

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 130

Representatives White, Yates

**Cosponsors: Representatives Seitz, Peterson, Hagan, R., Carano, Miller,
Yuko, Wagner, McGregor, J., Flowers, Letson, Strahorn, Williams, S.,
DeWine, Luckie, Brinkman**

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A B I L L

To amend sections 9.06, 121.05, 321.44, 341.192,	1
1713.34, 2921.36, 2929.01, 2929.12, 2929.13,	2
2929.14, 2929.141, 2929.15, 2929.17, 2929.19,	3
2929.20, 2935.36, 2943.032, 2949.12, 2951.021,	4
2951.041, 2953.08, 2953.13, 2967.03, 2967.05,	5
2967.141, 2967.28, 3923.233, 3923.301, 4507.50,	6
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4753.10, 4755.11, 4755.47, 4755.64, 4757.36,	16
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4762.13, 4762.15, 4763.11, 4765.18, 4765.301,	18
4771.18, 4779.28, 4781.09, 5120.52, 5120.53,	19
5120.63, 5139.02, 5139.18, 5139.281, 5139.31,	20
5139.36, 5139.38, 5139.41, 5139.43, 5139.50,	21

5145.01, 5145.163, and 5149.06, to enact sections 22
9.871, 109.37, 2967.29, 4743.06, 5120.07, 5120.59, 23
and 5120.70, and to repeal section 2967.11 of the 24
Revised Code to modify sentencing procedures with 25
respect to post-release control and related 26
releases from prison, to conform the Revised Code 27
to the decision of the Ohio Supreme Court in *State* 28
ex rel. Bray v. Russell (2000), 89 Ohio St.3d 132 29
by removing provisions related to bad time, to 30
authorize courts to participate in the supervision 31
of released prisoners, to provide released 32
prisoners with identification cards and additional 33
procedures for access to social services, to make 34
other changes relative to opportunities for 35
prisoner training and employment, to modify 36
procedures for the judicial or medical release of 37
prisoners and intervention in lieu of conviction, 38
to grant the Adult Parole Authority more 39
flexibility in determining periods of post-release 40
control, to adopt other cost-control measures, to 41
create the Ex-offender Reentry Coalition, to 42
modify the grounds for disciplinary action by 43
occupational licensing boards against licensees 44
charged with criminal offenses, to provide for the 45
indemnification of the Department of 46
Rehabilitation and Correction for legal costs 47
incurred in certain cases, to provide for legal 48
representation of Department employees charged 49
with offenses in certain cases until a grand jury 50
has acted, to create a fund for the deposit of 51
money received in certain federal law enforcement 52
cases, to authorize the Department to enter into 53
contracts to provide water and sewage treatment 54

services, to make other changes related to the 55
operations of the Department of Rehabilitation and 56
Correction, to clarify the duties of juvenile 57
parole officers, to establish reimbursement rates 58
paid by the Department of Youth Services for 59
outside medical providers, to authorize the 60
Director of Youth Services to designate a deputy 61
director, to modify the formula for expending 62
appropriations for the care and custody of felony 63
delinquents and the purposes for which money in 64
the Felony Delinquent Care and Custody Fund may be 65
used, to allow for unlimited reappointments of 66
members of the Release Authority, and to make 67
other changes related to the operations of the 68
Department of Youth Services. 69

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

Section 1. That sections 9.06, 121.05, 321.44, 341.192, 70
1713.34, 2921.36, 2929.01, 2929.12, 2929.13, 2929.14, 2929.141, 71
2929.15, 2929.17, 2929.19, 2929.20, 2935.36, 2943.032, 2949.12, 72
2951.021, 2951.041, 2953.08, 2953.13, 2967.03, 2967.05, 2967.141, 73
2967.28, 3923.233, 3923.301, 4507.50, 4507.51, 4701.16, 4703.15, 74
4707.02, 4709.13, 4712.03, 4715.30, 4717.14, 4719.03, 4723.07, 75
4723.28, 4725.19, 4725.53, 4727.15, 4728.13, 4729.16, 4729.53, 76
4729.56, 4730.25, 4731.22, 4731.224, 4731.225, 4731.226, 4731.25, 77
4732.02, 4732.17, 4733.20, 4734.31, 4734.39, 4735.07, 4735.09, 78
4735.13, 4735.27, 4735.28, 4738.07, 4738.12, 4738.18, 4740.06, 79
4740.10, 4741.22, 4747.12, 4749.03, 4749.04, 4749.06, 4751.10, 80
4753.10, 4755.11, 4755.47, 4755.64, 4757.36, 4758.30, 4759.07, 81
4760.13, 4760.15, 4761.09, 4762.13, 4762.15, 4763.11, 4765.18, 82
4765.301, 4771.18, 4779.28, 4781.09, 5120.52, 5120.53, 5120.63, 83
5139.02, 5139.18, 5139.281, 5139.31, 5139.36, 5139.38, 5139.41, 84

5139.43, 5139.50, 5145.01, 5145.163, and 5149.06 be amended and 85
sections 9.871, 109.37, 2967.29, 4743.06, 5120.07, 5120.59, and 86
5120.70 of the Revised Code be enacted to read as follows: 87

Sec. 9.06. (A)(1) The department of rehabilitation and 88
correction shall contract for the private operation and management 89
pursuant to this section of the initial intensive program prison 90
established pursuant to section 5120.033 of the Revised Code and 91
may contract for the private operation and management of any other 92
facility under this section. Counties and municipal corporations 93
to the extent authorized in sections 307.93, 341.35, 753.03, and 94
753.15 of the Revised Code, may contract for the private operation 95
and management of a facility under this section. A contract 96
entered into under this section shall be for an initial term of 97
not more than two years, with an option to renew for additional 98
periods of two years. 99

(2) The department of rehabilitation and correction, by rule, 100
shall adopt minimum criteria and specifications that a person or 101
entity, other than a person or entity that satisfies the criteria 102
set forth in division (A)(3)(a) of this section and subject to 103
division (I) of this section, must satisfy in order to apply to 104
operate and manage as a contractor pursuant to this section the 105
initial intensive program prison established pursuant to section 106
5120.033 of the Revised Code. 107

(3) Subject to division (I) of this section, any person or 108
entity that applies to operate and manage a facility as a 109
contractor pursuant to this section shall satisfy one or more of 110
the following criteria: 111

(a) The person or entity is accredited by the American 112
correctional association and, at the time of the application, 113
operates and manages one or more facilities accredited by the 114

American correctional association. 115

(b) The person or entity satisfies all of the minimum 116
criteria and specifications adopted by the department of 117
rehabilitation and correction pursuant to division (A)(2) of this 118
section, provided that this alternative shall be available only in 119
relation to the initial intensive program prison established 120
pursuant to section 5120.033 of the Revised Code. 121

(4) Subject to division (I) of this section, before a public 122
entity may enter into a contract under this section, the 123
contractor shall convincingly demonstrate to the public entity 124
that it can operate the facility with the inmate capacity required 125
by the public entity and provide the services required in this 126
section and realize at least a five per cent savings over the 127
projected cost to the public entity of providing these same 128
services to operate the facility that is the subject of the 129
contract. No out-of-state prisoners may be housed in any facility 130
that is the subject of a contract entered into under this section. 131

(B) Subject to division (I) of this section, any contract 132
entered into under this section shall include all of the 133
following: 134

(1) A requirement that the contractor retain the contractor's 135
accreditation from the American correctional association 136
throughout the contract term or, if the contractor applied 137
pursuant to division (A)(3)(b) of this section, continue complying 138
with the applicable criteria and specifications adopted by the 139
department of rehabilitation and correction pursuant to division 140
(A)(2) of this section; 141

(2) A requirement that all of the following conditions be 142
met: 143

(a) The contractor begins the process of accrediting the 144
facility with the American correctional association no later than 145

sixty days after the facility receives its first inmate. 146

(b) The contractor receives accreditation of the facility 147
within twelve months after the date the contractor applies to the 148
American correctional association for accreditation. 149

(c) Once the accreditation is received, the contractor 150
maintains it for the duration of the contract term. 151

(d) If the contractor does not comply with divisions 152
(B)(2)(a) to (c) of this section, the contractor is in violation 153
of the contract, and the public entity may revoke the contract at 154
its discretion. 155

(3) A requirement that the contractor comply with all rules 156
promulgated by the department of rehabilitation and correction 157
that apply to the operation and management of correctional 158
facilities, including the minimum standards for jails in Ohio and 159
policies regarding the use of force and the use of deadly force, 160
although the public entity may require more stringent standards, 161
and comply with any applicable laws, rules, or regulations of the 162
federal, state, and local governments, including, but not limited 163
to, sanitation, food service, safety, and health regulations. The 164
contractor shall be required to send copies of reports of 165
inspections completed by the appropriate authorities regarding 166
compliance with rules and regulations to the director of 167
rehabilitation and correction or the director's designee and, if 168
contracting with a local public entity, to the governing authority 169
of that entity. 170

(4) A requirement that the contractor report for 171
investigation all crimes in connection with the facility to the 172
public entity, to all local law enforcement agencies with 173
jurisdiction over the place at which the facility is located, and, 174
for a crime committed at a state correctional institution, to the 175
state highway patrol; 176

(5) A requirement that the contractor immediately report all 177
escapes from the facility, and the apprehension of all escapees, 178
by telephone and in writing to all local law enforcement agencies 179
with jurisdiction over the place at which the facility is located, 180
to the prosecuting attorney of the county in which the facility is 181
located, to the state highway patrol, to a daily newspaper having 182
general circulation in the county in which the facility is 183
located, and, if the facility is a state correctional institution, 184
to the department of rehabilitation and correction. The written 185
notice may be by either facsimile transmission or mail. A failure 186
to comply with this requirement regarding an escape is a violation 187
of section 2921.22 of the Revised Code. 188

(6) A requirement that, if the facility is a state 189
correctional institution, the contractor provide a written report 190
within specified time limits to the director of rehabilitation and 191
correction or the director's designee of all unusual incidents at 192
the facility as defined in rules promulgated by the department of 193
rehabilitation and correction or, if the facility is a local 194
correctional institution, that the contractor provide a written 195
report of all unusual incidents at the facility to the governing 196
authority of the local public entity; 197

(7) A requirement that the contractor maintain proper control 198
of inmates' personal funds pursuant to rules promulgated by the 199
department of rehabilitation and correction, for state 200
correctional institutions, or pursuant to the minimum standards 201
for jails along with any additional standards established by the 202
local public entity, for local correctional institutions, and that 203
records pertaining to these funds be made available to 204
representatives of the public entity for review or audit; 205

(8) A requirement that the contractor prepare and distribute 206
to the director of rehabilitation and correction or, if 207
contracting with a local public entity, to the governing authority 208

of the local entity, annual budget income and expenditure	209
statements and funding source financial reports;	210
(9) A requirement that the public entity appoint and	211
supervise a full-time contract monitor, that the contractor	212
provide suitable office space for the contract monitor at the	213
facility, and that the contractor allow the contract monitor	214
unrestricted access to all parts of the facility and all records	215
of the facility except the contractor's financial records;	216
(10) A requirement that if the facility is a state	217
correctional institution, designated department of rehabilitation	218
and correction staff members be allowed access to the facility in	219
accordance with rules promulgated by the department;	220
(11) A requirement that the contractor provide internal and	221
perimeter security as agreed upon in the contract;	222
(12) If the facility is a state correctional institution, a	223
requirement that the contractor impose discipline on inmates	224
housed in a state correctional institution, only in accordance	225
with rules promulgated by the department of rehabilitation and	226
correction;	227
(13) A requirement that the facility be staffed at all times	228
with a staffing pattern approved by the public entity and adequate	229
both to ensure supervision of inmates and maintenance of security	230
within the facility, and to provide for programs, transportation,	231
security, and other operational needs. In determining security	232
needs, the contractor shall be required to consider, among other	233
things, the proximity of the facility to neighborhoods and	234
schools.	235
(14) If the contract is with a local public entity, a	236
requirement that the contractor provide services and programs,	237
consistent with the minimum standards for jails promulgated by the	238
department of rehabilitation and correction under section 5120.10	239

of the Revised Code;	240
(15) A clear statement that no immunity from liability	241
granted to the state, and no immunity from liability granted to	242
political subdivisions under Chapter 2744. of the Revised Code,	243
shall extend to the contractor or any of the contractor's	244
employees;	245
(16) A statement that all documents and records relevant to	246
the facility shall be maintained in the same manner required for,	247
and subject to the same laws, rules, and regulations as apply to,	248
the records of the public entity;	249
(17) Authorization for the public entity to impose a fine on	250
the contractor from a schedule of fines included in the contract	251
for the contractor's failure to perform its contractual duties, or	252
to cancel the contract, as the public entity considers	253
appropriate. If a fine is imposed, the public entity may reduce	254
the payment owed to the contractor pursuant to any invoice in the	255
amount of the imposed fine.	256
(18) A statement that all services provided or goods produced	257
at the facility shall be subject to the same regulations, and the	258
same distribution limitations, as apply to goods and services	259
produced at other correctional institutions;	260
(19) Authorization for the department to establish one or	261
more prison industries at a facility operated and managed by a	262
contractor for the department;	263
(20) A requirement that, if the facility is an intensive	264
program prison established pursuant to section 5120.033 of the	265
Revised Code, the facility shall comply with all criteria for	266
intensive program prisons of that type that are set forth in that	267
section;	268
(21) If the institution is a state correctional institution,	269
a requirement that the contractor provide clothing for all inmates	270

housed in the facility that is conspicuous in its color, style, or 271
color and style, that conspicuously identifies its wearer as an 272
inmate, and that is readily distinguishable from clothing of a 273
nature that normally is worn outside the facility by non-inmates, 274
that the contractor require all inmates housed in the facility to 275
wear the clothing so provided, and that the contractor not permit 276
any inmate, while inside or on the premises of the facility or 277
while being transported to or from the facility, to wear any 278
clothing of a nature that does not conspicuously identify its 279
wearer as an inmate and that normally is worn outside the facility 280
by non-inmates. 281

