

# As Passed by the Senate

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Sub. S. B. No. 179

SENATORS Wachtmann, Jacobson, Prentiss, Mumper

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## A B I L L

To amend 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; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 2305.25 (2305.251) and 2305.251 (2305.252); and to enact new section 2305.25 and section 2305.253 of the Revised Code to modify the law regarding peer review committees of health care entities.

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

**Section 1.** That 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 be amended; sections 2305.25 (2305.251) and 2305.251 (2305.252) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new section 2305.25 and section 2305.253 of the Revised Code be enacted to read as follows:

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

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

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

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

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

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

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

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

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

(C) "Political subdivisions" of the state means municipal 52  
corporations, townships, counties, school districts, and all other 53  
bodies corporate and politic responsible for governmental 54  
activities only in geographical areas smaller than that of the 55  
state. 56

(D) "Employer" means the general assembly, the supreme court, 57  
any office of an elected state officer, or any department, board, 58  
office, commission, agency, institution, or other instrumentality 59  
of the state of Ohio that employs or contracts with an officer or 60  
employee or to which an officer or employee is elected or 61  
appointed. 62

**Sec. 1751.21.** (A) A peer review committee of a hospital or 63  
other health care facility or provider, or of an intermediary 64  
organization or health delivery network, with which a health 65  
insuring corporation has a contract for health care services may 66  
provide to a peer review committee of the health insuring 67  
corporation any information, documents, testimony, or other 68  
records relating to any matter that is the subject of evaluation 69  
or review by the peer review committees, if consent is provided by 70  
the health care facility and any physician or other provider whose 71  
professional qualifications or activities are the subject of 72  
evaluation or review. 73

(B) Any immunity from liability for damages that is provided 74  
under section ~~2305.25~~ 2305.251 of the Revised Code and that would 75  
otherwise apply with respect to the conduct of any peer review 76  
committee described in division (A) of this section shall continue 77  
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) "Health care entity" means a government entity, a 88  
for-profit or nonprofit corporation, a limited liability company, 89  
a partnership, a professional corporation, a state or local 90  
society composed of physicians, or other health care organization, 91  
whether acting on its own behalf or on behalf of or in affiliation 92  
with other health care entities, that conducts as part of its 93  
purpose professional credentialing or quality review activities 94  
involving the competence, professional conduct, or quality of care 95  
provided by health care providers, including both individuals and 96  
entities. 97

(B) "Health insuring corporation" means an entity that holds 98  
a certificate of authority under Chapter 1751. of the Revised 99  
Code. "Health insuring corporation" includes wholly owned 100  
subsidiaries of a health insuring corporation. 101

(C) "Hospital" means either of the following: 102

(1) An institution that has been registered or licensed by 103  
the department of health as a hospital; 104

(2) An entity, other than an insurance company authorized to 105  
do business in this state, that owns, controls, or is affiliated 106  
with an institution that has been registered or licensed by the 107  
department of health as a hospital. 108

(D) "Incident report or risk management report" means a 109  
report of an incident involving injury or potential injury to a 110  
patient as a result of patient care by a health care entity that 111  
is prepared by or for the use of a peer review committee and is 112

within the scope of the functions of that committee.

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

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(a) Conducts professional credentialing or quality review  
activities involving the competence, professional conduct, or  
quality of care provided by health care providers, including both  
individuals and entities;

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(b) Conducts any other attendant hearing process initiated as  
a result of a peer review committee's recommendations or actions.

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(2) "Peer review committee" includes, but is not limited to,  
the following:

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

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

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(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 and entities;

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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;

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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

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active practice and that conducts professional credentialing and 143  
quality review activities involving the competence or professional 144  
conduct of health care providers that adversely affects or could 145  
adversely affect the health or welfare of any patient; 146

(f) A peer review committee of a health insuring corporation 147  
that has at least a two-thirds majority of physicians in active 148  
practice and that conducts professional credentialing and quality 149  
review activities involving the competence or professional conduct 150  
of a health care facility that has contracted with the health 151  
insuring corporation to provide health care services to enrollees, 152  
which conduct adversely affects, or could adversely affect, the 153  
health or welfare of any patient; 154

(g) A peer review committee of a sickness and accident 155  
insurer that has at least a two-thirds majority of physicians in 156  
active practice and that conducts professional credentialing and 157  
quality review activities involving the competence or professional 158  
conduct of health care providers that adversely affects or could 159  
adversely affect the health or welfare of any patient; 160

(h) A peer review committee of a sickness and accident 161  
insurer that has at least a two-thirds majority of physicians in 162  
active practice and that conducts professional credentialing and 163  
quality review activities involving the competence or professional 164  
conduct of a health care facility that has contracted with the 165  
insurer to provide health care services to insureds, which conduct 166  
adversely affects, or could adversely affect, the health or 167  
welfare of any patient; 168

(i) A peer review committee of any insurer authorized under 169  
Title XXXIX of the Revised Code to do the business of medical 170  
professional liability insurance in this state that conducts 171  
professional quality review activities involving the competence or 172  
professional conduct of health care providers that adversely 173  
affects or could affect the health or welfare of any patient; 174

(j) A peer review committee of a health care entity. 175

(F) "Physician" means an individual authorized to practice 176  
medicine and surgery, osteopathic medicine and surgery, or 177  
podiatric medicine and surgery. 178

(G) "Sickness and accident insurer" means an entity 179  
authorized under Title XXXIX of the Revised Code to do the 180  
business of sickness and accident insurance in this state. 181

(H) "Tort action" means a civil action for damages for 182  
injury, death, or loss to a patient of a health care entity. "Tort 183  
action" includes a product liability claim but does not include a 184  
civil action for a breach of contract or another agreement between 185  
persons. 186

**Sec. 2305.25 2305.251.** ~~(A) No hospital, no state or local~~ 187  
~~society, health care entity and no individual who works for or on~~ 188  
~~behalf of a health care entity shall be liable in damages to any~~ 189  
~~person for any acts, omissions, decisions, or other conduct within~~ 190  
~~the scope of the functions of a peer review committee of the~~ 191  
~~health care entity. No individual who is a member of or employee~~ 192  
~~works for or on behalf of any of the following committees a peer~~ 193  
~~review committee of a health care entity shall be liable in~~ 194  
~~damages to any person for any acts, omissions, decisions, or other~~ 195  
~~conduct within the scope of the functions of the peer review~~ 196  
~~committee.~~ 197

~~(A) A utilization review committee, quality assurance, or~~ 198  
~~tissue committee of a hospital or long-term care facility, a~~ 199  
~~nonprofit health care corporation which is a member of the~~ 200  
~~hospital or long-term care facility or of which the hospital or~~ 201  
~~facility is a member, or a community mental health center;~~ 202

~~(B) A board or committee of a hospital or long-term care~~ 203  
~~facility or of a nonprofit health care corporation which is a~~ 204

~~member of the hospital or long-term care facility or of which the  
hospital or long-term care facility is a member reviewing  
professional qualifications or activities of the medical staff of  
the hospital or long-term care facility or applicants for  
admission to the medical staff;~~

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

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

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

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

~~(G) A peer review committee of any insurer authorized under~~



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

(B)(1) A hospital shall be presumed to not be negligent in  
the credentialing of 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, if the hospital  
proves by a preponderance of the evidence that, at the time of the  
alleged negligent credentialing of the individual, the hospital  
was accredited by one of the following:

(a) The joint commission on accreditation of healthcare  
organizations;

(b) The American osteopathic association;

(c) The national committee for quality assurance;

(d) The utilization review accreditation commission.

(2) The presumption that a hospital is not negligent as  
provided in division (B)(1) of this section may be rebutted only  
by proof, by a preponderance of the evidence, of any of the  
following:

(a) The credentialing and review requirements of the  
accrediting organization did not apply to the hospital, the  
individual, or the type of professional care that is the basis of  
the claim against the hospital.

(b) The hospital failed to comply with all material  
credentialing and review requirements of the accrediting

organization that applied to the individual.

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(c) The hospital, through its medical staff executive  
committee or its governing body and sufficiently in advance to  
take appropriate action, knew that a previously competent  
individual who has, or has applied for, staff membership or  
professional privileges at the hospital had developed a pattern of  
incompetence or otherwise inappropriate behavior, either of which  
indicated that the individual's staff membership or professional  
privileges should have been limited prior to the individual's  
provision of professional care to the plaintiff at the hospital.

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(d) The hospital, through its medical staff executive  
committee or its governing body and sufficiently in advance to  
take appropriate action, knew that a previously competent  
individual who has, or has applied for, staff membership or  
professional privileges at the hospital would provide fraudulent  
medical treatment but failed to limit the individual's staff  
membership or professional privileges prior to the individual's  
provision of professional care to the plaintiff at the hospital.

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(3) If the plaintiff fails to rebut the presumption provided  
in division (B)(1) of this section, upon the motion of the  
hospital, the court shall enter judgment in favor of the hospital  
on the claim of negligent credentialing.

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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.

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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.

