

As Reported by the Senate Judiciary-Criminal Justice Committee

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Sub. S. B. No. 9

SENATORS Spada, Austria

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:

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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

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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," "mental health
professional," and "mental health service" have the same meanings
as in section 2305.51 of the Revised Code.

(2) "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.

(3) "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

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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;

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(b) Having sexual contact with the mental health professional 111
or having sexual contact caused by the mental health professional 112
with one or more other persons. 113

(2) "Mental health client or patient" and "mental health 114
professional" have the same meanings as in section 2305.51 of the 115
Revised Code. 116

(3) "Sexual conduct" and "sexual contact" have the same 117
meanings as in section 2907.01 of the Revised Code. 118

(4) "Therapeutic deception" means a representation by a 119
mental health professional that one or more of the following is 120
consistent with or part of the treatment for a mental health 121
client or patient of the mental health professional: 122

(a) The client or patient engaging in sexual conduct with the 123
mental health professional; 124

(b) The client or patient having sexual contact with the 125
mental health professional or having sexual contact caused by the 126
mental health professional with one or more other persons. 127

Sec. 2907.01. As used in sections 2907.01 to 2907.37 of the 128
Revised Code: 129

(A) "Sexual conduct" means vaginal intercourse between a male 130
and female; anal intercourse, fellatio, and cunnilingus between 131
persons regardless of sex; and, without privilege to do so, the 132
insertion, however slight, of any part of the body or any 133
instrument, apparatus, or other object into the vaginal or anal 134
cavity of another. Penetration, however slight, is sufficient to 135
complete vaginal or anal intercourse. 136

(B) "Sexual contact" means any touching of an erogenous zone 137
of another, including without limitation the thigh, genitals, 138
buttock, pubic region, or, if the person is a female, a breast, 139
for the purpose of sexually arousing or gratifying either person. 140

(C) "Sexual activity" means sexual conduct or sexual contact, 141
or both. 142

(D) "Prostitute" means a male or female who promiscuously 143
engages in sexual activity for hire, regardless of whether the 144
hire is paid to the prostitute or to another. 145

(E) Any material or performance is "harmful to juveniles," if 146
it is offensive to prevailing standards in the adult community 147
with respect to what is suitable for juveniles, and if any of the 148
following apply: 149

(1) It tends to appeal to the prurient interest of juveniles; 150
151

(2) It contains a display, description, or representation of 152
sexual activity, masturbation, sexual excitement, or nudity; 153

(3) It contains a display, description, or representation of 154
bestiality or extreme or bizarre violence, cruelty, or brutality; 155

(4) It contains a display, description, or representation of 156
human bodily functions of elimination; 157

(5) It makes repeated use of foul language; 158

(6) It contains a display, description, or representation in 159
lurid detail of the violent physical torture, dismemberment, 160
destruction, or death of a human being; 161

(7) It contains a display, description, or representation of 162
criminal activity that tends to glorify or glamorize the activity, 163
and that, with respect to juveniles, has a dominant tendency to 164
corrupt. 165

(F) When considered as a whole, and judged with reference to 166
ordinary adults or, if it is designed for sexual deviates or other 167
specially susceptible group, judged with reference to that group, 168
any material or performance is "obscene" if any of the following 169
apply: 170

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- (1) Its dominant appeal is to prurient interest; 171
- (2) Its dominant tendency is to arouse lust by displaying or 172
depicting sexual activity, masturbation, sexual excitement, or 173
nudity in a way that tends to represent human beings as mere 174
objects of sexual appetite; 175
- (3) Its dominant tendency is to arouse lust by displaying or 176
depicting bestiality or extreme or bizarre violence, cruelty, or 177
brutality; 178
- (4) Its dominant tendency is to appeal to scatological 179
interest by displaying or depicting human bodily functions of 180
elimination in a way that inspires disgust or revulsion in persons 181
with ordinary sensibilities, without serving any genuine 182
scientific, educational, sociological, moral, or artistic purpose; 183
- (5) It contains a series of displays or descriptions of 184
sexual activity, masturbation, sexual excitement, nudity, 185
bestiality, extreme or bizarre violence, cruelty, or brutality, or 186
human bodily functions of elimination, the cumulative effect of 187
which is a dominant tendency to appeal to prurient or scatological 188
interest, when the appeal to such an interest is primarily for its 189
own sake or for commercial exploitation, rather than primarily for 190
a genuine scientific, educational, sociological, moral, or 191
artistic purpose. 192
- (G) "Sexual excitement" means the condition of human male or 193
female genitals when in a state of sexual stimulation or arousal. 194
- (H) "Nudity" means the showing, representation, or depiction 195
of human male or female genitals, pubic area, or buttocks with 196
less than a full, opaque covering, or of a female breast with less 197
than a full, opaque covering of any portion thereof below the top 198
of the nipple, or of covered male genitals in a discernibly turgid 199
state. 200
- (I) "Juvenile" means an unmarried person under the age of 201

