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SENATORS Wachtmann, Jacobson, Prentiss, Mumper

REPRESENTATIVES Seitz, Manning, Aslanides, Niehaus, Schneider,

Buehrer, Hoops, Clancy, Setzer, Lendrum, White, Hollister, Brinkman,

Flowers, Cates, Reidelbach, Gilb, Hughes, G. Smith, Schmidt, McGregor,

Latta, Carmichael, Husted, Schaffer, Young

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 of health care entities. 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
of all elected state officers, and all departments, boards,
offices, commissions, agencies, institutions, and other
instrumentalities of the state of Ohio. "State" does not include
political subdivisions.

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(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.

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(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.

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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.

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(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

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to apply, notwithstanding the provision of information as 78
permitted under division (A) of this section. 79

(C) The information, documents, testimony, or other records 80
described in division (A) of this section, if otherwise protected 81
under section ~~2305.251~~ 2305.252 of the Revised Code, shall not be 82
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 this section and sections 2305.251 86
to 2305.253 of the Revised Code: 87

(A)(1) "Health care entity" means an entity, whether acting 88
on its own behalf or on behalf of or in affiliation with other 89
health care entities, that conducts as part of its regular 90
business activities professional credentialing or quality review 91
activities involving the competence of, professional conduct of, 92
or quality of care provided by health care providers, including 93
both individuals who provide health care and entities that provide 94
health care. 95

(2) "Health care entity" includes any entity described in 96
division (A)(1) of this section, regardless of whether it is a 97
government entity; for-profit or nonprofit corporation; limited 98
liability company; partnership; professional corporation; state or 99
local society composed of physicians, dentists, optometrists, 100
psychologists, or pharmacists; or other health care organization. 101

(B) "Health insuring corporation" means an entity that holds 102
a certificate of authority under Chapter 1751. of the Revised 103
Code. "Health insuring corporation" includes wholly owned 104
subsidiaries of a health insuring corporation. 105

(C) "Hospital" means either of the following: 106

(1) An institution that has been registered or licensed by 107

the department of health as a hospital; 108

(2) An entity, other than an insurance company authorized to 109
do business in this state, that owns, controls, or is affiliated 110
with an institution that has been registered or licensed by the 111
department of health as a hospital. 112

(D) "Incident report or risk management report" means a 113
report of an incident involving injury or potential injury to a 114
patient as a result of patient care provided by health care 115
providers, including both individuals who provide health care and 116
entities that provide health care, that is prepared by or for the 117
use of a peer review committee of a health care entity and is 118
within the scope of the functions of that committee. 119

(E)(1) "Peer review committee" means a utilization review 120
committee, quality assessment committee, performance improvement 121
committee, tissue committee, credentialing committee, or other 122
committee that does either of the following: 123

(a) Conducts professional credentialing or quality review 124
activities involving the competence of, professional conduct of, 125
or quality of care provided by health care providers, including 126
both individuals who provide health care and entities that provide 127
health care; 128

(b) Conducts any other attendant hearing process initiated as 129
a result of a peer review committee's recommendations or actions. 130
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(2) "Peer review committee" includes all of the following: 132

(a) A peer review committee of a hospital or long-term care 133
facility or a peer review committee of a nonprofit health care 134
corporation that is a member of the hospital or long-term care 135
facility or of which the hospital or facility is a member; 136

(b) A peer review committee of a community mental health 137

center; 138

(c) A board or committee of a hospital, a long-term care facility, or other health care entity when reviewing professional qualifications or activities of health care providers, including both individuals who provide health care and entities that provide health care; 139
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(d) A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of members who are in active practice as physicians, dentists, optometrists, psychologists, or pharmacists; 144
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(e) 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; 148
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(f) 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 a health care facility that has contracted with the health insuring corporation to provide health care services to enrollees, which conduct adversely affects, or could adversely affect, the health or welfare of any patient; 154
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(g) A peer review committee of a sickness and accident insurer 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; 162
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(h) A peer review committee of a sickness and accident 168

insurer that has at least a two-thirds majority of physicians in 169
active practice and that conducts professional credentialing and 170
quality review activities involving the competence or professional 171
conduct of a health care facility that has contracted with the 172
insurer to provide health care services to insureds, which conduct 173
adversely affects, or could adversely affect, the health or 174
welfare of any patient; 175

(i) A peer review committee of any insurer authorized under 176
Title XXXIX of the Revised Code to do the business of medical 177
professional liability insurance in this state that conducts 178
professional quality review activities involving the competence or 179
professional conduct of health care providers that adversely 180
affects or could affect the health or welfare of any patient; 181

(j) Any other peer review committee of a health care entity. 182

(F) "Physician" means an individual authorized to practice 183
medicine and surgery, osteopathic medicine and surgery, or 184
podiatric medicine and surgery. 185

(G) "Sickness and accident insurer" means an entity 186
authorized under Title XXXIX of the Revised Code to do the 187
business of sickness and accident insurance in this state. 188

(H) "Tort action" means a civil action for damages for 189
injury, death, or loss to a patient of a health care entity. "Tort 190
action" includes a product liability claim but does not include a 191
civil action for a breach of contract or another agreement between 192
persons. 193

Sec. ~~2305.25~~ 2305.251. (A) No hospital, no state or local 194
society, and no health care entity shall be liable in damages to 195
any person for any acts, omissions, decisions, or other conduct 196
within the scope of the functions of a peer review committee of 197
the health care entity. No individual who is a member of or 198

~~employee works for or on behalf of any of the following committees 199~~
~~a peer review committee of a health care entity shall be liable in 200~~
~~damages to any person for any acts, omissions, decisions, or other 201~~
~~conduct within the scope of the functions of the peer review 202~~
~~committee; 203~~

~~(A) A utilization review committee, quality assurance, or 204~~
~~tissue committee of a hospital or long term care facility, a 205~~
~~nonprofit health care corporation which is a member of the 206~~
~~hospital or long term care facility or of which the hospital or 207~~
~~facility is a member, or a community mental health center; 208~~

~~(B) A board or committee of a hospital or long term care 209~~
~~facility or of a nonprofit health care corporation which is a 210~~
~~member of the hospital or long term care facility or of which the 211~~
~~hospital or long term care facility is a member reviewing 212~~
~~professional qualifications or activities of the medical staff of 213~~
~~the hospital or long term care facility or applicants for 214~~
~~admission to the medical staff; 215~~

~~(C) A utilization committee of a state or local society 216~~
~~composed of doctors of medicine, doctors of osteopathic medicine, 217~~
~~or doctors of podiatric medicine; 218~~

~~(D) A peer review committee, professional standards review 219~~
~~committee, or arbitration committee of a state or local society 220~~
~~composed of doctors of medicine, doctors of osteopathic medicine, 221~~
~~doctors of dentistry, doctors of optometry, doctors of podiatric 222~~
~~medicine, psychologists, or pharmacists; 223~~

~~(E) A peer review committee of a health insuring corporation 224~~
~~that has at least a two-thirds majority of member physicians in 225~~
~~active practice and that conducts professional credentialing and 226~~
~~quality review activities involving the competence or professional 227~~
~~conduct of health care providers, which conduct adversely affects, 228~~
~~or could adversely affect, the health or welfare of any patient. 229~~
~~For purposes of this division, "health insuring corporation" 230~~

includes wholly owned subsidiaries of a health insuring corporation. 231
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~~(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;~~ 233
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~~(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;.~~ 241
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(B)(1) A hospital shall be presumed to not be negligent in the credentialing of an individual who has, or has applied for, staff membership or professional privileges at the hospital pursuant to section 3701.351 of the Revised Code, and a health insuring corporation or sickness and accident insurer shall be presumed to not be negligent in the credentialing of an individual who is, or has applied to be, a participating provider with the health insuring corporation or sickness and accident insurer, if the hospital, health insuring corporation, or sickness and accident insurer proves by a preponderance of the evidence that, at the time of the alleged negligent credentialing of the individual, the hospital, health insuring corporation, or sickness and accident insurer was accredited by one of the following: 250
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<u>(a) The joint commission on accreditation of healthcare organizations;</u>	263 264
<u>(b) The American osteopathic association;</u>	265
<u>(c) The national committee for quality assurance;</u>	266
<u>(d) The utilization review accreditation commission.</u>	267
<u>(2) The presumption that a hospital, health insuring corporation, or sickness and accident insurer 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:</u>	268 269 270 271 272
<u>(a) The credentialing and review requirements of the accrediting organization did not apply to the hospital, health insuring corporation, sickness and accident insurer, the individual, or the type of professional care that is the basis of the claim against the hospital, health insuring corporation, or sickness and accident insurer.</u>	273 274 275 276 277 278
<u>(b) The hospital, health insuring corporation, or sickness and accident insurer failed to comply with all material credentialing and review requirements of the accrediting organization that applied to the individual.</u>	279 280 281 282
<u>(c) The hospital, health insuring corporation, or sickness and accident insurer, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent individual had developed a pattern of incompetence or otherwise inappropriate behavior, either of which indicated that the individual's staff membership, professional privileges, or participation as a provider should have been limited or terminated prior to the individual's provision of professional care to the plaintiff.</u>	283 284 285 286 287 288 289 290 291 292