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(D) No person who provides information under this section 297  
without malice and in the reasonable belief that the information 298  
is warranted by the facts known to the person shall be subject to 299  
suit for civil damages as a result of providing the information. 300

**Sec. ~~2305.251~~ 2305.252.** Proceedings and records of all review 301  
~~committees described in section 2305.25 of the Revised Code within~~ 302  
the scope of a peer review committee of a health care entity shall 303  
be held in confidence and shall not be subject to discovery or 304  
introduction in evidence in any civil action against a health care 305  
entity or health care professional, a hospital, a long-term care 306  
~~facility, a not-for-profit health care corporation that is a~~ 307  
~~member of a hospital or long-term care facility or of which a~~ 308  
~~hospital or long-term care facility is a member, or another health~~ 309  
~~care institution~~ arising out of matters that are the subject of 310  
evaluation and review by the peer review committee. No ~~person in~~ 311  
~~attendance at~~ individual who attends a meeting of a peer review 312  
~~committee or serving,~~ serves as a member of a peer review 313  
committee, works for or on behalf of a peer review committee, or 314  
provides information to a peer review committee shall be permitted 315  
or required to testify in any civil action as to any evidence or 316  
other matters produced or presented during the proceedings of the 317  
peer review committee or as to any finding, recommendation, 318  
evaluation, opinion, or other action of the ~~committee~~ or a member 319  
thereof. Information, documents, or records otherwise available 320  
from original sources are not to be construed as being unavailable 321  
for discovery or for use in any civil action merely because they 322  
were produced or presented during proceedings of a peer review 323  
~~committee nor should any person testifying, as long as the~~ 324  
information, documents, or records are obtained from the original 325  
sources and not from the peer review committee's proceedings or 326  
records. An individual who testifies before a peer review 327  
~~committee or who is,~~ serves as a representative of a peer review 328

committee, serves as a member of the a peer review committee, 329  
works for or on behalf of a peer review committee, or provides 330  
information to a peer review committee shall not be prevented from 331  
testifying as to matters within the person's individual's 332  
knowledge, but the witness individual cannot be asked about the 333  
witness's individual's testimony before the peer review committee, 334  
information the individual provided to the peer review committee, 335  
or any opinion the individual formed by the witness as a result of 336  
the committee hearing peer review committee's activities. An order 337  
by a court to produce for discovery or for use at trial the 338  
proceedings or records described in this section is a final order. 339

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Sec. 2305.253. (A) Notwithstanding any contrary provision of 341  
section 149.43, 1751.21, 2305.24, 2305.25, 2305.251, 2305.252, or 342  
2305.28 of the Revised Code, an incident report or risk management 343  
report and the contents of an incident report or risk management 344  
report are not subject to discovery in, and are not admissible in 345  
evidence in the trial of, a tort action. An individual who 346  
prepares or has knowledge of the contents of an incident report or 347  
risk management report shall not testify and shall not be required 348  
to testify in a tort action as to the contents of the report. This 349  
division does not prohibit or limit the discovery or admissibility 350  
of testimony or evidence relating to patient care that is within 351  
an individual's personal knowledge. 352

(B)(1) Except as specified in division (A) of this section, 353  
this section does not affect any provision of section 1751.21, 354  
2305.24, 2305.25, 2305.251, 2305.252, or 2305.28 of the Revised 355  
Code that describes, imposes, or confers any of the following: 356

(a) An immunity from tort or other civil liability; 357

(b) A forfeiture of an immunity from tort or other civil 358  
liability; 359

<u>(c) A requirement of confidentiality;</u>	360
<u>(d) A limitation on the use of information, data, reports, or records;</u>	361 362
<u>(e) Tort or other civil liability;</u>	363
<u>(f) A limitation on discovery of matter, introduction into evidence of matter, or testimony pertaining to matter in a tort or other civil action.</u>	364 365 366
<u>(2) This section does not affect a privileged communication between an attorney and the attorney's client as described in section 2317.02 of the Revised Code.</u>	367 368 369
<b>Sec. 2305.38.</b> (A) As used in this section:	370
(1) "Charitable organization" means either of the following:	371
(a) Any charitable nonprofit corporation that is organized and operated pursuant to Chapter 1702. of the Revised Code, including, but not limited to, any such corporation whose articles of incorporation specify that it is organized and to be operated for an education-related purpose;	372 373 374 375 376
(b) Any charitable association, group, institution, or society that is not organized and not operated for profit, including, but not limited to, any such association, group, institution, or society that is organized and operated for any education-related purpose.	377 378 379 380 381
(2) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services that the volunteer performs for a charitable organization, and that are reimbursed to the volunteer or otherwise paid.	382 383 384 385 386
(3) "Corporate services" means services that are performed by a volunteer who is associated with a charitable organization as	387 388

defined in division (A)(1)(a) of this section and that reflect  
duties or responsibilities arising under Chapter 1702. of the  
Revised Code.

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

(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.

(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:

(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.

(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.

(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: 420

(1) An action or omission of the volunteer involves conduct 421  
as described in division (B)(1) or (2) of this section; 422

(2) An action or omission of the volunteer constitutes 423  
willful or wanton misconduct or intentionally tortious conduct. 424

(D) A volunteer is not liable in damages in a civil action 425  
for injury, death, or loss to person or property that arises from 426  
the volunteer's actions or omissions in connection with any 427  
nonsupervisory or noncorporate services that the volunteer 428  
performs for the charitable organization, unless either of the 429  
following applies: 430

(1) An action or omission of the volunteer involves conduct 431  
as described in division (B)(1) or (2) of this section; 432

(2) An action or omission of the volunteer constitutes 433  
negligence, willful or wanton misconduct, or intentionally 434  
tortious conduct. 435

(E)(1) This section does not create a new cause of action or 436  
substantive legal right against a volunteer. 437

(2) This section does not affect any immunities from civil 438  
liability or defenses established by another section of the 439  
Revised Code or available at common law, to which a volunteer may 440  
be entitled under circumstances not covered by this section. This 441  
section does not diminish in any respect the immunities provided 442  
in section ~~2305.25~~ 2305.251 of the Revised Code. The immunities 443  
conferred upon volunteers in this section are not intended to 444  
affect the liability of a charitable organization in a civil 445  
action for injury, death, or loss to person or property. 446

**Sec. 3701.74.** (A) As used in this section and section 447  
3701.741 of the Revised Code: 448

(1) "Ambulatory care facility" means a facility that provides 449  
medical, diagnostic, or surgical treatment to patients who do not 450  
require hospitalization, including a dialysis center, ambulatory 451  
surgical facility, cardiac catheterization facility, diagnostic 452  
imaging center, extracorporeal shock wave lithotripsy center, home 453  
health agency, inpatient hospice, birthing center, radiation 454  
therapy center, emergency facility, and an urgent care center. 455  
"Ambulatory care facility" does not include the private office of 456  
a physician or dentist, whether the office is for an individual or 457  
group practice. 458

(2) "Chiropractor" means an individual licensed under ~~Chapter~~ 459  
Chapter 4734. of the Revised Code to practice chiropractic. 460

~~+(2)~~(3) "Emergency facility" means a hospital emergency 461  
department or any other facility that provides emergency medical 462  
services. 463

(4) "Health care practitioner" means all of the following: 464

(a) A dentist or dental hygienist licensed under Chapter 465  
4715. of the Revised Code; 466

(b) A registered or licensed practical nurse licensed under 467  
Chapter 4723. of the Revised Code; 468

(c) An optometrist licensed under Chapter 4725. of the 469  
Revised Code; 470

(d) A dispensing optician, spectacle dispensing optician, 471  
contact lens dispensing optician, or spectacle-contact lens 472  
dispensing optician licensed under Chapter 4725. of the Revised 473  
Code; 474

(e) A pharmacist licensed under Chapter 4729. of the Revised 475  
Code; 476

(f) A physician; 477

(g) A physician assistant authorized under Chapter 4730. of 478



<u>the Revised Code to practice as a physician assistant;</u>	479
<u>(h) A practitioner of a limited branch of medicine issued a</u>	480
<u>certificate under Chapter 4731. of the Revised Code;</u>	481
<u>(i) A psychologist licensed under Chapter 4732. of the</u>	482
<u>Revised Code;</u>	483
<u>(j) A chiropractor;</u>	484
<u>(k) A hearing aid dealer or fitter licensed under Chapter</u>	485
<u>4747. of the Revised Code;</u>	486
<u>(l) A speech-language pathologist or audiologist licensed</u>	487
<u>under Chapter 4753. of the Revised Code;</u>	488
<u>(m) An occupational therapist or occupational therapy</u>	489
<u>assistant licensed under Chapter 4755. of the Revised Code;</u>	490
<u>(n) A physical therapist or physical therapy assistant</u>	491
<u>licensed under Chapter 4755. of the Revised Code;</u>	492
<u>(o) A professional clinical counselor, professional</u>	493
<u>counselor, social worker, or independent social worker licensed,</u>	494
<u>or a social work assistant registered, under Chapter 4757. of the</u>	495
<u>Revised Code;</u>	496
<u>(p) A dietitian licensed under Chapter 4759. of the Revised</u>	497
<u>Code;</u>	498
<u>(q) A respiratory care professional licensed under Chapter</u>	499
<u>4761. of the Revised Code;</u>	500
<u>(r) An emergency medical technician-basic, emergency medical</u>	501
<u>technician-intermediate, or emergency medical technician-paramedic</u>	502
<u>certified under Chapter 4765. of the Revised Code.</u>	503
<u>(5) "Health care provider" has the same meaning as in section</u>	504
<u>3729.01 of the Revised Code means a hospital, ambulatory care</u>	505
<u>facility, long-term care facility, pharmacy, emergency facility,</u>	506
<u>or health care practitioner.</u>	507

~~(3)~~(6) "Hospital" has the same meaning as in section 3727.01  
of the Revised Code.