(C) No contract entered into under this section may require, 282
authorize, or imply a delegation of the authority or 283
responsibility of the public entity to a contractor for any of the 284
following: 285

(1) Developing or implementing procedures for calculating 286
inmate release and parole eligibility dates and recommending the 287
granting or denying of parole, although the contractor may submit 288
written reports that have been prepared in the ordinary course of 289
business; 290

(2) Developing or implementing procedures for calculating and 291
awarding earned credits, approving the type of work inmates may 292
perform and the wage or earned credits, if any, that may be 293
awarded to inmates engaging in that work, and granting, denying, 294
or revoking earned credits; 295

(3) For inmates serving a term imposed for a felony offense 296
committed prior to July 1, 1996, or for a misdemeanor offense, 297
developing or implementing procedures for calculating and awarding 298
good time, approving the good time, if any, that may be awarded to 299
inmates engaging in work, and granting, denying, or revoking good 300
time; 301

~~(4) For inmates serving a term imposed for a felony offense committed on or after July 1, 1996, extending an inmate's term pursuant to the provisions of law governing bad time;~~ 302
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~~(5)~~ Classifying an inmate or placing an inmate in a more or a less restrictive custody than the custody ordered by the public entity; 305
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~~(6)~~(5) Approving inmates for work release; 308

~~(7)~~(6) Contracting for local or long distance telephone services for inmates or receiving commissions from those services at a facility that is owned by or operated under a contract with the department. 309
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(D) A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure. 313
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A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established 329
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pursuant to section 5120.033 of the Revised Code to be operated by 333
a contractor that has been approved to operate the prison under 334
this section, shall indemnify and hold harmless the state, its 335
officers, agents, and employees, and any local government entity 336
in the state having jurisdiction over the facility or ownership of 337
the facility, shall reimburse the state for its costs in defending 338
the state or any of its officers, agents, or employees, and shall 339
reimburse any local government entity of that nature for its costs 340
in defending the local government entity, from all of the 341
following: 342

(1) Any claims or losses for services rendered by the 343
contractor, person, or entity performing or supplying services in 344
connection with the performance of the contract; 345

(2) Any failure of the contractor, person, or entity or its 346
officers or employees to adhere to the laws, rules, regulations, 347
or terms agreed to in the contract; 348

(3) Any constitutional, federal, state, or civil rights claim 349
brought against the state related to the facility operated and 350
managed by the contractor; 351

(4) Any claims, losses, demands, or causes of action arising 352
out of the contractor's, person's, or entity's activities in this 353
state; 354

(5) Any attorney's fees or court costs arising from any 355
habeas corpus actions or other inmate suits that may arise from 356
any event that occurred at the facility or was a result of such an 357
event, or arise over the conditions, management, or operation of 358
the facility, which fees and costs shall include, but not be 359
limited to, attorney's fees for the state's representation and for 360
any court-appointed representation of any inmate, and the costs of 361
any special judge who may be appointed to hear those actions or 362
suits. 363

(E) Private correctional officers of a contractor operating 364
and managing a facility pursuant to a contract entered into under 365
this section may carry and use firearms in the course of their 366
employment only after being certified as satisfactorily completing 367
an approved training program as described in division (A) of 368
section 109.78 of the Revised Code. 369

(F) Upon notification by the contractor of an escape from, or 370
of a disturbance at, the facility that is the subject of a 371
contract entered into under this section, the department of 372
rehabilitation and correction and state and local law enforcement 373
agencies shall use all reasonable means to recapture escapees or 374
quell any disturbance. Any cost incurred by the state or its 375
political subdivisions relating to the apprehension of an escapee 376
or the quelling of a disturbance at the facility shall be 377
chargeable to and borne by the contractor. The contractor shall 378
also reimburse the state or its political subdivisions for all 379
reasonable costs incurred relating to the temporary detention of 380
the escapee following recapture. 381

(G) Any offense that would be a crime if committed at a state 382
correctional institution or jail, workhouse, prison, or other 383
correctional facility shall be a crime if committed by or with 384
regard to inmates at facilities operated pursuant to a contract 385
entered into under this section. 386

(H) A contractor operating and managing a facility pursuant 387
to a contract entered into under this section shall pay any inmate 388
workers at the facility at the rate approved by the public entity. 389
Inmates working at the facility shall not be considered employees 390
of the contractor. 391

(I) In contracting for the private operation and management 392
pursuant to division (A) of this section of the initial intensive 393
program prison established pursuant to section 5120.033 of the 394
Revised Code or of any other intensive program prison established 395

pursuant to that section, the department of rehabilitation and 396
correction may enter into a contract with a contractor for the 397
general operation and management of the prison and may enter into 398
one or more separate contracts with other persons or entities for 399
the provision of specialized services for persons confined in the 400
prison, including, but not limited to, security or training 401
services or medical, counseling, educational, or similar treatment 402
programs. If, pursuant to this division, the department enters 403
into a contract with a contractor for the general operation and 404
management of the prison and also enters into one or more 405
specialized service contracts with other persons or entities, all 406
of the following apply: 407

(1) The contract for the general operation and management 408
shall comply with all requirements and criteria set forth in this 409
section, and all provisions of this section apply in relation to 410
the prison operated and managed pursuant to the contract. 411

(2) Divisions (A)(2), (B), and (C) of this section do not 412
apply in relation to any specialized services contract, except to 413
the extent that the provisions of those divisions clearly are 414
relevant to the specialized services to be provided under the 415
specialized services contract. Division (D) of this section 416
applies in relation to each specialized services contract. 417

(J) As used in this section: 418

(1) "Public entity" means the department of rehabilitation 419
and correction, or a county or municipal corporation or a 420
combination of counties and municipal corporations, that has 421
jurisdiction over a facility that is the subject of a contract 422
entered into under this section. 423

(2) "Local public entity" means a county or municipal 424
corporation, or a combination of counties and municipal 425
corporations, that has jurisdiction over a jail, workhouse, or 426

other correctional facility used only for misdemeanants that is 427
the subject of a contract entered into under this section. 428

(3) "Governing authority of a local public entity" means, for 429
a county, the board of county commissioners; for a municipal 430
corporation, the legislative authority; for a combination of 431
counties and municipal ~~corporation~~ corporations, all the boards of 432
county commissioners and municipal legislative authorities that 433
joined to create the facility. 434

(4) "Contractor" means a person or entity that enters into a 435
contract under this section to operate and manage a jail, 436
workhouse, or other correctional facility. 437

(5) "Facility" means the specific county, multicounty, 438
municipal, municipal-county, or multicounty-municipal jail, 439
workhouse, prison, or other type of correctional institution or 440
facility used only for misdemeanants, or a state correctional 441
institution, that is the subject of a contract entered into under 442
this section. 443

(6) "Person or entity" in the case of a contract for the 444
private operation and management of a state correctional 445
institution, includes an employee organization, as defined in 446
section 4117.01 of the Revised Code, that represents employees at 447
state correctional institutions. 448

Sec. 9.871. (A) If an employee of the department of 449
rehabilitation and correction is subject to criminal charges for 450
actions occurring within the scope and in the course of the 451
employee's assigned duties, and if the charges are dismissed or 452
the employee is acquitted of any wrongdoing as a result, the 453
employee may be indemnified for the reasonable cost of legal 454
representation. An employee shall request indemnification by 455
submitting a written request to the director of rehabilitation and 456
correction. The director shall determine whether to recommend 457

indemnification and shall transmit the recommendation to the 458
attorney general. The attorney general shall review the request, 459
the recommendation of the director, and any other information that 460
the attorney general may require and shall decide whether or not 461
the employee is to be indemnified. 462

(B) A decision of the attorney general made under division 463
(A) of this section is not subject to appeal or review in any 464
court or other forum. No person has a right of action against the 465
department of rehabilitation and correction in the court of claims 466
or any other court based on a decision of the attorney general 467
made under division (A) of this section. 468

(C) The indemnification of an employee of the department of 469
rehabilitation and correction pursuant to this section shall be 470
accomplished only through the following procedure: 471

(1) If the director of rehabilitation and correction 472
determines that the actions or omissions of the employee that gave 473
rise to the claim were within the scope of the employee's 474
employment and that the costs of legal representation should be 475
indemnified, the attorney general shall prepare an indemnity 476
agreement. The indemnity agreement shall specify that the 477
department of rehabilitation and correction will indemnify the 478
employee from the expenses of legal representation. The agreement 479
shall not be effective until it is approved by the employee, the 480
director, and the attorney general. 481

(2) The attorney general shall forward a copy of the 482
indemnity agreement to the director of budget and management. 483

(3) The director of budget and management shall charge any 484
indemnification paid pursuant to this section against available 485
unencumbered moneys in the appropriations of the department of 486
rehabilitation and correction. The director of budget and 487
management shall have sole discretion to determine whether or not 488

unencumbered moneys in a particular appropriation are available 489
for payment of the indemnification. 490

(4) The director of budget and management shall, upon receipt 491
of the agreement from the attorney general pursuant to division 492
(C)(1) of this section, provide for payment to the employee in the 493
amount specified in the agreement. 494

(5) If the director of budget and management determines that 495
sufficient unencumbered moneys do not exist in the particular 496
appropriations to pay the indemnification, the director of budget 497
and management shall make application for payment of the 498
indemnification out of the emergency purposes account or any other 499
appropriation for emergencies or contingencies, and payment out of 500
this account or other appropriation shall be authorized if there 501
are sufficient moneys greater than the sum total of then pending 502
emergency purposes account requests, or requests for releases from 503
the other appropriation. 504

(6) If sufficient moneys do not exist in the emergency 505
purposes account or any other appropriation for emergencies or 506
contingencies to pay the indemnification, the director of 507
rehabilitation and correction shall request the general assembly 508
to make an appropriation sufficient to pay the indemnification, 509
and no payment shall be made until the appropriation has been 510
made. The department shall make the appropriation request during 511
the current biennium and during each succeeding biennium until a 512
sufficient appropriation is made. 513

Sec. 109.37. (A) An employee of the department of 514
rehabilitation and correction may be represented in a criminal 515
proceeding by an attorney selected pursuant to division (B) of 516
this section when all of the following apply: 517

(1) The employee used deadly force that resulted in the death 518
of another. 519

(2) The use of deadly force occurred within the scope and in 520
the course of the employee's assigned duties. 521

(3) The employee's use of deadly force is being investigated 522
by a prosecuting attorney or other criminal investigating 523
authority for possible criminal charges. 524

(B) When all of the conditions set forth in division (A) of 525
this section apply, the employee may submit a request for legal 526
representation to the director of rehabilitation and correction. 527
If the director determines that all of the conditions in that 528
division apply, and if the director considers the requested legal 529
representation to be appropriate, the director may approve the 530
request and submit it to the attorney general. Upon receipt of the 531
request, the attorney general shall furnish the employee the names 532
of three attorneys who are admitted to the practice of law in this 533
state and are experienced in the defense of criminal charges. The 534
employee may select one of the attorneys to represent the employee 535
until the grand jury concludes its proceedings or the case is 536
disposed of before the grand jury concludes its proceedings. 537

(C) An attorney who represents an employee pursuant to 538
division (B) of this section shall be paid at the usual rate for 539
like services in the community in which the criminal proceedings 540
occur or at the usual rate paid to special counsel under section 541
109.07 of the Revised Code, as the attorney general decides. The 542
department of rehabilitation and correction shall pay the 543
attorney's compensation and all reasonable expenses and court 544
costs incurred in the defense of the employee. The attorney 545
general may adopt rules concerning the compensation of attorneys 546
pursuant to this division. 547