(d) The hospital, health insuring corporation, or sickness and accident insurer, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent individual would provide fraudulent medical treatment but failed to limit or terminate the individual's staff membership, professional privileges, or participation as a provider prior to the individual's provision of professional care to the plaintiff. 293
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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, health insuring corporation, or sickness and accident insurer, the court shall enter judgment in favor of the hospital, health insuring corporation, or sickness and accident insurer on the claim of negligent credentialing. 301
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(C) Nothing in this section otherwise shall relieve any individual or hospital health care entity from liability arising from treatment of a patient or resident an individual. Nothing in this section shall be construed as creating an exception to section 2305.252 of the Revised Code. 307
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~~This section shall also apply to any member or employee of a nonprofit corporation engaged in performing the functions of a peer review committee of nursing home providers or administrators or of a peer review or professional standards review committee.~~ 312
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(D) No person who provides information under this section without malice and in the reasonable belief that the information is warranted by the facts known to the person shall be subject to suit for civil damages as a result of providing the information. 316
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Sec. 2305.251 2305.252. Proceedings and records of all review committees described in section 2305.25 of the Revised Code within the scope of a peer review committee of a health care entity shall be held in confidence and shall not be subject to discovery or 320
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introduction in evidence in any civil action against a health care 324
entity or health care professional, a hospital, a long-term care 325
facility, a not-for-profit health care corporation that is a 326
member of a hospital or long-term care facility or of which a 327
hospital or long-term care facility is a member, or another health 328
care institution provider, including both individuals who provide 329
health care and entities that provide health care, arising out of 330
matters that are the subject of evaluation and review by the peer 331
review committee. No ~~person in attendance at individual who~~ 332
~~attends~~ a meeting of a peer review committee ~~or serving,~~ serves as 333
a member of a peer review committee, works for or on behalf of a 334
peer review committee, or provides information to a peer review 335
committee shall be permitted or required to testify in any civil 336
action as to any evidence or other matters produced or presented 337
during the proceedings of the peer review committee or as to any 338
finding, recommendation, evaluation, opinion, or other action of 339
the~~7~~ committee or a member thereof. Information, documents, or 340
records otherwise available from original sources are not to be 341
construed as being unavailable for discovery or for use in any 342
civil action merely because they were produced or presented during 343
proceedings of a peer review committee ~~nor should any person~~ 344
~~testifying, but the information, documents, or records are~~ 345
available only from the original sources and cannot be obtained 346
from the peer review committee's proceedings or records. An 347
individual who testifies before a peer review committee ~~or who is,~~ 348
serves as a representative of a peer review committee, serves as a 349
member of ~~the~~ a peer review committee, works for or on behalf of a 350
peer review committee, or provides information to a peer review 351
committee shall not be prevented from testifying as to matters 352
within the ~~person's~~ individual's knowledge, but the ~~witness~~ 353
individual cannot be asked about the ~~witness's~~ individual's 354
testimony before the peer review committee, information the 355
individual provided to the peer review committee, or any opinion 356

the individual formed by the witness as a result of the committee hearing peer review committee's activities. An order by a court to produce for discovery or for use at trial the proceedings or records described in this section is a final order.

Sec. 2305.253. (A) Notwithstanding any contrary provision of section 149.43, 1751.21, 2305.24, 2305.25, 2305.251, 2305.252, or 2305.28 of the Revised Code, an incident report or risk management report and the contents of an incident report or risk management report are not subject to discovery in, and are not admissible in evidence in the trial of, a tort action. An individual who prepares or has knowledge of the contents of an incident report or risk management report shall not testify and shall not be required to testify in a tort action as to the contents of the report.

(B)(1) Except as specified in division (A) of this section, this section does not affect any provision of section 149.43, 1751.21, 2305.24, 2305.25, 2305.251, 2305.252, or 2305.28 of the Revised Code that describes, imposes, or confers any of the following:

(a) An immunity from tort or other civil liability;

(b) A forfeiture of an immunity from tort or other civil liability;

(c) A requirement of confidentiality;

(d) A limitation on the use of information, data, reports, or records;

(e) Tort or other civil liability;

(f) A limitation on discovery of matter, introduction into evidence of matter, or testimony pertaining to matter in a tort or other civil action.

(2) Divisions (A) and (B)(1) of this section do not prohibit

or limit the discovery or admissibility of testimony or evidence 387
relating to patient care that is within an individual's personal 388
knowledge. 389

(3) Divisions (A) and (B)(1) and (2) of this section do not 390
affect a privileged communication between an attorney and the 391
attorney's client as described in section 2317.02 of the Revised 392
Code. 393

Sec. 2305.38. (A) As used in this section: 394

(1) "Charitable organization" means either of the following: 395

(a) Any charitable nonprofit corporation that is organized 396
and operated pursuant to Chapter 1702. of the Revised Code, 397
including, but not limited to, any such corporation whose articles 398
of incorporation specify that it is organized and to be operated 399
for an education-related purpose; 400

(b) Any charitable association, group, institution, or 401
society that is not organized and not operated for profit, 402
including, but not limited to, any such association, group, 403
institution, or society that is organized and operated for any 404
education-related purpose. 405

(2) "Compensation" does not include actual and necessary 406
expenses that are incurred by a volunteer in connection with the 407
services that the volunteer performs for a charitable 408
organization, and that are reimbursed to the volunteer or 409
otherwise paid. 410

(3) "Corporate services" means services that are performed by 411
a volunteer who is associated with a charitable organization as 412
defined in division (A)(1)(a) of this section and that reflect 413
duties or responsibilities arising under Chapter 1702. of the 414
Revised Code. 415

(4) "Supervisory services" means services that are performed 416

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. 448

(D) A volunteer is not liable in damages in a civil action 449
for injury, death, or loss to person or property that arises from 450
the volunteer's actions or omissions in connection with any 451
nonsupervisory or noncorporate services that the volunteer 452
performs for the charitable organization, unless either of the 453
following applies: 454

(1) An action or omission of the volunteer involves conduct 455
as described in division (B)(1) or (2) of this section; 456

(2) An action or omission of the volunteer constitutes 457
negligence, willful or wanton misconduct, or intentionally 458
tortious conduct. 459

(E)(1) This section does not create a new cause of action or 460
substantive legal right against a volunteer. 461

(2) This section does not affect any immunities from civil 462
liability or defenses established by another section of the 463
Revised Code or available at common law, to which a volunteer may 464
be entitled under circumstances not covered by this section. This 465
section does not diminish in any respect the immunities provided 466
in section ~~2305.25~~ 2305.251 of the Revised Code. The immunities 467
conferred upon volunteers in this section are not intended to 468
affect the liability of a charitable organization in a civil 469
action for injury, death, or loss to person or property. 470

Sec. 3701.74. (A) As used in this section and section 471
3701.741 of the Revised Code: 472

(1) "Ambulatory care facility" means a facility that provides 473
medical, diagnostic, or surgical treatment to patients who do not 474
require hospitalization, including a dialysis center, ambulatory 475
surgical facility, cardiac catheterization facility, diagnostic 476
imaging center, extracorporeal shock wave lithotripsy center, home 477

health agency, inpatient hospice, birthing center, radiation 478
therapy center, emergency facility, and an urgent care center. 479
"Ambulatory care facility" does not include the private office of 480
a physician or dentist, whether the office is for an individual or 481
group practice. 482

(2) "Chiropractor" means an individual licensed under ~~Chapter~~ 483
Chapter 4734. of the Revised Code to practice chiropractic. 484

+2)(3) "Emergency facility" means a hospital emergency 485
department or any other facility that provides emergency medical 486
services. 487

(4) "Health care practitioner" means all of the following: 488

(a) A dentist or dental hygienist licensed under Chapter 489
4715. of the Revised Code; 490

(b) A registered or licensed practical nurse licensed under 491
Chapter 4723. of the Revised Code; 492

(c) An optometrist licensed under Chapter 4725. of the 493
Revised Code; 494

(d) A dispensing optician, spectacle dispensing optician, 495
contact lens dispensing optician, or spectacle-contact lens 496
dispensing optician licensed under Chapter 4725. of the Revised 497
Code; 498

(e) A pharmacist licensed under Chapter 4729. of the Revised 499
Code; 500

(f) A physician; 501

(g) A physician assistant authorized under Chapter 4730. of 502
the Revised Code to practice as a physician assistant; 503

(h) A practitioner of a limited branch of medicine issued a 504
certificate under Chapter 4731. of the Revised Code; 505

(i) A psychologist licensed under Chapter 4732. of the 506

<u>Revised Code;</u>	507
<u>(j) A chiropractor;</u>	508
<u>(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;</u>	509 510
<u>(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;</u>	511 512
<u>(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;</u>	513 514
<u>(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;</u>	515 516
<u>(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;</u>	517 518 519 520
<u>(p) A dietitian licensed under Chapter 4759. of the Revised Code;</u>	521 522
<u>(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;</u>	523 524
<u>(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.</u>	525 526 527
<u>(5) "Health care provider" has the same meaning as in section 3729.01 of the Revised Code means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.</u>	528 529 530 531
<u>+3+(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.</u>	532 533
<u>(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms</u>	534 535

are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section 3722.01 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

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(8) "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.

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~~(4)~~(9) "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.

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~~(5)~~(10) "Patient" means either of the following:

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

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(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division ~~(A)~~(5)~~(10)~~(a) of this section.

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~~(6)~~(11) "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

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holding a certificate of authority under Chapter 1751. of the 567
Revised Code. 568

~~(7)(12) "Pharmacy" has the same meaning as in section 4729.01 569
of the Revised Code. 570~~

(13) "Physician" means a person authorized under Chapter 571
4731. of the Revised Code to practice medicine and surgery, 572
osteopathic medicine and surgery, or ~~podiatry~~ podiatric medicine 573
and surgery. 574

~~(5) "Practitioner" means an individual authorized under 575
Chapter 4731. of the Revised Code to practice medicine and 576
surgery, osteopathic medicine and surgery, or podiatry or an 577
individual licensed under Chapter 4734. of the Revised Code to 578
practice chiropractic. 579~~

(B) A patient or patient's representative who wishes to 580
examine or obtain a copy of part or all of a medical record shall 581
submit to the health care provider ~~or practitioner~~ a written 582
request signed by the patient dated not more than sixty days 583
before the date on which it is submitted. The patient or patient's 584
representative who wishes to obtain a copy of the record shall 585
indicate in the request whether the copy is to be sent to the 586
patient's residence, physician or chiropractor, or representative, 587
or held for the patient at the office of the health care provider 588
~~or by the practitioner.~~ Within a reasonable time after receiving a 589
request that meets the requirements of this division and includes 590
sufficient information to identify the record requested, a health 591
care provider that has the patient's medical records ~~or~~ 592
~~practitioner~~ shall permit the patient to examine the record during 593
regular business hours without charge or, on request, shall 594
provide a copy of the record in accordance with section 3701.741 595
of the Revised Code, except that if a physician or chiropractor 596
~~practitioner~~ who has treated the patient determines for clearly 597
stated treatment reasons that disclosure of the requested record 598

is likely to have an adverse effect on the patient, the health 599
care provider ~~or practitioner~~ shall provide the record to a 600
physician or chiropractor ~~practitioner~~ designated by the patient. 601
The health care provider ~~or practitioner~~ shall take reasonable 602
steps to establish the identity of the person making the request 603
to examine or obtain a copy of the patient's record. 604