(7) "Long-term care facility" means a nursing home,  
residential care facility, or home for the aging, as those terms  
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.

(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.

~~(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.

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

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

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

~~(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  
holding a certificate of authority under Chapter 1751. of the  
Revised Code.

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

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

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

(B) A patient or patient's representative who wishes to  
examine or obtain a copy of part or all of a medical record shall  
submit to the health care provider ~~or practitioner~~ a written  
request signed by the patient dated not more than sixty days  
before the date on which it is submitted. The patient or patient's  
representative who wishes to obtain a copy of the record shall  
indicate in the request whether the copy is to be sent to the  
patient's residence, physician or chiropractor, or representative,  
or held for the patient at the office of the health care provider  
~~or by the practitioner~~. Within a reasonable time after receiving a  
request that meets the requirements of this division and includes  
sufficient information to identify the record requested, a health  
care provider that has the patient's medical records ~~or  
practitioner~~ shall permit the patient to examine the record during  
regular business hours without charge or, on request, shall

provide a copy of the record in accordance with section 3701.741 571  
of the Revised Code, except that if a physician or chiropractor 572  
~~practitioner~~ who has treated the patient determines for clearly 573  
stated treatment reasons that disclosure of the requested record 574  
is likely to have an adverse effect on the patient, the health 575  
care provider ~~or practitioner~~ shall provide the record to a 576  
physician or chiropractor ~~practitioner~~ designated by the patient. 577  
The health care provider ~~or practitioner~~ shall take reasonable 578  
steps to establish the identity of the person making the request 579  
to examine or obtain a copy of the patient's record. 580

(C) If a health care provider ~~or practitioner~~ fails to 582  
furnish a medical record as required by division (B) of this 583  
section, the patient or patient's representative who requested the 584  
record may bring a civil action to enforce the patient's right of 585  
access to the record. 586

(D)(1) This section does not apply to medical records whose 587  
release is covered by section 173.20 or 3721.13 of the Revised 588  
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 589  
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 590  
Records," or by 42 C.F.R. 483.10. 591

(2) Nothing in this section is intended to supersede the 592  
confidentiality provisions of sections 2305.24 ~~to~~, 2305.25, 593  
2305.251, and 2305.252 of the Revised Code. 594

**Sec. 4715.03.** (A) The state dental board shall organize by 595  
the election from its members of a president and a secretary. It 596  
shall hold meetings monthly at least eight months a year at such 597  
times and places as the board designates. A majority of the 598  
members of the board shall constitute a quorum. The board shall 599  
make such reasonable rules as it determines necessary pursuant to 600  
Chapter 119. of the Revised Code. 601

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

(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 665  
for an eligible dentist to obtain a conscious intravenous sedation 666  
permit; 667

(2) The minimum educational and clinical training standards 668  
required of applicants, which shall include satisfactory 669  
completion of an advanced cardiac life support course; 670

(3) The facility equipment and inspection requirements; 671

(4) Safety standards; 672

(5) Requirements for reporting adverse occurrences. 673

**Sec. 4723.28.** (A) The board of nursing, by a vote of a 674  
quorum, may revoke or may refuse to grant a nursing license, 675  
certificate of authority, or dialysis technician certificate to a 676  
person found by the board to have committed fraud in passing an 677  
examination required to obtain the license, certificate of 678  
authority, or dialysis technician certificate or to have committed 679  
fraud, misrepresentation, or deception in applying for or securing 680  
any nursing license, certificate of authority, or dialysis 681  
technician certificate issued by the board. 682

(B) The board of nursing, ~~and~~ by a vote of a quorum, may 683  
impose one or more of the following sanctions: deny, revoke, 684  
suspend, or place restrictions on any nursing license, certificate 685  
of authority, or dialysis technician certificate issued by the 686  
board; reprimand or otherwise discipline a holder of a nursing 687  
license, certificate of authority, or dialysis technician 688  
certificate; or impose a fine of not more than five hundred 689  
dollars per violation. The sanctions may be imposed for any of the 690  
following: 691

(1) Denial, revocation, suspension, or restriction of 692  
authority to practice a health care occupation, including nursing 693  
or practice as a dialysis technician, for any reason other than a 694

failure to renew, in Ohio or another state or jurisdiction; 695

(2) Engaging in the practice of nursing or engaging in 696  
practice as a dialysis technician, having failed to renew a 697  
nursing license or dialysis technician certificate issued under 698  
this chapter, or while a nursing license or dialysis technician 699  
certificate is under suspension; 700

(3) Conviction of, a plea of guilty to, a judicial finding of 701  
guilt of, a judicial finding of guilt resulting from a plea of no 702  
contest to, or a judicial finding of eligibility for intervention 703  
in lieu of conviction for, a misdemeanor committed in the course 704  
of practice; 705

(4) Conviction of, a plea of guilty to, a judicial finding of 706  
guilt of, a judicial finding of guilt resulting from a plea of no 707  
contest to, or a judicial finding of eligibility for intervention 708  
in lieu of conviction for, any felony or of any crime involving 709  
gross immorality or moral turpitude; 710

(5) Selling, giving away, or administering drugs or 711  
therapeutic devices for other than legal and legitimate 712  
therapeutic purposes; or conviction of, a plea of guilty to, a 713  
judicial finding of guilt of, a judicial finding of guilt 714  
resulting from a plea of no contest to, or a judicial finding of 715  
eligibility for intervention in lieu of conviction for, violating 716  
any municipal, state, county, or federal drug law; 717

(6) Conviction of, a plea of guilty to, a judicial finding of 718  
guilt of, a judicial finding of guilt resulting from a plea of no 719  
contest to, or a judicial finding of eligibility for intervention 720  
in lieu of conviction for, an act in another jurisdiction that 721  
would constitute a felony or a crime of moral turpitude in Ohio; 722  
723

(7) Conviction of, a plea of guilty to, a judicial finding of 724  
guilt of, a judicial finding of guilt resulting from a plea of no 725



contest to, or a judicial finding of eligibility for intervention 726  
in lieu of conviction for, an act in the course of practice in 727  
another jurisdiction that would constitute a misdemeanor in Ohio; 728  
729

(8) Self-administering or otherwise taking into the body any 730  
dangerous drug, as defined in section 4729.01 of the Revised Code, 731  
in any way not in accordance with a legal, valid ~~prescription~~ 732  
prescription issued for that individual; 733

(9) Habitual indulgence in the use of controlled substances, 734  
other habit-forming drugs, or alcohol or other chemical substances 735  
to an extent that impairs ability to practice; 736

(10) Impairment of the ability to practice according to 737  
acceptable and prevailing standards of safe nursing care because 738  
of habitual or excessive use of drugs, alcohol, or other chemical 739  
substances that impair the ability to practice; 740

(11) Impairment of the ability to practice according to 741  
acceptable and prevailing standards of safe nursing care because 742  
of a physical or mental disability; 743

(12) Assaulting or causing harm to a patient or depriving a 744  
patient of the means to summon assistance; 745

(13) Obtaining or attempting to obtain money or anything of 746  
value by intentional misrepresentation or material deception in 747  
the course of practice; 748

(14) Adjudication by a probate court of being mentally ill or 749  
mentally incompetent. The board may restore the person's nursing 750  
license or dialysis technician certificate upon adjudication by a 751  
probate court of the person's restoration to competency or upon 752  
submission to the board of other proof of competency. 753  
754

(15) The suspension or termination of employment by the 755  
department of defense or the veterans administration of the United 756

States for any act that violates or would violate this chapter;	757
(16) Violation of this chapter or any rules adopted under it;	758
	759
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	760
	761
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	762
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	764
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	765
	766
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	767
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	769
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	770
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(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	773
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(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	776
	777
	778
(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:	779
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	783
(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,	784
	785
	786

would otherwise be required to pay if the waiver is used as an 787  
enticement to a patient or group of patients to receive health 788  
care services from that provider; 789

(b) Advertising that the nurse will waive the payment of all 790  
or any part of a deductible or copayment that a patient, pursuant 791  
to a health insurance or health care policy, contract, or plan 792  
that covers such nursing services, would otherwise be required to 793  
pay. 794

(25) Failure to comply with the terms and conditions of 795  
participation in the chemical dependency monitoring program 796  
established under section 4723.35 of the Revised Code; 797

(26) Failure to comply with the terms and conditions required 798  
under the practice intervention and improvement program 799  
established under section 4723.282 of the Revised Code; 800

(27) In the case of a certified registered nurse anesthetist, 801  
clinical nurse specialist, certified nurse-midwife, or certified 802  
nurse practitioner: 803

(a) Engaging in activities that exceed those permitted for 804  
the nurse's nursing specialty under section 4723.43 of the Revised 805  
Code; 806

(b) Failure to meet the quality assurance standards 807  
established under section 4723.07 of the Revised Code. 808

(28) In the case of a clinical nurse specialist, certified 809  
nurse-midwife, or certified nurse practitioner, failure to 810  
maintain a standard care arrangement in accordance with section 811  
4723.431 of the Revised Code or to practice in accordance with the 812  
standard care arrangement; 813

(29) In the case of a clinical nurse specialist, certified 814  
nurse-midwife, or certified nurse practitioner who holds a 815  
certificate to prescribe issued under section 4723.48 of the 816

