of podiatric medicine;~~

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~~(D) A peer review committee, professional standards review  
committee, or arbitration committee of a state or local society  
composed of doctors of medicine, doctors of osteopathic medicine,  
doctors of dentistry, doctors of optometry, doctors of podiatric  
medicine, psychologists, or pharmacists;~~

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~~(E) A peer review committee of a health insuring corporation~~

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~~that has at least a two-thirds majority of member physicians in  
active practice and that conducts professional credentialing and  
quality review activities involving the competence or professional  
conduct of health care providers, which conduct adversely affects,  
or could adversely affect, the health or welfare of any patient.  
For purposes of this division, "health insuring corporation"  
includes wholly owned subsidiaries of a health insuring  
corporation.~~

~~(F) A peer review committee of any insurer authorized under  
Title XXXIX of the Revised Code to do the business of sickness and  
accident insurance in this state that has at least a two-thirds  
majority of physicians in active practice and that conducts  
professional credentialing and quality review activities involving  
the competence or professional conduct of health care providers,  
which conduct adversely affects, or could adversely affect, the  
health or welfare of any patient;~~

~~(G) A peer review committee of any insurer authorized under  
Title XXXIX of the Revised Code to do the business of sickness and  
accident insurance in this state that has at least a two-thirds  
majority of physicians in active practice and that conducts  
professional credentialing and quality review activities involving  
the competence or professional conduct of a health care facility  
that has contracted with the insurer to provide health care  
services to insureds, which conduct adversely affects, or could  
adversely affect, the health or welfare of any patient;~~

(B)(1) A hospital shall be presumed to not be negligent in  
the credentialing of a qualified person if the hospital proves by  
a preponderance of the evidence that at the time of the alleged  
negligent credentialing of the qualified person it was accredited  
by the joint commission on accreditation of health care  
organizations, the American osteopathic association, or the  
national committee for quality assurance.



(2) The presumption that a hospital is not negligent as provided in division (B)(1) of this section may be rebutted only by proof, by a preponderance of the evidence, of any of the following: 238  
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(a) The credentialing and review requirements of the accrediting organization did not apply to the hospital, the qualified person, or the type of professional care that is the basis of the claim against the hospital. 242  
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(b) The hospital failed to comply with all material credentialing and review requirements of the accrediting organization that applied to the qualified person. 246  
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(c) The hospital, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent qualified person with staff privileges at the hospital had developed a pattern of incompetence that indicated that the qualified person's privileges should have been limited prior to treating the plaintiff at the hospital. 249  
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(d) The hospital, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent qualified person with staff privileges at the hospital would provide fraudulent medical treatment but failed to limit the qualified person's privileges prior to treating the plaintiff at the hospital. 256  
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(3) If the plaintiff fails to rebut the presumption provided in division (B)(1) of this section, upon the motion of the hospital, the court shall enter judgment in favor of the hospital on the claim of negligent credentialing. 263  
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(C) Nothing in this section otherwise shall relieve any individual or hospital health care entity from liability arising 267  
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from treatment of a patient or resident. Nothing in this section 269  
shall be construed as creating an exception to section 2305.252 of 270  
the Revised Code. 271

~~This section shall also apply to any member or employee of a~~ 272  
~~nonprofit corporation engaged in performing the functions of a~~ 273  
~~peer review committee of nursing home providers or administrators~~ 274  
~~or of a peer review or professional standards review committee.~~ 275

(D) No person who provides information under this section 276  
without malice and in the reasonable belief that the information 277  
is warranted by the facts known to the person shall be subject to 278  
suit for civil damages as a result of providing the information. 279

**Sec. ~~2305.251~~ 2305.252.** Proceedings and records within the 280  
scope of the peer review or utilization review functions of all a 281  
review committees board, committee, or corporation described in 282  
section 2305.25 of the Revised Code shall be held in confidence 283  
and shall not be subject to discovery or introduction in evidence 284  
in any civil action against a health care professional, a 285  
hospital, a long-term care facility, a not-for-profit health care 286  
corporation that is a member of a hospital or long-term care 287  
facility or of which a hospital or long-term care facility is a 288  
member, or ~~another~~ any other health care ~~institution~~ entity 289  
arising out of matters that are the subject of evaluation and 290  
review by the review board, committee, or corporation. No person 291  
in attendance at a meeting of a review board, committee, or 292  
corporation or serving as a member or employee of a review board, 293  
committee, or corporation shall be permitted or required to 294  
testify in any civil action as to any evidence or other matters 295  
produced or presented during the proceedings of the review board, 296  
committee, or corporation or as to any finding, recommendation, 297  
evaluation, opinion, or other action of the, review board, 298  
committee, or corporation or a member ~~thereof~~ or employee of it. 299  
Information, documents, or records otherwise available from 300

original sources are not to be construed as being unavailable for 301  
discovery or for use in any civil action merely because they were 302  
presented during proceedings of a review board, committee nor 303  
should any, or corporation provided that the documents are 304  
obtained from the original source. Any person testifying before a 305  
review board, committee, or corporation or who is a member or 306  
employee of the review board, committee, or corporation shall not 307  
be prevented from testifying as to matters within the person's 308  
knowledge, but the witness cannot be asked about the witness's 309  
testimony before the review board, committee, or corporation or 310  
opinion formed by the witness as a result of the review board, 311  
committee, or corporation hearing. An order by a court to produce 312  
for discovery or for use at trial the proceedings or records 313  
described in this section is a final order. 314

Sec. 2305.253. (A) Notwithstanding any contrary provision of 315  
section 149.43, 1751.21, 2305.24, 2305.25, 2305.251, 2305.252, or 316  
2305.28 of the Revised Code, an incident report or risk management 317  
report and the contents of an incident report or risk management 318  
report are not subject to discovery in, and are not admissible in 319  
evidence in the trial of, a tort action. An individual who 320  
prepares or has knowledge of the contents of an incident report or 321  
risk management report shall not testify and shall not be required 322  
to testify in a tort action as to the contents of the report. This 323  
division does not prohibit or limit the discovery or admissibility 324  
of testimony or evidence relating to patient care that is within a 325  
person's personal knowledge. 326

(B) Except as specified in division (A) of this section, this 327  
section does not affect any provision of section 1751.21, 2305.24, 328  
2305.25, 2305.251, 2305.252, or 2305.28 of the Revised Code that 329  
describes, imposes, or confers an immunity from tort or other 330  
civil liability, a forfeiture of an immunity from tort or other 331  
civil liability, a requirement of confidentiality, a limitation 332

upon the use of information, data, reports, or records, tort or 333  
other civil liability, or a limitation upon discovery of matter, 334  
introduction into evidence of matter, or testimony pertaining to 335  
matter in a tort or other civil action. This section does not 336  
affect a privileged communication between an attorney and the 337  
attorney's client as described in section 2317.02 of the Revised 338  
Code. 339

**Sec. 2305.38.** (A) As used in this section: 340

(1) "Charitable organization" means either of the following: 341

(a) Any charitable nonprofit corporation that is organized 342  
and operated pursuant to Chapter 1702. of the Revised Code, 343  
including, but not limited to, any ~~such~~ corporation of that nature 344  
whose articles of incorporation specify that it is organized and 345  
to be operated for an education-related purpose; 346

(b) Any charitable association, group, institution, or 347  
society that is not organized and not operated for profit, 348  
including, but not limited to, any ~~such~~ association, group, 349  
institution, or society of that nature that is organized and 350  
operated for any education-related purpose. 351

(2) "Compensation" does not include actual and necessary 352  
expenses that are incurred by a volunteer in connection with the 353  
services that the volunteer performs for a charitable 354  
organization, and that are reimbursed to the volunteer or 355  
otherwise paid. 356

(3) "Corporate services" means services that are performed by 357  
a volunteer who is associated with a charitable organization as 358  
defined in division (A)(1)(a) of this section and that reflect 359  
duties or responsibilities arising under Chapter 1702. of the 360  
Revised Code. 361

(4) "Supervisory services" means services that are performed 362

by a volunteer who is associated with a charitable organization as  
defined in division (A)(1)(a) or (b) of this section and that  
involve duties and responsibilities in connection with the  
supervision of one or more officers, employees, trustees, or other  
volunteers of that charitable organization.

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(5) "Volunteer" means an officer, trustee, or other person  
who performs services for a charitable organization but does not  
receive compensation, either directly or indirectly, for those  
services.

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(B) A volunteer is not liable in damages in a civil action  
for injury, death, or loss to person or property that arises from  
the actions or omissions of any of the officers, employees,  
trustees, or other volunteers of the charitable organization for  
which the volunteer performs services, unless either of the  
following applies:

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(1) With prior knowledge of an action or omission of a  
particular officer, employee, trustee, or other volunteer, the  
volunteer authorizes, approves, or otherwise actively participates  
in that action or omission.