(D) If a criminal investigation described in division (A)(3) 548
of this section of an employee results in an indictment based on 549
the employee's use of deadly force, an attorney who represents the 550
employee pursuant to division (B) of this section may continue to 551

represent the employee in the criminal proceeding on any terms to 552
which the attorney and employee mutually agree. Subject to section 553
9.871 of the Revised Code, neither the attorney general nor the 554
department of rehabilitation and correction is obligated to 555
provide the employee with legal representation or to pay 556
attorney's fees, expenses, or court costs incurred by the employee 557
following the indictment of the employee. 558

Sec. 121.05. Except as otherwise provided in this section, in 559
each department, there shall be an assistant director designated 560
by the director of that department. In the department of health, 561
there shall be two assistant directors, each of whom shall be 562
designated by the director of health. In the department of 563
transportation, there shall be an assistant director for business 564
management, an assistant director for field operations, and an 565
assistant director for transportation policy, each of whom shall 566
be designated by the director of transportation. In the department 567
of insurance, the deputy superintendent of insurance shall be the 568
assistant director. In the department of administrative services, 569
there shall be two assistant directors, each of whom shall be 570
designated by the director of administrative services. In the 571
department of commerce, there shall be two assistant directors, 572
each of whom shall be designated by the director of commerce. In 573
the department of ~~human~~ job and family services, there may be up 574
to two assistant directors, each of whom shall be designated by 575
the director of ~~human~~ job and family services. In each department 576
with an assistant director, the assistant director shall act as 577
director in the absence or disability of the director and also 578
shall act as director when the position of director is vacant, 579
except that in the department of transportation, the department of 580
health, the department of commerce, the department of 581
administrative services, and the department of ~~human~~ job and 582
family services, the director shall designate which assistant 583

director shall act as director in the director's absence. In each 584
department without an assistant director, the director shall 585
designate a deputy director to act as director in the absence or 586
disability of the director. 587

A director may designate any of the director's assistant 588
directors or a deputy director to serve in the director's place as 589
a member of any board, committee, authority, or commission of 590
which the director is, by law, a member. The designee, when 591
present, shall be counted in determining whether a quorum is 592
present at any meeting. The designee may vote and participate in 593
all proceedings and actions of the board, committee, authority, or 594
commission, provided that the designee shall not execute or cause 595
a facsimile of the designee's signature to be placed on any 596
obligation, or execute any trust agreement or indenture. The 597
designation shall be in writing, executed by the designating 598
director, filed with the secretary of the board, committee, 599
authority, or commission, and shall be in effect until withdrawn 600
or superseded by a new designation. 601

Sec. 321.44. (A)(1) A county probation services fund shall be 602
established in the county treasury of each county. The fund a 603
county establishes under this division shall contain all moneys 604
paid to the treasurer of the county under section 2951.021 of the 605
Revised Code for deposit into the fund. The moneys paid into the 606
fund shall be deposited by the treasurer of the county into the 607
appropriate account established under divisions (A)(1)(a) to (d) 608
of this section. Separate accounts shall be maintained in 609
accordance with the following criteria in the fund a county 610
establishes under this division: 611

(a) If a county department of probation is established in the 612
county, a separate account shall be maintained in the fund for the 613
county department of probation. 614

(b) If the judges of the court of common pleas of the county 615
have affiliated with the judges of the court of common pleas of 616
one or more other counties and have established a multicounty 617
department of probation, a separate account shall be maintained in 618
the fund for the multicounty department of probation. 619

(c) If a department of probation is established in a 620
county-operated municipal court that has jurisdiction within the 621
county, a separate account shall be maintained in the fund for the 622
municipal court department of probation. 623

(d) If a county department of probation has not been 624
established in the county and if the court of common pleas of the 625
county, pursuant to section 2301.32 of the Revised Code, has 626
entered into an agreement with the adult parole authority under 627
which the court may place defendants under a community control 628
sanction in charge of the authority, a separate account shall be 629
maintained in the fund for the ~~adult parole authority~~ court of 630
common pleas. 631

(2) For any county, if a county department of probation is 632
established in the county or if a department of probation is 633
established in a county-operated municipal court that has 634
jurisdiction within the county, the board of county commissioners 635
of the county shall appropriate to the county department of 636
probation or municipal court department of probation all money 637
that is contained in the department's account in the county 638
probation services fund established in the county for use only for 639
specialized staff, purchase of equipment, purchase of services, 640
reconciliation programs for offenders and victims, other treatment 641
programs, including alcohol and drug addiction programs certified 642
under section 3793.06 of the Revised Code, determined to be 643
appropriate by the chief probation officer of the department of 644
probation, and other similar expenses related to placing offenders 645
under a community control sanction. 646

For any county, if the judges of the court of common pleas of the county have affiliated with the judges of the court of common pleas of one or more other counties and have established a multicounty department of probation to serve the counties, the board of county commissioners of the county shall appropriate and the county treasurer shall transfer to the multicounty probation services fund established for the multicounty department of probation under division (B) of this section all money that is contained in the multicounty department of probation account in the county probation services fund established in the county for use in accordance with that division.

For any county, if a county department of probation has not been established in the county and if the court of common pleas of the county, pursuant to section 2301.32 of the Revised Code, has entered into an agreement with the adult parole authority under which the court may place defendants under a community control sanction in charge of the authority, the board of county commissioners of the county shall appropriate ~~and the county treasurer shall transfer to the adult parole authority probation services fund established under section 5149.06 of the Revised Code~~ court all money that is contained in the ~~adult parole authority~~ court's account in the county probation services fund established in the county for use ~~in accordance with section 5149.06 of the Revised Code~~ only for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including alcohol and drug addiction programs certified under section 3793.06 of the Revised Code, determined to be appropriate by the authority, and other similar uses related to placing offenders under a community control sanction.

(B) If the judges of the courts of common pleas of two or more counties have established a multicounty department of

probation, a multicounty probation services fund shall be 679
established in the county treasury of the county whose treasurer, 680
in accordance with section 2301.27 of the Revised Code, is 681
designated by the judges of the courts of common pleas as the 682
treasurer to whom monthly supervision fees are to be appropriated 683
and transferred under division (A)(2) of this section for deposit 684
into the fund. The fund shall contain all moneys that are paid to 685
the treasurer of any member county under section 2951.021 of the 686
Revised Code for deposit into the county's probation services fund 687
and that subsequently are appropriated and transferred to the 688
multicounty probation services fund under division (A)(2) of this 689
section. The board of county commissioners of the county in which 690
the multicounty probation services fund is established shall 691
appropriate the money contained in that fund to the multicounty 692
department of probation, for use only for specialized staff, 693
purchase of equipment, purchase of services, reconciliation 694
programs for offenders and victims, other treatment programs, 695
including alcohol and drug addiction programs certified under 696
section 3793.06 of the Revised Code, determined to be appropriate 697
by the chief probation officer, and for other similar expenses 698
related to placing offenders under a community control sanction. 699

(C) Any money in a county or multicounty probation services 700
fund at the end of a fiscal year shall not revert to the general 701
fund of the county but shall be retained in the fund. 702

(D) As used in this section: 703

(1) "County-operated municipal court" has the same meaning as 704
in section 1901.03 of the Revised Code. 705

(2) "Multicounty department of probation" means a probation 706
department established under section 2301.27 of the Revised Code 707
to serve more than one county. 708

(3) "Community control sanction" has the same meaning as in 709

section 2929.01 of the Revised Code. 710

Sec. 341.192. (A) As used in this section: 711

(1) "Medical assistance program" has the same meaning as in 712
section 2913.40 of the Revised Code. 713

(2) "Medical provider" means a physician, hospital, 714
laboratory, pharmacy, or other health care provider that is not 715
employed by or under contract to a county, the department of youth 716
services, or the department of rehabilitation and correction to 717
provide medical services to persons confined in the county jail or 718
a state correctional institution. 719

(3) "Necessary care" means medical care of a nonelective 720
nature that cannot be postponed until after the period of 721
confinement of a person who is confined in a county jail or a 722
state correctional institution or is in the custody of a law 723
enforcement officer without endangering the life or health of the 724
person. 725

(B) If a physician employed by or under contract to a county, 726
the department of youth services, or the department of 727
rehabilitation and correction to provide medical services to 728
persons confined in the county jail or state correctional 729
institution determines that a person who is confined in the county 730
jail or a state correctional institution or who is in the custody 731
of a law enforcement officer prior to the person's confinement in 732
the county jail or a state correctional institution requires 733
necessary care that the physician cannot provide, the necessary 734
care shall be provided by a medical provider. The county, the 735
department of youth services, or the department of rehabilitation 736
and correction shall pay a medical provider for necessary care an 737
amount not exceeding the authorized reimbursement rate for the 738
same service established by the department of job and family 739
services under the medical assistance program. 740

Sec. 1713.34. Superintendents of city hospitals, directors or 741
superintendents of city infirmaries, county homes, or other 742
charitable institutions, directors or superintendents of 743
workhouses, founded and supported in whole or in part at public 744
expense, superintendents or managing officers of state benevolent 745
~~or correctional~~ institutions, boards of township trustees, 746
sheriffs, or coroners, in possession of bodies not claimed or 747
identified, or which must be buried at the expense of the state, 748
county, or township, before burial, shall notify the professor of 749
anatomy in a college which by its charter is empowered to teach 750
anatomy, or the secretary of the board of embalmers and funeral 751
directors of this state, of the fact that such bodies are being so 752
held. If after a period of thirty-six hours the body has not been 753
accepted by friends or relatives for burial at their expense, such 754
superintendent, director, or other officer, on the written 755
application of such professor, or the secretary of the board of 756
embalmers and funeral directors, shall deliver to such professor 757
or secretary, for the purpose of medical or surgical study or 758
dissection or for the study of embalming, the body of any such 759
person who died in any of such institutions from any disease which 760
is not infectious. The expense of the delivery of the body shall 761
be borne by the parties in whose keeping the body was placed. 762

Sec. 2921.36. (A) No person shall knowingly convey, or 763
attempt to convey, onto the grounds of a detention facility or of 764
an institution, office building, or other place that is under the 765
control of the department of mental health ~~or~~, the department of 766
mental retardation and developmental disabilities, the department 767
of youth services, or the department of rehabilitation and 768
correction any of the following items: 769

(1) Any deadly weapon or dangerous ordnance, as defined in 770
section 2923.11 of the Revised Code, or any part of or ammunition 771

for use in such a deadly weapon or dangerous ordnance; 772

(2) Any drug of abuse, as defined in section 3719.011 of the 773
Revised Code; 774

(3) Any intoxicating liquor, as defined in section 4301.01 of 775
the Revised Code. 776

(B) Division (A) of this section does not apply to any person 777
who conveys or attempts to convey an item onto the grounds of a 778
detention facility or of an institution, office building, or other 779
place under the control of the department of mental health ~~or~~, the 780
department of mental retardation and developmental disabilities, 781
the department of youth services, or the department of 782
rehabilitation and correction pursuant to the written 783
authorization of the person in charge of the detention facility or 784
the institution, office building, or other place and in accordance 785
with the written rules of the detention facility or the 786
institution, office building, or other place. 787

(C) No person shall knowingly deliver, or attempt to deliver, 788
to any person who is confined in a detention facility, to a child 789
confined in a youth services facility, to a prisoner who is 790
temporarily released from confinement for a work assignment, or to 791
any patient in an institution under the control of the department 792
of mental health or the department of mental retardation and 793
developmental disabilities, any item listed in division (A)(1), 794
(2), or (3) of this section. 795

(D) No person shall knowingly deliver, or attempt to deliver, 796
cash to any person who is confined in a detention facility, to a 797
child confined in a youth services facility, or to a prisoner who 798
is temporarily released from confinement for a work assignment. 799

(E) No person shall knowingly deliver, or attempt to deliver, 800
to any person who is confined in a detention facility, to a child 801
confined in a youth services facility, or to a prisoner who is 802

temporarily released from confinement for a work assignment a 803
cellular telephone, two-way radio, or other electronic 804
communications device. 805

(F)(1) It is an affirmative defense to a charge under 806
division (A)(1) of this section that the weapon or dangerous 807
ordnance in question was being transported in a motor vehicle for 808
any lawful purpose, that it was not on the actor's person, and, if 809
the weapon or dangerous ordnance in question was a firearm, that 810
it was unloaded and was being carried in a closed package, box, or 811
case or in a compartment that can be reached only by leaving the 812
vehicle. 813

(2) It is an affirmative defense to a charge under division 814
(C) of this section that the actor was not otherwise prohibited by 815
law from delivering the item to the confined person, the child, 816
the prisoner, or the patient and that either of the following 817
applies: 818

(a) The actor was permitted by the written rules of the 819
detention facility or the institution, office building, or other 820
place to deliver the item to the confined person or the patient. 821

(b) The actor was given written authorization by the person 822
in charge of the detention facility or the institution, office 823
building, or other place to deliver the item to the confined 824
person or the patient. 825

