

As Reported by the House Criminal Justice Committee

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A B I L L

To amend sections 2305.111, 2907.01, 2907.03, 2907.06,	1
4732.01, 4732.02, 4732.141, and 4732.17 and to	2
enact sections 2305.115, 2307.63, 2907.17,	3
2907.171, 2907.18, 4732.021, 4732.171, 4732.172,	4
4732.173, and 4732.31 of the Revised Code to extend	5
the statute of limitations and limit the defense of	6
consent in a civil assault or battery actions by a	7
mental health client or patient against a mental	8
health professional based on sexual conduct or	9
sexual contact; to expand the offenses of "sexual	10
battery" and "sexual imposition" to prohibit in	11
specified circumstances involving false claims of	12
necessary treatment mental health professionals	13
from engaging in sexual conduct or having sexual	14
contact with their mental health clients or	15
patients; to provide for notice to the regulatory	16
entity with authority over a mental health	17
professional who is charged with or convicted of	18
those activities; to modify the laws regarding the	19
State Board of Psychology; and to modify the laws	20
governing psychologist misconduct.	21

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

Section 1. That sections 2305.111, 2907.01, 2907.03, 2907.06, 22
4732.01, 4732.02, 4732.141, and 4732.17 be amended and sections 23
2905.115, 2307.63, 2907.17, 2907.171, 2907.18, 4732.021, 4732.171, 24
4732.172, 4732.173, and 4732.31 of the Revised Code be enacted to 25
read as follows: 26

Sec. 2305.111. ~~An~~ Except as provided in section 2305.115 of 27
the Revised Code, an action for assault or battery shall be 28
brought within one year after the cause of the action accrues. For 29
purposes of this section, a cause of action for assault or battery 30
accrues upon the later of the following: 31

(A) The date on which the alleged assault or battery 32
occurred; 33

(B) If the plaintiff did not know the identity of the person 34
who allegedly committed the assault or battery on the date on 35
which it allegedly occurred, the earlier of the following dates: 36

(1) The date on which the plaintiff learns the identity of 37
that person; 38

(2) The date on which, by the exercise of reasonable 39
diligence, ~~he~~ the plaintiff should have learned the identity of 40
that person. 41

Sec. 2305.115. (A) An action for assault or battery shall be 42
brought within two years after the cause of action accrues, except 43
as provided in division (B) of this section, if all of the 44
following apply regarding the action, the cause of the action, and 45
the parties to the action: 46

(1) The action is brought against a mental health 47
professional. 48

(2) The assault or battery claim asserted in the action is 49

that, while the plaintiff was a mental health client or patient of
the mental health professional, the mental health professional
engaged in sexual conduct with, had sexual contact with, or caused
one or more other persons to have sexual contact with the
plaintiff.

(3) At the time of the sexual conduct or sexual contact
described in division (A)(2) of this section, the plaintiff was
not the spouse of the mental health professional.

(B) If the mental health service relationship between the
plaintiff in an action for assault or battery that is described in
division (A) of this section and the mental health professional
continues after the date on which the cause of action accrues, the
two-year period specified in division (A) of this section does not
begin to run until the date on which that mental health service
relationship is terminated by either or both of the parties.

(C) Unless division (A) or (B) of this section applies, an
action for assault or battery shall be brought as provided in
section 2305.111 of the Revised Code.

(D) As used in this section:

(1) "Mental health client or patient" " and "mental health
service" have the same meanings as in section 2305.51 of the
Revised Code.

(2) "Mental health professional" has the same meaning as in
section 2305.51 of the Revised Code and also includes an
individual who is not licensed, certified, or registered under the
Revised Code, or otherwise authorized in this state, but who
regularly provides or purports to provide mental health services
for compensation or remuneration at an established place of
business.

(3) "Mental health service relationship" means the
relationship between a mental health professional and a mental

health client or patient of the mental health professional that
exists for purposes of the mental health professional's provision
of mental health services to the mental health client or patient.