(C) If a health care provider ~~or practitioner~~ fails to 605
furnish a medical record as required by division (B) of this 606
section, the patient or patient's representative who requested the 607
record may bring a civil action to enforce the patient's right of 608
access to the record. 609
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(D)(1) This section does not apply to medical records whose 611
release is covered by section 173.20 or 3721.13 of the Revised 612
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 613
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 614
Records," or by 42 C.F.R. 483.10. 615

(2) Nothing in this section is intended to supersede the 616
confidentiality provisions of sections 2305.24 ~~to~~, 2305.25, 617
2305.251, and 2305.252 of the Revised Code. 618

Sec. 4715.03. (A) The state dental board shall organize by 619
the election from its members of a president and a secretary. It 620
shall hold meetings monthly at least eight months a year at such 621
times and places as the board designates. A majority of the 622
members of the board shall constitute a quorum. The board shall 623
make such reasonable rules as it determines necessary pursuant to 624
Chapter 119. of the Revised Code. 625

(B) A concurrence of a majority of the members of the board 626
shall be required to grant, refuse, suspend, place on probationary 627
status, revoke, refuse to renew, or refuse to reinstate a license 628
or censure a license holder. 629

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

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

(1) Appropriate use of hand washing;

(2) Disinfection and sterilization of equipment;

(3) Handling and disposal of needles and other sharp instruments;

(4) Wearing and disposal of gloves and other protective garments and devices.

(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 ~~2305.251~~ 2305.252 of the Revised Code.
Notwithstanding section 121.22 of the Revised Code, proceedings of
the board relative to the investigation of a complaint or the
determination whether there are reasonable grounds to believe that
a violation of this chapter has occurred are confidential and are
not subject to discovery in any civil action.

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

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

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

(2) The minimum educational and clinical training standards

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required of applicants, which shall include satisfactory
completion of an advanced cardiac life support course;

(3) The facility equipment and inspection requirements;

(4) Safety standards;

(5) Requirements for reporting adverse occurrences.

Sec. 4723.28. (A) The board of nursing, by a vote of a
quorum, may revoke or may refuse to grant a nursing license,
certificate of authority, or dialysis technician certificate to a
person found by the board to have committed fraud in passing an
examination required to obtain the license, certificate of
authority, or dialysis technician certificate or to have committed
fraud, misrepresentation, or deception in applying for or securing
any nursing license, certificate of authority, or dialysis
technician certificate issued by the board.

(B) Subject to division (N) of this section, the board of
nursing, by a vote of a quorum, may impose one or more of the
following sanctions: deny, revoke, suspend, or place restrictions
on any nursing license, certificate of authority, or dialysis
technician certificate issued by the board; reprimand or otherwise
discipline a holder of a nursing license, certificate of
authority, or dialysis technician certificate; or impose a fine of
not more than five hundred dollars per violation. The sanctions
may be imposed for any of the following:

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

(2) Engaging in the practice of nursing or engaging in
practice as a dialysis technician, having failed to renew a
nursing license or dialysis technician certificate issued under

this chapter, or while a nursing license or dialysis technician
certificate is under suspension; 723
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(3) Conviction of, a plea of guilty to, a judicial finding of 725
guilt of, a judicial finding of guilt resulting from a plea of no 726
contest to, or a judicial finding of eligibility for intervention 727
in lieu of conviction for, a misdemeanor committed in the course 728
of practice; 729

(4) Conviction of, a plea of guilty to, a judicial finding of 730
guilt of, a judicial finding of guilt resulting from a plea of no 731
contest to, or a judicial finding of eligibility for intervention 732
in lieu of conviction for, any felony or of any crime involving 733
gross immorality or moral turpitude; 734

(5) Selling, giving away, or administering drugs or 735
therapeutic devices for other than legal and legitimate 736
therapeutic purposes; or conviction of, a plea of guilty to, a 737
judicial finding of guilt of, a judicial finding of guilt 738
resulting from a plea of no contest to, or a judicial finding of 739
eligibility for intervention in lieu of conviction for, violating 740
any municipal, state, county, or federal drug law; 741

(6) Conviction of, a plea of guilty to, a judicial finding of 742
guilt of, a judicial finding of guilt resulting from a plea of no 743
contest to, or a judicial finding of eligibility for intervention 744
in lieu of conviction for, an act in another jurisdiction that 745
would constitute a felony or a crime of moral turpitude in Ohio; 746
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(7) Conviction of, a plea of guilty to, a judicial finding of 748
guilt of, a judicial finding of guilt resulting from a plea of no 749
contest to, or a judicial finding of eligibility for intervention 750
in lieu of conviction for, an act in the course of practice in 751
another jurisdiction that would constitute a misdemeanor in Ohio; 752
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(8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way not in accordance with a legal, valid prescription issued for that individual;

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

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;

(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.

(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;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	784 785
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	786 787 788
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	789 790
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	791 792 793
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	794 795 796
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	797 798 799
(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;	800 801 802
(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:	803 804 805 806 807
(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;	808 809 810 811 812 813

(b) Advertising that the nurse will waive the payment of all 814
or any part of a deductible or copayment that a patient, pursuant 815
to a health insurance or health care policy, contract, or plan 816
that covers such nursing services, would otherwise be required to 817
pay. 818

(25) Failure to comply with the terms and conditions of 819
participation in the chemical dependency monitoring program 820
established under section 4723.35 of the Revised Code; 821

(26) Failure to comply with the terms and conditions required 822
under the practice intervention and improvement program 823
established under section 4723.282 of the Revised Code; 824

(27) In the case of a certified registered nurse anesthetist, 825
clinical nurse specialist, certified nurse-midwife, or certified 826
nurse practitioner: 827

(a) Engaging in activities that exceed those permitted for 828
the nurse's nursing specialty under section 4723.43 of the Revised 829
Code; 830

(b) Failure to meet the quality assurance standards 831
established under section 4723.07 of the Revised Code. 832

(28) In the case of a clinical nurse specialist, certified 833
nurse-midwife, or certified nurse practitioner, failure to 834
maintain a standard care arrangement in accordance with section 835
4723.431 of the Revised Code or to practice in accordance with the 836
standard care arrangement; 837

(29) In the case of a clinical nurse specialist, certified 838
nurse-midwife, or certified nurse practitioner who holds a 839
certificate to prescribe issued under section 4723.48 of the 840
Revised Code, failure to prescribe drugs and therapeutic devices 841
in accordance with section 4723.481 of the Revised Code; 842

(30) Prescribing any drug or device to perform or induce an 843

abortion, or otherwise performing or inducing an abortion; 844

(31) Failure to establish and maintain professional 845
boundaries with a patient, as specified in rules adopted under 846
section 4723.07 of the Revised Code; 847

(32) Regardless of whether the contact or verbal behavior is 848
consensual, engaging with a patient other than the spouse of the 849
registered nurse, licensed practical nurse, or dialysis technician 850
in any of the following: 851

(a) Sexual contact, as defined in section 2907.01 of the 852
Revised Code; 853

(b) Verbal behavior that is sexually demeaning to the patient 854
or may be reasonably interpreted by the patient as sexually 855
demeaning. 856

(C) Disciplinary actions taken by the board under divisions 857
(A) and (B) of this section shall be taken pursuant to an 858
adjudication conducted under Chapter 119. of the Revised Code, 859
except that in lieu of a hearing, the board may enter into a 860
consent agreement with an individual to resolve an allegation of a 861
violation of this chapter or any rule adopted under it. A consent 862
agreement, when ratified by a vote of a quorum, shall constitute 863
the findings and order of the board with respect to the matter 864
addressed in the agreement. If the board refuses to ratify a 865
consent agreement, the admissions and findings contained in the 866
agreement shall be of no effect. 867

(D) The hearings of the board shall be conducted in 868
accordance with Chapter 119. of the Revised Code, the board may 869
appoint a hearing examiner, as provided in section 119.09 of the 870
Revised Code, to conduct any hearing the board is authorized to 871
hold under Chapter 119. of the Revised Code. 872

In any instance in which the board is required under Chapter 873
119. of the Revised Code to give notice of an opportunity for a 874

hearing and the applicant or license holder does not make a timely
request for a hearing in accordance with section 119.07 of the
Revised Code, the board is not required to hold a hearing, but may
adopt, by a vote of a quorum, a final order that contains the
board's findings. In the final order, the board may order any of
the sanctions listed in division (A) or (B) of this section.

(E) If a criminal action is brought against a registered
nurse, licensed practical nurse, or dialysis technician for an act
or crime described in divisions (B)(3) to (7) of this section and
the action is dismissed by the trial court other than on the
merits, the board shall conduct an adjudication to determine
whether the registered nurse, licensed practical nurse, or
dialysis technician committed the act on which the action was
based. If the board determines on the basis of the adjudication
that the registered nurse, licensed practical nurse, or dialysis
technician committed the act, or if the registered nurse, licensed
practical nurse, or dialysis technician fails to participate in
the adjudication, the board may take action as though the
registered nurse, licensed practical nurse, or dialysis technician
had been convicted of the act.

If the board takes action on the basis of a conviction, plea,
or a judicial finding as described in divisions (B)(3) to (7) of
this section that is overturned on appeal, the registered nurse,
licensed practical nurse, or dialysis technician may, on
exhaustion of the appeal process, petition the board for
reconsideration of its action. On receipt of the petition and
supporting court documents, the board shall temporarily rescind
its action. If the board determines that the decision on appeal
was a decision on the merits, it shall permanently rescind its
action. If the board determines that the decision on appeal was
not a decision on the merits, it shall conduct an adjudication to
determine whether the registered nurse, licensed practical nurse,

or dialysis technician committed the act on which the original
conviction, plea, or judicial finding was based. If the board
determines on the basis of the adjudication that the registered
nurse, licensed practical nurse, or dialysis technician committed
such act, or if the registered nurse, licensed practical nurse, or
dialysis technician does not request an adjudication, the board
shall reinstate its action; otherwise, the board shall permanently
rescind its action.