Revised Code, failure to prescribe drugs and therapeutic devices 817  
in accordance with section 4723.481 of the Revised Code; 818

(30) Prescribing any drug or device to perform or induce an 819  
abortion, or otherwise performing or inducing an abortion; 820

(31) Failure to establish and maintain professional 821  
boundaries with a patient, as specified in rules adopted under 822  
section 4723.07 of the Revised Code; 823

(32) Regardless of whether the contact or verbal behavior is 824  
consensual, engaging with a patient other than the spouse of the 825  
registered nurse, licensed practical nurse, or dialysis technician 826  
in any of the following: 827

(a) Sexual contact, as defined in section 2907.01 of the 828  
Revised Code; 829

(b) Verbal behavior that is sexually demeaning to the patient 830  
or may be reasonably interpreted by the patient as sexually 831  
demeaning. 832

(C) Disciplinary actions taken by the board under divisions 833  
(A) and (B) of this section shall be taken pursuant to an 834  
adjudication conducted under Chapter 119. of the Revised Code, 835  
except that in lieu of a hearing, the board may enter into a 836  
consent agreement with an individual to resolve an allegation of a 837  
violation of this chapter or any rule adopted under it. A consent 838  
agreement, when ratified by a vote of a quorum, shall constitute 839  
the findings and order of the board with respect to the matter 840  
addressed in the agreement. If the board refuses to ratify a 841  
consent agreement, the admissions and findings contained in the 842  
agreement shall be of no effect. 843

(D) The hearings of the board shall be conducted in 844  
accordance with Chapter 119. of the Revised Code, the board may 845  
appoint a hearing examiner, as provided in section 119.09 of the 846  
Revised Code, to conduct any hearing the board is authorized to 847

hold under Chapter 119. of the Revised Code.

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

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.

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

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

(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  
without the taking of testimony or presentation of evidence.

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

For purposes of this division, any registered nurse, licensed  
practical nurse, or dialysis technician or applicant under this  
chapter 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.

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

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

(1) Information received by the board pursuant to an 943  
investigation is confidential and not subject to discovery in any 944  
civil action, except that the board may disclose information to 945  
law enforcement officers and government entities investigating a 946  
registered nurse, licensed practical nurse, or dialysis technician 947  
or a person who may have engaged in the unauthorized practice of 948  
nursing. No law enforcement officer or government entity with 949  
knowledge of any information disclosed by the board pursuant to 950  
this division shall divulge the information to any other person or 951  
government entity except for the purpose of an adjudication by a 952  
court or licensing or registration board or officer to which the 953  
person to whom the information relates is a party. 954

(2) If an investigation requires a review of patient records, 955  
the investigation and proceeding shall be conducted in such a 956  
manner as to protect patient confidentiality. 957

(3) All adjudications and investigations of the board shall 958  
be considered civil actions for the purposes of section ~~2305.251~~ 959  
2305.252 of the Revised Code. 960

(4) Any board activity that involves continued monitoring of 961  
an individual as part of or following any disciplinary action 962  
taken under this section shall be conducted in a manner that 963  
maintains the individual's confidentiality. Information received 964  
or maintained by the board with respect to the board's monitoring 965  
activities is confidential and not subject to discovery in any 966  
civil action. 967

(J) Any action taken by the board under this section 968  
resulting in a suspension from practice shall be accompanied by a 969  
written statement of the conditions under which the person may be 970  
reinstated to practice. 971

(K) When the board refuses to grant a license or certificate 972  
to an applicant, revokes a license or certificate, or refuses to 973



reinstate a license or certificate, the board may specify that its  
action is permanent. An individual subject to permanent action  
taken by the board is forever ineligible to hold a license or  
certificate of the type that was refused or revoked and the board  
shall not accept from the individual an application for  
reinstatement of the license or certificate or for a new license  
or certificate.

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

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

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

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

**Sec. 4730.26.** (A) The state medical board shall investigate  
evidence that appears to show that any person has violated this

chapter or a rule adopted under it. Any person may report to the 1005  
board in a signed writing any information the person has that 1006  
appears to show a violation of any provision of this chapter or 1007  
rule adopted under it. In the absence of bad faith, a person who 1008  
reports such information or testifies before the board in an 1009  
adjudication conducted under Chapter 119. of the Revised Code 1010  
shall not be liable for civil damages as a result of reporting the 1011  
information or providing testimony. Each complaint or allegation 1012  
of a violation received by the board shall be assigned a case 1013  
number and be recorded by the board. 1014

(B) Investigations of alleged violations of this chapter or 1015  
rules adopted under it shall be supervised by the supervising 1016  
member elected by the board in accordance with section 4731.02 of 1017  
the Revised Code and by the secretary as provided in section 1018  
4730.33 of the Revised Code. The president may designate another 1019  
member of the board to supervise the investigation in place of the 1020  
supervising member. A member of the board who supervises the 1021  
investigation of a case shall not participate in further 1022  
adjudication of the case. 1023

(C) In investigating a possible violation of this chapter or 1024  
a rule adopted under it, the board may administer oaths, order the 1025  
taking of depositions, issue subpoenas, and compel the attendance 1026  
of witnesses and production of books, accounts, papers, records, 1027  
documents, and testimony, except that a subpoena for patient 1028  
record information shall not be issued without consultation with 1029  
the attorney general's office and approval of the secretary and 1030  
supervising member of the board. Before issuance of a subpoena for 1031  
patient record information, the secretary and supervising member 1032  
shall determine whether there is probable cause to believe that 1033  
the complaint filed alleges a violation of this chapter or a rule 1034  
adopted under it and that the records sought are relevant to the 1035  
alleged violation and material to the investigation. The subpoena 1036

may apply only to records that cover a reasonable period of time 1037  
surrounding the alleged violation. 1038

On failure to comply with any subpoena issued by the board 1039  
and after reasonable notice to the person being subpoenaed, the 1040  
board may move for an order compelling the production of persons 1041  
or records pursuant to the Rules of Civil Procedure. 1042

A subpoena issued by the board may be served by a sheriff, 1043  
the sheriff's deputy, or a board employee designated by the board. 1044  
Service of a subpoena issued by the board may be made by 1045  
delivering a copy of the subpoena to the person named therein, 1046  
reading it to the person, or leaving it at the person's usual 1047  
place of residence. When the person being served is a physician 1048  
assistant, service of the subpoena may be made by certified mail, 1049  
restricted delivery, return receipt requested, and the subpoena 1050  
shall be deemed served on the date delivery is made or the date 1051  
the person refuses to accept delivery. 1052

A sheriff's deputy who serves a subpoena shall receive the 1053  
same fees as a sheriff. Each witness who appears before the board 1054  
in obedience to a subpoena shall receive the fees and mileage 1055  
provided for witnesses in civil cases in the courts of common 1056  
pleas. 1057

(D) All hearings and investigations of the board shall be 1058  
considered civil actions for the purposes of section ~~2305.251~~ 1059  
2305.252 of the Revised Code. 1060

(E) Information received by the board pursuant to an 1061  
investigation is confidential and not subject to discovery in any 1062  
civil action. 1063

The board shall conduct all investigations and proceedings in 1064  
a manner that protects the confidentiality of patients and persons 1065  
who file complaints with the board. The board shall not make 1066  
public the names or any other identifying information about 1067

patients or complainants unless proper consent is given or, in the  
case of a patient, a waiver of the patient privilege exists under  
division (B) of section 2317.02 of the Revised Code, except that  
consent or a waiver is not required if the board possesses  
reliable and substantial evidence that no bona fide  
physician-patient relationship exists.

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

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

officer training council that the board considers appropriate 1100  
under conditions set forth in section 109.79 of the Revised Code. 1101

(G) On a quarterly basis, the board shall prepare a report 1102  
that documents the disposition of all cases during the preceding 1103  
three months. The report shall contain the following information 1104  
for each case with which the board has completed its activities: 1105

(1) The case number assigned to the complaint or alleged 1106  
violation; 1107

(2) The type of certificate to practice, if any, held by the 1108  
individual against whom the complaint is directed; 1109

(3) A description of the allegations contained in the 1110  
complaint; 1111

(4) The disposition of the case. 1112

The report shall state how many cases are still pending, and 1113  
shall be prepared in a manner that protects the identity of each 1114  
person involved in each case. The report shall be submitted to the 1115  
physician assistant policy committee of the board and is a public 1116  
record for purposes of section 149.43 of the Revised Code. 1117

**Sec. 4731.22.** (A) The state medical board, by an affirmative 1118  
vote of not fewer than six of its members, may revoke or may 1119  
refuse to grant a certificate to a person found by the board to 1120  
have committed fraud during the administration of the examination 1121  
for a certificate to practice or to have committed fraud, 1122  
misrepresentation, or deception in applying for or securing any 1123  
certificate to practice or certificate of registration issued by 1124  
the board. 1125

(B) The board, by an affirmative vote of not fewer than six 1126  
members, shall, to the extent permitted by law, limit, revoke, or 1127  
suspend an individual's certificate to practice, refuse to 1128  
register an individual, refuse to reinstate a certificate, or 1129

reprimand or place on probation the holder of a certificate for 1130  
one or more of the following reasons: 1131

(1) Permitting one's name or one's certificate to practice or 1132  
certificate of registration to be used by a person, group, or 1133  
corporation when the individual concerned is not actually 1134  
directing the treatment given; 1135