(4) "Sexual conduct" and "sexual contact" have the same
meanings as in section 2907.01 of the Revised Code.

Sec. 2307.63. (A) In an action for assault or battery brought
against a mental health professional that asserts as a claim that,
while the plaintiff was a mental health client or patient of the
mental health professional, the mental health professional engaged
in sexual conduct with, had sexual contact with, or caused one or
more other persons to have sexual contact with the plaintiff, the
consent of the plaintiff to the sexual conduct or sexual contact
is not a defense to the claim unless either of the following
applies:

(1) At the time of that sexual conduct or sexual contact, the
plaintiff was the spouse of the mental health professional.

(2) The mental health professional proves by a preponderance
of the evidence all of the following:

(a) At the time of the sexual conduct or sexual contact, the
plaintiff was not emotionally dependent upon the mental health
professional.

(b) The plaintiff did not submit to the sexual conduct or
sexual contact because of therapeutic deception by the mental
health professional or because the mental health professional
falsely represented to the plaintiff that the sexual conduct or
sexual contact was necessary for medical or mental health
purposes.

(B) As used in this section:

(1) "Emotionally dependent" means that the emotional
condition of a mental health client or patient of a mental health

professional and the treatment provided by the mental health
professional to the client or patient are of such a nature that
the mental health professional knows or has reason to know that
the client or patient is unable to withhold consent to one or more
of the following:

(a) Engaging in sexual conduct with the mental health
professional;

(b) Having sexual contact with the mental health professional
or having sexual contact caused by the mental health professional
with one or more other persons.

(2) "Mental health client or patient" has the same meaning as
in section 2305.51 of the Revised Code.

(3) "Mental health professional" has the same meaning as in
section 2305.115 of the Revised Code.

(4) "Sexual conduct" and "sexual contact" have the same
meanings as in section 2907.01 of the Revised Code.

(5) "Therapeutic deception" means a representation by a
mental health professional that one or more of the following is
consistent with or part of the treatment for a mental health
client or patient of the mental health professional:

(a) The client or patient engaging in sexual conduct with the
mental health professional;

(b) The client or patient having sexual contact with the
mental health professional or having sexual contact caused by the
mental health professional with one or more other persons.

Sec. 2907.01. As used in sections 2907.01 to 2907.37 of the
Revised Code:

(A) "Sexual conduct" means vaginal intercourse between a male
and female; anal intercourse, fellatio, and cunnilingus between

persons regardless of sex; and, without privilege to do so, the
insertion, however slight, of any part of the body or any
instrument, apparatus, or other object into the vaginal or anal
cavity of another. Penetration, however slight, is sufficient to
complete vaginal or anal intercourse.

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

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

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

(E) Any material or performance is "harmful to juveniles," if
it is offensive to prevailing standards in the adult community
with respect to what is suitable for juveniles, and if any of the
following apply:

(1) It tends to appeal to the prurient interest of juveniles;

(2) It contains a display, description, or representation of
sexual activity, masturbation, sexual excitement, or nudity;

(3) It contains a display, description, or representation of
bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) It contains a display, description, or representation of
human bodily functions of elimination;

(5) It makes repeated use of foul language;

(6) It contains a display, description, or representation in
lurid detail of the violent physical torture, dismemberment,
destruction, or death of a human being;

(7) It contains a display, description, or representation of criminal activity that tends to glorify or glamorize the activity, and that, with respect to juveniles, has a dominant tendency to corrupt.

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

(1) Its dominant appeal is to prurient interest;

(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;

(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(G) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(H) "Nudity" means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

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

(J) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch.

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

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

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

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

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

(M) "Minor" means a person under the age of eighteen.