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Notwithstanding the provision of division (C)(2) of section
2953.32 of the Revised Code specifying that if records pertaining
to a criminal case are sealed under that section the proceedings
in the case shall be deemed not to have occurred, sealing of the
records of a conviction on which the board has based an action
under this section shall have no effect on the board's action or
any sanction imposed by the board under this section.

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

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

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(G) During the course of an investigation conducted under
this section, the board may compel any registered nurse, licensed
practical nurse, or dialysis technician or applicant under this
chapter to submit to a mental or physical examination, or both, as
required by the board and at the expense of the individual, if the
board finds reason to believe that the individual under
investigation may have a physical or mental impairment that may
affect the individual's ability to provide safe nursing care.
Failure of any individual to submit to a mental or physical
examination when directed constitutes an admission of the
allegations, unless the failure is due to circumstances beyond the
individual's control, and a default and final order may be entered

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without the taking of testimony or presentation of evidence. 939

If the board finds that an individual is impaired, the board 940
shall require the individual to submit to care, counseling, or 941
treatment approved or designated by the board, as a condition for 942
initial, continued, reinstated, or renewed authority to practice. 943
The individual shall be afforded an opportunity to demonstrate to 944
the board that the individual can begin or resume the individual's 945
occupation in compliance with acceptable and prevailing standards 946
of care under the provisions of the individual's authority to 947
practice. 948

For purposes of this division, any registered nurse, licensed 949
practical nurse, or dialysis technician or applicant under this 950
chapter shall be deemed to have given consent to submit to a 951
mental or physical examination when directed to do so in writing 952
by the board, and to have waived all objections to the 953
admissibility of testimony or examination reports that constitute 954
a privileged communication. 955

(H) The board shall investigate evidence that appears to show 956
that any person has violated any provision of this chapter or any 957
rule of the board. Any person may report to the board any 958
information the person may have that appears to show a violation 959
of any provision of this chapter or rule of the board. In the 960
absence of bad faith, any person who reports such information or 961
who testifies before the board in any adjudication conducted under 962
Chapter 119. of the Revised Code shall not be liable for civil 963
damages as a result of the report or testimony. 964

(I) All of the following apply under this chapter with 965
respect to the confidentiality of information: 966

(1) Information received by the board pursuant to an 967
investigation is confidential and not subject to discovery in any 968
civil action, except that the board may disclose information to 969

law enforcement officers and government entities investigating a 970
registered nurse, licensed practical nurse, or dialysis technician 971
or a person who may have engaged in the unauthorized practice of 972
nursing. No law enforcement officer or government entity with 973
knowledge of any information disclosed by the board pursuant to 974
this division shall divulge the information to any other person or 975
government entity except for the purpose of an adjudication by a 976
court or licensing or registration board or officer to which the 977
person to whom the information relates is a party. 978

(2) If an investigation requires a review of patient records, 979
the investigation and proceeding shall be conducted in such a 980
manner as to protect patient confidentiality. 981

(3) All adjudications and investigations of the board shall 982
be considered civil actions for the purposes of section ~~2305.251~~ 983
2305.252 of the Revised Code. 984

(4) Any board activity that involves continued monitoring of 985
an individual as part of or following any disciplinary action 986
taken under this section shall be conducted in a manner that 987
maintains the individual's confidentiality. Information received 988
or maintained by the board with respect to the board's monitoring 989
activities is confidential and not subject to discovery in any 990
civil action. 991

(J) Any action taken by the board under this section 992
resulting in a suspension from practice shall be accompanied by a 993
written statement of the conditions under which the person may be 994
reinstated to practice. 995

(K) When the board refuses to grant a license or certificate 996
to an applicant, revokes a license or certificate, or refuses to 997
reinstate a license or certificate, the board may specify that its 998
action is permanent. An individual subject to permanent action 999
taken by the board is forever ineligible to hold a license or 1000

certificate of the type that was refused or revoked and the board 1001
shall not accept from the individual an application for 1002
reinstatement of the license or certificate or for a new license 1003
or certificate. 1004

(L) No unilateral surrender of a nursing license, certificate 1005
of authority, or dialysis technician certificate issued under this 1006
chapter shall be effective unless accepted by majority vote of the 1007
board. No application for a nursing license, certificate of 1008
authority, or dialysis technician certificate issued under this 1009
chapter may be withdrawn without a majority vote of the board. The 1010
board's jurisdiction to take disciplinary action under this 1011
section is not removed or limited when an individual has a license 1012
or certificate classified as inactive or fails to renew a license 1013
or certificate. 1014

(M) Sanctions shall not be imposed under division (B)(24) of 1015
this section against any licensee who waives deductibles and 1016
copayments as follows: 1017

(1) In compliance with the health benefit plan that expressly 1018
allows such a practice. Waiver of the deductibles or copayments 1019
shall be made only with the full knowledge and consent of the plan 1020
purchaser, payer, and third-party administrator. Documentation of 1021
the consent shall be made available to the board upon request. 1022

(2) For professional services rendered to any other person 1024
licensed pursuant to this chapter to the extent allowed by this 1025
chapter and the rules of the board. 1026

(N)(1) Any person who enters a prelicensure nursing education 1027
program on or after June 1, 2003, and who subsequently applies 1028
under division (A) of section 4723.09 of the Revised Code for 1029
licensure to practice as a registered nurse or as a licensed 1030
practical nurse and any person who applies under division (B) of 1031

that section for license by endorsement to practice nursing as a 1032
registered nurse or as a licensed practical nurse shall submit a 1033
request to the bureau of criminal identification and investigation 1034
for the bureau to conduct a criminal records check of the 1035
applicant and to send the results to the board, in accordance with 1036
section 4723.09 of the Revised Code. 1037

The board shall refuse to grant a license to practice nursing 1038
as a registered nurse or as a licensed practical nurse under 1039
section 4723.09 of the Revised Code to a person who entered a 1040
prelicensure nursing education program on or after June 1, 2003, 1041
and applied under division (A) of section 4723.09 of the Revised 1042
Code for the license or a person who applied under division (B) of 1043
that section for the license, if the criminal records check 1044
performed in accordance with division (C) of that section 1045
indicates that the person has pleaded guilty to, been convicted 1046
of, or has had a judicial finding of guilt for violating section 1047
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 1048
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 1049
substantially similar law of another state, the United States, or 1050
another country. 1051

(2) Any person who enters a dialysis training program on or 1052
after June 1, 2003, and who subsequently applies for a certificate 1053
to practice as a dialysis technician shall submit a request to the 1054
bureau of criminal identification and investigation for the bureau 1055
to conduct a criminal records check of the applicant and to send 1056
the results to the board, in accordance with section 4723.75 of 1057
the Revised Code. 1058

The board shall refuse to issue a certificate to practice as 1059
a dialysis technician under section 4723.75 of the Revised Code to 1060
a person who entered a dialysis training program on or after June 1061
1, 2003, and whose criminal records check performed in accordance 1062
with division (C) of that section indicates that the person has 1063

pleaded guilty to, been convicted of, or has had a judicial 1064
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 1065
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 1066
2911.11 of the Revised Code or a substantially similar law of 1067
another state, the United States, or another country. 1068

Sec. 4730.26. (A) The state medical board shall investigate 1069
evidence that appears to show that any person has violated this 1070
chapter or a rule adopted under it. Any person may report to the 1071
board in a signed writing any information the person has that 1072
appears to show a violation of any provision of this chapter or 1073
rule adopted under it. In the absence of bad faith, a person who 1074
reports such information or testifies before the board in an 1075
adjudication conducted under Chapter 119. of the Revised Code 1076
shall not be liable for civil damages as a result of reporting the 1077
information or providing testimony. Each complaint or allegation 1078
of a violation received by the board shall be assigned a case 1079
number and be recorded by the board. 1080

(B) Investigations of alleged violations of this chapter or 1081
rules adopted under it shall be supervised by the supervising 1082
member elected by the board in accordance with section 4731.02 of 1083
the Revised Code and by the secretary as provided in section 1084
4730.33 of the Revised Code. The president may designate another 1085
member of the board to supervise the investigation in place of the 1086
supervising member. A member of the board who supervises the 1087
investigation of a case shall not participate in further 1088
adjudication of the case. 1089

(C) In investigating a possible violation of this chapter or 1090
a rule adopted under it, the board may administer oaths, order the 1091
taking of depositions, issue subpoenas, and compel the attendance 1092
of witnesses and production of books, accounts, papers, records, 1093
documents, and testimony, except that a subpoena for patient 1094

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 a rule
adopted under it and that the records sought are relevant to the
alleged violation and material to the investigation. The subpoena
may apply only to records 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 a physician
assistant, service of the subpoena may be made by certified mail,
restricted delivery, return receipt requested, and the subpoena
shall be deemed served on the date delivery is made or the date
the person refuses to accept delivery.