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(2) After an action or omission of a particular officer,  
employee, trustee, or other volunteer, the volunteer, with full  
knowledge of that action or omission, ratifies it.

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(C) A volunteer is not liable in damages in a civil action  
for injury, death, or loss to person or property that arises from  
the volunteer's actions or omissions in connection with any  
supervisory or corporate services that the volunteer performs for  
the charitable organization, unless either of the following  
applies:

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(1) An action or omission of the volunteer involves conduct  
as described in division (B)(1) or (2) of this section;

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(2) An action or omission of the volunteer constitutes

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willful or wanton misconduct or intentionally tortious conduct. 394

(D) A volunteer is not liable in damages in a civil action 395  
for injury, death, or loss to person or property that arises from 396  
the volunteer's actions or omissions in connection with any 397  
nonsupervisory or noncorporate services that the volunteer 398  
performs for the charitable organization, unless either of the 399  
following applies: 400

(1) An action or omission of the volunteer involves conduct 401  
as described in division (B)(1) or (2) of this section; 402

(2) An action or omission of the volunteer constitutes 403  
negligence, willful or wanton misconduct, or intentionally 404  
tortious conduct. 405

(E)(1) This section does not create a new cause of action or 406  
substantive legal right against a volunteer. 407

(2) This section does not affect any immunities from civil 408  
liability or defenses established by another section of the 409  
Revised Code or available at common law, to which a volunteer may 410  
be entitled under circumstances not covered by this section. This 411  
section does not diminish in any respect the immunities provided 412  
in section ~~2305.25~~ 2305.251 of the Revised Code. The immunities 413  
conferred upon volunteers in this section are not intended to 414  
affect the liability of a charitable organization in a civil 415  
action for injury, death, or loss to person or property. 416

**Sec. 3701.74.** (A) As used in this section and section 417  
3701.741 of the Revised Code: 418

(1) "Chiropractor" means an individual licensed under ~~Chapter~~ 419  
Chapter 4734. of the Revised Code to practice chiropractic. 420

(2) "Health care provider" has the same meaning as in section 421  
3729.01 of the Revised Code. 422

(3) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(4) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(5) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider ~~or from a practitioner;~~

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(5)(a) of this section.

(6) "Patient's representative" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical records, except that if the patient is deceased, "patient's representative" means the executor or administrator of the patient's estate or the person responsible for the patient's estate if it is not to be probated. "Patient's representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

(7) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.

~~(5) "Practitioner" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and~~

surgery, osteopathic medicine and surgery, or podiatry or an 454  
individual licensed under Chapter 4734. of the Revised Code to 455  
practice chiropractic. 456

(B) A patient or patient's representative who wishes to 457  
examine or obtain a copy of part or all of a medical record shall 458  
submit to the health care provider ~~or practitioner~~ a written 459  
request signed by the patient dated not more than sixty days 460  
before the date on which it is submitted. The patient or patient's 461  
representative who wishes to obtain a copy of the record shall 462  
indicate in the request whether the copy is to be sent to the 463  
patient's residence, physician or chiropractor, or representative, 464  
or held for the patient at the office of the health care provider 465  
~~or by the practitioner~~. Within a reasonable time after receiving a 466  
request that meets the requirements of this division and includes 467  
sufficient information to identify the record requested, a health 468  
care provider that has the patient's medical records ~~or~~ 469  
~~practitioner~~ shall permit the patient to examine the record during 470  
regular business hours without charge or, on request, shall 471  
provide a copy of the record in accordance with section 3701.741 472  
of the Revised Code, except that if a physician or chiropractor 473  
~~practitioner~~ who has treated the patient determines for clearly 474  
stated treatment reasons that disclosure of the requested record 475  
is likely to have an adverse effect on the patient, the health 476  
care provider ~~or practitioner~~ shall provide the record to a 477  
physician or chiropractor ~~practitioner~~ designated by the patient. 478  
The health care provider ~~or practitioner~~ shall take reasonable 479  
steps to establish the identity of the person making the request 480  
to examine or obtain a copy of the patient's record. 481

(C) If a health care provider ~~or practitioner~~ fails to 483  
furnish a medical record as required by division (B) of this 484  
section, the patient or patient's representative who requested the 485



record may bring a civil action to enforce the patient's right of 486  
access to the record. 487

(D)(1) This section does not apply to medical records whose 488  
release is covered by section 173.20 or 3721.13 of the Revised 489  
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 490  
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 491  
Records," or by 42 C.F.R. 483.10. 492

(2) Nothing in this section is intended to supersede the 493  
confidentiality provisions of sections 2305.24 to ~~2305.251~~ 494  
2305.252 of the Revised Code. 495

**Sec. 4715.03.** (A) The state dental board shall organize by 496  
the election from its members of a president and a secretary. It 497  
shall hold meetings monthly at least eight months a year at such 498  
times and places as the board designates. A majority of the 499  
members of the board shall constitute a quorum. The board shall 500  
make such reasonable rules as it determines necessary pursuant to 501  
Chapter 119. of the Revised Code. 502

(B) A concurrence of a majority of the members of the board 503  
shall be required to grant, refuse, suspend, place on probationary 504  
status, revoke, refuse to renew, or refuse to reinstate a license 505  
or censure a license holder. 506

(C) The board shall adopt rules establishing standards for 507  
the safe practice of dentistry and dental hygiene by qualified 508  
practitioners and shall, through its policies and activities, 509  
promote such practice. 510

The board shall adopt rules in accordance with Chapter 119. 511  
of the Revised Code establishing universal blood and body fluid 512  
precautions that shall be used by each person licensed under this 513  
chapter who performs exposure prone invasive procedures. The rules 514  
shall define and establish requirements for universal blood and 515  
body fluid precautions that include the following: 516

(1) Appropriate use of hand washing;	517
(2) Disinfection and sterilization of equipment;	518
(3) Handling and disposal of needles and other sharp instruments;	519 520
(4) Wearing and disposal of gloves and other protective garments and devices.	521 522
(D) The board shall administer and enforce the provisions of this chapter. The board shall investigate evidence which appears to show that any person has violated any provision of this chapter. Any person may report to the board under oath any information such person may have appearing to show a violation of any provision of this chapter. In the absence of bad faith, any person who reports such information or who testifies before the board in any disciplinary proceeding conducted pursuant to Chapter 119. of the Revised Code is not liable for civil damages as a result of making the report or providing testimony. If after investigation the board determines that there are reasonable grounds to believe that a violation of this chapter has occurred, the board shall conduct disciplinary proceedings pursuant to Chapter 119. of the Revised Code or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code. The board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members. For the purpose of any disciplinary proceeding or any investigation conducted under this division, the board may administer oaths, order the taking of depositions, issue subpoenas, compel the attendance and testimony of persons at depositions and compel the production of books, accounts, papers, documents, or other tangible things. The hearings and investigations of the board shall be considered civil actions for the purposes of section <del>2305.251</del> <u>2305.252</u> of the Revised Code. Notwithstanding section 121.22 of the Revised Code, proceedings of	523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548

the board relative to the investigation of a complaint or the 549  
determination whether there are reasonable grounds to believe that 550  
a violation of this chapter has occurred are confidential and are 551  
not subject to discovery in any civil action. 552

(E) The board shall examine or cause to be examined eligible 553  
applicants to practice dentistry and dental hygiene. The board may 554  
distinguish by rule different classes of qualified personnel 555  
according to skill levels and require all or only certain of these 556  
classes of qualified personnel to be examined and certified by the 557  
board. 558

(F) In accordance with Chapter 119. of the Revised Code, the 559  
board shall adopt, and may amend or rescind, rules establishing 560  
the eligibility criteria, the application and permit renewal 561  
procedures, and safety standards applicable to a dentist licensed 562  
under this chapter who applies for a permit to employ or use 563  
conscious intravenous sedation. These rules shall include all of 564  
the following: 565

(1) The eligibility requirements and application procedures 566  
for an eligible dentist to obtain a conscious intravenous sedation 567  
permit; 568

(2) The minimum educational and clinical training standards 569  
required of applicants, which shall include satisfactory 570  
completion of an advanced cardiac life support course; 571

(3) The facility equipment and inspection requirements; 572

(4) Safety standards; 573

(5) Requirements for reporting adverse occurrences. 574

**Sec. 4723.28.** (A) The board of nursing, by a vote of a 575  
quorum, may revoke or may refuse to grant a nursing license, 576  
certificate of authority, or dialysis technician certificate to a 577  
person found by the board to have committed fraud in passing an 578

examination required to obtain the license, certificate of 579  
authority, or dialysis technician certificate or to have committed 580  
fraud, misrepresentation, or deception in applying for or securing 581  
any nursing license, certificate of authority, or dialysis 582  
technician certificate issued by the board. 583