(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(O) "Mental health professional" has the same meaning as in 231
section 2305.115 of the Revised Code. 232

Sec. 2907.03. (A) No person shall engage in sexual conduct 234
with another, not the spouse of the offender, when any of the 235
following apply: 236

(1) The offender knowingly coerces the other person to submit 237
by any means that would prevent resistance by a person of ordinary 238
resolution. 239

(2) The offender knows that the other person's ability to 240
appraise the nature of or control the other person's own conduct 241
is substantially impaired. 242

(3) The offender knows that the other person submits because 243
the other person is unaware that the act is being committed. 244

(4) The offender knows that the other person submits because 245
the other person mistakenly identifies the offender as the other 246
person's spouse. 247

(5) The offender is the other person's natural or adoptive 248
parent, or a stepparent, or guardian, custodian, or person in loco 249
parentis of the other person. 250

(6) The other person is in custody of law or a patient in a 251
hospital or other institution, and the offender has supervisory or 252
disciplinary authority over the other person. 253

(7) The offender is a teacher, administrator, coach, or other 254
person in authority employed by or serving in a school for which 255
the state board of education prescribes minimum standards pursuant 256
to division (D) of section 3301.07 of the Revised Code, the other 257
person is enrolled in or attends that school, and the offender is 258
not enrolled in and does not attend that school. 259

(8) The other person is a minor, the offender is a teacher, 260

administrator, coach, or other person in authority employed by or
serving in an institution of higher education, and the other
person is enrolled in or attends that institution.

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

(10) The offender is a mental health professional, the other
person is a mental health client or patient of the offender, and
the offender induces the other person to submit by falsely
representing to the other person that the sexual conduct is
necessary for mental health treatment purposes.

(B) Whoever violates this section is guilty of sexual
battery, a felony of the third degree.

(C) As used in this section, "institution of higher
education" means a state institution of higher education defined
in section 3345.011 of the Revised Code, a private nonprofit
college or university located in this state that possesses a
certificate of authorization issued by the Ohio board of regents
pursuant to Chapter 1713. of the Revised Code, or a school
certified under Chapter 3332. of the Revised Code.

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

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

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

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

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

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

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

(C) Whoever violates this section is guilty of sexual
imposition, a misdemeanor of the third degree. If the offender
previously has been convicted of a violation of this section or of
section 2907.02, 2907.03, 2907.04, 2907.05, or 2907.12 of the
Revised Code, a violation of this section is a misdemeanor of the
first degree.

Sec. 2907.17. If a mental health professional is indicted or
charged and bound over to the court of common pleas for trial for
an alleged violation of division (A)(10) of section 2907.03 or

division (A)(5) of section 2907.06 of the Revised Code, the 321
prosecuting attorney handling the case shall send written notice 322
of the indictment or the charge and bind over to the regulatory or 323
licensing board or agency, if any, that has the administrative 324
authority to suspend or revoke the mental health professional's 325
professional license, certification, registration, or 326
authorization. 327

Sec. 2907.171. The failure of the prosecuting attorney to 328
give the notice required by section 2907.17 of the Revised Code 329
does not give rise to a claim for damages against the prosecuting 330
attorney or the county. The failure of the prosecuting attorney to 331
give the notice does not constitute grounds for declaring a 332
mistrial or new trial, for setting aside a conviction or sentence, 333
or for granting postconviction relief to a defendant. 334

Sec. 2907.18. If a mental health professional is convicted of 335
or pleads guilty to a violation of division (A)(10) of section 336
2907.03 or division (A)(5) of section 2907.06 of the Revised Code, 337
the court shall transmit a certified copy of the judgment entry of 338
conviction to the regulatory or licensing board or agency, if any, 339
that has the administrative authority to suspend or revoke the 340
mental health professional's professional license, certification, 341
registration, or authorization. 342

Sec. 4732.01. As used in sections 4732.01 to 4732.25 of the 343
Revised Code: 344