A sheriff's deputy who serves 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 1127
investigation is confidential and not subject to discovery in any 1128
civil action. 1129

The board shall conduct all investigations and proceedings in 1130
a manner that protects the confidentiality of patients and persons 1131
who file complaints with the board. The board shall not make 1132
public the names or any other identifying information about 1133
patients or complainants unless proper consent is given or, in the 1134
case of a patient, a waiver of the patient privilege exists under 1135
division (B) of section 2317.02 of the Revised Code, except that 1136
consent or a waiver is not required if the board possesses 1137
reliable and substantial evidence that no bona fide 1138
physician-patient relationship exists. 1139

The board may share any information it receives pursuant to 1140
an investigation, including patient records and patient record 1141
information, with law enforcement agencies, other licensing 1142
boards, and other governmental agencies that are prosecuting, 1143
adjudicating, or investigating alleged violations of statutes or 1144
administrative rules. An agency or board that receives the 1145
information shall comply with the same requirements regarding 1146
confidentiality as those with which the state medical board must 1147
comply, notwithstanding any conflicting provision of the Revised 1148
Code or procedure of the agency or board that applies when it is 1149
dealing with other information in its possession. In a judicial 1150
proceeding, the information may be admitted into evidence only in 1151
accordance with the Rules of Evidence, but the court shall require 1152
that appropriate measures are taken to ensure that confidentiality 1153
is maintained with respect to any part of the information that 1154
contains names or other identifying information about patients or 1155
complainants whose confidentiality was protected by the state 1156
medical board when the information was in the board's possession. 1157
Measures to ensure confidentiality that may be taken by the court 1158

include sealing its records or deleting specific information from 1159
its records. 1160

(F) The state medical board shall develop requirements for 1161
and provide appropriate initial and continuing training for 1162
investigators employed by the board to carry out its duties under 1163
this chapter. The training and continuing education may include 1164
enrollment in courses operated or approved by the Ohio peace 1165
officer training council that the board considers appropriate 1166
under conditions set forth in section 109.79 of the Revised Code. 1167

(G) On a quarterly basis, the board shall prepare a report 1168
that documents the disposition of all cases during the preceding 1169
three months. The report shall contain the following information 1170
for each case with which the board has completed its activities: 1171

(1) The case number assigned to the complaint or alleged 1172
violation; 1173

(2) The type of certificate to practice, if any, held by the 1174
individual against whom the complaint is directed; 1175

(3) A description of the allegations contained in the 1176
complaint; 1177

(4) The disposition of the case. 1178

The report shall state how many cases are still pending, and 1179
shall be prepared in a manner that protects the identity of each 1180
person involved in each case. The report shall be submitted to the 1181
physician assistant policy committee of the board and is a public 1182
record for purposes of section 149.43 of the Revised Code. 1183

Sec. 4731.22. (A) The state medical board, by an affirmative 1184
vote of not fewer than six of its members, may revoke or may 1185
refuse to grant a certificate to a person found by the board to 1186
have committed fraud during the administration of the examination 1187
for a certificate to practice or to have committed fraud, 1188

misrepresentation, or deception in applying for or securing any 1189
certificate to practice or certificate of registration issued by 1190
the board. 1191

(B) The board, by an affirmative vote of not fewer than six 1192
members, shall, to the extent permitted by law, limit, revoke, or 1193
suspend an individual's certificate to practice, refuse to 1194
register an individual, refuse to reinstate a certificate, or 1195
reprimand or place on probation the holder of a certificate for 1196
one or more of the following reasons: 1197

(1) Permitting one's name or one's certificate to practice or 1198
certificate of registration to be used by a person, group, or 1199
corporation when the individual concerned is not actually 1200
directing the treatment given; 1201

(2) Failure to maintain minimal standards applicable to the 1202
selection or administration of drugs, or failure to employ 1203
acceptable scientific methods in the selection of drugs or other 1204
modalities for treatment of disease; 1205

(3) Selling, giving away, personally furnishing, prescribing, 1206
or administering drugs for other than legal and legitimate 1207
therapeutic purposes or a plea of guilty to, a judicial finding of 1208
guilt of, or a judicial finding of eligibility for intervention in 1209
lieu of conviction of, a violation of any federal or state law 1210
regulating the possession, distribution, or use of any drug; 1211
1212

(4) Willfully betraying a professional confidence. 1213

For purposes of this division, "willfully betraying a 1214
professional confidence" does not include providing any 1215
information, documents, or reports to a child fatality review 1216
board under sections 307.621 to 307.629 of the Revised Code and 1217
does not include the making of a report of an employee's use of a 1218
drug of abuse, or a report of a condition of an employee other 1219

than one involving the use of a drug of abuse, to the employer of 1220
the employee as described in division (B) of section 2305.33 of 1221
the Revised Code. Nothing in this division affects the immunity 1222
from civil liability conferred by that section upon a physician 1223
who makes either type of report in accordance with division (B) of 1224
that section. As used in this division, "employee," "employer," 1225
and "physician" have the same meanings as in section 2305.33 of 1226
the Revised Code. 1227

(5) Making a false, fraudulent, deceptive, or misleading 1228
statement in the solicitation of or advertising for patients; in 1229
relation to the practice of medicine and surgery, osteopathic 1230
medicine and surgery, podiatric medicine and surgery, or a limited 1231
branch of medicine; or in securing or attempting to secure any 1232
certificate to practice or certificate of registration issued by 1233
the board. 1234

As used in this division, "false, fraudulent, deceptive, or 1235
misleading statement" means a statement that includes a 1236
misrepresentation of fact, is likely to mislead or deceive because 1237
of a failure to disclose material facts, is intended or is likely 1238
to create false or unjustified expectations of favorable results, 1239
or includes representations or implications that in reasonable 1240
probability will cause an ordinarily prudent person to 1241
misunderstand or be deceived. 1242

(6) A departure from, or the failure to conform to, minimal 1243
standards of care of similar practitioners under the same or 1244
similar circumstances, whether or not actual injury to a patient 1245
is established; 1246

(7) Representing, with the purpose of obtaining compensation 1247
or other advantage as personal gain or for any other person, that 1248
an incurable disease or injury, or other incurable condition, can 1249
be permanently cured; 1250

- (8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 1251
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1253
- (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; 1254
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- (10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 1257
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1259
- (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; 1260
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1262
- (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; 1263
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1265
- (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; 1266
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1268
- (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; 1269
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1271
- (15) Violation of the conditions of limitation placed by the board upon a certificate to practice; 1272
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- (16) Failure to pay license renewal fees specified in this chapter; 1274
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- (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; 1276
1277
1278
1279
- (18) Subject to section 4731.226 of the Revised Code, 1280

violation of any provision of a code of ethics of the American 1281
medical association, the American osteopathic association, the 1282
American podiatric medical association, or any other national 1283
professional organizations that the board specifies by rule. The 1284
state medical board shall obtain and keep on file current copies 1285
of the codes of ethics of the various national professional 1286
organizations. The individual whose certificate is being suspended 1287
or revoked shall not be found to have violated any provision of a 1288
code of ethics of an organization not appropriate to the 1289
individual's profession. 1290

For purposes of this division, a "provision of a code of 1291
ethics of a national professional organization" does not include 1292
any provision that would preclude the making of a report by a 1293
physician of an employee's use of a drug of abuse, or of a 1294
condition of an employee other than one involving the use of a 1295
drug of abuse, to the employer of the employee as described in 1296
division (B) of section 2305.33 of the Revised Code. Nothing in 1297
this division affects the immunity from civil liability conferred 1298
by that section upon a physician who makes either type of report 1299
in accordance with division (B) of that section. As used in this 1300
division, "employee," "employer," and "physician" have the same 1301
meanings as in section 2305.33 of the Revised Code. 1302

(19) Inability to practice according to acceptable and 1303
prevailing standards of care by reason of mental illness or 1304
physical illness, including, but not limited to, physical 1305
deterioration that adversely affects cognitive, motor, or 1306
perceptive skills. 1307

In enforcing this division, the board, upon a showing of a 1308
possible violation, may compel any individual authorized to 1309
practice by this chapter or who has submitted an application 1310
pursuant to this chapter to submit to a mental examination, 1311
physical examination, including an HIV test, or both a mental and 1312

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

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

This division does not apply to a violation or attempted
violation of, assisting in or abetting the violation of, or a

conspiracy to violate, any provision of this chapter or any rule
adopted by the board that would preclude the making of a report by
a physician of an employee's use of a drug of abuse, or of a
condition of an employee other than one involving the use of a
drug of abuse, to the employer of the employee as described in
division (B) of section 2305.33 of the Revised Code. Nothing in
this division affects the immunity from civil liability conferred
by that section upon a physician who makes either type of report
in accordance with division (B) of that section. As used in this
division, "employee," "employer," and "physician" have the same
meanings as in section 2305.33 of the Revised Code.

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

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

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

(24) The revocation, suspension, restriction, reduction, or

termination of clinical privileges by the United States department 1377
of defense or department of veterans affairs or the termination or 1378
suspension of a certificate of registration to prescribe drugs by 1379
the drug enforcement administration of the United States 1380
department of justice; 1381

(25) Termination or suspension from participation in the 1382
medicare or medicaid programs by the department of health and 1383
human services or other responsible agency for any act or acts 1384
that also would constitute a violation of division (B)(2), (3), 1385
(6), (8), or (19) of this section; 1386

(26) Impairment of ability to practice according to 1387
acceptable and prevailing standards of care because of habitual or 1388
excessive use or abuse of drugs, alcohol, or other substances that 1389
impair ability to practice. 1390

For the purposes of this division, any individual authorized 1391
to practice by this chapter accepts the privilege of practicing in 1392
this state subject to supervision by the board. By filing an 1393
application for or holding a certificate to practice under this 1394
chapter, an individual shall be deemed to have given consent to 1395
submit to a mental or physical examination when ordered to do so 1396
by the board in writing, and to have waived all objections to the 1397
admissibility of testimony or examination reports that constitute 1398
privileged communications. 1399

If it has reason to believe that any individual authorized to 1400
practice by this chapter or any applicant for certification to 1401
practice suffers such impairment, the board may compel the 1402
individual to submit to a mental or physical examination, or both. 1403
The expense of the examination is the responsibility of the 1404
individual compelled to be examined. Any mental or physical 1405
examination required under this division shall be undertaken by a 1406
treatment provider or physician who is qualified to conduct the 1407
examination and who is chosen by the board. 1408

Failure to submit to a mental or physical examination ordered 1409
by the board constitutes an admission of the allegations against 1410
the individual unless the failure is due to circumstances beyond 1411
the individual's control, and a default and final order may be 1412
entered without the taking of testimony or presentation of 1413
evidence. If the board determines that the individual's ability to 1414
practice is impaired, the board shall suspend the individual's 1415
certificate or deny the individual's application and shall require 1416
the individual, as a condition for initial, continued, reinstated, 1417
or renewed certification to practice, to submit to treatment. 1418

Before being eligible to apply for reinstatement of a 1419
certificate suspended under this division, the impaired 1420
practitioner shall demonstrate to the board the ability to resume 1421
practice in compliance with acceptable and prevailing standards of 1422
care under the provisions of the practitioner's certificate. The 1423
demonstration shall include, but shall not be limited to, the 1424
following: 1425

(a) Certification from a treatment provider approved under 1426
section 4731.25 of the Revised Code that the individual has 1427
successfully completed any required inpatient treatment; 1428

(b) Evidence of continuing full compliance with an aftercare 1429
contract or consent agreement; 1430

(c) Two written reports indicating that the individual's 1431
ability to practice has been assessed and that the individual has 1432
been found capable of practicing according to acceptable and 1433
prevailing standards of care. The reports shall be made by 1434
individuals or providers approved by the board for making the 1435
assessments and shall describe the basis for their determination. 1436

The board may reinstate a certificate suspended under this 1437
division after that demonstration and after the individual has 1438
entered into a written consent agreement. 1439

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.