(2) Failure to maintain minimal standards applicable to the 1136  
selection or administration of drugs, or failure to employ 1137  
acceptable scientific methods in the selection of drugs or other 1138  
modalities for treatment of disease; 1139

(3) Selling, giving away, personally furnishing, prescribing, 1140  
or administering drugs for other than legal and legitimate 1141  
therapeutic purposes or a plea of guilty to, a judicial finding of 1142  
guilt of, or a judicial finding of eligibility for intervention in 1143  
lieu of conviction of, a violation of any federal or state law 1144  
regulating the possession, distribution, or use of any drug; 1145  
1146

(4) Willfully betraying a professional confidence. 1147

For purposes of this division, "willfully betraying a 1148  
professional confidence" does not include providing any 1149  
information, documents, or reports to a child fatality review 1150  
board under sections 307.621 to 307.629 of the Revised Code and 1151  
does not include the making of a report of an employee's use of a 1152  
drug of abuse, or a report of a condition of an employee other 1153  
than one involving the use of a drug of abuse, to the employer of 1154  
the employee as described in division (B) of section 2305.33 of 1155  
the Revised Code. Nothing in this division affects the immunity 1156  
from civil liability conferred by that section upon a physician 1157  
who makes either type of report in accordance with division (B) of 1158  
that section. As used in this division, "employee," "employer," 1159  
and "physician" have the same meanings as in section 2305.33 of 1160

the Revised Code. 1161

(5) Making a false, fraudulent, deceptive, or misleading 1162  
statement in the solicitation of or advertising for patients; in 1163  
relation to the practice of medicine and surgery, osteopathic 1164  
medicine and surgery, podiatric medicine and surgery, or a limited 1165  
branch of medicine; or in securing or attempting to secure any 1166  
certificate to practice or certificate of registration issued by 1167  
the board. 1168

As used in this division, "false, fraudulent, deceptive, or 1169  
misleading statement" means a statement that includes a 1170  
misrepresentation of fact, is likely to mislead or deceive because 1171  
of a failure to disclose material facts, is intended or is likely 1172  
to create false or unjustified expectations of favorable results, 1173  
or includes representations or implications that in reasonable 1174  
probability will cause an ordinarily prudent person to 1175  
misunderstand or be deceived. 1176

(6) A departure from, or the failure to conform to, minimal 1177  
standards of care of similar practitioners under the same or 1178  
similar circumstances, whether or not actual injury to a patient 1179  
is established; 1180

(7) Representing, with the purpose of obtaining compensation 1181  
or other advantage as personal gain or for any other person, that 1182  
an incurable disease or injury, or other incurable condition, can 1183  
be permanently cured; 1184

(8) The obtaining of, or attempting to obtain, money or 1185  
anything of value by fraudulent misrepresentations in the course 1186  
of practice; 1187

(9) A plea of guilty to, a judicial finding of guilt of, or a 1188  
judicial finding of eligibility for intervention in lieu of 1189  
conviction for, a felony; 1190

(10) Commission of an act that constitutes a felony in this 1191

state, regardless of the jurisdiction in which the act was 1192  
committed; 1193

(11) A plea of guilty to, a judicial finding of guilt of, or 1194  
a judicial finding of eligibility for intervention in lieu of 1195  
conviction for, a misdemeanor committed in the course of practice; 1196

(12) Commission of an act in the course of practice that 1197  
constitutes a misdemeanor in this state, regardless of the 1198  
jurisdiction in which the act was committed; 1199

(13) A plea of guilty to, a judicial finding of guilt of, or 1200  
a judicial finding of eligibility for intervention in lieu of 1201  
conviction for, a misdemeanor involving moral turpitude; 1202

(14) Commission of an act involving moral turpitude that 1203  
constitutes a misdemeanor in this state, regardless of the 1204  
jurisdiction in which the act was committed; 1205

(15) Violation of the conditions of limitation placed by the 1206  
board upon a certificate to practice; 1207

(16) Failure to pay license renewal fees specified in this 1208  
chapter; 1209

(17) Except as authorized in section 4731.31 of the Revised 1210  
Code, engaging in the division of fees for referral of patients, 1211  
or the receiving of a thing of value in return for a specific 1212  
referral of a patient to utilize a particular service or business; 1213

(18) Subject to section 4731.226 of the Revised Code, 1214  
violation of any provision of a code of ethics of the American 1215  
medical association, the American osteopathic association, the 1216  
American podiatric medical association, or any other national 1217  
professional organizations that the board specifies by rule. The 1218  
state medical board shall obtain and keep on file current copies 1219  
of the codes of ethics of the various national professional 1220  
organizations. The individual whose certificate is being suspended 1221



or revoked shall not be found to have violated any provision of a  
code of ethics of an organization not appropriate to the  
individual's profession.

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

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

In enforcing this division, the board, upon a showing of a  
possible violation, may compel any individual authorized to  
practice by this chapter or who has submitted an application  
pursuant to this chapter to submit to a mental examination,  
physical examination, including an HIV test, or both a mental and  
a physical examination. The expense of the examination is the  
responsibility of the individual compelled to be examined. Failure  
to submit to a mental or physical examination or consent to an HIV  
test ordered by the board constitutes an admission of the  
allegations against the individual unless the failure is due to  
circumstances beyond the individual's control, and a default and  
final order may be entered without the taking of testimony or

1254 presentation of evidence. If the board finds an individual unable  
1255 to practice because of the reasons set forth in this division, the  
1256 board shall require the individual to submit to care, counseling,  
1257 or treatment by physicians approved or designated by the board, as  
1258 a condition for initial, continued, reinstated, or renewed  
1259 authority to practice. An individual affected under this division  
1260 shall be afforded an opportunity to demonstrate to the board the  
1261 ability to resume practice in compliance with acceptable and  
1262 prevailing standards under the provisions of the individual's  
1263 certificate. For the purpose of this division, any individual who  
1264 applies for or receives a certificate to practice under this  
1265 chapter accepts the privilege of practicing in this state and, by  
1266 so doing, shall be deemed to have given consent to submit to a  
1267 mental or physical examination when directed to do so in writing  
1268 by the board, and to have waived all objections to the  
1269 admissibility of testimony or examination reports that constitute  
1270 a privileged communication.

1271 (20) Except when civil penalties are imposed under section  
1272 4731.225 or 4731.281 of the Revised Code, and subject to section  
1273 4731.226 of the Revised Code, violating or attempting to violate,  
1274 directly or indirectly, or assisting in or abetting the violation  
1275 of, or conspiring to violate, any provisions of this chapter or  
1276 any rule promulgated by the board.

1277 This division does not apply to a violation or attempted  
1278 violation of, assisting in or abetting the violation of, or a  
1279 conspiracy to violate, any provision of this chapter or any rule  
1280 adopted by the board that would preclude the making of a report by  
1281 a physician of an employee's use of a drug of abuse, or of a  
1282 condition of an employee other than one involving the use of a  
1283 drug of abuse, to the employer of the employee as described in  
1284 division (B) of section 2305.33 of the Revised Code. Nothing in  
1285 this division affects the immunity from civil liability conferred

by that section upon a physician who makes either type of report 1286  
in accordance with division (B) of that section. As used in this 1287  
division, "employee," "employer," and "physician" have the same 1288  
meanings as in section 2305.33 of the Revised Code. 1289

(21) The violation of any abortion rule adopted by the public 1290  
health council pursuant to section 3701.341 of the Revised Code; 1291  
1292

(22) Any of the following actions taken by the agency 1293  
responsible for regulating the practice of medicine and surgery, 1294  
osteopathic medicine and surgery, podiatric medicine and surgery, 1295  
or the limited branches of medicine in another jurisdiction, for 1296  
any reason other than the nonpayment of fees: the limitation, 1297  
revocation, or suspension of an individual's license to practice; 1298  
acceptance of an individual's license surrender; denial of a 1299  
license; refusal to renew or reinstate a license; imposition of 1300  
probation; or issuance of an order of censure or other reprimand; 1301

(23) The violation of section 2919.12 of the Revised Code or 1302  
the performance or inducement of an abortion upon a pregnant woman 1303  
with actual knowledge that the conditions specified in division 1304  
(B) of section 2317.56 of the Revised Code have not been satisfied 1305  
or with a heedless indifference as to whether those conditions 1306  
have been satisfied, unless an affirmative defense as specified in 1307  
division (H)(2) of that section would apply in a civil action 1308  
authorized by division (H)(1) of that section; 1309

(24) The revocation, suspension, restriction, reduction, or 1310  
termination of clinical privileges by the United States department 1311  
of defense or department of veterans affairs or the termination or 1312  
suspension of a certificate of registration to prescribe drugs by 1313  
the drug enforcement administration of the United States 1314  
department of justice; 1315

(25) Termination or suspension from participation in the 1316

medicare or medicaid programs by the department of health and 1317  
human services or other responsible agency for any act or acts 1318  
that also would constitute a violation of division (B)(2), (3), 1319  
(6), (8), or (19) of this section; 1320

(26) Impairment of ability to practice according to 1321  
acceptable and prevailing standards of care because of habitual or 1322  
excessive use or abuse of drugs, alcohol, or other substances that 1323  
impair ability to practice. 1324

For the purposes of this division, any individual authorized 1325  
to practice by this chapter accepts the privilege of practicing in 1326  
this state subject to supervision by the board. By filing an 1327  
application for or holding a certificate to practice under this 1328  
chapter, an individual shall be deemed to have given consent to 1329  
submit to a mental or physical examination when ordered to do so 1330  
by the board in writing, and to have waived all objections to the 1331  
admissibility of testimony or examination reports that constitute 1332  
privileged communications. 1333