(A) "Psychologist" means any person who holds ~~himself~~ self 345
out to the public by any title or description of services 346
incorporating the words "psychologic," "psychological," 347
"psychologist," "psychology," or any other terms that imply ~~he~~ the 348
person is trained, experienced, or an expert in the field of 349

psychology. 350

(B) "The practice of psychology" means rendering or offering 351
to render to individuals, groups, organizations, or the public any 352
service involving the application of psychological procedures to 353
assessment, diagnosis, prevention, treatment, or amelioration of 354
psychological problems or emotional or mental disorders of 355
individuals or groups; or to the assessment or improvement of 356
psychological adjustment or functioning of individuals or groups, 357
whether or not there is a diagnosable pre-existing psychological 358
problem. Practice of psychology includes the practice of school 359
psychology. For purposes of this chapter, teaching or research 360
shall not be regarded as the practice of psychology, even when 361
dealing with psychological subject matter, provided it does not 362
otherwise involve the professional practice of psychology in which 363
patient or client welfare is directly affected. 364

(C) "Psychological procedures" include but are not restricted 365
to application of principles, methods, or procedures of 366
understanding, predicting, or influencing behavior, such as the 367
principles pertaining to learning, conditioning, perception, 368
motivation, thinking, emotions, or interpersonal relationships; 369
the methods or procedures of verbal interaction, interviewing, 370
counseling, behavior modification, environmental manipulation, 371
group process, psychological psychotherapy, or hypnosis; and the 372
methods or procedures of administering or interpreting tests of 373
mental abilities, aptitudes, interests, attitudes, personality 374
characteristics, emotions, or motivation. 375

(D) "School psychologist" means any person who holds ~~himself~~ 376
self out to the public by any title or description of services 377
incorporating the words "school psychologist" or "school 378
psychology," or who holds ~~himself~~ self out to be trained, 379
experienced, or an expert in the practice of school psychology. 380

(E) "Practice of school psychology" means rendering or 381

offering to render to individuals, groups, organizations, or the
public any of the following services:

(1) Evaluation, diagnosis, or test interpretation limited to
assessment of intellectual ability, learning patterns,
achievement, motivation, or personality factors directly related
to learning problems in an educational setting;

(2) Counseling services for children or adults for
amelioration or prevention of educationally related learning
problems;

(3) Educational or vocational consultation or direct
educational services. This does not include industrial
consultation or counseling services to clients undergoing
vocational rehabilitation.

(F) "Licensed psychologist" means an individual holding a
current, valid license to practice psychology issued under section
4732.12 or 4732.15 of the Revised Code.

(G) "Licensed school psychologist" means an individual
holding a current, valid license to practice school psychology
issued under section 4732.12 or 4732.15 of the Revised Code.

(H) "Certificated school psychologist" means an individual
holding a current, valid school psychologist certificate issued
under division (M) of section 3319.22 of the Revised Code.

(I) "Mental health professional" and "mental health service"
have the same meanings as in section 2305.51 of the Revised Code.

Sec. 4732.02. The governor, with the advice and consent of
the senate, shall appoint a state board of psychology consisting
of ~~seven~~ nine persons who are citizens of the United States and
residents of this state. ~~One member shall not be a psychologist or~~
~~other health professional~~ Three members shall be patient advocates
who are not mental health professionals and who either are parents

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or other relatives of a person who has received or is receiving 412
mental health services or are representatives of organizations 413
that represent persons who have received or are receiving mental 414
health services. At least one patient advocate member shall be a 415
parent or other relative of a mental health service recipient, and 416
at least one patient advocate member shall be a representative of 417
an organization representing mental health service recipients. 418