(B) The board of nursing, and by a vote of a quorum, may 584  
impose one or more of the following sanctions: deny, revoke, 585  
suspend, or place restrictions on any nursing license, certificate 586  
of authority, or dialysis technician certificate issued by the 587  
board; reprimand or otherwise discipline a holder of a nursing 588  
license, certificate of authority, or dialysis technician 589  
certificate; or impose a fine of not more than five hundred 590  
dollars per violation. The sanctions may be imposed for any of the 591  
following: 592

(1) Denial, revocation, suspension, or restriction of 593  
authority to practice a health care occupation, including nursing 594  
or practice as a dialysis technician, for any reason other than a 595  
failure to renew, in Ohio or another state or jurisdiction; 596

(2) Engaging in the practice of nursing or engaging in 597  
practice as a dialysis technician, having failed to renew a 598  
nursing license or dialysis technician certificate issued under 599  
this chapter, or while a nursing license or dialysis technician 600  
certificate is under suspension; 601

(3) Conviction of, a plea of guilty to, a judicial finding of 602  
guilt of, a judicial finding of guilt resulting from a plea of no 603  
contest to, or a judicial finding of eligibility for intervention 604  
in lieu of conviction for, a misdemeanor committed in the course 605  
of practice; 606

(4) Conviction of, a plea of guilty to, a judicial finding of 607  
guilt of, a judicial finding of guilt resulting from a plea of no 608  
contest to, or a judicial finding of eligibility for intervention 609

in lieu of conviction for, any felony or of any crime involving 610  
gross immorality or moral turpitude; 611

(5) Selling, giving away, or administering drugs or 612  
therapeutic devices for other than legal and legitimate 613  
therapeutic purposes; or conviction of, a plea of guilty to, a 614  
judicial finding of guilt of, a judicial finding of guilt 615  
resulting from a plea of no contest to, or a judicial finding of 616  
eligibility for intervention in lieu of conviction for, violating 617  
any municipal, state, county, or federal drug law; 618

(6) Conviction of, a plea of guilty to, a judicial finding of 619  
guilt of, a judicial finding of guilt resulting from a plea of no 620  
contest to, or a judicial finding of eligibility for intervention 621  
in lieu of conviction for, an act in another jurisdiction that 622  
would constitute a felony or a crime of moral turpitude in Ohio; 623  
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(7) Conviction of, a plea of guilty to, a judicial finding of 625  
guilt of, a judicial finding of guilt resulting from a plea of no 626  
contest to, or a judicial finding of eligibility for intervention 627  
in lieu of conviction for, an act in the course of practice in 628  
another jurisdiction that would constitute a misdemeanor in Ohio; 629  
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(8) Self-administering or otherwise taking into the body any 631  
dangerous drug, as defined in section 4729.01 of the Revised Code, 632  
in any way not in accordance with a legal, valid ~~prescription~~ 633  
prescription issued for that individual; 634

(9) Habitual indulgence in the use of controlled substances, 635  
other habit-forming drugs, or alcohol or other chemical substances 636  
to an extent that impairs ability to practice; 637

(10) Impairment of the ability to practice according to 638  
acceptable and prevailing standards of safe nursing care because 639  
of habitual or excessive use of drugs, alcohol, or other chemical 640

substances that impair the ability to practice;	641
(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;	642 643 644
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	645 646
(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	647 648 649
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	650 651 652 653 654 655
(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	656 657 658
(16) Violation of this chapter or any rules adopted under it;	659 660
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	661 662
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	663 664 665
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	666 667
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	668 669 670

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse; 671  
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(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code; 674  
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(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter; 677  
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(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or advanced practice nurse, except as provided in division (M) of this section, either of the following: 680  
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(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 such nursing services, would otherwise 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; 685  
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(b) Advertising that the nurse 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 such nursing services, would otherwise be required to pay. 691  
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(25) Failure to comply with the terms and conditions of participation in the chemical dependency monitoring program established under section 4723.35 of the Revised Code; 696  
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(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code; 699  
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(27) In the case of a certified registered nurse anesthetist, 702  
clinical nurse specialist, certified nurse-midwife, or certified 703  
nurse practitioner: 704

(a) Engaging in activities that exceed those permitted for 705  
the nurse's nursing specialty under section 4723.43 of the Revised 706  
Code; 707

(b) Failure to meet the quality assurance standards 708  
established under section 4723.07 of the Revised Code. 709

(28) In the case of a clinical nurse specialist, certified 710  
nurse-midwife, or certified nurse practitioner, failure to 711  
maintain a standard care arrangement in accordance with section 712  
4723.431 of the Revised Code or to practice in accordance with the 713  
standard care arrangement; 714

(29) In the case of a clinical nurse specialist, certified 715  
nurse-midwife, or certified nurse practitioner who holds a 716  
certificate to prescribe issued under section 4723.48 of the 717  
Revised Code, failure to prescribe drugs and therapeutic devices 718  
in accordance with section 4723.481 of the Revised Code; 719

(30) Prescribing any drug or device to perform or induce an 720  
abortion, or otherwise performing or inducing an abortion; 721

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(31) Failure to establish and maintain professional 723  
boundaries with a patient, as specified in rules adopted under 724  
section 4723.07 of the Revised Code; 725

(32) Regardless of whether the contact or verbal behavior is 726  
consensual, engaging with a patient other than the spouse of the 727  
registered nurse, licensed practical nurse, or dialysis technician 728  
in any of the following: 729

(a) Sexual contact, as defined in section 2907.01 of the 730  
Revised Code; 731



(b) Verbal behavior that is sexually demeaning to the patient 732  
or may be reasonably interpreted by the patient as sexually 733  
demeaning. 734

(C) Disciplinary actions taken by the board under divisions 735  
(A) and (B) of this section shall be taken pursuant to an 736  
adjudication conducted under Chapter 119. of the Revised Code, 737  
except that in lieu of a hearing, the board may enter into a 738  
consent agreement with an individual to resolve an allegation of a 739  
violation of this chapter or any rule adopted under it. A consent 740  
agreement, when ratified by a vote of a quorum, shall constitute 741  
the findings and order of the board with respect to the matter 742  
addressed in the agreement. If the board refuses to ratify a 743  
consent agreement, the admissions and findings contained in the 744  
agreement shall be of no effect. 745

(D) The hearings of the board shall be conducted in 746  
accordance with Chapter 119. of the Revised Code, the board may 747  
appoint a hearing examiner, as provided in section 119.09 of the 748  
Revised Code, to conduct any hearing the board is authorized to 749  
hold under Chapter 119. of the Revised Code. 750

In any instance in which the board is required under Chapter 751  
119. of the Revised Code to give notice of an opportunity for a 752  
hearing and the applicant or license holder does not make a timely 753  
request for a hearing in accordance with section 119.07 of the 754  
Revised Code, the board is not required to hold a hearing, but may 755  
adopt, by a vote of a quorum, a final order that contains the 756  
board's findings. In the final order, the board may order any of 757  
the sanctions listed in division (A) or (B) of this section. 758

(E) If a criminal action is brought against a registered 759  
nurse, licensed practical nurse, or dialysis technician for an act 760  
or crime described in divisions (B)(3) to (7) of this section and 761  
the action is dismissed by the trial court other than on the 762  
merits, the board shall conduct an adjudication to determine 763

whether the registered nurse, licensed practical nurse, or 764  
dialysis technician committed the act on which the action was 765  
based. If the board determines on the basis of the adjudication 766  
that the registered nurse, licensed practical nurse, or dialysis 767  
technician committed the act, or if the registered nurse, licensed 768  
practical nurse, or dialysis technician fails to participate in 769  
the adjudication, the board may take action as though the 770  
registered nurse, licensed practical nurse, or dialysis technician 771  
had been convicted of the act. 772

If the board takes action on the basis of a conviction, plea, 773  
or a judicial finding as described in divisions (B)(3) to (7) of 774  
this section that is overturned on appeal, the registered nurse, 775  
licensed practical nurse, or dialysis technician may, on 776  
exhaustion of the appeal process, petition the board for 777  
reconsideration of its action. On receipt of the petition and 778  
supporting court documents, the board shall temporarily rescind 779  
its action. If the board determines that the decision on appeal 780  
was a decision on the merits, it shall permanently rescind its 781  
action. If the board determines that the decision on appeal was 782  
not a decision on the merits, it shall conduct an adjudication to 783  
determine whether the registered nurse, licensed practical nurse, 784  
or dialysis technician committed the act on which the original 785  
conviction, plea, or judicial finding was based. If the board 786  
determines on the basis of the adjudication that the registered 787  
nurse, licensed practical nurse, or dialysis technician committed 788  
such act, or if the registered nurse, licensed practical nurse, or 789  
dialysis technician does not request an adjudication, the board 790  
shall reinstate its action; otherwise, the board shall permanently 791  
rescind its action. 792