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

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

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the 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;

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

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

(30) Failure of a collaborating physician to 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;

(31) Failure to provide notice to, and receive acknowledgment

of the notice from, a patient when required by section 4731.143 of 1471
the Revised Code prior to providing nonemergency professional 1472
services, or failure to maintain that notice in the patient's 1473
file; 1474

(32) Failure of a physician supervising a physician assistant 1475
to maintain supervision in accordance with the requirements of 1476
Chapter 4730. of the Revised Code and the rules adopted under that 1477
chapter; 1478

(33) Failure of a physician or podiatrist to enter into a 1479
standard care arrangement with a clinical nurse specialist, 1480
certified nurse-midwife, or certified nurse practitioner with whom 1481
the physician or podiatrist is in collaboration pursuant to 1482
section 4731.27 of the Revised Code or failure to fulfill the 1483
responsibilities of collaboration after entering into a standard 1484
care arrangement; 1485

(34) Failure to comply with the terms of a consult agreement 1486
entered into with a pharmacist pursuant to section 4729.39 of the 1487
Revised Code; 1488

(35) Failure to cooperate in an investigation conducted by 1489
the board under division (F) of this section, including failure to 1490
comply with a subpoena or order issued by the board or failure to 1491
answer truthfully a question presented by the board at a 1492
deposition or in written interrogatories, except that failure to 1493
cooperate with an investigation shall not constitute grounds for 1494
discipline under this section if a court of competent jurisdiction 1495
has issued an order that either quashes a subpoena or permits the 1496
individual to withhold the testimony or evidence in issue; 1497

(36) Failure to supervise an acupuncturist in accordance with 1498
Chapter 4762. of the Revised Code and the board's rules for 1499
supervision of an acupuncturist; 1500

(37) Failure to supervise an anesthesiologist assistant in 1501

accordance with Chapter 4760. of the Revised Code and the board's 1502
rules for supervision of an anesthesiologist assistant. 1503

(C) Disciplinary actions taken by the board under divisions 1504
(A) and (B) of this section shall be taken pursuant to an 1505
adjudication under Chapter 119. of the Revised Code, except that 1506
in lieu of an adjudication, the board may enter into a consent 1507
agreement with an individual to resolve an allegation of a 1508
violation of this chapter or any rule adopted under it. A consent 1509
agreement, when ratified by an affirmative vote of not fewer than 1510
six members of the board, shall constitute the findings and order 1511
of the board with respect to the matter addressed in the 1512
agreement. If the board refuses to ratify a consent agreement, the 1513
admissions and findings contained in the consent agreement shall 1514
be of no force or effect. 1515

(D) For purposes of divisions (B)(10), (12), and (14) of this 1516
section, the commission of the act may be established by a finding 1517
by the board, pursuant to an adjudication under Chapter 119. of 1518
the Revised Code, that the individual committed the act. The board 1519
does not have jurisdiction under those divisions if the trial 1520
court renders a final judgment in the individual's favor and that 1521
judgment is based upon an adjudication on the merits. The board 1522
has jurisdiction under those divisions if the trial court issues 1523
an order of dismissal upon technical or procedural grounds. 1524

(E) The sealing of conviction records by any court shall have 1525
no effect upon a prior board order entered under this section or 1526
upon the board's jurisdiction to take action under this section 1527
if, based upon a plea of guilty, a judicial finding of guilt, or a 1528
judicial finding of eligibility for intervention in lieu of 1529
conviction, the board issued a notice of opportunity for a hearing 1530
prior to the court's order to seal the records. The board shall 1531
not be required to seal, destroy, redact, or otherwise modify its 1532
records to reflect the court's sealing of conviction records. 1533

(F)(1) The board shall investigate evidence that appears to 1534
show that a person has violated any provision of this chapter or 1535
any rule adopted under it. Any person may report to the board in a 1536
signed writing any information that the person may have that 1537
appears to show a violation of any provision of this chapter or 1538
any rule adopted under it. In the absence of bad faith, any person 1539
who reports information of that nature or who testifies before the 1540
board in any adjudication conducted under Chapter 119. of the 1541
Revised Code shall not be liable in damages in a civil action as a 1542
result of the report or testimony. Each complaint or allegation of 1543
a violation received by the board shall be assigned a case number 1544
and shall be recorded by the board. 1545

(2) Investigations of alleged violations of this chapter or 1546
any rule adopted under it shall be supervised by the supervising 1547
member elected by the board in accordance with section 4731.02 of 1548
the Revised Code and by the secretary as provided in section 1549
4731.39 of the Revised Code. The president may designate another 1550
member of the board to supervise the investigation in place of the 1551
supervising member. No member of the board who supervises the 1552
investigation of a case shall participate in further adjudication 1553
of the case. 1554

(3) In investigating a possible violation of this chapter or 1555
any rule adopted under this chapter, the board may administer 1556
oaths, order the taking of depositions, issue subpoenas, and 1557
compel the attendance of witnesses and production of books, 1558
accounts, papers, records, documents, and testimony, except that a 1559
subpoena for patient record information shall not be issued 1560
without consultation with the attorney general's office and 1561
approval of the secretary and supervising member of the board. 1562
Before issuance of a subpoena for patient record information, the 1563
secretary and supervising member shall determine whether there is 1564
probable cause to believe that the complaint filed alleges a 1565

violation of this chapter or any rule adopted under it and that 1566
the records sought are relevant to the alleged violation and 1567
material to the investigation. The subpoena may apply only to 1568
records that cover a reasonable period of time surrounding the 1569
alleged violation. 1570

On failure to comply with any subpoena issued by the board 1571
and after reasonable notice to the person being subpoenaed, the 1572
board may move for an order compelling the production of persons 1573
or records pursuant to the Rules of Civil Procedure. 1574

A subpoena issued by the board may be served by a sheriff, 1575
the sheriff's deputy, or a board employee designated by the board. 1576
Service of a subpoena issued by the board may be made by 1577
delivering a copy of the subpoena to the person named therein, 1578
reading it to the person, or leaving it at the person's usual 1579
place of residence. When the person being served is a person whose 1580
practice is authorized by this chapter, service of the subpoena 1581
may be made by certified mail, restricted delivery, return receipt 1582
requested, and the subpoena shall be deemed served on the date 1583
delivery is made or the date the person refuses to accept 1584
delivery. 1585

A sheriff's deputy who serves a subpoena shall receive the 1586
same fees as a sheriff. Each witness who appears before the board 1587
in obedience to a subpoena shall receive the fees and mileage 1588
provided for witnesses in civil cases in the courts of common 1589
pleas. 1590

(4) All hearings and investigations of the board shall be 1591
considered civil actions for the purposes of section ~~2305.251~~ 1592
2305.252 of the Revised Code. 1593

(5) Information received by the board pursuant to an 1594
investigation is confidential and not subject to discovery in any 1595
civil action. 1596

The board shall conduct all investigations and proceedings in 1597
a manner that protects the confidentiality of patients and persons 1598
who file complaints with the board. The board shall not make 1599
public the names or any other identifying information about 1600
patients or complainants unless proper consent is given or, in the 1601
case of a patient, a waiver of the patient privilege exists under 1602
division (B) of section 2317.02 of the Revised Code, except that 1603
consent or a waiver of that nature is not required if the board 1604
possesses reliable and substantial evidence that no bona fide 1605
physician-patient relationship exists. 1606

The board may share any information it receives pursuant to 1607
an investigation, including patient records and patient record 1608
information, with law enforcement agencies, other licensing 1609
boards, and other governmental agencies that are prosecuting, 1610
adjudicating, or investigating alleged violations of statutes or 1611
administrative rules. An agency or board that receives the 1612
information shall comply with the same requirements regarding 1613
confidentiality as those with which the state medical board must 1614
comply, notwithstanding any conflicting provision of the Revised 1615
Code or procedure of the agency or board that applies when it is 1616
dealing with other information in its possession. In a judicial 1617
proceeding, the information may be admitted into evidence only in 1618
accordance with the Rules of Evidence, but the court shall require 1619
that appropriate measures are taken to ensure that confidentiality 1620
is maintained with respect to any part of the information that 1621
contains names or other identifying information about patients or 1622
complainants whose confidentiality was protected by the state 1623
medical board when the information was in the board's possession. 1624
Measures to ensure confidentiality that may be taken by the court 1625
include sealing its records or deleting specific information from 1626
its records. 1627

(6) On a quarterly basis, the board shall prepare a report 1628

that documents the disposition of all cases during the preceding 1629
three months. The report shall contain the following information 1630
for each case with which the board has completed its activities: 1631

(a) The case number assigned to the complaint or alleged 1632
violation; 1633

(b) The type of certificate to practice, if any, held by the 1634
individual against whom the complaint is directed; 1635

(c) A description of the allegations contained in the 1636
complaint; 1637

(d) The disposition of the case. 1638

The report shall state how many cases are still pending and 1639
shall be prepared in a manner that protects the identity of each 1640
person involved in each case. The report shall be a public record 1641
under section 149.43 of the Revised Code. 1642

(G) If the secretary and supervising member determine that 1643
there is clear and convincing evidence that an individual has 1644
violated division (B) of this section and that the individual's 1645
continued practice presents a danger of immediate and serious harm 1646
to the public, they may recommend that the board suspend the 1647
individual's certificate to practice without a prior hearing. 1648
Written allegations shall be prepared for consideration by the 1649
board. 1650

The board, upon review of those allegations and by an 1651
affirmative vote of not fewer than six of its members, excluding 1652
the secretary and supervising member, may suspend a certificate 1653
without a prior hearing. A telephone conference call may be 1654
utilized for reviewing the allegations and taking the vote on the 1655
summary suspension. 1656

The board shall issue a written order of suspension by 1657
certified mail or in person in accordance with section 119.07 of 1658

the Revised Code. The order shall not be subject to suspension by
the court during pendency of any appeal filed under section 119.12
of the Revised Code. If the individual subject to the summary
suspension requests an adjudicatory hearing by the board, the date
set for the hearing shall be within fifteen days, but not earlier
than seven days, after the individual requests the hearing, unless
otherwise agreed to by both the board and the individual.