eighteen. 202

(J) "Material" means any book, magazine, newspaper, pamphlet, 203
poster, print, picture, figure, image, description, motion picture 204
film, phonographic record, or tape, or other tangible thing 205
capable of arousing interest through sight, sound, or touch. 206
207

(K) "Performance" means any motion picture, preview, trailer, 208
play, show, skit, dance, or other exhibition performed before an 209
audience. 210

(L) "Spouse" means a person married to an offender at the 211
time of an alleged offense, except that such person shall not be 212
considered the spouse when any of the following apply: 213

(1) When the parties have entered into a written separation 214
agreement authorized by section 3103.06 of the Revised Code; 215

(2) During the pendency of an action between the parties for 216
annulment, divorce, dissolution of marriage, or legal separation; 217

(3) In the case of an action for legal separation, after the 218
effective date of the judgment for legal separation. 219

(M) "Minor" means a person under the age of eighteen. 220

(N) "Mental health client or patient" and "mental health 221
professional" have the same meanings as in section 2305.51 of the 222
Revised Code. 223

Sec. 2907.03. (A) No person shall engage in sexual conduct 224
with another, not the spouse of the offender, when any of the 225
following apply: 226

(1) The offender knowingly coerces the other person to submit 227
by any means that would prevent resistance by a person of ordinary 228
resolution. 229

(2) The offender knows that the other person's ability to 230

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appraise the nature of or control the other person's own conduct	231
is substantially impaired.	232
(3) The offender knows that the other person submits because	233
the other person is unaware that the act is being committed.	234
(4) The offender knows that the other person submits because	235
the other person mistakenly identifies the offender as the other	236
person's spouse.	237
(5) The offender is the other person's natural or adoptive	238
parent, or a stepparent, or guardian, custodian, or person in loco	239
parentis of the other person.	240
(6) The other person is in custody of law or a patient in a	241
hospital or other institution, and the offender has supervisory or	242
disciplinary authority over the other person.	243
(7) The offender is a teacher, administrator, coach, or other	244
person in authority employed by or serving in a school for which	245
the state board of education prescribes minimum standards pursuant	246
to division (D) of section 3301.07 of the Revised Code, the other	247
person is enrolled in or attends that school, and the offender is	248
not enrolled in and does not attend that school.	249
(8) The other person is a minor, the offender is a teacher,	250
administrator, coach, or other person in authority employed by or	251
serving in an institution of higher education, and the other	252
person is enrolled in or attends that institution.	253
(9) The other person is a minor, and the offender is the	254
other person's athletic or other type of coach, is the other	255
person's instructor, is the leader of a scouting troop of which	256
the other person is a member, or is a person with temporary or	257
occasional disciplinary control over the other person.	258
<u>(10) The offender is a mental health professional, the other</u>	259
<u>person is a mental health client or patient of the offender, and</u>	260

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

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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
prosecuting attorney handling the case shall send written notice
of the indictment or the charge and bind over to the regulatory or
licensing board or agency, if any, that has the administrative
authority to suspend or revoke the mental health professional's
professional license, certification, registration, or
authorization.