Notwithstanding the provision of division (C)(2) of section 793  
2953.32 of the Revised Code specifying that if records pertaining 794  
to a criminal case are sealed under that section the proceedings 795

in the case shall be deemed not to have occurred, sealing of the 796  
records of a conviction on which the board has based an action 797  
under this section shall have no effect on the board's action or 798  
any sanction imposed by the board under this section. 799

The board shall not be required to seal, destroy, redact, or 800  
otherwise modify its records to reflect the court's sealing of 801  
conviction records. 802

(F) The board may investigate an individual's criminal 803  
background in performing its duties under this section. 804

(G) During the course of an investigation conducted under 805  
this section, the board may compel any registered nurse, licensed 806  
practical nurse, or dialysis technician or applicant under this 807  
chapter to submit to a mental or physical examination, or both, as 808  
required by the board and at the expense of the individual, if the 809  
board finds reason to believe that the individual under 810  
investigation may have a physical or mental impairment that may 811  
affect the individual's ability to provide safe nursing care. 812  
Failure of any individual to submit to a mental or physical 813  
examination when directed constitutes an admission of the 814  
allegations, unless the failure is due to circumstances beyond the 815  
individual's control, and a default and final order may be entered 816  
without the taking of testimony or presentation of evidence. 817

If the board finds that an individual is impaired, the board 818  
shall require the individual to submit to care, counseling, or 819  
treatment approved or designated by the board, as a condition for 820  
initial, continued, reinstated, or renewed authority to practice. 821  
The individual shall be afforded an opportunity to demonstrate to 822  
the board that the individual can begin or resume the individual's 823  
occupation in compliance with acceptable and prevailing standards 824  
of care under the provisions of the individual's authority to 825  
practice. 826

For purposes of this division, any registered nurse, licensed 827  
practical nurse, or dialysis technician or applicant under this 828  
chapter shall be deemed to have given consent to submit to a 829  
mental or physical examination when directed to do so in writing 830  
by the board, and to have waived all objections to the 831  
admissibility of testimony or examination reports that constitute 832  
a privileged communication. 833

(H) The board shall investigate evidence that appears to show 834  
that any person has violated any provision of this chapter or any 835  
rule of the board. Any person may report to the board any 836  
information the person may have that appears to show a violation 837  
of any provision of this chapter or rule of the board. In the 838  
absence of bad faith, any person who reports such information or 839  
who testifies before the board in any adjudication conducted under 840  
Chapter 119. of the Revised Code shall not be liable for civil 841  
damages as a result of the report or testimony. 842

(I) All of the following apply under this chapter with 843  
respect to the confidentiality of information: 844

(1) Information received by the board pursuant to an 845  
investigation is confidential and not subject to discovery in any 846  
civil action, except that the board may disclose information to 847  
law enforcement officers and government entities investigating a 848  
registered nurse, licensed practical nurse, or dialysis technician 849  
or a person who may have engaged in the unauthorized practice of 850  
nursing. No law enforcement officer or government entity with 851  
knowledge of any information disclosed by the board pursuant to 852  
this division shall divulge the information to any other person or 853  
government entity except for the purpose of an adjudication by a 854  
court or licensing or registration board or officer to which the 855  
person to whom the information relates is a party. 856

(2) If an investigation requires a review of patient records, 857  
the investigation and proceeding shall be conducted in such a 858

manner as to protect patient confidentiality. 859

(3) All adjudications and investigations of the board shall 860  
be considered civil actions for the purposes of section ~~2305.251~~ 861  
2305.252 of the Revised Code. 862

(4) Any board activity that involves continued monitoring of 863  
an individual as part of or following any disciplinary action 864  
taken under this section shall be conducted in a manner that 865  
maintains the individual's confidentiality. Information received 866  
or maintained by the board with respect to the board's monitoring 867  
activities is confidential and not subject to discovery in any 868  
civil action. 869

(J) Any action taken by the board under this section 870  
resulting in a suspension from practice shall be accompanied by a 871  
written statement of the conditions under which the person may be 872  
reinstated to practice. 873

(K) When the board refuses to grant a license or certificate 874  
to an applicant, revokes a license or certificate, or refuses to 875  
reinstate a license or certificate, the board may specify that its 876  
action is permanent. An individual subject to permanent action 877  
taken by the board is forever ineligible to hold a license or 878  
certificate of the type that was refused or revoked and the board 879  
shall not accept from the individual an application for 880  
reinstatement of the license or certificate or for a new license 881  
or certificate. 882

(L) No unilateral surrender of a nursing license, certificate 883  
of authority, or dialysis technician certificate issued under this 884  
chapter shall be effective unless accepted by majority vote of the 885  
board. No application for a nursing license, certificate of 886  
authority, or dialysis technician certificate issued under this 887  
chapter may be withdrawn without a majority vote of the board. The 888  
board's jurisdiction to take disciplinary action under this 889

section is not removed or limited when an individual has a license  
or certificate classified as inactive or fails to renew a license  
or certificate.

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

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(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.

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

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**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 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 complaint or allegation  
of a violation received by the board shall be assigned a case  
number and be recorded by the board.

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(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

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4730.33 of the Revised Code. The president may designate another 921  
member of the board to supervise the investigation in place of the 922  
supervising member. A member of the board who supervises the 923  
investigation of a case shall not participate in further 924  
adjudication of the case. 925

(C) In investigating a possible violation of this chapter or 926  
a rule adopted under it, the board may administer oaths, order the 927  
taking of depositions, issue subpoenas, and compel the attendance 928  
of witnesses and production of books, accounts, papers, records, 929  
documents, and testimony, except that a subpoena for patient 930  
record information shall not be issued without consultation with 931  
the attorney general's office and approval of the secretary and 932  
supervising member of the board. Before issuance of a subpoena for 933  
patient record information, the secretary and supervising member 934  
shall determine whether there is probable cause to believe that 935  
the complaint filed alleges a violation of this chapter or a rule 936  
adopted under it and that the records sought are relevant to the 937  
alleged violation and material to the investigation. The subpoena 938  
may apply only to records that cover a reasonable period of time 939  
surrounding the alleged violation. 940

On failure to comply with any subpoena issued by the board 941  
and after reasonable notice to the person being subpoenaed, the 942  
board may move for an order compelling the production of persons 943  
or records pursuant to the Rules of Civil Procedure. 944

A subpoena issued by the board may be served by a sheriff, 945  
the sheriff's deputy, or a board employee designated by the board. 946  
Service of a subpoena issued by the board may be made by 947  
delivering a copy of the subpoena to the person named therein, 948  
reading it to the person, or leaving it at the person's usual 949  
place of residence. When the person being served is a physician 950  
assistant, service of the subpoena may be made by certified mail, 951  
restricted delivery, return receipt requested, and the subpoena 952

shall be deemed served on the date delivery is made or the date  
the person refuses to accept delivery.

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

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(D) All hearings and investigations of the board shall be  
considered civil actions for the purposes of section ~~2305.251~~  
2305.252 of the Revised Code.

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

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

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The board may share any information it receives pursuant to  
an investigation, including patient records and patient record  
information, with law enforcement agencies, other licensing  
boards, and other governmental agencies that are prosecuting,  
adjudicating, or investigating alleged violations of statutes or  
administrative rules. An agency or board that receives the  
information shall comply with the same requirements regarding  
confidentiality as those with which the state medical board must

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comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of 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.

(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;

(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 1015  
shall be prepared in a manner that protects the identity of each 1016  
person involved in each case. The report shall be submitted to the 1017  
physician assistant policy committee of the board and is a public 1018  
record for purposes of section 149.43 of the Revised Code. 1019

**Sec. 4731.22.** (A) The state medical board, by an affirmative 1020  
vote of not fewer than six of its members, may revoke or may 1021  
refuse to grant a certificate to a person found by the board to 1022  
have committed fraud during the administration of the examination 1023  
for a certificate to practice or to have committed fraud, 1024  
misrepresentation, or deception in applying for or securing any 1025  
certificate to practice or certificate of registration issued by 1026  
the board. 1027

(B) The board, by an affirmative vote of not fewer than six 1028  
members, shall, to the extent permitted by law, limit, revoke, or 1029  
suspend an individual's certificate to practice, refuse to 1030  
register an individual, refuse to reinstate a certificate, or 1031  
reprimand or place on probation the holder of a certificate for 1032  
one or more of the following reasons: 1033

(1) Permitting one's name or one's certificate to practice or 1034  
certificate of registration to be used by a person, group, or 1035  
corporation when the individual concerned is not actually 1036  
directing the treatment given; 1037

(2) Failure to maintain minimal standards applicable to the 1038  
selection or administration of drugs, or failure to employ 1039  
acceptable scientific methods in the selection of drugs or other 1040  
modalities for treatment of disease; 1041