(G)(1) Whoever violates division (A)(1) of this section or 826
commits a violation of division (C) of this section involving an 827
item listed in division (A)(1) of this section is guilty of 828
illegal conveyance of weapons onto the grounds of a ~~detention~~ 829
specified governmental facility ~~or a mental health or mental~~ 830
~~retardation and developmental disabilities institution,~~ a felony 831
of the fourth degree. If the offender is an officer or employee of 832
the department of rehabilitation and correction, the court shall 833

impose a mandatory prison term. 834

(2) Whoever violates division (A)(2) of this section or 835
commits a violation of division (C) of this section involving any 836
drug of abuse is guilty of illegal conveyance of drugs of abuse 837
onto the grounds of a ~~detention~~ specified governmental facility ~~or~~ 838
~~a mental health or mental retardation and developmental~~ 839
~~disabilities institution~~, a felony of the third degree. If the 840
offender is an officer or employee of the department of 841
rehabilitation and correction or of the department of youth 842
services, the court shall impose a mandatory prison term. 843

(3) Whoever violates division (A)(3) of this section or 844
commits a violation of division (C) of this section involving any 845
intoxicating liquor is guilty of illegal conveyance of 846
intoxicating liquor onto the grounds of a ~~detention~~ specified 847
governmental facility ~~or a mental health or mental retardation and~~ 848
~~developmental disabilities institution~~, a misdemeanor of the 849
second degree. 850

(4) Whoever violates division (D) of this section is guilty 851
of illegal conveyance of cash onto the grounds of a detention 852
facility, a misdemeanor of the first degree. If the offender 853
previously has been convicted of or pleaded guilty to a violation 854
of division (D) of this section, illegal conveyance of cash onto 855
the grounds of a detention facility is a felony of the fifth 856
degree. 857

(5) Whoever violates division (E) of this section is guilty 858
of illegal conveyance of a communications device onto the grounds 859
of a ~~detention~~ specified governmental facility, a misdemeanor of 860
the first degree, or if the offender previously has been convicted 861
of or pleaded guilty to a violation of division (E) of this 862
section, a felony of the fifth degree. 863

Sec. 2929.01. As used in this chapter: 864

(A)(1) "Alternative residential facility" means, subject to 865
division (A)(2) of this section, any facility other than an 866
offender's home or residence in which an offender is assigned to 867
live and that satisfies all of the following criteria: 868

(a) It provides programs through which the offender may seek 869
or maintain employment or may receive education, training, 870
treatment, or habilitation. 871

(b) It has received the appropriate license or certificate 872
for any specialized education, training, treatment, habilitation, 873
or other service that it provides from the government agency that 874
is responsible for licensing or certifying that type of education, 875
training, treatment, habilitation, or service. 876

(2) "Alternative residential facility" does not include a 877
community-based correctional facility, jail, halfway house, or 878
prison. 879

~~(B) "Bad time" means the time by which the parole board 880
administratively extends an offender's stated prison term or terms 881
pursuant to section 2967.11 of the Revised Code because the parole 882
board finds by clear and convincing evidence that the offender, 883
while serving the prison term or terms, committed an act that is a 884
criminal offense under the law of this state or the United States, 885
whether or not the offender is prosecuted for the commission of 886
that act. 887~~

~~(C)~~ "Basic probation supervision" means a requirement that 888
the offender maintain contact with a person appointed to supervise 889
the offender in accordance with sanctions imposed by the court or 890
imposed by the parole board pursuant to section 2967.28 of the 891
Revised Code. "Basic probation supervision" includes basic parole 892
supervision and basic post-release control supervision. 893

~~(D)~~(C) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 894
"unit dose" have the same meanings as in section 2925.01 of the 895

Revised Code.	896
(E) (D) "Community-based correctional facility" means a	897
community-based correctional facility and program or district	898
community-based correctional facility and program developed	899
pursuant to sections 2301.51 to 2301.58 of the Revised Code.	900
(F) (E) "Community control sanction" means a sanction that is	901
not a prison term and that is described in section 2929.15,	902
2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction	903
that is not a jail term and that is described in section 2929.26,	904
2929.27, or 2929.28 of the Revised Code. "Community control	905
sanction" includes probation if the sentence involved was imposed	906
for a felony that was committed prior to July 1, 1996, or if the	907
sentence involved was imposed for a misdemeanor that was committed	908
prior to January 1, 2004.	909
(G) (F) "Controlled substance," "marihuana," "schedule I," and	910
"schedule II" have the same meanings as in section 3719.01 of the	911
Revised Code.	912
(H) (G) "Curfew" means a requirement that an offender during a	913
specified period of time be at a designated place.	914
(I) (H) "Day reporting" means a sanction pursuant to which an	915
offender is required each day to report to and leave a center or	916
other approved reporting location at specified times in order to	917
participate in work, education or training, treatment, and other	918
approved programs at the center or outside the center.	919
(J) (I) "Deadly weapon" has the same meaning as in section	920
2923.11 of the Revised Code.	921
(K) (J) "Drug and alcohol use monitoring" means a program	922
under which an offender agrees to submit to random chemical	923
analysis of the offender's blood, breath, or urine to determine	924
whether the offender has ingested any alcohol or other drugs.	925

~~(I)~~(K) "Drug treatment program" means any program under which 926
a person undergoes assessment and treatment designed to reduce or 927
completely eliminate the person's physical or emotional reliance 928
upon alcohol, another drug, or alcohol and another drug and under 929
which the person may be required to receive assessment and 930
treatment on an outpatient basis or may be required to reside at a 931
facility other than the person's home or residence while 932
undergoing assessment and treatment. 933

~~(M)~~(L) "Economic loss" means any economic detriment suffered 934
by a victim as a direct and proximate result of the commission of 935
an offense and includes any loss of income due to lost time at 936
work because of any injury caused to the victim, and any property 937
loss, medical cost, or funeral expense incurred as a result of the 938
commission of the offense. "Economic loss" does not include 939
non-economic loss or any punitive or exemplary damages. 940

~~(N)~~(M) "Education or training" includes study at, or in 941
conjunction with a program offered by, a university, college, or 942
technical college or vocational study and also includes the 943
completion of primary school, secondary school, and literacy 944
curricula or their equivalent. 945

~~(O)~~(N) "Firearm" has the same meaning as in section 2923.11 946
of the Revised Code. 947

~~(P)~~(O) "Halfway house" means a facility licensed by the 948
division of parole and community services of the department of 949
rehabilitation and correction pursuant to section 2967.14 of the 950
Revised Code as a suitable facility for the care and treatment of 951
adult offenders. 952

~~(Q)~~(P) "House arrest" means a period of confinement of an 953
offender that is in the offender's home or in other premises 954
specified by the sentencing court or by the parole board pursuant 955
to section 2967.28 of the Revised Code and during which all of the 956

following apply: 957

(1) The offender is required to remain in the offender's home 958
or other specified premises for the specified period of 959
confinement, except for periods of time during which the offender 960
is at the offender's place of employment or at other premises as 961
authorized by the sentencing court or by the parole board. 962

(2) The offender is required to report periodically to a 963
person designated by the court or parole board. 964

(3) The offender is subject to any other restrictions and 965
requirements that may be imposed by the sentencing court or by the 966
parole board. 967

~~(R)~~(Q) "Intensive probation supervision" means a requirement 968
that an offender maintain frequent contact with a person appointed 969
by the court, or by the parole board pursuant to section 2967.28 970
of the Revised Code, to supervise the offender while the offender 971
is seeking or maintaining necessary employment and participating 972
in training, education, and treatment programs as required in the 973
court's or parole board's order. "Intensive probation supervision" 974
includes intensive parole supervision and intensive post-release 975
control supervision. 976

~~(S)~~(R) "Jail" means a jail, workhouse, minimum security jail, 977
or other residential facility used for the confinement of alleged 978
or convicted offenders that is operated by a political subdivision 979
or a combination of political subdivisions of this state. 980

~~(T)~~(S) "Jail term" means the term in a jail that a sentencing 981
court imposes or is authorized to impose pursuant to section 982
2929.24 or 2929.25 of the Revised Code or pursuant to any other 983
provision of the Revised Code that authorizes a term in a jail for 984
a misdemeanor conviction. 985

~~(U)~~(T) "Mandatory jail term" means the term in a jail that a 986
sentencing court is required to impose pursuant to division (G) of 987

section 1547.99 of the Revised Code, division (E) of section 988
2903.06 or division (D) of section 2903.08 of the Revised Code, 989
division (E) of section 2929.24 of the Revised Code, division (B) 990
of section 4510.14 of the Revised Code, or division (G) of section 991
4511.19 of the Revised Code or pursuant to any other provision of 992
the Revised Code that requires a term in a jail for a misdemeanor 993
conviction. 994

~~(V)~~(U) "Delinquent child" has the same meaning as in section 995
2152.02 of the Revised Code. 996

~~(W)~~(V) "License violation report" means a report that is made 997
by a sentencing court, or by the parole board pursuant to section 998
2967.28 of the Revised Code, to the regulatory or licensing board 999
or agency that issued an offender a professional license or a 1000
license or permit to do business in this state and that specifies 1001
that the offender has been convicted of or pleaded guilty to an 1002
offense that may violate the conditions under which the offender's 1003
professional license or license or permit to do business in this 1004
state was granted or an offense for which the offender's 1005
professional license or license or permit to do business in this 1006
state may be revoked or suspended. 1007

~~(X)~~(W) "Major drug offender" means an offender who is 1008
convicted of or pleads guilty to the possession of, sale of, or 1009
offer to sell any drug, compound, mixture, preparation, or 1010
substance that consists of or contains at least one thousand grams 1011
of hashish; at least one hundred grams of crack cocaine; at least 1012
one thousand grams of cocaine that is not crack cocaine; at least 1013
two thousand five hundred unit doses or two hundred fifty grams of 1014
heroin; at least five thousand unit doses of L.S.D. or five 1015
hundred grams of L.S.D. in a liquid concentrate, liquid extract, 1016
or liquid distillate form; or at least one hundred times the 1017
amount of any other schedule I or II controlled substance other 1018
than marihuana that is necessary to commit a felony of the third 1019

degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 1020
of the Revised Code that is based on the possession of, sale of, 1021
or offer to sell the controlled substance. 1022

~~(Y)~~(X) "Mandatory prison term" means any of the following: 1023

(1) Subject to division ~~(Y)~~(X)(2) of this section, the term 1024
in prison that must be imposed for the offenses or circumstances 1025
set forth in divisions (F)(1) to (8) or (F)(12) to (14) of section 1026
2929.13 and division (D) of section 2929.14 of the Revised Code. 1027
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 1028
and 2925.11 of the Revised Code, unless the maximum or another 1029
specific term is required under section 2929.14 or 2929.142 of the 1030
Revised Code, a mandatory prison term described in this division 1031
may be any prison term authorized for the level of offense. 1032

(2) The term of sixty or one hundred twenty days in prison 1033
that a sentencing court is required to impose for a third or 1034
fourth degree felony OVI offense pursuant to division (G)(2) of 1035
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 1036
of the Revised Code or the term of one, two, three, four, or five 1037
years in prison that a sentencing court is required to impose 1038
pursuant to division (G)(2) of section 2929.13 of the Revised 1039
Code. 1040

(3) The term in prison imposed pursuant to division (A) of 1041
section 2971.03 of the Revised Code for the offenses and in the 1042
circumstances described in division (F)(11) of section 2929.13 of 1043
the Revised Code, pursuant to division (B)(1)(a), (b), or (c) of 1044
section 2971.03 of the Revised Code for the offense of rape 1045
committed on or after ~~the effective date of this amendment~~ January 1046
2, 2007, in violation of division (A)(1)(b) of section 2907.02 of 1047
the Revised Code, pursuant to division (B)(2)(a) of section 1048
2971.03 of the Revised Code for the offense of attempted rape 1049
committed on or after ~~the effective date of this amendment~~ January 1050
2, 2007, and a specification of the type described in section 1051

2941.1418 of the Revised Code, pursuant to division (B)(2)(b) of 1052
section 2971.03 of the Revised Code for the offense of attempted 1053
rape committed on or after ~~the effective date of this amendment~~ 1054
January 2, 2007, and a specification of the type described in 1055
section 2941.1419 of the Revised Code, or pursuant to division 1056
(B)(2)(c) of section 2971.03 of the Revised Code for the offense 1057
of attempted rape committed on or after ~~the effective date of this~~ 1058
~~amendment~~ January 2, 2007, and a specification of the type 1059
described in section 2941.1420 of the Revised Code and that term 1060
as modified or terminated pursuant to section 2971.05 of the 1061
Revised Code. 1062

~~(Z)~~(Y) "Monitored time" means a period of time during which 1063
an offender continues to be under the control of the sentencing 1064
court or parole board, subject to no conditions other than leading 1065
a law-abiding life. 1066