Sec. 2907.171. The failure of the prosecuting attorney to
give the notice required by section 2907.17 of the Revised Code
does not give rise to a claim for damages against the prosecuting

attorney or the county. The failure of the prosecuting attorney to 321
give the notice does not constitute grounds for declaring a 322
mistrial or new trial, for setting aside a conviction or sentence, 323
or for granting postconviction relief to a defendant. 324

Sec. 2907.18. If a mental health professional is convicted of 325
or pleads guilty to a violation of division (A)(10) of section 326
2907.03 or division (A)(5) of section 2907.06 of the Revised Code, 327
the court shall transmit a certified copy of the judgment entry of 328
conviction to the regulatory or licensing board or agency, if any, 329
that has the administrative authority to suspend or revoke the 330
mental health professional's professional license, certification, 331
registration, or authorization. 332

Sec. 4732.01. As used in sections 4732.01 to 4732.25 of the 333
Revised Code: 334

(A) "Psychologist" means any person who holds ~~himself~~ self 335
out to the public by any title or description of services 336
incorporating the words "psychologic," "psychological," 337
"psychologist," "psychology," or any other terms that imply ~~he~~ the 338
person is trained, experienced, or an expert in the field of 339
psychology. 340

(B) "The practice of psychology" means rendering or offering 341
to render to individuals, groups, organizations, or the public any 342
service involving the application of psychological procedures to 343
assessment, diagnosis, prevention, treatment, or amelioration of 344
psychological problems or emotional or mental disorders of 345
individuals or groups; or to the assessment or improvement of 346
psychological adjustment or functioning of individuals or groups, 347
whether or not there is a diagnosable pre-existing psychological 348
problem. Practice of psychology includes the practice of school 349
psychology. For purposes of this chapter, teaching or research 350

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shall not be regarded as the practice of psychology, even when
dealing with psychological subject matter, provided it does not
otherwise involve the professional practice of psychology in which
patient or client welfare is directly affected.

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

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

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

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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
or other relatives of a person who has received or is receiving
mental health services or are representatives of organizations
that represent persons who have received or are receiving mental
health services. At least one patient advocate member shall be a
parent or other relative of a mental health service recipient, and
at least one patient advocate member shall be a representative of
an organization representing mental health service recipients.
Each of the remaining members shall be a licensed psychologist or
a licensed school psychologist. The terms of the licensed
psychologist and licensed school psychologist members that are in
effect on the effective date of this amendment shall continue as

under the law in effect prior to the effective date of this amendment. Of the original patient advocate members whose positions are created on the effective date of this amendment, ~~two~~ one shall replace the current member who is not a psychologist or other health professional at the end of that member's term, one shall be appointed for ~~one year terms, one for two years, two for three years~~ a term that ends on October 5, 2003, one for four years, and one shall be appointed for ~~five years~~ a term that ends on October 5, 2006. Thereafter, terms of office for all members shall be for five years, commencing on the sixth day of October and ending on the fifth day of October. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person shall be appointed to more than two five-year terms in succession. The licensed psychologist and licensed school psychologist members of the board shall be so chosen that they represent the diverse fields of specialization and practice in the profession of psychology and the profession of school psychology. The governor may make such appointments from lists submitted annually by the Ohio psychological association and by the Ohio school psychologists association. A vacancy in an unexpired term shall be filled in the same manner as the original appointment. ~~The~~

The governor may remove any member for malfeasance, misfeasance, or nonfeasance after a hearing in accordance with Chapter 119. of the Revised Code. The governor shall remove, after a hearing in accordance with Chapter 119. of the Revised Code, any

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member who has been convicted of or pleaded guilty to the 445
commission of a felony offense under any law of this state, 446
another state, or the United States. No person may be appointed to 447
the board who has been convicted of or pleaded guilty to a felony 448
offense under any law of this state, another state, or the United 449
States. 450

Sec. 4732.021. A member of the state board of psychology 451
shall not engage in any conduct involving a conflict of interest 452
with the member's board duties. 453

Sec. 4732.141. (A)(1) On August 31, 1998, and on or before 454
the thirty-first day of August of each even-numbered year 455
thereafter beginning in 1998 and until the requirement set forth 456
in division (A)(2) of this section applies, each person licensed 457
under this chapter by the state board of psychology shall have 458
completed, in the preceding two-year period, not less than twenty 459
hours of continuing education in psychology or the number of hours 460
determined under division (D) of this section. Each such 461