(3) Selling, giving away, personally furnishing, prescribing, 1042  
or administering drugs for other than legal and legitimate 1043  
therapeutic purposes or a plea of guilty to, a judicial finding of 1044  
guilt of, or a judicial finding of eligibility for intervention in 1045

lieu of conviction of, a violation of any federal or state law 1046  
regulating the possession, distribution, or use of any drug; 1047  
1048

(4) Willfully betraying a professional confidence. 1049

For purposes of this division, "willfully betraying a 1050  
professional confidence" does not include providing any 1051  
information, documents, or reports to a child fatality review 1052  
board under sections 307.621 to 307.629 of the Revised Code and 1053  
does not include the making of a report of an employee's use of a 1054  
drug of abuse, or a report of a condition of an employee other 1055  
than one involving the use of a drug of abuse, to the employer of 1056  
the employee as described in division (B) of section 2305.33 of 1057  
the Revised Code. Nothing in this division affects the immunity 1058  
from civil liability conferred by that section upon a physician 1059  
who makes either type of report in accordance with division (B) of 1060  
that section. As used in this division, "employee," "employer," 1061  
and "physician" have the same meanings as in section 2305.33 of 1062  
the Revised Code. 1063

(5) Making a false, fraudulent, deceptive, or misleading 1064  
statement in the solicitation of or advertising for patients; in 1065  
relation to the practice of medicine and surgery, osteopathic 1066  
medicine and surgery, podiatric medicine and surgery, or a limited 1067  
branch of medicine; or in securing or attempting to secure any 1068  
certificate to practice or certificate of registration issued by 1069  
the board. 1070

As used in this division, "false, fraudulent, deceptive, or 1071  
misleading statement" means a statement that includes a 1072  
misrepresentation of fact, is likely to mislead or deceive because 1073  
of a failure to disclose material facts, is intended or is likely 1074  
to create false or unjustified expectations of favorable results, 1075  
or includes representations or implications that in reasonable 1076  
probability will cause an ordinarily prudent person to 1077

misunderstand or be deceived.	1078
(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;	1079 1080 1081 1082
(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	1083 1084 1085 1086
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	1087 1088 1089
(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	1090 1091 1092
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	1093 1094 1095
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	1096 1097 1098
(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;	1099 1100 1101
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	1102 1103 1104
(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;	1105 1106 1107

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

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

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

(18) 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 that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The 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 individual's profession.

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

(19) Inability to practice according to acceptable and 1139  
prevailing standards of care by reason of mental illness or 1140  
physical illness, including, but not limited to, physical 1141  
deterioration that adversely affects cognitive, motor, or 1142  
perceptive skills. 1143

In enforcing this division, the board, upon a showing of a 1144  
possible violation, may compel any individual authorized to 1145  
practice by this chapter or who has submitted an application 1146  
pursuant to this chapter to submit to a mental examination, 1147  
physical examination, including an HIV test, or both a mental and 1148  
a physical examination. The expense of the examination is the 1149  
responsibility of the individual compelled to be examined. Failure 1150  
to submit to a mental or physical examination or consent to an HIV 1151  
test ordered by the board constitutes an admission of the 1152  
allegations against the individual unless the failure is due to 1153  
circumstances beyond the individual's control, and a default and 1154  
final order may be entered without the taking of testimony or 1155  
presentation of evidence. If the board finds an individual unable 1156  
to practice because of the reasons set forth in this division, the 1157  
board shall require the individual to submit to care, counseling, 1158  
or treatment by physicians approved or designated by the board, as 1159  
a condition for initial, continued, reinstated, or renewed 1160  
authority to practice. An individual affected under this division 1161  
shall be afforded an opportunity to demonstrate to the board the 1162  
ability to resume practice in compliance with acceptable and 1163  
prevailing standards under the provisions of the individual's 1164  
certificate. For the purpose of this division, any individual who 1165  
applies for or receives a certificate to practice under this 1166  
chapter accepts the privilege of practicing in this state and, by 1167  
so doing, shall be deemed to have given consent to submit to a 1168  
mental or physical examination when directed to do so in writing 1169  
by the board, and to have waived all objections to the 1170

admissibility of testimony or examination reports that constitute 1171  
a privileged communication. 1172

(20) Except when civil penalties are imposed under section 1173  
4731.225 or 4731.281 of the Revised Code, and subject to section 1174  
4731.226 of the Revised Code, violating or attempting to violate, 1175  
directly or indirectly, or assisting in or abetting the violation 1176  
of, or conspiring to violate, any provisions of this chapter or 1177  
any rule promulgated by the board. 1178

This division does not apply to a violation or attempted 1179  
violation of, assisting in or abetting the violation of, or a 1180  
conspiracy to violate, any provision of this chapter or any rule 1181  
adopted by the board that would preclude the making of a report by 1182  
a physician of an employee's use of a drug of abuse, or of a 1183  
condition of an employee other than one involving the use of a 1184  
drug of abuse, to the employer of the employee as described in 1185  
division (B) of section 2305.33 of the Revised Code. Nothing in 1186  
this division affects the immunity from civil liability conferred 1187  
by that section upon a physician who makes either type of report 1188  
in accordance with division (B) of that section. As used in this 1189  
division, "employee," "employer," and "physician" have the same 1190  
meanings as in section 2305.33 of the Revised Code. 1191

(21) The violation of any abortion rule adopted by the public 1192  
health council pursuant to section 3701.341 of the Revised Code; 1193  
1194

(22) Any of the following actions taken by the agency 1195  
responsible for regulating the practice of medicine and surgery, 1196  
osteopathic medicine and surgery, podiatric medicine and surgery, 1197  
or the limited branches of medicine in another jurisdiction, for 1198  
any reason other than the nonpayment of fees: the limitation, 1199  
revocation, or suspension of an individual's license to practice; 1200  
acceptance of an individual's license surrender; denial of a 1201  
license; refusal to renew or reinstate a license; imposition of 1202

probation; or issuance of an order of censure or other reprimand; 1203

(23) The violation of section 2919.12 of the Revised Code or 1204  
the performance or inducement of an abortion upon a pregnant woman 1205  
with actual knowledge that the conditions specified in division 1206  
(B) of section 2317.56 of the Revised Code have not been satisfied 1207  
or with a heedless indifference as to whether those conditions 1208  
have been satisfied, unless an affirmative defense as specified in 1209  
division (H)(2) of that section would apply in a civil action 1210  
authorized by division (H)(1) of that section; 1211

(24) The revocation, suspension, restriction, reduction, or 1212  
termination of clinical privileges by the United States department 1213  
of defense or department of veterans affairs or the termination or 1214  
suspension of a certificate of registration to prescribe drugs by 1215  
the drug enforcement administration of the United States 1216  
department of justice; 1217

(25) Termination or suspension from participation in the 1218  
medicare or medicaid programs by the department of health and 1219  
human services or other responsible agency for any act or acts 1220  
that also would constitute a violation of division (B)(2), (3), 1221  
(6), (8), or (19) of this section; 1222

(26) Impairment of ability to practice according to 1223  
acceptable and prevailing standards of care because of habitual or 1224  
excessive use or abuse of drugs, alcohol, or other substances that 1225  
impair ability to practice. 1226

For the purposes of this division, any individual authorized 1227  
to practice by this chapter accepts the privilege of practicing in 1228  
this state subject to supervision by the board. By filing an 1229  
application for or holding a certificate to practice under this 1230  
chapter, an individual shall be deemed to have given consent to 1231  
submit to a mental or physical examination when ordered to do so 1232  
by the board in writing, and to have waived all objections to the 1233



admissibility of testimony or examination reports that constitute 1234  
privileged communications. 1235

If it has reason to believe that any individual authorized to 1236  
practice by this chapter or any applicant for certification to 1237  
practice suffers such impairment, the board may compel the 1238  
individual to submit to a mental or physical examination, or both. 1239  
The expense of the examination is the responsibility of the 1240  
individual compelled to be examined. Any mental or physical 1241  
examination required under this division shall be undertaken by a 1242  
treatment provider or physician who is qualified to conduct the 1243  
examination and who is chosen by the board. 1244

Failure to submit to a mental or physical examination ordered 1245  
by the board constitutes an admission of the allegations against 1246  
the individual unless the failure is due to circumstances beyond 1247  
the individual's control, and a default and final order may be 1248  
entered without the taking of testimony or presentation of 1249  
evidence. If the board determines that the individual's ability to 1250  
practice is impaired, the board shall suspend the individual's 1251  
certificate or deny the individual's application and shall require 1252  
the individual, as a condition for initial, continued, reinstated, 1253  
or renewed certification to practice, to submit to treatment. 1254

Before being eligible to apply for reinstatement of a 1255  
certificate suspended under this division, the impaired 1256  
practitioner shall demonstrate to the board the ability to resume 1257  
practice in compliance with acceptable and prevailing standards of 1258  
care under the provisions of the practitioner's certificate. The 1259  
demonstration shall include, but shall not be limited to, the 1260  
following: 1261