If it has reason to believe that any individual authorized to 1334  
practice by this chapter or any applicant for certification to 1335  
practice suffers such impairment, the board may compel the 1336  
individual to submit to a mental or physical examination, or both. 1337  
The expense of the examination is the responsibility of the 1338  
individual compelled to be examined. Any mental or physical 1339  
examination required under this division shall be undertaken by a 1340  
treatment provider or physician who is qualified to conduct the 1341  
examination and who is chosen by the board. 1342

Failure to submit to a mental or physical examination ordered 1343  
by the board constitutes an admission of the allegations against 1344  
the individual unless the failure is due to circumstances beyond 1345  
the individual's control, and a default and final order may be 1346  
entered without the taking of testimony or presentation of 1347  
evidence. If the board determines that the individual's ability to 1348

practice is impaired, the board shall suspend the individual's 1349  
certificate or deny the individual's application and shall require 1350  
the individual, as a condition for initial, continued, reinstated, 1351  
or renewed certification to practice, to submit to treatment. 1352

Before being eligible to apply for reinstatement of a 1353  
certificate suspended under this division, the impaired 1354  
practitioner shall demonstrate to the board the ability to resume 1355  
practice in compliance with acceptable and prevailing standards of 1356  
care under the provisions of the practitioner's certificate. The 1357  
demonstration shall include, but shall not be limited to, the 1358  
following: 1359

(a) Certification from a treatment provider approved under 1360  
section 4731.25 of the Revised Code that the individual has 1361  
successfully completed any required inpatient treatment; 1362

(b) Evidence of continuing full compliance with an aftercare 1363  
contract or consent agreement; 1364

(c) Two written reports indicating that the individual's 1365  
ability to practice has been assessed and that the individual has 1366  
been found capable of practicing according to acceptable and 1367  
prevailing standards of care. The reports shall be made by 1368  
individuals or providers approved by the board for making the 1369  
assessments and shall describe the basis for their determination. 1370

The board may reinstate a certificate suspended under this 1371  
division after that demonstration and after the individual has 1372  
entered into a written consent agreement. 1373

When the impaired practitioner resumes practice, the board 1374  
shall require continued monitoring of the individual. The 1375  
monitoring shall include, but not be limited to, compliance with 1376  
the written consent agreement entered into before reinstatement or 1377  
with conditions imposed by board order after a hearing, and, upon 1378  
termination of the consent agreement, submission to the board for 1379

at least two years of annual written progress reports made under 1380  
penalty of perjury stating whether the individual has maintained 1381  
sobriety. 1382

(27) A second or subsequent violation of section 4731.66 or 1383  
4731.69 of the Revised Code; 1384

(28) Except as provided in division (N) of this section: 1385

(a) Waiving the payment of all or any part of a deductible or 1386  
copayment that a patient, pursuant to a health insurance or health 1387  
care policy, contract, or plan that covers the individual's 1388  
services, otherwise would be required to pay if the waiver is used 1389  
as an enticement to a patient or group of patients to receive 1390  
health care services from that individual; 1391

(b) Advertising that the individual will waive the payment of 1392  
all or any part of a deductible or copayment that a patient, 1393  
pursuant to a health insurance or health care policy, contract, or 1394  
plan that covers the individual's services, otherwise would be 1395  
required to pay. 1396

(29) Failure to use universal blood and body fluid 1397  
precautions established by rules adopted under section 4731.051 of 1398  
the Revised Code; 1399

(30) Failure of a collaborating physician to fulfill the 1400  
responsibilities agreed to by the physician and an advanced 1401  
practice nurse participating in a pilot program under section 1402  
4723.52 of the Revised Code; 1403

(31) Failure to provide notice to, and receive acknowledgment 1404  
of the notice from, a patient when required by section 4731.143 of 1405  
the Revised Code prior to providing nonemergency professional 1406  
services, or failure to maintain that notice in the patient's 1407  
file; 1408

(32) Failure of a physician supervising a physician assistant 1409

to maintain supervision in accordance with the requirements of 1410  
Chapter 4730. of the Revised Code and the rules adopted under that 1411  
chapter; 1412

(33) Failure of a physician or podiatrist to enter into a 1413  
standard care arrangement with a clinical nurse specialist, 1414  
certified nurse-midwife, or certified nurse practitioner with whom 1415  
the physician or podiatrist is in collaboration pursuant to 1416  
section 4731.27 of the Revised Code or failure to fulfill the 1417  
responsibilities of collaboration after entering into a standard 1418  
care arrangement; 1419

(34) Failure to comply with the terms of a consult agreement 1420  
entered into with a pharmacist pursuant to section 4729.39 of the 1421  
Revised Code; 1422

(35) Failure to cooperate in an investigation conducted by 1423  
the board under division (F) of this section, including failure to 1424  
comply with a subpoena or order issued by the board or failure to 1425  
answer truthfully a question presented by the board at a 1426  
deposition or in written interrogatories, except that failure to 1427  
cooperate with an investigation shall not constitute grounds for 1428  
discipline under this section if a court of competent jurisdiction 1429  
has issued an order that either quashes a subpoena or permits the 1430  
individual to withhold the testimony or evidence in issue; 1431

(36) Failure to supervise an acupuncturist in accordance with 1432  
Chapter 4762. of the Revised Code and the board's rules for 1433  
supervision of an acupuncturist; 1434

(37) Failure to supervise an anesthesiologist assistant in 1435  
accordance with Chapter 4760. of the Revised Code and the board's 1436  
rules for supervision of an anesthesiologist assistant. 1437

(C) Disciplinary actions taken by the board under divisions 1438  
(A) and (B) of this section shall be taken pursuant to an 1439  
adjudication under Chapter 119. of the Revised Code, except that 1440

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

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

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

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



any rule adopted under it. In the absence of bad faith, any person  
who reports information of that nature or who testifies before the  
board in any adjudication conducted under Chapter 119. of the  
Revised Code shall not be liable in damages in a civil action as a  
result of the report or testimony. Each complaint or allegation of  
a violation received by the board shall be assigned a case number  
and shall be recorded by the board.

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

(3) In investigating a possible violation of this chapter or  
any rule adopted under this chapter, the board may administer  
oaths, order the taking of depositions, issue subpoenas, and  
compel the attendance of witnesses and production of books,  
accounts, papers, records, documents, and testimony, except that a  
subpoena for patient record information shall not be issued  
without consultation with the attorney general's office and  
approval of the secretary and supervising member of the board.  
Before issuance of a subpoena for patient record information, the  
secretary and supervising member shall determine whether there is  
probable cause to believe that the complaint filed alleges a  
violation of this chapter or any 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 1505  
and after reasonable notice to the person being subpoenaed, the 1506  
board may move for an order compelling the production of persons 1507  
or records pursuant to the Rules of Civil Procedure. 1508

A subpoena issued by the board may be served by a sheriff, 1509  
the sheriff's deputy, or a board employee designated by the board. 1510  
Service of a subpoena issued by the board may be made by 1511  
delivering a copy of the subpoena to the person named therein, 1512  
reading it to the person, or leaving it at the person's usual 1513  
place of residence. When the person being served is a person whose 1514  
practice is authorized by this chapter, service of the subpoena 1515  
may be made by certified mail, restricted delivery, return receipt 1516  
requested, and the subpoena shall be deemed served on the date 1517  
delivery is made or the date the person refuses to accept 1518  
delivery. 1519

A sheriff's deputy who serves a subpoena shall receive the 1520  
same fees as a sheriff. Each witness who appears before the board 1521  
in obedience to a subpoena shall receive the fees and mileage 1522  
provided for witnesses in civil cases in the courts of common 1523  
pleas. 1524

(4) All hearings and investigations of the board shall be 1525  
considered civil actions for the purposes of section ~~2305.251~~ 1526  
2305.252 of the Revised Code. 1527

(5) Information received by the board pursuant to an 1528  
investigation is confidential and not subject to discovery in any 1529  
civil action. 1530

The board shall conduct all investigations and proceedings in 1531  
a manner that protects the confidentiality of patients and persons 1532  
who file complaints with the board. The board shall not make 1533  
public the names or any other identifying information about 1534  
patients or complainants unless proper consent is given or, in the 1535

case of a patient, a waiver of the patient privilege exists under 1536  
division (B) of section 2317.02 of the Revised Code, except that 1537  
consent or a waiver of that nature is not required if the board 1538  
possesses reliable and substantial evidence that no bona fide 1539  
physician-patient relationship exists. 1540

The board may share any information it receives pursuant to 1541  
an investigation, including patient records and patient record 1542  
information, with law enforcement agencies, other licensing 1543  
boards, and other governmental agencies that are prosecuting, 1544  
adjudicating, or investigating alleged violations of statutes or 1545  
administrative rules. An agency or board that receives the 1546  
information shall comply with the same requirements regarding 1547  
confidentiality as those with which the state medical board must 1548  
comply, notwithstanding any conflicting provision of the Revised 1549  
Code or procedure of the agency or board that applies when it is 1550  
dealing with other information in its possession. In a judicial 1551  
proceeding, the information may be admitted into evidence only in 1552  
accordance with the Rules of Evidence, but the court shall require 1553  
that appropriate measures are taken to ensure that confidentiality 1554  
is maintained with respect to any part of the information that 1555  
contains names or other identifying information about patients or 1556  
complainants whose confidentiality was protected by the state 1557  
medical board when the information was in the board's possession. 1558  
Measures to ensure confidentiality that may be taken by the court 1559  
include sealing its records or deleting specific information from 1560  
its records. 1561

(6) On a quarterly basis, the board shall prepare a report 1562  
that documents the disposition of all cases during the preceding 1563  
three months. The report shall contain the following information 1564  
for each case with which the board has completed its activities: 1565

(a) The case number assigned to the complaint or alleged 1566  
violation; 1567

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

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

(d) The disposition of the case.