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

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

1691
1692 (I) The certificate to practice issued to an individual under
1693 this chapter and the individual's practice in this state are
1694 automatically suspended as of the date the individual pleads
1695 guilty to, is found by a judge or jury to be guilty of, or is
1696 subject to a judicial finding of eligibility for intervention in
1697 lieu of conviction in this state or treatment or intervention in
1698 lieu of conviction in another jurisdiction for any of the
1699 following criminal offenses in this state or a substantially
1700 equivalent criminal offense in another jurisdiction: aggravated
1701 murder, murder, voluntary manslaughter, felonious assault,
1702 kidnapping, rape, sexual battery, gross sexual imposition,
1703 aggravated arson, aggravated robbery, or aggravated burglary.
1704 Continued practice after suspension shall be considered practicing
1705 without a certificate.

1706 The board shall notify the individual subject to the
1707 suspension by certified mail or in person in accordance with
1708 section 119.07 of the Revised Code. If an individual whose
1709 certificate is suspended under this division fails to make a
1710 timely request for an adjudication under Chapter 119. of the
1711 Revised Code, the board shall enter a final order permanently
1712 revoking the individual's certificate to practice.

1713 (J) If the board is required by Chapter 119. of the Revised
1714 Code to give notice of an opportunity for a hearing and if the
1715 individual subject to the notice does not timely request a hearing
1716 in accordance with section 119.07 of the Revised Code, the board
1717 is not required to hold a hearing, but may adopt, by an
1718 affirmative vote of not fewer than six of its members, a final
1719 order that contains the board's findings. In that final order, the
1720 board may order any of the sanctions identified under division (A)
1721 or (B) of this section.

1722 (K) Any action taken by the board under division (B) of this

section resulting in a suspension from practice shall be 1723
accompanied by a written statement of the conditions under which 1724
the individual's certificate to practice may be reinstated. The 1725
board shall adopt rules governing conditions to be imposed for 1726
reinstatement. Reinstatement of a certificate suspended pursuant 1727
to division (B) of this section requires an affirmative vote of 1728
not fewer than six members of the board. 1729

(L) When the board refuses to grant a certificate to an 1730
applicant, revokes an individual's certificate to practice, 1731
refuses to register an applicant, or refuses to reinstate an 1732
individual's certificate to practice, the board may specify that 1733
its action is permanent. An individual subject to a permanent 1734
action taken by the board is forever thereafter ineligible to hold 1735
a certificate to practice and the board shall not accept an 1736
application for reinstatement of the certificate or for issuance 1737
of a new certificate. 1738

(M) Notwithstanding any other provision of the Revised Code, 1739
all of the following apply: 1740

(1) The surrender of a certificate issued under this chapter 1741
shall not be effective unless or until accepted by the board. 1742
Reinstatement of a certificate surrendered to the board requires 1743
an affirmative vote of not fewer than six members of the board. 1744

(2) An application for a certificate made under the 1745
provisions of this chapter may not be withdrawn without approval 1746
of the board. 1747

(3) Failure by an individual to renew a certificate of 1748
registration in accordance with this chapter shall not remove or 1749
limit the board's jurisdiction to take any disciplinary action 1750
under this section against the individual. 1751

(N) Sanctions shall not be imposed under division (B)(28) of 1752
this section against any person who waives deductibles and 1753

copayments as follows: 1754

(1) In compliance with the health benefit plan that expressly 1755
allows such a practice. Waiver of the deductibles or copayments 1756
shall be made only with the full knowledge and consent of the plan 1757
purchaser, payer, and third-party administrator. Documentation of 1758
the consent shall be made available to the board upon request. 1759
1760

(2) For professional services rendered to any other person 1761
authorized to practice pursuant to this chapter, to the extent 1762
allowed by this chapter and rules adopted by the board. 1763

(0) Under the board's investigative duties described in this 1764
section and subject to division (F) of this section, the board 1765
shall develop and implement a quality intervention program 1766
designed to improve through remedial education the clinical and 1767
communication skills of individuals authorized under this chapter 1768
to practice medicine and surgery, osteopathic medicine and 1769
surgery, and podiatric medicine and surgery. In developing and 1770
implementing the quality intervention program, the board may do 1771
all of the following: 1772

(1) Offer in appropriate cases as determined by the board an 1773
educational and assessment program pursuant to an investigation 1774
the board conducts under this section; 1775

(2) Select providers of educational and assessment services, 1776
including a quality intervention program panel of case reviewers; 1777

(3) Make referrals to educational and assessment service 1778
providers and approve individual educational programs recommended 1779
by those providers. The board shall monitor the progress of each 1780
individual undertaking a recommended individual educational 1781
program. 1782

(4) Determine what constitutes successful completion of an 1783
individual educational program and require further monitoring of 1784

the individual who completed the program or other action that the board determines to be appropriate;

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

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

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

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

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

(2) A dentist authorized under Chapter 4715. of the Revised Code to practice dentistry when engaged exclusively in the practice of dentistry or when administering anesthetics in the practice of dentistry;

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

(a) The physician or surgeon does not provide consultation in

this state on a regular or frequent basis. 1815

(b) The physician or surgeon provides the consultation 1816
without compensation of any kind, direct or indirect, for the 1817
consultation. 1818

(c) The consultation is part of the curriculum of a medical 1819
school or osteopathic medical school of this state or a program 1820
described in division (A)(2) of section 4731.291 of the Revised 1821
Code. 1822

(4) A physician or surgeon in another state or territory who 1823
is a legal practitioner of medicine or surgery therein and 1824
provided services to a patient in that state or territory, when 1825
providing, not later than one year after the last date services 1826
were provided in another state or territory, follow-up services in 1827
person or through the use of any communication, including oral, 1828
written, or electronic communication, in this state to the patient 1829
for the same condition; 1830

(5) A physician or surgeon residing on the border of a 1831
contiguous state and authorized under the laws thereof to practice 1832
medicine and surgery therein, whose practice extends within the 1833
limits of this state. Such practitioner shall not either in person 1834
or through the use of any communication, including oral, written, 1835
or electronic communication, open an office or appoint a place to 1836
see patients or receive calls within the limits of this state. 1837
1838

(6) A board, committee, or corporation engaged in the conduct 1839
described in division (A) of section ~~2305.25~~ 2305.251 of the 1840
Revised Code when acting within the scope of the functions of the 1841
board, committee, or corporation; 1842

(7) The conduct of an independent review organization 1843
accredited by the superintendent of insurance under section 1844
3901.80 of the Revised Code for the purpose of external reviews 1845

conducted under sections 1751.84, 1751.85, 3923.67, 3923.68,
3923.76, and 3923.77 of the Revised Code. 1846
1847

(B) Sections 4731.51 to 4731.61 of the Revised Code do not 1848
apply to any graduate of a podiatric school or college while 1849
performing those acts that may be prescribed by or incidental to 1850
participation in an accredited podiatric internship, residency, or 1851
fellowship program situated in this state approved by the state 1852
medical board. 1853

(C) This chapter does not apply to an acupuncturist who 1854
complies with Chapter 4762. of the Revised Code. 1855

(D) This chapter does not prohibit the administration of 1856
drugs by any of the following: 1857

(1) An individual who is licensed or otherwise specifically 1858
authorized by the Revised Code to administer drugs; 1859

(2) An individual who is not licensed or otherwise 1860
specifically authorized by the Revised Code to administer drugs,
but is acting pursuant to the rules for delegation of medical 1861
tasks adopted under section 4731.053 of the Revised Code; 1862
1863

(3) An individual specifically authorized to administer drugs 1864
pursuant to a rule adopted under the Revised Code that is in 1865
effect on the effective date of this amendment, as long as the 1866
rule remains in effect, specifically authorizing an individual to 1867
administer drugs. 1868

(E) The exemptions described in divisions (A)(3), (4), and 1869
(5) of this section do not apply to a physician or surgeon whose 1870
certificate to practice issued under this chapter is under 1871
suspension or has been revoked or permanently revoked by action of 1872
the state medical board. 1873

Sec. 4734.45. (A) The state chiropractic board shall 1874
investigate evidence that appears to show that a person has 1875

violated any provision of this chapter or the rules adopted under 1876
it. Any person may report to the board in writing or by other 1877
means any information the person has that appears to show a 1878
violation of any provision of this chapter or the rules adopted 1879
under it. In the absence of bad faith, a person who reports to the 1880
board, cooperates in an investigation, or testifies before the 1881
board in an adjudication shall not be liable for civil damages as 1882
a result of reporting, cooperating, or providing testimony. 1883

(B) Information received by the board pursuant to an 1884
investigation is confidential and not subject to discovery in any 1885
civil action, except that for good cause, the board or its 1886
executive director may disclose or authorize disclosure of 1887
information gathered pursuant to an investigation. 1888

The board and its employees may share appropriate information 1889
in the board's possession with any federal, state, or local law 1890
enforcement, prosecutorial, or regulatory agency or its officers 1891
or agents engaging in an investigation. The board and its 1892
employees may cooperate in any other manner with the agency or its 1893
officers or agents engaging in an investigation. 1894

An agency that receives confidential information shall comply 1895
with the same requirements regarding confidentiality as those with 1896
which the board must comply, notwithstanding any conflicting 1897
provision of the Revised Code or procedure of the agency that 1898
applies when the agency is dealing with other information in its 1899
possession. The information may be admitted into evidence in a 1900
criminal trial in accordance with the Rules of Evidence, or in an 1901
administrative hearing conducted by an agency, but the court or 1902
agency shall require that appropriate measures be taken to ensure 1903
that confidentiality is maintained with respect to any part of the 1904
information that contains names or other identifying information 1905
about patients, complainants, or others whose confidentiality was 1906
protected by the state chiropractic board when the information was 1907

in the board's possession. Measures to ensure confidentiality that 1908
may be taken by the court or agency include sealing its records or 1909
redacting specific information from its records. 1910