(a) Certification from a treatment provider approved under 1262  
section 4731.25 of the Revised Code that the individual has 1263  
successfully completed any required inpatient treatment; 1264

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement; 1265  
1266

(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 their determination. 1267  
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The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement. 1273  
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1275

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety. 1276  
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(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code; 1285  
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(28) Except as provided in division (N) of this section: 1287

(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 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 individual; 1288  
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(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, 1294  
1295

pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.	1296 1297 1298
(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;	1299 1300 1301
(30) Failure of a collaborating physician to fulfill the responsibilities agreed to by the physician and an advanced practice nurse participating in a pilot program under section 4723.52 of the Revised Code;	1302 1303 1304 1305
(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;	1306 1307 1308 1309 1310
(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;	1311 1312 1313 1314
(33) Failure of a physician or podiatrist to enter into 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 or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;	1315 1316 1317 1318 1319 1320 1321
(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;	1322 1323 1324
(35) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to	1325 1326

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;

(36) Failure to supervise an acupuncturist in accordance with  
Chapter 4762. of the Revised Code and the board's rules for  
supervision of an acupuncturist;

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

(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 individual committed the act. The board  
does not have jurisdiction under those divisions if the trial  
court renders a final judgment in the individual's favor and that  
judgment is based upon an adjudication on the merits. The board

has jurisdiction under those divisions if the trial court issues 1359  
an order of dismissal upon technical or procedural grounds. 1360

(E) The sealing of conviction records by any court shall have 1361  
no effect upon a prior board order entered under this section or 1362  
upon the board's jurisdiction to take action under this section 1363  
if, based upon a plea of guilty, a judicial finding of guilt, or a 1364  
judicial finding of eligibility for intervention in lieu of 1365  
conviction, the board issued a notice of opportunity for a hearing 1366  
prior to the court's order to seal the records. The board shall 1367  
not be required to seal, destroy, redact, or otherwise modify its 1368  
records to reflect the court's sealing of conviction records. 1369

(F)(1) The board shall investigate evidence that appears to 1370  
show that a person has violated any provision of this chapter or 1371  
any rule adopted under it. Any person may report to the board in a 1372  
signed writing any information that the person may have that 1373  
appears to show a violation of any provision of this chapter or 1374  
any rule adopted under it. In the absence of bad faith, any person 1375  
who reports information of that nature or who testifies before the 1376  
board in any adjudication conducted under Chapter 119. of the 1377  
Revised Code shall not be liable in damages in a civil action as a 1378  
result of the report or testimony. Each complaint or allegation of 1379  
a violation received by the board shall be assigned a case number 1380  
and shall be recorded by the board. 1381

(2) Investigations of alleged violations of this chapter or 1382  
any rule adopted under it shall be supervised by the supervising 1383  
member elected by the board in accordance with section 4731.02 of 1384  
the Revised Code and by the secretary as provided in section 1385  
4731.39 of the Revised Code. The president may designate another 1386  
member of the board to supervise the investigation in place of the 1387  
supervising member. No member of the board who supervises the 1388  
investigation of a case shall participate in further adjudication 1389  
of the case. 1390

(3) In investigating a possible violation of this chapter or 1391  
any rule adopted under this chapter, the board may administer 1392  
oaths, order the taking of depositions, issue subpoenas, and 1393  
compel the attendance of witnesses and production of books, 1394  
accounts, papers, records, documents, and testimony, except that a 1395  
subpoena for patient record information shall not be issued 1396  
without consultation with the attorney general's office and 1397  
approval of the secretary and supervising member of the board. 1398  
Before issuance of a subpoena for patient record information, the 1399  
secretary and supervising member shall determine whether there is 1400  
probable cause to believe that the complaint filed alleges a 1401  
violation of this chapter or any rule adopted under it and that 1402  
the records sought are relevant to the alleged violation and 1403  
material to the investigation. The subpoena may apply only to 1404  
records that cover a reasonable period of time surrounding the 1405  
alleged violation. 1406

On failure to comply with any subpoena issued by the board 1407  
and after reasonable notice to the person being subpoenaed, the 1408  
board may move for an order compelling the production of persons 1409  
or records pursuant to the Rules of Civil Procedure. 1410

A subpoena issued by the board may be served by a sheriff, 1411  
the sheriff's deputy, or a board employee designated by the board. 1412  
Service of a subpoena issued by the board may be made by 1413  
delivering a copy of the subpoena to the person named therein, 1414  
reading it to the person, or leaving it at the person's usual 1415  
place of residence. When the person being served is a person whose 1416  
practice is authorized by this chapter, service of the subpoena 1417  
may be made by certified mail, restricted delivery, return receipt 1418  
requested, and the subpoena shall be deemed served on the date 1419  
delivery is made or the date the person refuses to accept 1420  
delivery. 1421

A sheriff's deputy who serves a subpoena shall receive the 1422

same fees as a sheriff. Each witness who appears before the board 1423  
in obedience to a subpoena shall receive the fees and mileage 1424  
provided for witnesses in civil cases in the courts of common 1425  
pleas. 1426

(4) All hearings and investigations of the board shall be 1427  
considered civil actions for the purposes of section ~~2305.251~~ 1428  
2305.252 of the Revised Code. 1429

(5) Information received by the board pursuant to an 1430  
investigation is confidential and not subject to discovery in any 1431  
civil action. 1432

The board shall conduct all investigations and proceedings in 1433  
a manner that protects the confidentiality of patients and persons 1434  
who file complaints with the board. The board shall not make 1435  
public the names or any other identifying information about 1436  
patients or complainants unless proper consent is given or, in the 1437  
case of a patient, a waiver of the patient privilege exists under 1438  
division (B) of section 2317.02 of the Revised Code, except that 1439  
consent or a waiver of that nature is not required if the board 1440  
possesses reliable and substantial evidence that no bona fide 1441  
physician-patient relationship exists. 1442

The board may share any information it receives pursuant to 1443  
an investigation, including patient records and patient record 1444  
information, with law enforcement agencies, other licensing 1445  
boards, and other governmental agencies that are prosecuting, 1446  
adjudicating, or investigating alleged violations of statutes or 1447  
administrative rules. An agency or board that receives the 1448  
information shall comply with the same requirements regarding 1449  
confidentiality as those with which the state medical board must 1450  
comply, notwithstanding any conflicting provision of the Revised 1451  
Code or procedure of the agency or board that applies when it is 1452  
dealing with other information in its possession. In a judicial 1453  
proceeding, the information may be admitted into evidence only in 1454

accordance with the Rules of Evidence, but the court shall require 1455  
that appropriate measures are taken to ensure that confidentiality 1456  
is maintained with respect to any part of the information that 1457  
contains names or other identifying information about patients or 1458  
complainants whose confidentiality was protected by the state 1459  
medical board when the information was in the board's possession. 1460  
Measures to ensure confidentiality that may be taken by the court 1461  
include sealing its records or deleting specific information from 1462  
its records. 1463

(6) On a quarterly basis, the board shall prepare a report 1464  
that documents the disposition of all cases during the preceding 1465  
three months. The report shall contain the following information 1466  
for each case with which the board has completed its activities: 1467

(a) The case number assigned to the complaint or alleged 1468  
violation; 1469

(b) The type of certificate to practice, if any, held by the 1470  
individual against whom the complaint is directed; 1471

(c) A description of the allegations contained in the 1472  
complaint; 1473

(d) The disposition of the case. 1474

The report shall state how many cases are still pending and 1475  
shall be prepared in a manner that protects the identity of each 1476  
person involved in each case. The report shall be a public record 1477  
under section 149.43 of the Revised Code. 1478

(G) If the secretary and supervising member determine that 1479  
there is clear and convincing evidence that an individual has 1480  
violated division (B) of this section and that the individual's 1481  
continued practice presents a danger of immediate and serious harm 1482  
to the public, they may recommend that the board suspend the 1483  
individual's certificate to practice without a prior hearing. 1484  
Written allegations shall be prepared for consideration by the 1485



board. 1486

The board, upon review of those allegations and by an 1487  
affirmative vote of not fewer than six of its members, excluding 1488  
the secretary and supervising member, may suspend a certificate 1489  
without a prior hearing. A telephone conference call may be 1490  
utilized for reviewing the allegations and taking the vote on the 1491  
summary suspension. 1492

The board shall issue a written order of suspension by 1493  
certified mail or in person in accordance with section 119.07 of 1494  
the Revised Code. The order shall not be subject to suspension by 1495  
the court during pendency of any appeal filed under section 119.12 1496  
of the Revised Code. If the individual subject to the summary 1497  
suspension requests an adjudicatory hearing by the board, the date 1498  
set for the hearing shall be within fifteen days, but not earlier 1499  
than seven days, after the individual requests the hearing, unless 1500  
otherwise agreed to by both the board and the individual. 1501