(2) On or before the thirty-first day of August of each 462
even-numbered year after the biennium in which this amendment 463
takes effect, each person licensed under this chapter by the state 464
board of psychology shall have completed, in the preceding 465
two-year period, not less than twenty-three hours of continuing 466
education in psychology, including not less than three hours of 467
continuing education in professional conduct and ethics, or the 468
number of hours determined under division (D) of this section. 469

(3) Each person subject to division (A)(1) or (2) of this 470
section shall certify to the board, at the time of biennial 471
registration pursuant to section 4732.14 of the Revised Code and 472
on the registration form prescribed by the board under that 473
section, that in the preceding two years the person has completed 474
continuing psychology education in compliance with this section. 475

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The board shall adopt rules establishing the procedure for a person to certify to the board and for properly recording with the Ohio psychological association or the state board of education completion of the continuing education.

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

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

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

The state board of psychology may disapprove any program or 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

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person's practice in terms of subject matter and level. 508

(D) The board shall adopt rules providing for reductions of 509
the hours of continuing psychology education required by this 510
section for persons in their first registration period. 511

(E) Each person licensed under this chapter shall retain in 512
the person's records for at least three years the receipts, 513
vouchers, or certificates necessary to document completion of 514
continuing psychology education. Proof of continuing psychology 515
education recorded with the Ohio psychological association or the 516
state board of education in accordance with the procedures 517
established pursuant to division (A) of this section shall serve 518
as sufficient documentation of completion. With cause, the board 519
may request the documentation from the person. The board also may 520
request the documentation from persons licensed under this chapter 521
selected at random, without cause. The board may review any 522
continuing psychology education records recorded by the Ohio 523
psychological association or the state board of education. 524

(F) The board may excuse persons licensed under this chapter, 525
as a group or as individuals, from all or any part of the 526
requirements of this section because of an unusual circumstance, 527
emergency, or special hardship. 528

(G) The state board of psychology shall approve one or more 529
continuing education courses of study that assist psychologists 530
and school psychologists in recognizing the signs of domestic 531
violence and its relationship to child abuse. Psychologists and 532
school psychologists are not required to take the courses. 533

Sec. 4732.17. (A) The state board of psychology may refuse to 534
issue a license to any applicant, may issue a reprimand, or 535
suspend or revoke the license of any licensed psychologist or 536
licensed school psychologist, on any of the following grounds: 537

(1) Conviction of a felony, or of any offense involving moral 538

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turpitude, in a court of this or any other state or in a federal	539
court;	540
(2) Using fraud or deceit in the procurement of the license	541
to practice psychology or school psychology or knowingly assisting	542
another in the procurement of such a license through fraud or	543
deceit;	544
(3) Accepting commissions or rebates or other forms of	545
remuneration for referring persons to other professionals;	546
(4) Willful, unauthorized communication of information	547
received in professional confidence;	548
(5) Being negligent in the practice of psychology or school	549
psychology;	550
(6) Using any controlled substance or alcoholic beverage to	551
an extent that such use impairs the person's ability to perform	552
the work of a psychologist or school psychologist with safety to	553
the public;	554
(7) Subject to section 4732.28 of the Revised Code, violating	555
any rule of professional conduct promulgated by the board;	556
	557
(8) Practicing in an area of psychology for which the person	558
is clearly untrained or incompetent;	559
(9) An adjudication by a court, as provided in section	560
5122.301 of the Revised Code, that the person is incompetent for	561
the purpose of holding the license. Such person may have the	562
person's license issued or restored only upon determination by a	563
court that the person is competent for the purpose of holding the	564
license and upon the decision by the board that such license be	565
issued or restored. The board may require an examination prior to	566
such issuance or restoration.	567
(10) Waiving the payment of all or any part of a deductible	568

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or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

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

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

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

(b) 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.

(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

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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.

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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.

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

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

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(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;

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(3) Written findings made under division (B) of section
4732.172 of the Revised Code.

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

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

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Section 3. Of the three patient advocates who are not mental
health professionals and who are required to be appointed to the

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State Board of Psychology under section 4732.02 of the Revised	657
Code, as amended by this act, one shall replace the current member	658
who is not a psychologist or other health professional at the end	659
of that member's term and two shall be appointed as new members in	660
accordance with that section.	661