Each of the remaining members shall be a licensed psychologist or 419
a licensed school psychologist. The terms of the licensed 420
psychologist and licensed school psychologist members that are in 421
effect on the effective date of this amendment shall continue as 422
under the law in effect prior to the effective date of this 423
amendment. Of the ~~original~~ patient advocate members whose 424
positions are created on the effective date of this amendment, two 425
one shall replace the current member who is not a psychologist or 426
other health professional at the end of that member's term, one 427
shall be appointed for one year terms, one for two years, two for 428
three years a term that ends on October 5, 2003, one for four 429
years, and one shall be appointed for five years a term that ends 430
on October 5, 2006. Thereafter, terms of office for all members 431
shall be for five years, commencing on the sixth day of October 432
and ending on the fifth day of October. Each member shall hold 433
office from the date of ~~his~~ appointment until the end of the term 434
for which ~~he~~ the member was appointed. Any member appointed to 435
fill a vacancy occurring prior to the expiration of the term for 436
which ~~his~~ the member's predecessor was appointed shall hold office 437
for the remainder of such term. Any member shall continue in 438
office subsequent to the expiration date of ~~his~~ the member's term 439
until ~~his~~ the member's successor takes office, or until a period 440
of sixty days has elapsed, whichever occurs first. No person shall 441
be appointed to more than two five-year terms in succession. The 442
licensed psychologist and licensed school psychologist members of 443

the board shall be so chosen that they represent the diverse 444
fields of specialization and practice in the profession of 445
psychology and the profession of school psychology. The governor 446
may make such appointments from lists submitted annually by the 447
Ohio psychological association and by the Ohio school 448
psychologists association. A vacancy in an unexpired term shall be 449
filled in the same manner as the original appointment. ~~The~~ 450

The governor may remove any member for malfeasance, 451
misfeasance, or nonfeasance after a hearing in accordance with 452
Chapter 119. of the Revised Code. The governor shall remove, after 453
a hearing in accordance with Chapter 119. of the Revised Code, any 454
member who has been convicted of or pleaded guilty to the 455
commission of a felony offense under any law of this state, 456
another state, or the United States. No person may be appointed to 457
the board who has been convicted of or pleaded guilty to a felony 458
offense under any law of this state, another state, or the United 459
States. 460

Sec. 4732.021. A member of the state board of psychology 461
shall not engage in any conduct involving a conflict of interest 462
with the member's board duties. 463

Sec. 4732.141. (A) ~~(1)~~ On August 31, 1998, and on or before 464
the thirty-first day of August of each even-numbered year 465
~~thereafter~~ beginning in 1998 and until the requirement set forth 466
in division (A)(2) of this section applies, each person licensed 467
under this chapter by the state board of psychology shall have 468
completed, in the preceding two-year period, not less than twenty 469
hours of continuing education in psychology or the number of hours 470
determined under division (D) of this section. ~~Each such~~ 471

(2) On or before the thirty-first day of August of each 472
even-numbered year after the biennium in which this amendment 473

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takes effect, each person licensed under this chapter by the state 474
board of psychology shall have completed, in the preceding 475
two-year period, not less than twenty-three hours of continuing 476
education in psychology, including not less than three hours of 477
continuing education in professional conduct and ethics, or the 478
number of hours determined under division (D) of this section. 479

(3) Each person subject to division (A)(1) or (2) of this 480
section shall certify to the board, at the time of biennial 481
registration pursuant to section 4732.14 of the Revised Code and 482
on the registration form prescribed by the board under that 483
section, that in the preceding two years the person has completed 484
continuing psychology education in compliance with this section. 485
The board shall adopt rules establishing the procedure for a 486
person to certify to the board and for properly recording with the 487
Ohio psychological association or the state board of education 488
completion of the continuing education. 489

(B) Continuing psychology education may be applied to meet 490
the requirement of division (A) of this section if both of the 491
following requirements are met: 492

(1) It is obtained through a program or course approved by 493
the state board of psychology, the Ohio psychological association, 494
the Ohio association of black psychologists, or the American 495
psychological association or, in the case of a licensed school 496
psychologist or a licensed psychologist with a school psychology 497
specialty, by the state board of education, the Ohio school 498
psychologists association, or the national association of school 499
psychologists; 500

(2) Completion of the program or course is recorded with the 501
Ohio psychological association or the state board of education in 502
accordance with rules adopted by the state board of psychology in 503
accordance with division (A) of this section. 504

The state board of psychology may disapprove any program or 505

course that has been approved by the Ohio psychological
association, Ohio association of black psychologists, American
psychological association, state board of education, Ohio school
psychologists association, or national association of school
psychologists. Such program or course may not be applied to meet
the requirement of division (A) of this section.