Any summary suspension imposed under this division shall 1502  
remain in effect, unless reversed on appeal, until a final 1503  
adjudicative order issued by the board pursuant to this section 1504  
and Chapter 119. of the Revised Code becomes effective. The board 1505  
shall issue its final adjudicative order within sixty days after 1506  
completion of its hearing. A failure to issue the order within 1507  
sixty days shall result in dissolution of the summary suspension 1508  
order but shall not invalidate any subsequent, final adjudicative 1509  
order. 1510

(H) If the board takes action under division (B)(9), (11), or 1511  
(13) of this section and the judicial finding of guilt, guilty 1512  
plea, or judicial finding of eligibility for intervention in lieu 1513  
of conviction is overturned on appeal, upon exhaustion of the 1514  
criminal appeal, a petition for reconsideration of the order may 1515  
be filed with the board along with appropriate court documents. 1516  
Upon receipt of a petition of that nature and supporting court 1517

documents, the board shall reinstate the individual's certificate 1518  
to practice. The board may then hold an adjudication under Chapter 1519  
119. of the Revised Code to determine whether the individual 1520  
committed the act in question. Notice of an opportunity for a 1521  
hearing shall be given in accordance with Chapter 119. of the 1522  
Revised Code. If the board finds, pursuant to an adjudication held 1523  
under this division, that the individual committed the act or if 1524  
no hearing is requested, the board may order any of the sanctions 1525  
identified under division (B) of this section. 1526

(I) The certificate to practice issued to an individual under 1528  
this chapter and the individual's practice in this state are 1529  
automatically suspended as of the date the individual pleads 1530  
guilty to, is found by a judge or jury to be guilty of, or is 1531  
subject to a judicial finding of eligibility for intervention in 1532  
lieu of conviction in this state or treatment or intervention in 1533  
lieu of conviction in another jurisdiction for any of the 1534  
following criminal offenses in this state or a substantially 1535  
equivalent criminal offense in another jurisdiction: aggravated 1536  
murder, murder, voluntary manslaughter, felonious assault, 1537  
kidnapping, rape, sexual battery, gross sexual imposition, 1538  
aggravated arson, aggravated robbery, or aggravated burglary. 1539  
Continued practice after suspension shall be considered practicing 1540  
without a certificate. 1541

The board shall notify the individual subject to the 1542  
suspension by certified mail or in person in accordance with 1543  
section 119.07 of the Revised Code. If an individual whose 1544  
certificate is suspended under this division fails to make a 1545  
timely request for an adjudication under Chapter 119. of the 1546  
Revised Code, the board shall enter a final order permanently 1547  
revoking the individual's certificate to practice. 1548

(J) If the board is required by Chapter 119. of the Revised 1549

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

(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 to practice may be reinstated. 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.

(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,  
all of the following apply:

(1) The surrender of a 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.

(2) An application for a 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.

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

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

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

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

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

(2) Select providers of educational and assessment services, 1612  
including a quality intervention program panel of case reviewers; 1613

(3) Make referrals to educational and assessment service 1614  
providers and approve individual educational programs recommended 1615  
by those providers. The board shall monitor the progress of each 1616  
individual undertaking a recommended individual educational 1617  
program. 1618

(4) Determine what constitutes successful completion of an 1619  
individual educational program and require further monitoring of 1620  
the individual who completed the program or other action that the 1621  
board determines to be appropriate; 1622

(5) Adopt rules in accordance with Chapter 119. of the 1623  
Revised Code to further implement the quality intervention 1624  
program. 1625

An individual who participates in an individual educational 1626  
program pursuant to this division shall pay the financial 1627  
obligations arising from that educational program. 1628

**Sec. 4731.36.** (A) Sections 4731.01 to 4731.47 of the Revised 1629  
Code shall not prohibit service in case of emergency, domestic 1630  
administration of family remedies, or provision of assistance to 1631  
another individual who is self-administering drugs. 1632

Sections 4731.01 to 4731.47 of the Revised Code shall not 1633  
apply to any of the following: 1634

(1) A commissioned medical officer of the United States armed 1635  
forces, as defined in section 5903.11 of the Revised Code, or an 1636  
employee of the veterans administration of the United States or 1637  
the United States public health service in the discharge of the 1638  
officer's or employee's professional duties; 1639

(2) A dentist authorized under Chapter 4715. of the Revised 1640  
Code to practice dentistry when engaged exclusively in the 1641

practice of dentistry or when administering anesthetics in the 1642  
practice of dentistry; 1643

(3) A physician or surgeon in another state or territory who 1644  
is a legal practitioner of medicine or surgery therein when 1645  
providing consultation to an individual holding a certificate to 1646  
practice issued under this chapter who is responsible for the 1647  
examination, diagnosis, and treatment of the patient who is the 1648  
subject of the consultation, if one of the following applies: 1649

(a) The physician or surgeon does not provide consultation in 1650  
this state on a regular or frequent basis. 1651

(b) The physician or surgeon provides the consultation 1652  
without compensation of any kind, direct or indirect, for the 1653  
consultation. 1654

(c) The consultation is part of the curriculum of a medical 1655  
school or osteopathic medical school of this state or a program 1656  
described in division (A)(2) of section 4731.291 of the Revised 1657  
Code. 1658

(4) A physician or surgeon in another state or territory who 1659  
is a legal practitioner of medicine or surgery therein and 1660  
provided services to a patient in that state or territory, when 1661  
providing, not later than one year after the last date services 1662  
were provided in another state or territory, follow-up services in 1663  
person or through the use of any communication, including oral, 1664  
written, or electronic communication, in this state to the patient 1665  
for the same condition; 1666

(5) A physician or surgeon residing on the border of a 1667  
contiguous state and authorized under the laws thereof to practice 1668  
medicine and surgery therein, whose practice extends within the 1669  
limits of this state. Such practitioner shall not either in person 1670  
or through the use of any communication, including oral, written, 1671  
or electronic communication, open an office or appoint a place to 1672

see patients or receive calls within the limits of this state. 1673  
1674

(6) A board, committee, or corporation engaged in the conduct 1675  
described in division (A) of section ~~2305.25~~ 2305.251 of the 1676  
Revised Code when acting within the scope of the functions of the 1677  
board, committee, or corporation; 1678

(7) The conduct of an independent review organization 1679  
accredited by the superintendent of insurance under section 1680  
3901.80 of the Revised Code for the purpose of external reviews 1681  
conducted under sections 1751.84, 1751.85, 3923.67, 3923.68, 1682  
3923.76, and 3923.77 of the Revised Code. 1683

(B) Sections 4731.51 to 4731.61 of the Revised Code do not 1684  
apply to any graduate of a podiatric school or college while 1685  
performing those acts that may be prescribed by or incidental to 1686  
participation in an accredited podiatric internship, residency, or 1687  
fellowship program situated in this state approved by the state 1688  
medical board. 1689

(C) This chapter does not apply to an acupuncturist who 1690  
complies with Chapter 4762. of the Revised Code. 1691

(D) This chapter does not prohibit the administration of 1692  
drugs by any of the following: 1693

(1) An individual who is licensed or otherwise specifically 1694  
authorized by the Revised Code to administer drugs; 1695

(2) An individual who is not licensed or otherwise 1696  
specifically authorized by the Revised Code to administer drugs, 1697  
but is acting pursuant to the rules for delegation of medical 1698  
tasks adopted under section 4731.053 of the Revised Code; 1699

(3) An individual specifically authorized to administer drugs 1700  
pursuant to a rule adopted under the Revised Code that is in 1701  
effect on the effective date of this amendment, as long as the 1702  
rule remains in effect, specifically authorizing an individual to 1703

administer drugs. 1704

(E) The exemptions described in divisions (A)(3), (4), and 1705  
(5) of this section do not apply to a physician or surgeon whose 1706  
certificate to practice issued under this chapter is under 1707  
suspension or has been revoked or permanently revoked by action of 1708  
the state medical board. 1709

**Sec. 4734.45.** (A) The state chiropractic board shall 1710  
investigate evidence that appears to show that a person has 1711  
violated any provision of this chapter or the rules adopted under 1712  
it. Any person may report to the board in writing or by other 1713  
means any information the person has that appears to show a 1714  
violation of any provision of this chapter or the rules adopted 1715  
under it. In the absence of bad faith, a person who reports to the 1716  
board, cooperates in an investigation, or testifies before the 1717  
board in an adjudication shall not be liable for civil damages as 1718  
a result of reporting, cooperating, or providing testimony. 1719

(B) Information received by the board pursuant to an 1720  
investigation is confidential and not subject to discovery in any 1721  
civil action, except that for good cause, the board or its 1722  
executive director may disclose or authorize disclosure of 1723  
information gathered pursuant to an investigation. 1724