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

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

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

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the 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. 1599

Any summary suspension imposed under this division shall 1600  
remain in effect, unless reversed on appeal, until a final 1601  
adjudicative order issued by the board pursuant to this section 1602  
and Chapter 119. of the Revised Code becomes effective. The board 1603  
shall issue its final adjudicative order within sixty days after 1604  
completion of its hearing. A failure to issue the order within 1605  
sixty days shall result in dissolution of the summary suspension 1606  
order but shall not invalidate any subsequent, final adjudicative 1607  
order. 1608

(H) If the board takes action under division (B)(9), (11), or 1609  
(13) of this section and the judicial finding of guilt, guilty 1610  
plea, or judicial finding of eligibility for intervention in lieu 1611  
of conviction is overturned on appeal, upon exhaustion of the 1612  
criminal appeal, a petition for reconsideration of the order may 1613  
be filed with the board along with appropriate court documents. 1614  
Upon receipt of a petition of that nature and supporting court 1615  
documents, the board shall reinstate the individual's certificate 1616  
to practice. The board may then hold an adjudication under Chapter 1617  
119. of the Revised Code to determine whether the individual 1618  
committed the act in question. Notice of an opportunity for a 1619  
hearing shall be given in accordance with Chapter 119. of the 1620  
Revised Code. If the board finds, pursuant to an adjudication held 1621  
under this division, that the individual committed the act or if 1622  
no hearing is requested, the board may order any of the sanctions 1623  
identified under division (B) of this section. 1624

(I) The certificate to practice issued to an individual under 1626  
this chapter and the individual's practice in this state are 1627  
automatically suspended as of the date the individual pleads 1628  
guilty to, is found by a judge or jury to be guilty of, or is 1629  
subject to a judicial finding of eligibility for intervention in 1630

lieu of conviction in this state or treatment or intervention in 1631  
lieu of conviction in another jurisdiction for any of the 1632  
following criminal offenses in this state or a substantially 1633  
equivalent criminal offense in another jurisdiction: aggravated 1634  
murder, murder, voluntary manslaughter, felonious assault, 1635  
kidnapping, rape, sexual battery, gross sexual imposition, 1636  
aggravated arson, aggravated robbery, or aggravated burglary. 1637  
Continued practice after suspension shall be considered practicing 1638  
without a certificate. 1639

The board shall notify the individual subject to the 1640  
suspension by certified mail or in person in accordance with 1641  
section 119.07 of the Revised Code. If an individual whose 1642  
certificate is suspended under this division fails to make a 1643  
timely request for an adjudication under Chapter 119. of the 1644  
Revised Code, the board shall enter a final order permanently 1645  
revoking the individual's certificate to practice. 1646

(J) If the board is required by Chapter 119. of the Revised 1647  
Code to give notice of an opportunity for a hearing and if the 1648  
individual subject to the notice does not timely request a hearing 1649  
in accordance with section 119.07 of the Revised Code, the board 1650  
is not required to hold a hearing, but may adopt, by an 1651  
affirmative vote of not fewer than six of its members, a final 1652  
order that contains the board's findings. In that final order, the 1653  
board may order any of the sanctions identified under division (A) 1654  
or (B) of this section. 1655

(K) Any action taken by the board under division (B) of this 1656  
section resulting in a suspension from practice shall be 1657  
accompanied by a written statement of the conditions under which 1658  
the individual's certificate to practice may be reinstated. The 1659  
board shall adopt rules governing conditions to be imposed for 1660  
reinstatement. Reinstatement of a certificate suspended pursuant 1661  
to division (B) of this section requires an affirmative vote of 1662

not fewer than six members of the board.

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

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

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

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

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

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

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

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(2) For professional services rendered to any other person 1695  
authorized to practice pursuant to this chapter, to the extent 1696  
allowed by this chapter and rules adopted by the board. 1697

(O) Under the board's investigative duties described in this 1698  
section and subject to division (F) of this section, the board 1699  
shall develop and implement a quality intervention program 1700  
designed to improve through remedial education the clinical and 1701  
communication skills of individuals authorized under this chapter 1702  
to practice medicine and surgery, osteopathic medicine and 1703  
surgery, and podiatric medicine and surgery. In developing and 1704  
implementing the quality intervention program, the board may do 1705  
all of the following: 1706

(1) Offer in appropriate cases as determined by the board an 1707  
educational and assessment program pursuant to an investigation 1708  
the board conducts under this section; 1709

(2) Select providers of educational and assessment services, 1710  
including a quality intervention program panel of case reviewers; 1711

(3) Make referrals to educational and assessment service 1712  
providers and approve individual educational programs recommended 1713  
by those providers. The board shall monitor the progress of each 1714  
individual undertaking a recommended individual educational 1715  
program. 1716

(4) Determine what constitutes successful completion of an 1717  
individual educational program and require further monitoring of 1718  
the individual who completed the program or other action that the 1719  
board determines to be appropriate; 1720

(5) Adopt rules in accordance with Chapter 119. of the 1721  
Revised Code to further implement the quality intervention 1722  
program. 1723

An individual who participates in an individual educational 1724



program pursuant to this division shall pay the financial 1725  
obligations arising from that educational program. 1726

**Sec. 4731.36.** (A) Sections 4731.01 to 4731.47 of the Revised 1727  
Code shall not prohibit service in case of emergency, domestic 1728  
administration of family remedies, or provision of assistance to 1729  
another individual who is self-administering drugs. 1730

Sections 4731.01 to 4731.47 of the Revised Code shall not 1731  
apply to any of the following: 1732

(1) A commissioned medical officer of the United States armed 1733  
forces, as defined in section 5903.11 of the Revised Code, or an 1734  
employee of the veterans administration of the United States or 1735  
the United States public health service in the discharge of the 1736  
officer's or employee's professional duties; 1737

(2) A dentist authorized under Chapter 4715. of the Revised 1738  
Code to practice dentistry when engaged exclusively in the 1739  
practice of dentistry or when administering anesthetics in the 1740  
practice of dentistry; 1741

(3) A physician or surgeon in another state or territory who 1742  
is a legal practitioner of medicine or surgery therein when 1743  
providing consultation to an individual holding a certificate to 1744  
practice issued under this chapter who is responsible for the 1745  
examination, diagnosis, and treatment of the patient who is the 1746  
subject of the consultation, if one of the following applies: 1747

(a) The physician or surgeon does not provide consultation in 1748  
this state on a regular or frequent basis. 1749

(b) The physician or surgeon provides the consultation 1750  
without compensation of any kind, direct or indirect, for the 1751  
consultation. 1752

(c) The consultation is part of the curriculum of a medical 1753  
school or osteopathic medical school of this state or a program 1754

described in division (A)(2) of section 4731.291 of the Revised  
Code. 1755  
1756

(4) A physician or surgeon in another state or territory who 1757  
is a legal practitioner of medicine or surgery therein and 1758  
provided services to a patient in that state or territory, when 1759  
providing, not later than one year after the last date services 1760  
were provided in another state or territory, follow-up services in 1761  
person or through the use of any communication, including oral, 1762  
written, or electronic communication, in this state to the patient 1763  
for the same condition; 1764

(5) A physician or surgeon residing on the border of a 1765  
contiguous state and authorized under the laws thereof to practice 1766  
medicine and surgery therein, whose practice extends within the 1767  
limits of this state. Such practitioner shall not either in person 1768  
or through the use of any communication, including oral, written, 1769  
or electronic communication, open an office or appoint a place to 1770  
see patients or receive calls within the limits of this state. 1771  
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(6) A board, committee, or corporation engaged in the conduct 1773  
described in division (A) of section ~~2305.25~~ 2305.251 of the 1774  
Revised Code when acting within the scope of the functions of the 1775  
board, committee, or corporation; 1776

(7) The conduct of an independent review organization 1777  
accredited by the superintendent of insurance under section 1778  
3901.80 of the Revised Code for the purpose of external reviews 1779  
conducted under sections 1751.84, 1751.85, 3923.67, 3923.68, 1780  
3923.76, and 3923.77 of the Revised Code. 1781

(B) Sections 4731.51 to 4731.61 of the Revised Code do not 1782  
apply to any graduate of a podiatric school or college while 1783  
performing those acts that may be prescribed by or incidental to 1784  
participation in an accredited podiatric internship, residency, or 1785

fellowship program situated in this state approved by the state 1786  
medical board. 1787

(C) This chapter does not apply to an acupuncturist who 1788  
complies with Chapter 4762. of the Revised Code. 1789

(D) This chapter does not prohibit the administration of 1790  
drugs by any of the following: 1791

(1) An individual who is licensed or otherwise specifically 1792  
authorized by the Revised Code to administer drugs; 1793