~~(AA)~~(Z) "Offender" means a person who, in this state, is 1067
convicted of or pleads guilty to a felony or a misdemeanor. 1068

~~(BB)~~(AA) "Prison" means a residential facility used for the 1069
confinement of convicted felony offenders that is under the 1070
control of the department of rehabilitation and correction but 1071
does not include a violation sanction center operated under 1072
authority of section 2967.141 of the Revised Code. 1073

~~(CC)~~(BB) "Prison term" includes ~~any~~ either of the following 1074
sanctions for an offender: 1075

(1) A stated prison term; 1076

(2) A term in a prison shortened by, or with the approval of, 1077
the sentencing court pursuant to section 2929.20, 2967.26, 1078
5120.031, 5120.032, or 5120.073 of the Revised Code; 1079

~~(3) A term in prison extended by bad time imposed pursuant to 1080
section 2967.11 of the Revised Code or imposed for a violation of 1081
post-release control pursuant to section 2967.28 of the Revised 1082~~

Code. 1083

~~(DD)~~(CC) "Repeat violent offender" means a person about whom 1084
both of the following apply: 1085

(1) The person is being sentenced for committing or for 1086
complicity in committing any of the following: 1087

(a) Aggravated murder, murder, any felony of the first or 1088
second degree that is an offense of violence, or an attempt to 1089
commit any of these offenses if the attempt is a felony of the 1090
first or second degree; 1091

(b) An offense under an existing or former law of this state, 1092
another state, or the United States that is or was substantially 1093
equivalent to an offense described in division ~~(DD)~~(CC)(1)(a) of 1094
this section. 1095

(2) The person previously was convicted of or pleaded guilty 1096
to an offense described in division ~~(DD)~~(CC)(1)(a) or (b) of this 1097
section. 1098

~~(EE)~~(DD) "Sanction" means any penalty imposed upon an 1099
offender who is convicted of or pleads guilty to an offense, as 1100
punishment for the offense. "Sanction" includes any sanction 1101
imposed pursuant to any provision of sections 2929.14 to 2929.18 1102
or 2929.24 to 2929.28 of the Revised Code. 1103

~~(FF)~~(EE) "Sentence" means the sanction or combination of 1104
sanctions imposed by the sentencing court on an offender who is 1105
convicted of or pleads guilty to an offense. 1106

~~(GG)~~(FF) "Stated prison term" means the prison term, 1107
mandatory prison term, or combination of all prison terms and 1108
mandatory prison terms imposed by the sentencing court pursuant to 1109
section 2929.14, 2929.142, or 2971.03 of the Revised Code. "Stated 1110
prison term" includes any credit received by the offender for time 1111
spent in jail awaiting trial, sentencing, or transfer to prison 1112

for the offense and any time spent under house arrest or house 1113
arrest with electronic monitoring imposed after earning credits 1114
pursuant to section 2967.193 of the Revised Code. 1115

~~(HH)~~(GG) "Victim-offender mediation" means a reconciliation 1116
or mediation program that involves an offender and the victim of 1117
the offense committed by the offender and that includes a meeting 1118
in which the offender and the victim may discuss the offense, 1119
discuss restitution, and consider other sanctions for the offense. 1120

~~(II)~~(HH) "Fourth degree felony OVI offense" means a violation 1121
of division (A) of section 4511.19 of the Revised Code that, under 1122
division (G) of that section, is a felony of the fourth degree. 1123

~~(JJ)~~(II) "Mandatory term of local incarceration" means the 1124
term of sixty or one hundred twenty days in a jail, a 1125
community-based correctional facility, a halfway house, or an 1126
alternative residential facility that a sentencing court may 1127
impose upon a person who is convicted of or pleads guilty to a 1128
fourth degree felony OVI offense pursuant to division (G)(1) of 1129
section 2929.13 of the Revised Code and division (G)(1)(d) or (e) 1130
of section 4511.19 of the Revised Code. 1131

~~(KK)~~(JJ) "Designated homicide, assault, or kidnapping 1132
offense," "violent sex offense," "sexual motivation 1133
specification," "sexually violent offense," "sexually violent 1134
predator," and "sexually violent predator specification" have the 1135
same meanings as in section 2971.01 of the Revised Code. 1136

~~(LL)~~(KK) "Habitual sex offender," "sexually oriented 1137
offense," "sexual predator," "registration-exempt sexually 1138
oriented offense," "child-victim oriented offense," "habitual 1139
child-victim offender," and "child-victim predator" have the same 1140
meanings as in section 2950.01 of the Revised Code. 1141

~~(MM)~~(LL) An offense is "committed in the vicinity of a child" 1142
if the offender commits the offense within thirty feet of or 1143

within the same residential unit as a child who is under eighteen 1144
years of age, regardless of whether the offender knows the age of 1145
the child or whether the offender knows the offense is being 1146
committed within thirty feet of or within the same residential 1147
unit as the child and regardless of whether the child actually 1148
views the commission of the offense. 1149

~~(NN)~~(MM) "Family or household member" has the same meaning as 1150
in section 2919.25 of the Revised Code. 1151

~~(OO)~~(NN) "Motor vehicle" and "manufactured home" have the 1152
same meanings as in section 4501.01 of the Revised Code. 1153

~~(PP)~~(OO) "Detention" and "detention facility" have the same 1154
meanings as in section 2921.01 of the Revised Code. 1155

~~(QQ)~~(PP) "Third degree felony OVI offense" means a violation 1156
of division (A) of section 4511.19 of the Revised Code that, under 1157
division (G) of that section, is a felony of the third degree. 1158

~~(RR)~~(OO) "Random drug testing" has the same meaning as in 1159
section 5120.63 of the Revised Code. 1160

~~(SS)~~(RR) "Felony sex offense" has the same meaning as in 1161
section 2967.28 of the Revised Code. 1162

~~(TT)~~(SS) "Body armor" has the same meaning as in section 1163
2941.1411 of the Revised Code. 1164

~~(UU)~~(TT) "Electronic monitoring" means monitoring through the 1165
use of an electronic monitoring device. 1166

~~(VV)~~(UU) "Electronic monitoring device" means any of the 1167
following: 1168

(1) Any device that can be operated by electrical or battery 1169
power and that conforms with all of the following: 1170

(a) The device has a transmitter that can be attached to a 1171
person, that will transmit a specified signal to a receiver of the 1172
type described in division ~~(VV)~~(UU)(1)(b) of this section if the 1173

transmitter is removed from the person, turned off, or altered in 1174
any manner without prior court approval in relation to electronic 1175
monitoring or without prior approval of the department of 1176
rehabilitation and correction in relation to the use of an 1177
electronic monitoring device for an inmate on transitional control 1178
or otherwise is tampered with, that can transmit continuously and 1179
periodically a signal to that receiver when the person is within a 1180
specified distance from the receiver, and that can transmit an 1181
appropriate signal to that receiver if the person to whom it is 1182
attached travels a specified distance from that receiver. 1183

(b) The device has a receiver that can receive continuously 1184
the signals transmitted by a transmitter of the type described in 1185
division ~~(VV)~~(UU)(1)(a) of this section, can transmit continuously 1186
those signals by telephone to a central monitoring computer of the 1187
type described in division ~~(VV)~~(UU)(1)(c) of this section, and can 1188
transmit continuously an appropriate signal to that central 1189
monitoring computer if the receiver is turned off or altered 1190
without prior court approval or otherwise tampered with. 1191

(c) The device has a central monitoring computer that can 1192
receive continuously the signals transmitted by telephone by a 1193
receiver of the type described in division ~~(VV)~~(UU)(1)(b) of this 1194
section and can monitor continuously the person to whom an 1195
electronic monitoring device of the type described in division 1196
~~(VV)~~(UU)(1)(a) of this section is attached. 1197

(2) Any device that is not a device of the type described in 1198
division ~~(VV)~~(UU)(1) of this section and that conforms with all of 1199
the following: 1200

(a) The device includes a transmitter and receiver that can 1201
monitor and determine the location of a subject person at any 1202
time, or at a designated point in time, through the use of a 1203
central monitoring computer or through other electronic means. 1204

(b) The device includes a transmitter and receiver that can determine at any time, or at a designated point in time, through the use of a central monitoring computer or other electronic means the fact that the transmitter is turned off or altered in any manner without prior approval of the court in relation to the electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with.

(3) Any type of technology that can adequately track or determine the location of a subject person at any time and that is approved by the director of rehabilitation and correction, including, but not limited to, any satellite technology, voice tracking system, or retinal scanning system that is so approved.

~~(WW)~~(VV) "Non-economic loss" means nonpecuniary harm suffered by a victim of an offense as a result of or related to the commission of the offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

~~(XX)~~(WW) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

~~(YY)~~(XX) "Continuous alcohol monitoring" means the ability to automatically test and periodically transmit alcohol consumption levels and tamper attempts at least every hour, regardless of the location of the person who is being monitored.

~~(ZZ)~~(YY) A person is "adjudicated a sexually violent predator" if the person is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the

indictment, count in the indictment, or information charging that 1236
violent sex offense or if the person is convicted of or pleads 1237
guilty to a designated homicide, assault, or kidnapping offense 1238
and also is convicted of or pleads guilty to both a sexual 1239
motivation specification and a sexually violent predator 1240
specification that were included in the indictment, count in the 1241
indictment, or information charging that designated homicide, 1242
assault, or kidnapping offense. 1243

Sec. 2929.12. (A) Unless otherwise required by section 1244
2929.13 or 2929.14 of the Revised Code, a court that imposes a 1245
sentence under this chapter upon an offender for a felony has 1246
discretion to determine the most effective way to comply with the 1247
purposes and principles of sentencing set forth in section 2929.11 1248
of the Revised Code. In exercising that discretion, the court 1249
shall consider the factors set forth in divisions (B) and (C) of 1250
this section relating to the seriousness of the conduct and the 1251
factors provided in divisions (D) and (E) of this section relating 1252
to the likelihood of the offender's recidivism and, in addition, 1253
may consider any other factors that are relevant to achieving 1254
those purposes and principles of sentencing. 1255

(B) The sentencing court shall consider all of the following 1256
that apply regarding the offender, the offense, or the victim, and 1257
any other relevant factors, as indicating that the offender's 1258
conduct is more serious than conduct normally constituting the 1259
offense: 1260

(1) The physical or mental injury suffered by the victim of 1261
the offense due to the conduct of the offender was exacerbated 1262
because of the physical or mental condition or age of the victim. 1263

(2) The victim of the offense suffered serious physical, 1264
psychological, or economic harm as a result of the offense. 1265

(3) The offender held a public office or position of trust in 1266

the community, and the offense related to that office or position.	1267
(4) The offender's occupation, elected office, or profession	1268
obliged the offender to prevent the offense or bring others	1269
committing it to justice.	1270
(5) The offender's professional reputation or occupation,	1271
elected office, or profession was used to facilitate the offense	1272
or is likely to influence the future conduct of others.	1273
(6) The offender's relationship with the victim facilitated	1274
the offense.	1275
(7) The offender committed the offense for hire or as a part	1276
of an organized criminal activity.	1277
(8) In committing the offense, the offender was motivated by	1278
prejudice based on race, ethnic background, gender, sexual	1279
orientation, or religion.	1280
(9) If the offense is a violation of section 2919.25 or a	1281
violation of section 2903.11, 2903.12, or 2903.13 of the Revised	1282
Code involving a person who was a family or household member at	1283
the time of the violation, the offender committed the offense in	1284
the vicinity of one or more children who are not victims of the	1285
offense, and the offender or the victim of the offense is a	1286
parent, guardian, custodian, or person in loco parentis of one or	1287
more of those children.	1288
(C) The sentencing court shall consider all of the following	1289
that apply regarding the offender, the offense, or the victim, and	1290
any other relevant factors, as indicating that the offender's	1291
conduct is less serious than conduct normally constituting the	1292
offense:	1293
(1) The victim induced or facilitated the offense.	1294
(2) In committing the offense, the offender acted under	1295
strong provocation.	1296