The board and its employees may share appropriate information 1725  
in the board's possession with any federal, state, or local law 1726  
enforcement, prosecutorial, or regulatory agency or its officers 1727  
or agents engaging in an investigation. The board and its 1728  
employees may cooperate in any other manner with the agency or its 1729  
officers or agents engaging in an investigation. 1730

An agency that receives confidential information shall comply 1731  
with the same requirements regarding confidentiality as those with 1732  
which the board must comply, notwithstanding any conflicting 1733  
provision of the Revised Code or procedure of the agency that 1734



applies when the agency is dealing with other information in its 1735  
possession. The information may be admitted into evidence in a 1736  
criminal trial in accordance with the Rules of Evidence, or in an 1737  
administrative hearing conducted by an agency, but the court or 1738  
agency shall require that appropriate measures be taken to ensure 1739  
that confidentiality is maintained with respect to any part of the 1740  
information that contains names or other identifying information 1741  
about patients, complainants, or others whose confidentiality was 1742  
protected by the state chiropractic board when the information was 1743  
in the board's possession. Measures to ensure confidentiality that 1744  
may be taken by the court or agency include sealing its records or 1745  
redacting specific information from its records. 1746

(C) All hearings and investigations of the board shall be 1747  
considered civil actions for the purposes of section ~~2305.251~~ 1748  
2305.252 of the Revised Code. 1749

**Sec. 4760.14.** (A) The state medical board shall investigate 1750  
evidence that appears to show that any person has violated this 1751  
chapter or the rules adopted under it. Any person may report to 1752  
the board in a signed writing any information the person has that 1753  
appears to show a violation of any provision of this chapter or 1754  
the rules adopted under it. In the absence of bad faith, a person 1755  
who reports such information or testifies before the board in an 1756  
adjudication conducted under Chapter 119. of the Revised Code 1757  
shall not be liable for civil damages as a result of reporting the 1758  
information or providing testimony. Each complaint or allegation 1759  
of a violation received by the board shall be assigned a case 1760  
number and be recorded by the board. 1761

(B) Investigations of alleged violations of this chapter or 1762  
rules adopted under it shall be supervised by the supervising 1763  
member elected by the board in accordance with section 4731.02 of 1764  
the Revised Code and by the secretary as provided in section 1765

4760.15 of the Revised Code. The board's 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  
the rules 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 and supervising member of the board. Before issuance  
of a subpoena for patient record information, the secretary and  
supervising member shall determine whether there is probable cause  
to believe that the complaint filed alleges a violation of this  
chapter or the rules 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 that cover a  
reasonable period of time surrounding the alleged violation.

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.

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 an  
anesthesiologist assistant, service of the subpoena may be made by

certified mail, restricted delivery, return receipt requested, and 1798  
the subpoena shall be deemed served on the date delivery is made 1799  
or the date the person refuses to accept delivery. 1800

A sheriff's deputy who serves a subpoena shall receive the 1801  
same fees as a sheriff. Each witness who appears before the board 1802  
in obedience to a subpoena shall receive the fees and mileage 1803  
provided for witnesses in civil cases in the courts of common 1804  
pleas. 1805

(D) All hearings and investigations of the board shall be 1806  
considered civil actions for the purposes of section ~~2305.251~~ 1807  
2305.252 of the Revised Code. 1808

(E) Information received by the board pursuant to an 1809  
investigation is confidential and not subject to discovery in any 1810  
civil action. 1811

The board shall conduct all investigations and proceedings in 1812  
a manner that protects the confidentiality of patients and persons 1813  
who file complaints with the board. The board shall not make 1814  
public the names or any other identifying information about 1815  
patients or complainants unless proper consent is given. 1816

The board may share any information it receives pursuant to 1817  
an investigation, including patient records and patient record 1818  
information, with law enforcement agencies, other licensing 1819  
boards, and other governmental agencies that are prosecuting, 1820  
adjudicating, or investigating alleged violations of statutes or 1821  
administrative rules. An agency or board that receives the 1822  
information shall comply with the same requirements regarding 1823  
confidentiality as those with which the state medical board must 1824  
comply, notwithstanding any conflicting provision of the Revised 1825  
Code or procedure of the agency or board that applies when it is 1826  
dealing with other information in its possession. In a judicial 1827  
proceeding, the information may be admitted into evidence only in 1828

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 training and continuing education  
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.

(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;

(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 a manner that protects the identity of each  
person involved in each case. The report is a public record for

purposes of section 149.43 of the Revised Code. 1860

**Sec. 4762.14.** (A) The state medical board shall investigate 1861  
evidence that appears to show that any person has violated this 1862  
chapter or the rules adopted under it. Any person may report to 1863  
the board in a signed writing any information the person has that 1864  
appears to show a violation of any provision of this chapter or 1865  
the rules adopted under it. In the absence of bad faith, a person 1866  
who reports such information or testifies before the board in an 1867  
adjudication conducted under Chapter 119. of the Revised Code 1868  
shall not be liable for civil damages as a result of reporting the 1869  
information or providing testimony. Each complaint or allegation 1870  
of a violation received by the board shall be assigned a case 1871  
number and be recorded by the board. 1872

(B) Investigations of alleged violations of this chapter or 1873  
rules adopted under it shall be supervised by the supervising 1874  
member elected by the board in accordance with section 4731.02 of 1875  
the Revised Code and by the secretary as provided in section 1876  
4762.15 of the Revised Code. The board's president may designate 1877  
another member of the board to supervise the investigation in 1878  
place of the supervising member. A member of the board who 1879  
supervises the investigation of a case shall not participate in 1880  
further adjudication of the case. 1881

(C) In investigating a possible violation of this chapter or 1882  
the rules adopted under it, the board may administer oaths, order 1883  
the taking of depositions, issue subpoenas, and compel the 1884  
attendance of witnesses and production of books, accounts, papers, 1885  
records, documents, and testimony, except that a subpoena for 1886  
patient record information shall not be issued without 1887  
consultation with the attorney general's office and approval of 1888  
the secretary and supervising member of the board. Before issuance 1889  
of a subpoena for patient record information, the secretary and 1890

supervising member shall determine whether there is probable cause  
to believe that the complaint filed alleges a violation of this  
chapter or the rules 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 that cover a  
reasonable period of time surrounding the alleged violation.

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.

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 an  
acupuncturist, 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 shall receive the  
same fees as a sheriff. Each witness who appears before the board  
in obedience to a subpoena shall receive the fees and mileage  
provided for 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~~  
2305.252 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 1923  
a manner that protects the confidentiality of patients and persons 1924  
who file complaints with the board. The board shall not make 1925  
public the names or any other identifying information about 1926  
patients or complainants unless proper consent is given. 1927

The board may share any information it receives pursuant to 1928  
an investigation, including patient records and patient record 1929  
information, with law enforcement agencies, other licensing 1930  
boards, and other governmental agencies that are prosecuting, 1931  
adjudicating, or investigating alleged violations of statutes or 1932  
administrative rules. An agency or board that receives the 1933  
information shall comply with the same requirements regarding 1934  
confidentiality as those with which the state medical board must 1935  
comply, notwithstanding any conflicting provision of the Revised 1936  
Code or procedure of the agency or board that applies when it is 1937  
dealing with other information in its possession. In a judicial 1938  
proceeding, the information may be admitted into evidence only in 1939  
accordance with the Rules of Evidence, but the court shall require 1940  
that appropriate measures are taken to ensure that confidentiality 1941  
is maintained with respect to any part of the information that 1942  
contains names or other identifying information about patients or 1943  
complainants whose confidentiality was protected by the state 1944  
medical board when the information was in the board's possession. 1945  
Measures to ensure confidentiality that may be taken by the court 1946  
include sealing its records or deleting specific information from 1947  
its records. 1948

(F) The state medical board shall develop requirements for 1949  
and provide appropriate initial training and continuing education 1950  
for investigators employed by the board to carry out its duties 1951  
under this chapter. The training and continuing education may 1952  
include enrollment in courses operated or approved by the Ohio 1953  
peace officer training council that the board considers 1954

appropriate under conditions set forth in section 109.79 of the Revised Code. 1955  
1956

(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: 1957  
1958  
1959  
1960

(1) The case number assigned to the complaint or alleged violation; 1961  
1962

(2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed; 1963  
1964

(3) A description of the allegations contained in the complaint; 1965  
1966

(4) The disposition of the case. 1967

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code. 1968  
1969  
1970  
1971

**Section 2.** That existing sections 109.36, 1751.21, 2305.25, 2305.251, 2305.38, 3701.74, 4715.03, 4723.28, 4730.26, 4731.22, 4731.36, 4734.45, 4760.14, and 4762.14 of the Revised Code are hereby repealed. 1972  
1973  
1974  
1975

**Section 3.** Section 3701.74 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 508 and Sub. H.B. 506 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in 1976  
1977  
1978  
1979  
1980  
1981  
1982  
1983



this act.

1984