(2) An individual who is not licensed or otherwise 1794  
specifically authorized by the Revised Code to administer drugs, 1795  
but is acting pursuant to the rules for delegation of medical 1796  
tasks adopted under section 4731.053 of the Revised Code; 1797

(3) An individual specifically authorized to administer drugs 1798  
pursuant to a rule adopted under the Revised Code that is in 1799  
effect on the effective date of this amendment, as long as the 1800  
rule remains in effect, specifically authorizing an individual to 1801  
administer drugs. 1802

(E) The exemptions described in divisions (A)(3), (4), and 1803  
(5) of this section do not apply to a physician or surgeon whose 1804  
certificate to practice issued under this chapter is under 1805  
suspension or has been revoked or permanently revoked by action of 1806  
the state medical board. 1807

**Sec. 4734.45.** (A) The state chiropractic board shall 1808  
investigate evidence that appears to show that a person has 1809  
violated any provision of this chapter or the rules adopted under 1810  
it. Any person may report to the board in writing or by other 1811  
means any information the person has that appears to show a 1812  
violation of any provision of this chapter or the rules adopted 1813  
under it. In the absence of bad faith, a person who reports to the 1814  
board, cooperates in an investigation, or testifies before the 1815

board in an adjudication shall not be liable for civil damages as 1816  
a result of reporting, cooperating, or providing testimony. 1817

(B) Information received by the board pursuant to an 1818  
investigation is confidential and not subject to discovery in any 1819  
civil action, except that for good cause, the board or its 1820  
executive director may disclose or authorize disclosure of 1821  
information gathered pursuant to an investigation. 1822

The board and its employees may share appropriate information 1823  
in the board's possession with any federal, state, or local law 1824  
enforcement, prosecutorial, or regulatory agency or its officers 1825  
or agents engaging in an investigation. The board and its 1826  
employees may cooperate in any other manner with the agency or its 1827  
officers or agents engaging in an investigation. 1828

An agency that receives confidential information shall comply 1829  
with the same requirements regarding confidentiality as those with 1830  
which the board must comply, notwithstanding any conflicting 1831  
provision of the Revised Code or procedure of the agency that 1832  
applies when the agency is dealing with other information in its 1833  
possession. The information may be admitted into evidence in a 1834  
criminal trial in accordance with the Rules of Evidence, or in an 1835  
administrative hearing conducted by an agency, but the court or 1836  
agency shall require that appropriate measures be taken to ensure 1837  
that confidentiality is maintained with respect to any part of the 1838  
information that contains names or other identifying information 1839  
about patients, complainants, or others whose confidentiality was 1840  
protected by the state chiropractic board when the information was 1841  
in the board's possession. Measures to ensure confidentiality that 1842  
may be taken by the court or agency include sealing its records or 1843  
redacting specific information from its records. 1844

(C) All hearings and investigations of the board shall be 1845  
considered civil actions for the purposes of section ~~2305.251~~ 1846

2305.252 of the Revised Code.

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

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

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

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to believe that the complaint filed alleges a violation of this 1879  
chapter or the rules adopted under it and that the records sought 1880  
are relevant to the alleged violation and material to the 1881  
investigation. The subpoena may apply only to records that cover a 1882  
reasonable period of time surrounding the alleged violation. 1883  
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On failure to comply with any subpoena issued by the board 1885  
and after reasonable notice to the person being subpoenaed, the 1886  
board may move for an order compelling the production of persons 1887  
or records pursuant to the Rules of Civil Procedure. 1888

A subpoena issued by the board may be served by a sheriff, 1889  
the sheriff's deputy, or a board employee designated by the board. 1890  
Service of a subpoena issued by the board may be made by 1891  
delivering a copy of the subpoena to the person named therein, 1892  
reading it to the person, or leaving it at the person's usual 1893  
place of residence. When the person being served is an 1894  
anesthesiologist assistant, service of the subpoena may be made by 1895  
certified mail, restricted delivery, return receipt requested, and 1896  
the subpoena shall be deemed served on the date delivery is made 1897  
or the date the person refuses to accept delivery. 1898

A sheriff's deputy who serves a subpoena shall receive the 1899  
same fees as a sheriff. Each witness who appears before the board 1900  
in obedience to a subpoena shall receive the fees and mileage 1901  
provided for witnesses in civil cases in the courts of common 1902  
pleas. 1903

(D) All hearings and investigations of the board shall be 1904  
considered civil actions for the purposes of section ~~2305.251~~ 1905  
2305.252 of the Revised Code. 1906

(E) Information received by the board pursuant to an 1907  
investigation is confidential and not subject to discovery in any 1908  
civil action. 1909

The board shall conduct all investigations and proceedings in 1910  
a manner that protects the confidentiality of patients and persons 1911  
who file complaints with the board. The board shall not make 1912  
public the names or any other identifying information about 1913  
patients or complainants unless proper consent is given. 1914

The board may share any information it receives pursuant to 1915  
an investigation, including patient records and patient record 1916  
information, with law enforcement agencies, other licensing 1917  
boards, and other governmental agencies that are prosecuting, 1918  
adjudicating, or investigating alleged violations of statutes or 1919  
administrative rules. An agency or board that receives the 1920  
information shall comply with the same requirements regarding 1921  
confidentiality as those with which the state medical board must 1922  
comply, notwithstanding any conflicting provision of the Revised 1923  
Code or procedure of the agency or board that applies when it is 1924  
dealing with other information in its possession. In a judicial 1925  
proceeding, the information may be admitted into evidence only in 1926  
accordance with the Rules of Evidence, but the court shall require 1927  
that appropriate measures are taken to ensure that confidentiality 1928  
is maintained with respect to any part of the information that 1929  
contains names or other identifying information about patients or 1930  
complainants whose confidentiality was protected by the state 1931  
medical board when the information was in the board's possession. 1932  
Measures to ensure confidentiality that may be taken by the court 1933  
include sealing its records or deleting specific information from 1934  
its records. 1935

(F) The state medical board shall develop requirements for 1936  
and provide appropriate initial training and continuing education 1937  
for investigators employed by the board to carry out its duties 1938  
under this chapter. The training and continuing education may 1939  
include enrollment in courses operated or approved by the Ohio 1940  
peace officer training council that the board considers 1941

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

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

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

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

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

(4) The disposition of the case.

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

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

(B) Investigations of alleged violations of this chapter or



rules adopted under it shall be supervised by the supervising 1972  
member elected by the board in accordance with section 4731.02 of 1973  
the Revised Code and by the secretary as provided in section 1974  
4762.15 of the Revised Code. The board's president may designate 1975  
another member of the board to supervise the investigation in 1976  
place of the supervising member. A member of the board who 1977  
supervises the investigation of a case shall not participate in 1978  
further adjudication of the case. 1979

(C) In investigating a possible violation of this chapter or 1980  
the rules adopted under it, the board may administer oaths, order 1981  
the taking of depositions, issue subpoenas, and compel the 1982  
attendance of witnesses and production of books, accounts, papers, 1983  
records, documents, and testimony, except that a subpoena for 1984  
patient record information shall not be issued without 1985  
consultation with the attorney general's office and approval of 1986  
the secretary and supervising member of the board. Before issuance 1987  
of a subpoena for patient record information, the secretary and 1988  
supervising member shall determine whether there is probable cause 1989  
to believe that the complaint filed alleges a violation of this 1990  
chapter or the rules adopted under it and that the records sought 1991  
are relevant to the alleged violation and material to the 1992  
investigation. The subpoena may apply only to records that cover a 1993  
reasonable period of time surrounding the alleged violation. 1994

On failure to comply with any subpoena issued by the board 1996  
and after reasonable notice to the person being subpoenaed, the 1997  
board may move for an order compelling the production of persons 1998  
or records pursuant to the Rules of Civil Procedure. 1999

A subpoena issued by the board may be served by a sheriff, 2000  
the sheriff's deputy, or a board employee designated by the board. 2001  
Service of a subpoena issued by the board may be made by 2002  
delivering a copy of the subpoena to the person named therein, 2003

reading it to the person, or leaving it at the person's usual  
place of residence. When the person being served is an  
acupuncturist, service of the subpoena may be made by certified  
mail, restricted delivery, return receipt requested, and the  
subpoena shall be deemed served on the date delivery is made or  
the date the person refuses to accept delivery.

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

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

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

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

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

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

(4) The disposition of the case.

The report shall state how many cases are still pending, and 2066  
shall be prepared in a manner that protects the identity of each 2067  
person involved in each case. The report is a public record for 2068  
purposes of section 149.43 of the Revised Code. 2069

**Section 2.** That existing sections 109.36, 1751.21, 2305.25, 2070  
2305.251, 2305.38, 3701.74, 4715.03, 4723.28, 4730.26, 4731.22, 2071  
4731.36, 4734.45, 4760.14, and 4762.14 of the Revised Code are 2072  
hereby repealed. 2073

**Section 3.** Section 3701.74 of the Revised Code is presented 2074  
in this act as a composite of the section as amended by both Am. 2075  
Sub. H.B. 508 and Sub. H.B. 506 of the 123rd General Assembly. The 2076  
General Assembly, applying the principle stated in division (B) of 2077  
section 1.52 of the Revised Code that amendments are to be 2078  
harmonized if reasonably capable of simultaneous operation, finds 2079  
that the composite is the resulting version of the section in 2080  
effect prior to the effective date of the section as presented in 2081  
this act. 2082