(C) All hearings and investigations of the board shall be 1911
considered civil actions for the purposes of section ~~2305.251~~ 1912
2305.252 of the Revised Code. 1913

Sec. 4760.14. (A) The state medical board shall investigate 1914
evidence that appears to show that any person has violated this 1915
chapter or the rules adopted under it. Any person may report to 1916
the board in a signed writing any information the person has that 1917
appears to show a violation of any provision of this chapter or 1918
the rules adopted under it. In the absence of bad faith, a person 1919
who reports such information or testifies before the board in an 1920
adjudication conducted under Chapter 119. of the Revised Code 1921
shall not be liable for civil damages as a result of reporting the 1922
information or providing testimony. Each complaint or allegation 1923
of a violation received by the board shall be assigned a case 1924
number and be recorded by the board. 1925

(B) Investigations of alleged violations of this chapter or 1926
rules adopted under it shall be supervised by the supervising 1927
member elected by the board in accordance with section 4731.02 of 1928
the Revised Code and by the secretary as provided in section 1929
4760.15 of the Revised Code. The board's president may designate 1930
another member of the board to supervise the investigation in 1931
place of the supervising member. A member of the board who 1932
supervises the investigation of a case shall not participate in 1933
further adjudication of the case. 1934

(C) In investigating a possible violation of this chapter or 1935
the rules adopted under it, the board may administer oaths, order 1936
the taking of depositions, issue subpoenas, and compel the 1937
attendance of witnesses and production of books, accounts, papers, 1938

records, documents, and testimony, except that a subpoena for 1939
patient record information shall not be issued without 1940
consultation with the attorney general's office and approval of 1941
the secretary and supervising member of the board. Before issuance 1942
of a subpoena for patient record information, the secretary and 1943
supervising member shall determine whether there is probable cause 1944
to believe that the complaint filed alleges a violation of this 1945
chapter or the rules adopted under it and that the records sought 1946
are relevant to the alleged violation and material to the 1947
investigation. The subpoena may apply only to records that cover a 1948
reasonable period of time surrounding the alleged violation. 1949

1950
On failure to comply with any subpoena issued by the board 1951
and after reasonable notice to the person being subpoenaed, the 1952
board may move for an order compelling the production of persons 1953
or records pursuant to the Rules of Civil Procedure. 1954

A subpoena issued by the board may be served by a sheriff, 1955
the sheriff's deputy, or a board employee designated by the board. 1956
Service of a subpoena issued by the board may be made by 1957
delivering a copy of the subpoena to the person named therein, 1958
reading it to the person, or leaving it at the person's usual 1959
place of residence. When the person being served is an 1960
anesthesiologist assistant, service of the subpoena may be made by 1961
certified mail, restricted delivery, return receipt requested, and 1962
the subpoena shall be deemed served on the date delivery is made 1963
or the date the person refuses to accept delivery. 1964

A sheriff's deputy who serves a subpoena shall receive the 1965
same fees as a sheriff. Each witness who appears before the board 1966
in obedience to a subpoena shall receive the fees and mileage 1967
provided for witnesses in civil cases in the courts of common 1968
pleas. 1969

(D) All hearings and investigations of the board shall be 1970

considered civil actions for the purposes of section ~~2305.251~~ 1971
2305.252 of the Revised Code. 1972

(E) Information received by the board pursuant to an 1973
investigation is confidential and not subject to discovery in any 1974
civil action. 1975

The board shall conduct all investigations and proceedings in 1976
a manner that protects the confidentiality of patients and persons 1977
who file complaints with the board. The board shall not make 1978
public the names or any other identifying information about 1979
patients or complainants unless proper consent is given. 1980

The board may share any information it receives pursuant to 1981
an investigation, including patient records and patient record 1982
information, with law enforcement agencies, other licensing 1983
boards, and other governmental agencies that are prosecuting, 1984
adjudicating, or investigating alleged violations of statutes or 1985
administrative rules. An agency or board that receives the 1986
information shall comply with the same requirements regarding 1987
confidentiality as those with which the state medical board must 1988
comply, notwithstanding any conflicting provision of the Revised 1989
Code or procedure of the agency or board that applies when it is 1990
dealing with other information in its possession. In a judicial 1991
proceeding, the information may be admitted into evidence only in 1992
accordance with the Rules of Evidence, but the court shall require 1993
that appropriate measures are taken to ensure that confidentiality 1994
is maintained with respect to any part of the information that 1995
contains names or other identifying information about patients or 1996
complainants whose confidentiality was protected by the state 1997
medical board when the information was in the board's possession. 1998
Measures to ensure confidentiality that may be taken by the court 1999
include sealing its records or deleting specific information from 2000
its records. 2001

(F) The state medical board shall develop requirements for 2002

and provide appropriate initial training and continuing education 2003
for investigators employed by the board to carry out its duties 2004
under this chapter. The training and continuing education may 2005
include enrollment in courses operated or approved by the Ohio 2006
peace officer training council that the board considers 2007
appropriate under conditions set forth in section 109.79 of the 2008
Revised Code. 2009

(G) On a quarterly basis, the board shall prepare a report 2010
that documents the disposition of all cases during the preceding 2011
three months. The report shall contain the following information 2012
for each case with which the board has completed its activities: 2013

(1) The case number assigned to the complaint or alleged 2014
violation; 2015

(2) The type of certificate to practice, if any, held by the 2016
individual against whom the complaint is directed; 2017

(3) A description of the allegations contained in the 2018
complaint; 2019

(4) The disposition of the case. 2020

The report shall state how many cases are still pending, and 2021
shall be prepared in a manner that protects the identity of each 2022
person involved in each case. The report is a public record for 2023
purposes of section 149.43 of the Revised Code. 2024

Sec. 4762.14. (A) The state medical board shall investigate 2025
evidence that appears to show that any person has violated this 2026
chapter or the rules adopted under it. Any person may report to 2027
the board in a signed writing any information the person has that 2028
appears to show a violation of any provision of this chapter or 2029
the rules adopted under it. In the absence of bad faith, a person 2030
who reports such information or testifies before the board in an 2031
adjudication conducted under Chapter 119. of the Revised Code 2032

shall not be liable for civil damages as a result of reporting the 2033
information or providing testimony. Each complaint or allegation 2034
of a violation received by the board shall be assigned a case 2035
number and be recorded by the board. 2036

(B) Investigations of alleged violations of this chapter or 2037
rules adopted under it shall be supervised by the supervising 2038
member elected by the board in accordance with section 4731.02 of 2039
the Revised Code and by the secretary as provided in section 2040
4762.15 of the Revised Code. The board's president may designate 2041
another member of the board to supervise the investigation in 2042
place of the supervising member. A member of the board who 2043
supervises the investigation of a case shall not participate in 2044
further adjudication of the case. 2045

(C) In investigating a possible violation of this chapter or 2046
the rules adopted under it, the board may administer oaths, order 2047
the taking of depositions, issue subpoenas, and compel the 2048
attendance of witnesses and production of books, accounts, papers, 2049
records, documents, and testimony, except that a subpoena for 2050
patient record information shall not be issued without 2051
consultation with the attorney general's office and approval of 2052
the secretary and supervising member of the board. Before issuance 2053
of a subpoena for patient record information, the secretary and 2054
supervising member shall determine whether there is probable cause 2055
to believe that the complaint filed alleges a violation of this 2056
chapter or the rules adopted under it and that the records sought 2057
are relevant to the alleged violation and material to the 2058
investigation. The subpoena may apply only to records that cover a 2059
reasonable period of time surrounding the alleged violation. 2060

2061
On failure to comply with any subpoena issued by the board 2062
and after reasonable notice to the person being subpoenaed, the 2063
board may move for an order compelling the production of persons 2064

or records pursuant to the Rules of Civil Procedure. 2065

A subpoena issued by the board may be served by a sheriff, 2066
the sheriff's deputy, or a board employee designated by the board. 2067
Service of a subpoena issued by the board may be made by 2068
delivering a copy of the subpoena to the person named therein, 2069
reading it to the person, or leaving it at the person's usual 2070
place of residence. When the person being served is an 2071
acupuncturist, service of the subpoena may be made by certified 2072
mail, restricted delivery, return receipt requested, and the 2073
subpoena shall be deemed served on the date delivery is made or 2074
the date the person refuses to accept delivery. 2075

A sheriff's deputy who serves a subpoena shall receive the 2076
same fees as a sheriff. Each witness who appears before the board 2077
in obedience to a subpoena shall receive the fees and mileage 2078
provided for witnesses in civil cases in the courts of common 2079
pleas. 2080

(D) All hearings and investigations of the board shall be 2081
considered civil actions for the purposes of section ~~2305.251~~ 2082
2305.252 of the Revised Code. 2083

(E) Information received by the board pursuant to an 2084
investigation is confidential and not subject to discovery in any 2085
civil action. 2086

The board shall conduct all investigations and proceedings in 2087
a manner that protects the confidentiality of patients and persons 2088
who file complaints with the board. The board shall not make 2089
public the names or any other identifying information about 2090
patients or complainants unless proper consent is given. 2091

The board may share any information it receives pursuant to 2092
an investigation, including patient records and patient record 2093
information, with law enforcement agencies, other licensing 2094
boards, and other governmental agencies that are prosecuting, 2095

adjudicating, or investigating alleged violations of statutes or
administrative rules. An agency or board that receives the
information shall comply with the same requirements regarding
confidentiality as those with which the state medical board must
comply, notwithstanding any conflicting provision of the Revised
Code or procedure of the agency or board that applies when it is
dealing with other information in its possession. In a judicial
proceeding, the information may be admitted into evidence only in
accordance with the Rules of 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;	2128
(3) A description of the allegations contained in the complaint;	2129 2130
(4) The disposition of the case.	2131
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.	2132 2133 2134 2135
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.	2136 2137 2138 2139
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 this act.	2140 2141 2142 2143 2144 2145 2146 2147 2148