(3) In committing the offense, the offender did not cause or expect to cause physical harm to any person or property. 1297
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(4) There are substantial grounds to mitigate the offender's conduct, although the grounds are not enough to constitute a defense. 1299
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(D) The sentencing court shall consider all of the following that apply regarding the offender, and any other relevant factors, as factors indicating that the offender is likely to commit future crimes: 1302
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(1) At the time of committing the offense, the offender was under release from confinement before trial or sentencing, under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or under post-release control pursuant to section 2967.28 or any other provision of the Revised Code for an earlier offense or had been unfavorably terminated from post-release control for a prior offense pursuant to division (B) of section 2967.16 or section 2929.141 of the Revised Code. 1306
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(2) The offender previously was adjudicated a delinquent child pursuant to Chapter 2151. of the Revised Code prior to January 1, 2002, or pursuant to Chapter 2152. of the Revised Code, or the offender has a history of criminal convictions. 1314
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(3) The offender has not been rehabilitated to a satisfactory degree after previously being adjudicated a delinquent child pursuant to Chapter 2151. of the Revised Code prior to January 1, 2002, or pursuant to Chapter 2152. of the Revised Code, or the offender has not responded favorably to sanctions previously imposed for criminal convictions. 1318
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(4) The offender has demonstrated a pattern of drug or alcohol abuse that is related to the offense, and the offender refuses to acknowledge that the offender has demonstrated that pattern, or the offender refuses treatment for the drug or alcohol 1324
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abuse.	1328
(5) <u>The offender has failed in a treatment program certified under section 3793.06 of the Revised Code.</u>	1329 1330
(6) The offender shows no genuine remorse for the offense.	1331
(E) The sentencing court shall consider all of the following that apply regarding the offender, and any other relevant factors, as factors indicating that the offender is not likely to commit future crimes:	1332 1333 1334 1335
(1) Prior to committing the offense, the offender had not been adjudicated a delinquent child.	1336 1337
(2) Prior to committing the offense, the offender had not been convicted of or pleaded guilty to a criminal offense.	1338 1339
(3) Prior to committing the offense, the offender had led a law-abiding life for a significant number of years.	1340 1341
(4) The offense was committed under circumstances not likely to recur.	1342 1343
(5) <u>The offender has successfully completed a treatment program certified under section 3793.06 of the Revised Code.</u>	1344 1345
(6) The offender shows genuine remorse for the offense.	1346
Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code. The sentence shall not impose an unnecessary burden on state or local government resources.	1347 1348 1349 1350 1351 1352 1353 1354
If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of	1355 1356

imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also may impose a financial sanction pursuant to section 2929.18 of the Revised Code but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, in addition to the mandatory term of local incarceration or the mandatory prison term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G)(1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (D)(4) of section 2929.14 of the Revised Code or a community control sanction as

described in division (G)(2) of this section. 1389

(B)(1) Except as provided in division (B)(2), (E), (F), or 1390
(G) of this section, in sentencing an offender for a felony of the 1391
fourth or fifth degree, the sentencing court shall determine 1392
whether any of the following apply: 1393

(a) In committing the offense, the offender caused physical 1394
harm to a person. 1395

(b) In committing the offense, the offender attempted to 1396
cause or made an actual threat of physical harm to a person with a 1397
deadly weapon. 1398

(c) In committing the offense, the offender attempted to 1399
cause or made an actual threat of physical harm to a person, and 1400
the offender previously was convicted of an offense that caused 1401
physical harm to a person. 1402

(d) The offender held a public office or position of trust 1403
and the offense related to that office or position; the offender's 1404
position obliged the offender to prevent the offense or to bring 1405
those committing it to justice; or the offender's professional 1406
reputation or position facilitated the offense or was likely to 1407
influence the future conduct of others. 1408

(e) The offender committed the offense for hire or as part of 1409
an organized criminal activity. 1410

(f) The offense is a sex offense that is a fourth or fifth 1411
degree felony violation of section 2907.03, 2907.04, 2907.05, 1412
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 1413
Revised Code. 1414

(g) The offender at the time of the offense was serving, or 1415
the offender previously had served, a prison term. 1416

(h) The offender committed the offense while under a 1417
community control sanction, while on probation, or while released 1418

from custody on a bond or personal recognizance. 1419

(i) The offender committed the offense while in possession of 1420
a firearm. 1421

(2)(a) If the court makes a finding described in division 1422
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 1423
section and if the court, after considering the factors set forth 1424
in section 2929.12 of the Revised Code, finds that a prison term 1425
is consistent with the purposes and principles of sentencing set 1426
forth in section 2929.11 of the Revised Code and finds that the 1427
offender is not amenable to an available community control 1428
sanction, the court shall impose a prison term upon the offender. 1429

(b) Except as provided in division (E), (F), or (G) of this 1430
section, if the court does not make a finding described in 1431
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 1432
this section and if the court, after considering the factors set 1433
forth in section 2929.12 of the Revised Code, finds that a 1434
community control sanction or combination of community control 1435
sanctions is consistent with the purposes and principles of 1436
sentencing set forth in section 2929.11 of the Revised Code, the 1437
court shall impose a community control sanction or combination of 1438
community control sanctions upon the offender. 1439

(C) Except as provided in division (D), (E), (F), or (G) of 1440
this section, in determining whether to impose a prison term as a 1441
sanction for a felony of the third degree or a felony drug offense 1442
that is a violation of a provision of Chapter 2925. of the Revised 1443
Code and that is specified as being subject to this division for 1444
purposes of sentencing, the sentencing court shall comply with the 1445
purposes and principles of sentencing under section 2929.11 of the 1446
Revised Code and with section 2929.12 of the Revised Code. 1447

(D)(1) Except as provided in division (E) or (F) of this 1448
section, for a felony of the first or second degree, for a felony 1449

drug offense that is a violation of any provision of Chapter 1450
2925., 3719., or 4729. of the Revised Code for which a presumption 1451
in favor of a prison term is specified as being applicable, and 1452
for a violation of division (A)(4) of section 2907.05 of the 1453
Revised Code for which a presumption in favor of a prison term is 1454
specified as being applicable, it is presumed that a prison term 1455
is necessary in order to comply with the purposes and principles 1456
of sentencing under section 2929.11 of the Revised Code. Division 1457
(D)(2) of this section does not apply to a presumption established 1458
under this division for a violation of division (A)(4) of section 1459
2907.05 of the Revised Code. 1460

(2) Notwithstanding the presumption established under 1461
division (D)(1) of this section for the offenses listed in that 1462
division other than a violation of division (A)(4) of section 1463
2907.05 of the Revised Code, the sentencing court may impose a 1464
community control sanction or a combination of community control 1465
sanctions instead of a prison term on an offender for a felony of 1466
the first or second degree or for a felony drug offense that is a 1467
violation of any provision of Chapter 2925., 3719., or 4729. of 1468
the Revised Code for which a presumption in favor of a prison term 1469
is specified as being applicable if it makes both of the following 1470
findings: 1471

(a) A community control sanction or a combination of 1472
community control sanctions would adequately punish the offender 1473
and protect the public from future crime, because the applicable 1474
factors under section 2929.12 of the Revised Code indicating a 1475
lesser likelihood of recidivism outweigh the applicable factors 1476
under that section indicating a greater likelihood of recidivism. 1477

(b) A community control sanction or a combination of 1478
community control sanctions would not demean the seriousness of 1479
the offense, because one or more factors under section 2929.12 of 1480
the Revised Code that indicate that the offender's conduct was 1481

less serious than conduct normally constituting the offense are 1482
applicable, and they outweigh the applicable factors under that 1483
section that indicate that the offender's conduct was more serious 1484
than conduct normally constituting the offense. 1485

(E)(1) Except as provided in division (F) of this section, 1486
for any drug offense that is a violation of any provision of 1487
Chapter 2925. of the Revised Code and that is a felony of the 1488
third, fourth, or fifth degree, the applicability of a presumption 1489
under division (D) of this section in favor of a prison term or of 1490
division (B) or (C) of this section in determining whether to 1491
impose a prison term for the offense shall be determined as 1492
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1493
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 1494
Revised Code, whichever is applicable regarding the violation. 1495

(2) If an offender who was convicted of or pleaded guilty to 1496
a felony violates the conditions of a community control sanction 1497
imposed for the offense solely by reason of producing positive 1498
results on a drug test, the court, as punishment for the violation 1499
of the sanction, shall not order that the offender be imprisoned 1500
unless the court determines on the record either of the following: 1501

(a) The offender had been ordered as a sanction for the 1502
felony to participate in a drug treatment program, in a drug 1503
education program, or in narcotics anonymous or a similar program, 1504
and the offender continued to use illegal drugs after a reasonable 1505
period of participation in the program. 1506

(b) The imprisonment of the offender for the violation is 1507
consistent with the purposes and principles of sentencing set 1508
forth in section 2929.11 of the Revised Code. 1509

(3) If division (B) or (C) of this section applies, a court 1510
that sentences an offender for a drug abuse offense that is a 1511
felony of the third, fourth, or fifth degree may require that the 1512

offender be assessed by a licensed substance abuse counselor 1513
within a specified period of time. The court shall require the 1514
counselor to file a written assessment of the offender with the 1515
court. After considering the written assessment, the court may 1516
impose a community control sanction that includes treatment 1517
authorized by section 3793.02 of the Revised Code if division (B) 1518
or (C) of this section applies. If the court imposes treatment as 1519
a community control sanction, the court shall direct the level and 1520
type of treatment after considering the assessment and 1521
recommendation of treatment providers. 1522

(F) Notwithstanding divisions (A) to (E) of this section, the 1523
court shall impose a prison term or terms under sections 2929.02 1524
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 1525
of the Revised Code and except as specifically provided in section 1526
2929.20 or 2967.191 of the Revised Code or when parole is 1527
authorized for the offense under section 2967.13 of the Revised 1528
Code shall not reduce the term or terms pursuant to section 1529
2929.20, section 2967.193, or any other provision of Chapter 2967. 1530
or Chapter 5120. of the Revised Code for any of the following 1531
offenses: 1532

(1) Aggravated murder when death is not imposed or murder; 1533

(2) Any rape, regardless of whether force was involved and 1534
regardless of the age of the victim, or an attempt to commit rape 1535
if, had the offender completed the rape that was attempted, the 1536
offender would have been guilty of a violation of division 1537
(A)(1)(b) of section 2907.02 of the Revised Code and would be 1538
sentenced under section 2971.03 of the Revised Code; 1539

(3) Gross sexual imposition or sexual battery, if the victim 1540
is under thirteen years of age and if any of the following 1541
applies: 1542

(a) Regarding gross sexual imposition, the offender 1543

previously was convicted of or pleaded guilty to rape, the former 1544
offense of felonious sexual penetration, gross sexual imposition, 1545
or sexual battery, and the victim of the previous offense was 1546
under thirteen years of age; 1547

(b) Regarding gross sexual imposition, the offense was 1548
committed on or after August 3, 2006, and evidence other than the 1549
testimony of the victim was admitted in the case corroborating the 1550
violation. 1551

(c) Regarding sexual battery, either of the following 1552
applies: 1553

(i) The offense was committed prior to August 3, 2006, the 1554
offender previously was convicted of or pleaded guilty to rape, 1555
the former offense of felonious sexual penetration, or sexual 1556
battery, and the victim of the previous offense was under thirteen 1557
years of age. 1558

(ii) The offense was committed on or after August 3, 2006. 1559

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 1560
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 1561
requires the imposition of a prison term; 1562

(5) A first, second, or third degree felony drug offense for 1563
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1564
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 1565
4729.99 of the Revised Code, whichever is applicable regarding the 1566
violation, requires the imposition of a mandatory prison term; 1567

(6) Any offense that is a first or second degree felony and 1568
that is not set forth in division (F)(1), (2), (3), or (4) of this 1569
section, if the offender previously was convicted of or pleaded 1570
guilty to aggravated murder, murder, any first or second degree 1571
felony, or an offense under an existing or former law of this 1572
state, another state, or the United States that is or was 1573
substantially equivalent to one of those offenses; 1574

(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.