(C) Each person licensed under this chapter shall be given a
sufficient choice of continuing education programs or courses in
psychology, including programs or courses on professional conduct
and ethics when required under division (A)(2) of this section, to
ensure that the person has had a reasonable opportunity to
participate in programs or courses that are relevant to the
person's practice in terms of subject matter and level.

(D) The board shall adopt rules providing for reductions of
the hours of continuing psychology education required by this
section for persons in their first registration period.

(E) Each person licensed under this chapter shall retain in
the person's records for at least three years the receipts,
vouchers, or certificates necessary to document completion of
continuing psychology education. Proof of continuing psychology
education recorded with the Ohio psychological association or the
state board of education in accordance with the procedures
established pursuant to division (A) of this section shall serve
as sufficient documentation of completion. With cause, the board
may request the documentation from the person. The board also may
request the documentation from persons licensed under this chapter
selected at random, without cause. The board may review any
continuing psychology education records recorded by the Ohio
psychological association or the state board of education.

(F) The board may excuse persons licensed under this chapter,
as a group or as individuals, from all or any part of the
requirements of this section because of an unusual circumstance,

emergency, or special hardship. 538

(G) The state board of psychology shall approve one or more 539
continuing education courses of study that assist psychologists 540
and school psychologists in recognizing the signs of domestic 541
violence and its relationship to child abuse. Psychologists and 542
school psychologists are not required to take the courses. 543

Sec. 4732.17. (A) The state board of psychology may refuse to 544
issue a license to any applicant, may issue a reprimand, or 545
suspend or revoke the license of any licensed psychologist or 546
licensed school psychologist, on any of the following grounds: 547

(1) Conviction of a felony, or of any offense involving moral 548
turpitude, in a court of this or any other state or in a federal 549
court; 550

(2) Using fraud or deceit in the procurement of the license 551
to practice psychology or school psychology or knowingly assisting 552
another in the procurement of such a license through fraud or 553
deceit; 554

(3) Accepting commissions or rebates or other forms of 555
remuneration for referring persons to other professionals; 556

(4) Willful, unauthorized communication of information 557
received in professional confidence; 558

(5) Being negligent in the practice of psychology or school 559
psychology; 560

(6) Using any controlled substance or alcoholic beverage to 561
an extent that such use impairs the person's ability to perform 562
the work of a psychologist or school psychologist with safety to 563
the public; 564

(7) Subject to section 4732.28 of the Revised Code, violating 565
any rule of professional conduct promulgated by the board; 566

567
(8) Practicing in an area of psychology for which the person 568
is clearly untrained or incompetent; 569

(9) An adjudication by a court, as provided in section 570
5122.301 of the Revised Code, that the person is incompetent for 571
the purpose of holding the license. Such person may have the 572
person's license issued or restored only upon determination by a 573
court that the person is competent for the purpose of holding the 574
license and upon the decision by the board that such license be 575
issued or restored. The board may require an examination prior to 576
such issuance or restoration. 577

(10) Waiving the payment of all or any part of a deductible 578
or copayment that a patient, pursuant to a health insurance or 579
health care policy, contract, or plan that covers psychological 580
services, would otherwise be required to pay if the waiver is used 581
as an enticement to a patient or group of patients to receive 582
health care services from that provider; 583

(11) Advertising that the person will waive the payment of 584
all or any part of a deductible or copayment that a patient, 585
pursuant to a health insurance or health care policy, contract, or 586
plan that covers psychological services, would otherwise be 587
required to pay; 588

(12) Notwithstanding division (A)(10) and (11) of this 589
section, sanctions shall not be imposed against any licensee who 590
waives deductibles and copayments: 591

(a) In compliance with the health benefit plan that expressly 592
allows such a practice. Waiver of the deductibles or copays shall 593
be made only with the full knowledge and consent of the plan 594
purchaser, payer, and third-party administrator. Such consent 595
shall be made available to the board upon request. 596

(b) For professional services rendered to any other person 597

licensed pursuant to this chapter to the extent allowed by this
chapter and the rules of the board.