(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (D)(1)(a) of section 2929.14 of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (D)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;

(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of

corrupt activity that is the basis of the offense is a felony of 1606
the first degree; 1607

(11) Any violent sex offense or designated homicide, assault, 1608
or kidnapping offense if, in relation to that offense, the 1609
offender is adjudicated a sexually violent predator; 1610

(12) A violation of division (A)(1) or (2) of section 2921.36 1611
of the Revised Code, or a violation of division (C) of that 1612
section involving an item listed in division (A)(1) or (2) of that 1613
section, if the offender is an officer or employee of the 1614
department of rehabilitation and correction; 1615

(13) A violation of division (A)(1) or (2) of section 2903.06 1616
of the Revised Code if the victim of the offense is a peace 1617
officer, as defined in section 2935.01 of the Revised Code, or an 1618
investigator of the bureau of criminal identification and 1619
investigation, as defined in section 2903.11 of the Revised Code, 1620
with respect to the portion of the sentence imposed pursuant to 1621
division (D)(5) of section 2929.14 of the Revised Code; 1622

(14) A violation of division (A)(1) or (2) of section 2903.06 1623
of the Revised Code if the offender has been convicted of or 1624
pleaded guilty to three or more violations of division (A) or (B) 1625
of section 4511.19 of the Revised Code or an equivalent offense, 1626
as defined in section 2941.1415 of the Revised Code, or three or 1627
more violations of any combination of those divisions and 1628
offenses, with respect to the portion of the sentence imposed 1629
pursuant to division (D)(6) of section 2929.14 of the Revised 1630
Code. 1631

(G) Notwithstanding divisions (A) to (E) of this section, if 1632
an offender is being sentenced for a fourth degree felony OVI 1633
offense or for a third degree felony OVI offense, the court shall 1634
impose upon the offender a mandatory term of local incarceration 1635
or a mandatory prison term in accordance with the following: 1636

(1) If the offender is being sentenced for a fourth degree 1637
felony OVI offense and if the offender has not been convicted of 1638
and has not pleaded guilty to a specification of the type 1639
described in section 2941.1413 of the Revised Code, the court may 1640
impose upon the offender a mandatory term of local incarceration 1641
of sixty days or one hundred twenty days as specified in division 1642
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 1643
not reduce the term pursuant to section 2929.20, 2967.193, or any 1644
other provision of the Revised Code. The court that imposes a 1645
mandatory term of local incarceration under this division shall 1646
specify whether the term is to be served in a jail, a 1647
community-based correctional facility, a halfway house, or an 1648
alternative residential facility, and the offender shall serve the 1649
term in the type of facility specified by the court. A mandatory 1650
term of local incarceration imposed under division (G)(1) of this 1651
section is not subject to ~~extension under section 2967.11 of the~~ 1652
~~Revised Code, to a period of post-release control under section~~ 1653
~~2967.28 of the Revised Code, or to any other Revised Code~~ 1654
provision that pertains to a prison term except as provided in 1655
division (A)(1) of this section. 1656

(2) If the offender is being sentenced for a third degree 1657
felony OVI offense, or if the offender is being sentenced for a 1658
fourth degree felony OVI offense and the court does not impose a 1659
mandatory term of local incarceration under division (G)(1) of 1660
this section, the court shall impose upon the offender a mandatory 1661
prison term of one, two, three, four, or five years if the 1662
offender also is convicted of or also pleads guilty to a 1663
specification of the type described in section 2941.1413 of the 1664
Revised Code or shall impose upon the offender a mandatory prison 1665
term of sixty days or one hundred twenty days as specified in 1666
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 1667
if the offender has not been convicted of and has not pleaded 1668
guilty to a specification of that type. The court shall not reduce 1669

the term pursuant to section 2929.20, 2967.193, or any other 1670
provision of the Revised Code. The offender shall serve the one-, 1671
two-, three-, four-, or five-year mandatory prison term 1672
consecutively to and prior to the prison term imposed for the 1673
underlying offense and consecutively to any other mandatory prison 1674
term imposed in relation to the offense. In no case shall an 1675
offender who once has been sentenced to a mandatory term of local 1676
incarceration pursuant to division (G)(1) of this section for a 1677
fourth degree felony OVI offense be sentenced to another mandatory 1678
term of local incarceration under that division for any violation 1679
of division (A) of section 4511.19 of the Revised Code. In 1680
addition to the mandatory prison term described in division (G)(2) 1681
of this section, the court may sentence the offender to a 1682
community control sanction under section 2929.16 or 2929.17 of the 1683
Revised Code, but the offender shall serve the prison term prior 1684
to serving the community control sanction. The department of 1685
rehabilitation and correction may place an offender sentenced to a 1686
mandatory prison term under this division in an intensive program 1687
prison established pursuant to section 5120.033 of the Revised 1688
Code if the department gave the sentencing judge prior notice of 1689
its intent to place the offender in an intensive program prison 1690
established under that section and if the judge did not notify the 1691
department that the judge disapproved the placement. Upon the 1692
establishment of the initial intensive program prison pursuant to 1693
section 5120.033 of the Revised Code that is privately operated 1694
and managed by a contractor pursuant to a contract entered into 1695
under section 9.06 of the Revised Code, both of the following 1696
apply: 1697

(a) The department of rehabilitation and correction shall 1698
make a reasonable effort to ensure that a sufficient number of 1699
offenders sentenced to a mandatory prison term under this division 1700
are placed in the privately operated and managed prison so that 1701
the privately operated and managed prison has full occupancy. 1702

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 of the Revised Code other than the privately operated and managed prison.

(H) If an offender is being sentenced for a sexually oriented offense committed on or after January 1, 1997, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code if either of the following applies:

(1) The offense was a violent sex offense or a designated homicide, assault, or kidnapping offense and, in relation to that offense, the offender was adjudicated a sexually violent predator.

(2) The offense was a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after ~~the effective date of this amendment~~ January 2, 2007.

(3) The offense was attempted rape committed on or after ~~the effective date of this amendment~~ January 2, 2007, and the offender also was convicted of or pleaded guilty to a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) The judge imposing sentence for the sexually oriented offense determines pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator.

(I) If an offender is being sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense or for a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code and the

duration of the duties. The judge shall inform the offender, at 1734
the time of sentencing, of those duties and of their duration and, 1735
if required under division (A)(2) of section 2950.03 of the 1736
Revised Code, shall perform the duties specified in that section. 1737

(J)(1) Except as provided in division (J)(2) of this section, 1738
when considering sentencing factors under this section in relation 1739
to an offender who is convicted of or pleads guilty to an attempt 1740
to commit an offense in violation of section 2923.02 of the 1741
Revised Code, the sentencing court shall consider the factors 1742
applicable to the felony category of the violation of section 1743
2923.02 of the Revised Code instead of the factors applicable to 1744
the felony category of the offense attempted. 1745

(2) When considering sentencing factors under this section in 1746
relation to an offender who is convicted of or pleads guilty to an 1747
attempt to commit a drug abuse offense for which the penalty is 1748
determined by the amount or number of unit doses of the controlled 1749
substance involved in the drug abuse offense, the sentencing court 1750
shall consider the factors applicable to the felony category that 1751
the drug abuse offense attempted would be if that drug abuse 1752
offense had been committed and had involved an amount or number of 1753
unit doses of the controlled substance that is within the next 1754
lower range of controlled substance amounts than was involved in 1755
the attempt. 1756

(K) As used in this section, "drug abuse offense" has the 1757
same meaning as in section 2925.01 of the Revised Code. 1758

(L) At the time of sentencing an offender who is a sexual 1759
predator for any sexually oriented offense, if the offender does 1760
not serve a prison term or jail term, the court may require that 1761
the offender be monitored by means of a global positioning device. 1762
If the court requires such monitoring, the cost of monitoring 1763
shall be borne by the offender. If the offender is indigent, the 1764
cost of compliance shall be paid by the crime victims reparations 1765

fund. 1766

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 1767
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this 1768
section and except in relation to an offense for which a sentence 1769
of death or life imprisonment is to be imposed, if the court 1770
imposing a sentence upon an offender for a felony elects or is 1771
required to impose a prison term on the offender pursuant to this 1772
chapter, the court shall impose a definite prison term that shall 1773
be one of the following: 1774

(1) For a felony of the first degree, the prison term shall 1775
be three, four, five, six, seven, eight, nine, or ten years. 1776

(2) For a felony of the second degree, the prison term shall 1777
be two, three, four, five, six, seven, or eight years. 1778

(3) For a felony of the third degree, the prison term shall 1779
be one, two, three, four, or five years. 1780

(4) For a felony of the fourth degree, the prison term shall 1781
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 1782
fourteen, fifteen, sixteen, seventeen, or eighteen months. 1783

(5) For a felony of the fifth degree, the prison term shall 1784
be six, seven, eight, nine, ten, eleven, or twelve months. 1785

(B) Except as provided in division (C), (D)(1), (D)(2), 1786
(D)(3), (D)(5), (D)(6), (G), or (L) of this section, in section 1787
2907.02 or 2907.05 of the Revised Code, or in Chapter 2925. of the 1788
Revised Code, if the court imposing a sentence upon an offender 1789
for a felony elects or is required to impose a prison term on the 1790
offender, the court shall impose the shortest prison term 1791
authorized for the offense pursuant to division (A) of this 1792
section, unless one or more of the following applies: 1793

(1) The offender was serving a prison term at the time of the 1794
offense, or the offender previously had served a prison term. 1795

(2) The court finds on the record that the shortest prison term will demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others.

(C) Except as provided in division (G) or (L) of this section or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term authorized for the offense pursuant to division (A) of this section only upon offenders who committed the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D)(1)(a) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of 1828
the type described in section 2941.141 of the Revised Code that 1829
charges the offender with having a firearm on or about the 1830
offender's person or under the offender's control while committing 1831
the felony. 1832

(b) If a court imposes a prison term on an offender under 1833
division (D)(1)(a) of this section, the prison term shall not be 1834
reduced pursuant to section 2929.20, section 2967.193, or any 1835
other provision of Chapter 2967. or Chapter 5120. of the Revised 1836
Code. A court shall not impose more than one prison term on an 1837
offender under division (D)(1)(a) of this section for felonies 1838
committed as part of the same act or transaction. 1839

(c) Except as provided in division (D)(1)(e) of this section, 1840
if an offender who is convicted of or pleads guilty to a violation 1841
of section 2923.161 of the Revised Code or to a felony that 1842
includes, as an essential element, purposely or knowingly causing 1843
or attempting to cause the death of or physical harm to another, 1844
also is convicted of or pleads guilty to a specification of the 1845
type described in section 2941.146 of the Revised Code that 1846
charges the offender with committing the offense by discharging a 1847
firearm from a motor vehicle other than a manufactured home, the 1848
court, after imposing a prison term on the offender for the 1849
violation of section 2923.161 of the Revised Code or for the other 1850
felony offense under division (A), (D)(2), or (D)(3) of this 1851
section, shall impose an additional prison term of five years upon 1852
the offender that shall not be reduced pursuant to section 1853
2929.20, section 2967.193, or any other provision of Chapter 2967. 1854
or Chapter 5120. of the Revised Code. A court shall not impose 1855
more than one additional prison term on an offender under division 1856
(D)(1)(c) of this section for felonies committed as part of the 1857
same act or transaction. If a court imposes an additional prison 1858
term on an offender under division (D)(1)(c) of this section 1859

relative to an offense, the court also shall impose a prison term 1860
under division (D)(1)(a) of this section relative to the same 1861
offense, provided the criteria specified in that division for 1862
imposing an additional prison term are satisfied relative to the 1863
offender and the offense. 1864

(d) If an offender who is convicted of or pleads guilty to an 1865
offense of violence that is a felony also is convicted of or 1866
pleads guilty to a specification of the type described in section 1867
2941.1411 of the Revised Code that charges the offender with 1868
wearing or carrying body armor while committing the felony offense 1869
of violence, the court shall impose on the offender a prison term 1870
of two years. The prison term so imposed shall not be reduced 1871
pursuant to section 2929.20, section 2967.193, or any other 1872
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 1873
court shall not impose more than one prison term on an offender 1874
under division (D)(1)(d) of this section for felonies committed as 1875
part of the same act or transaction. If a court imposes an 1876
additional prison term under division (D)(1)(a) or (c) of this 1877
section, the court is not precluded from imposing an additional 1878
prison term under division (D)(1)(d) of this section. 1879

(e) The court shall not impose any of the prison terms 1880
described in division (D)(1)(a) of this section or any of the 1881
additional prison terms described in division (D)(1)(c) of this 1882
section upon an offender for a violation of section 2923.12 or 1883
2923.123 of the Revised Code. The court shall not impose any of 1884
the prison terms described in division (D)(1)(a) of this section 1885
or any of the additional prison terms described in division 1886
(D)(1)(c) of this section upon an offender for a violation of 1887
section 2923.13 of the Revised Code unless all of the following 1888
apply: 1889

(i) The offender previously has been convicted of aggravated 1890
murder, murder, or any felony of the first or second degree. 1891

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer, as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(f) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (D)(1)(a) or (c) of this section relative to the same offense.