(B) ~~Before~~ Except as provided in section 4732.171 of the
Revised Code, before the board may deny, suspend, or revoke a
license under this section, or otherwise discipline the holder of
a license, written charges shall be filed with the board by the
secretary and a hearing shall be had thereon in accordance with
Chapter 119. of the Revised Code.

Sec. 4732.171. On receipt of a complaint that any of the
grounds listed in division (A) of section 4732.17 of the Revised
Code exist, the state board of psychology may suspend the license
of the licensed psychologist or licensed school psychologist prior
to holding a hearing in accordance with Chapter 119. of the
Revised Code if it determines, based on the complaint, that there
is an immediate threat to the public.

After suspending a license pursuant to this section, the
board shall notify the licensed psychologist or licensed school
psychologist of the suspension in accordance with section 119.07
of the Revised Code. If the individual whose license is suspended
fails to make a timely request for an adjudication under Chapter
119. of the Revised Code, the board shall enter a final order
permanently revoking the individual's license.

Sec. 4732.172. (A) Except as provided in division (B) of this
section, if, at the conclusion of a hearing required by section
4732.17 of the Revised Code, the state board of psychology
determines that a licensed psychologist or licensed school
psychologist has engaged in sexual conduct or had sexual contact
with the licensed psychologist's or licensed school psychologist's
patient or client in violation of any prohibition contained in
Chapter 2907. of the Revised Code, the board shall do one of the

following:

(1) Suspend the licensed psychologist's or licensed school psychologist's license;

(2) Permanently revoke the licensed psychologist's or licensed school psychologist's license.

(B) If it determines at the conclusion of the hearing that neither of the sanctions described in division (A) of this section is appropriate, the board shall impose another sanction it considers appropriate and issue a written finding setting forth the reasons for the sanction imposed and the reason that neither of the sanctions described in division (A) of this section is appropriate.

Sec. 4732.173. Any finding made, and the record of any sanction imposed, by the state board of psychology under section 4732.17, 4732.171, or 4732.172 of the Revised Code is a public record under section 149.43 of the Revised Code.

Sec. 4732.31. (A) The state board of psychology shall provide access to the following information through the internet:

(1) The names of all licensed psychologists and licensed school psychologists;

(2) The names of all licensed psychologists and licensed school psychologists who have been reprimanded by the board for misconduct, the names of all psychologists or school psychologists who have current licenses but whose licenses are under an active suspension imposed for misconduct, the names of all former licensed psychologists and licensed school psychologists whose licenses have been suspended or revoked for misconduct, and the reason for each reprimand, suspension, or revocation;

(3) Written findings made under division (B) of section

4732.172 of the Revised Code. 657

(B) Division (A)(2) of this section does not apply to a 658
suspension of the license of a psychologist or school psychologist 659
that is an automatic suspension imposed under section 4732.14 of 660
the Revised Code. 661

Section 2. That existing sections 2305.111, 2907.01, 2907.03, 662
2907.06, 4732.01, 4732.02, 4732.141, and 4732.17 of the Revised 663
Code are hereby repealed. 664

Section 3. Of the three patient advocates who are not mental 665
health professionals and who are required to be appointed to the 666
State Board of Psychology under section 4732.02 of the Revised 667
Code, as amended by this act, one shall replace the current member 668
who is not a psychologist or other health professional at the end 669
of that member's term and two shall be appointed as new members in 670
accordance with that section. 671