(2)(a) If division (D)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the

Revised Code that the offender is a repeat violent offender. 1924

(ii) The offense of which the offender currently is convicted 1925
or to which the offender currently pleads guilty is aggravated 1926
murder and the court does not impose a sentence of death or life 1927
imprisonment without parole, murder, terrorism and the court does 1928
not impose a sentence of life imprisonment without parole, any 1929
felony of the first degree that is an offense of violence and the 1930
court does not impose a sentence of life imprisonment without 1931
parole, or any felony of the second degree that is an offense of 1932
violence and the trier of fact finds that the offense involved an 1933
attempt to cause or a threat to cause serious physical harm to a 1934
person or resulted in serious physical harm to a person. 1935

(iii) The court imposes the longest prison term for the 1936
offense that is not life imprisonment without parole. 1937

(iv) The court finds that the prison terms imposed pursuant 1938
to division (D)(2)(a)(iii) of this section and, if applicable, 1939
division (D)(1) or (3) of this section are inadequate to punish 1940
the offender and protect the public from future crime, because the 1941
applicable factors under section 2929.12 of the Revised Code 1942
indicating a greater likelihood of recidivism outweigh the 1943
applicable factors under that section indicating a lesser 1944
likelihood of recidivism. 1945

(v) The court finds that the prison terms imposed pursuant to 1946
division (D)(2)(a)(iii) of this section and, if applicable, 1947
division (D)(1) or (3) of this section are demeaning to the 1948
seriousness of the offense, because one or more of the factors 1949
under section 2929.12 of the Revised Code indicating that the 1950
offender's conduct is more serious than conduct normally 1951
constituting the offense are present, and they outweigh the 1952
applicable factors under that section indicating that the 1953
offender's conduct is less serious than conduct normally 1954
constituting the offense. 1955

(b) The court shall impose on an offender the longest prison term authorized or required for the offense and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division ~~(DD)~~(CC)(1) of section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

(iii) The offense or offenses of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(c) For purposes of division (D)(2)(b) of this section, two or more offenses committed at the same time or as part of the same act or event shall be considered one offense, and that one offense

shall be the offense with the greatest penalty. 1988

(d) A sentence imposed under division (D)(2)(a) or (b) of 1989
this section shall not be reduced pursuant to section 2929.20 or 1990
section 2967.193, or any other provision of Chapter 2967. or 1991
Chapter 5120. of the Revised Code. The offender shall serve an 1992
additional prison term imposed under this section consecutively to 1993
and prior to the prison term imposed for the underlying offense. 1994

(e) When imposing a sentence pursuant to division (D)(2)(a) 1995
or (b) of this section, the court shall state its findings 1996
explaining the imposed sentence. 1997

(3)(a) Except when an offender commits a violation of section 1998
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1999
the violation is life imprisonment or commits a violation of 2000
section 2903.02 of the Revised Code, if the offender commits a 2001
violation of section 2925.03 or 2925.11 of the Revised Code and 2002
that section classifies the offender as a major drug offender and 2003
requires the imposition of a ten-year prison term on the offender, 2004
if the offender commits a felony violation of section 2925.02, 2005
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 2006
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 2007
division (C) of section 4729.51, or division (J) of section 2008
4729.54 of the Revised Code that includes the sale, offer to sell, 2009
or possession of a schedule I or II controlled substance, with the 2010
exception of marihuana, and the court imposing sentence upon the 2011
offender finds that the offender is guilty of a specification of 2012
the type described in section 2941.1410 of the Revised Code 2013
charging that the offender is a major drug offender, if the court 2014
imposing sentence upon an offender for a felony finds that the 2015
offender is guilty of corrupt activity with the most serious 2016
offense in the pattern of corrupt activity being a felony of the 2017
first degree, or if the offender is guilty of an attempted 2018
violation of section 2907.02 of the Revised Code and, had the 2019

offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(a)(iv) and (v) of this section.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty

months for a fourth degree felony OVI offense and shall equal one 2052
of the authorized prison terms specified in division (A)(3) of 2053
this section for a third degree felony OVI offense. If the court 2054
imposes an additional prison term under division (D)(4) of this 2055
section, the offender shall serve the additional prison term after 2056
the offender has served the mandatory prison term required for the 2057
offense. In addition to the mandatory prison term or mandatory and 2058
additional prison term imposed as described in division (D)(4) of 2059
this section, the court also may sentence the offender to a 2060
community control sanction under section 2929.16 or 2929.17 of the 2061
Revised Code, but the offender shall serve all of the prison terms 2062
so imposed prior to serving the community control sanction. 2063

If the offender is being sentenced for a fourth degree felony 2064
OVI offense under division (G)(1) of section 2929.13 of the 2065
Revised Code and the court imposes a mandatory term of local 2066
incarceration, the court may impose a prison term as described in 2067
division (A)(1) of that section. 2068

(5) If an offender is convicted of or pleads guilty to a 2069
violation of division (A)(1) or (2) of section 2903.06 of the 2070
Revised Code and also is convicted of or pleads guilty to a 2071
specification of the type described in section 2941.1414 of the 2072
Revised Code that charges that the victim of the offense is a 2073
peace officer, as defined in section 2935.01 of the Revised Code, 2074
or an investigator of the bureau of criminal identification and 2075
investigation, as defined in section 2903.11 of the Revised Code, 2076
the court shall impose on the offender a prison term of five 2077
years. If a court imposes a prison term on an offender under 2078
division (D)(5) of this section, the prison term shall not be 2079
reduced pursuant to section 2929.20, section 2967.193, or any 2080
other provision of Chapter 2967. or Chapter 5120. of the Revised 2081
Code. A court shall not impose more than one prison term on an 2082
offender under division (D)(5) of this section for felonies 2083

committed as part of the same act. 2084

(6) If an offender is convicted of or pleads guilty to a 2085
violation of division (A)(1) or (2) of section 2903.06 of the 2086
Revised Code and also is convicted of or pleads guilty to a 2087
specification of the type described in section 2941.1415 of the 2088
Revised Code that charges that the offender previously has been 2089
convicted of or pleaded guilty to three or more violations of 2090
division (A) or (B) of section 4511.19 of the Revised Code or an 2091
equivalent offense, as defined in section 2941.1415 of the Revised 2092
Code, or three or more violations of any combination of those 2093
divisions and offenses, the court shall impose on the offender a 2094
prison term of three years. If a court imposes a prison term on an 2095
offender under division (D)(6) of this section, the prison term 2096
shall not be reduced pursuant to section 2929.20, section 2097
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 2098
of the Revised Code. A court shall not impose more than one prison 2099
term on an offender under division (D)(6) of this section for 2100
felonies committed as part of the same act. 2101

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 2102
mandatory prison term is imposed upon an offender pursuant to 2103
division (D)(1)(a) of this section for having a firearm on or 2104
about the offender's person or under the offender's control while 2105
committing a felony, if a mandatory prison term is imposed upon an 2106
offender pursuant to division (D)(1)(c) of this section for 2107
committing a felony specified in that division by discharging a 2108
firearm from a motor vehicle, or if both types of mandatory prison 2109
terms are imposed, the offender shall serve any mandatory prison 2110
term imposed under either division consecutively to any other 2111
mandatory prison term imposed under either division or under 2112
division (D)(1)(d) of this section, consecutively to and prior to 2113
any prison term imposed for the underlying felony pursuant to 2114
division (A), (D)(2), or (D)(3) of this section or any other 2115

section of the Revised Code, and consecutively to any other prison 2116
term or mandatory prison term previously or subsequently imposed 2117
upon the offender. 2118

(b) If a mandatory prison term is imposed upon an offender 2119
pursuant to division (D)(1)(d) of this section for wearing or 2120
carrying body armor while committing an offense of violence that 2121
is a felony, the offender shall serve the mandatory term so 2122
imposed consecutively to any other mandatory prison term imposed 2123
under that division or under division (D)(1)(a) or (c) of this 2124
section, consecutively to and prior to any prison term imposed for 2125
the underlying felony under division (A), (D)(2), or (D)(3) of 2126
this section or any other section of the Revised Code, and 2127
consecutively to any other prison term or mandatory prison term 2128
previously or subsequently imposed upon the offender. 2129

(c) If a mandatory prison term is imposed upon an offender 2130
pursuant to division (D)(1)(f) of this section, the offender shall 2131
serve the mandatory prison term so imposed consecutively to and 2132
prior to any prison term imposed for the underlying felony under 2133
division (A), (D)(2), or (D)(3) of this section or any other 2134
section of the Revised Code, and consecutively to any other prison 2135
term or mandatory prison term previously or subsequently imposed 2136
upon the offender. 2137

(2) If an offender who is an inmate in a jail, prison, or 2138
other residential detention facility violates section 2917.02, 2139
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 2140
who is under detention at a detention facility commits a felony 2141
violation of section 2923.131 of the Revised Code, or if an 2142
offender who is an inmate in a jail, prison, or other residential 2143
detention facility or is under detention at a detention facility 2144
commits another felony while the offender is an escapee in 2145
violation of section 2921.34 of the Revised Code, any prison term 2146
imposed upon the offender for one of those violations shall be 2147

served by the offender consecutively to the prison term or term of 2148
imprisonment the offender was serving when the offender committed 2149
that offense and to any other prison term previously or 2150
subsequently imposed upon the offender. 2151

(3) If a prison term is imposed for a violation of division 2152
(B) of section 2911.01 of the Revised Code, a violation of 2153
division (A) of section 2913.02 of the Revised Code in which the 2154
stolen property is a firearm or dangerous ordnance, or a felony 2155
violation of division (B) of section 2921.331 of the Revised Code, 2156
the offender shall serve that prison term consecutively to any 2157
other prison term or mandatory prison term previously or 2158
subsequently imposed upon the offender. 2159

(4) If multiple prison terms are imposed on an offender for 2160
convictions of multiple offenses, the court may require the 2161
offender to serve the prison terms consecutively if the court 2162
finds that the consecutive service is necessary to protect the 2163
public from future crime or to punish the offender and that 2164
consecutive sentences are not disproportionate to the seriousness 2165
of the offender's conduct and to the danger the offender poses to 2166
the public, and if the court also finds any of the following: 2167

(a) The offender committed one or more of the multiple 2168
offenses while the offender was awaiting trial or sentencing, was 2169
under a sanction imposed pursuant to section 2929.16, 2929.17, or 2170
2929.18 of the Revised Code, or was under post-release control for 2171
a prior offense. 2172

(b) At least two of the multiple offenses were committed as 2173
part of one or more courses of conduct, and the harm caused by two 2174
or more of the multiple offenses so committed was so great or 2175
unusual that no single prison term for any of the offenses 2176
committed as part of any of the courses of conduct adequately 2177
reflects the seriousness of the offender's conduct. 2178

(c) The offender's history of criminal conduct demonstrates 2179
that consecutive sentences are necessary to protect the public 2180
from future crime by the offender. 2181

(5) If a mandatory prison term is imposed upon an offender 2182
pursuant to division (D)(5) or (6) of this section, the offender 2183
shall serve the mandatory prison term consecutively to and prior 2184
to any prison term imposed for the underlying violation of 2185
division (A)(1) or (2) of section 2903.06 of the Revised Code 2186
pursuant to division (A) of this section or section 2929.142 of 2187
the Revised Code. If a mandatory prison term is imposed upon an 2188
offender pursuant to division (D)(5) of this section, and if a 2189
mandatory prison term also is imposed upon the offender pursuant 2190
to division (D)(6) of this section in relation to the same 2191
violation, the offender shall serve the mandatory prison term 2192
imposed pursuant to division (D)(5) of this section consecutively 2193
to and prior to the mandatory prison term imposed pursuant to 2194
division (D)(6) of this section and consecutively to and prior to 2195
any prison term imposed for the underlying violation of division 2196
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 2197
division (A) of this section or section 2929.142 of the Revised 2198
Code. 2199

(6) When consecutive prison terms are imposed pursuant to 2200
division (E)(1), (2), (3), (4), or (5) of this section, the term 2201
to be served is the aggregate of all of the terms so imposed. 2202

(F)(1) If a court imposes a prison term for a felony of the 2203
first degree, for a felony of the second degree, for a felony sex 2204
offense, or for a felony of the third degree that is not a felony 2205
sex offense and in the commission of which the offender caused or 2206
threatened to cause physical harm to a person, it shall include in 2207
the sentence a requirement that the offender be subject to a 2208
period of post-release control after the offender's release from 2209
imprisonment, in accordance with that division. If a court imposes 2210

a sentence including a prison term of a type described in this 2211
division on or after July 11, 2006, the failure of a court to 2212
include a post-release control requirement in the sentence 2213
pursuant to this division does not negate, limit, or otherwise 2214
affect the mandatory period of post-release control that is 2215
required for the offender under division (B) of section 2967.28 of 2216
the Revised Code. Section 2929.191 of the Revised Code applies if, 2217
prior to July 11, 2006, a court imposed a sentence including a 2218
prison term of a type described in this division and failed to 2219
include in the sentence pursuant to this division a statement 2220
regarding post-release control. 2221

(2) If a court imposes a prison term for a felony of the 2222
third, fourth, or fifth degree that is not subject to division 2223
(F)(1) of this section, it shall include in the sentence a 2224
requirement that the offender be subject to a period of 2225
post-release control after the offender's release from 2226
imprisonment, in accordance with that division, if the parole 2227
board determines that a period of post-release control is 2228
necessary. Section 2929.191 of the Revised Code applies if, prior 2229
to July 11, 2006, a court imposed a sentence including a prison 2230
term of a type described in this division and failed to include in 2231
the sentence pursuant to this division a statement regarding 2232
post-release control. 2233

(G) If a person is convicted of or pleads guilty to a violent 2234
sex offense or a designated homicide, assault, or kidnapping 2235
offense and, in relation to that offense, the offender is 2236
adjudicated a sexually violent predator, if a person is convicted 2237
of or pleads guilty to a violation of division (A)(1)(b) of 2238
section 2907.02 of the Revised Code committed on or after ~~the~~ 2239
~~effective date of this amendment~~ January 2, 2007, and either the 2240
court does not impose a sentence of life without parole when 2241
authorized pursuant to division (B) of section 2907.02 of the 2242

Revised Code or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code, or if a person is convicted of or pleads guilty to attempted rape committed on or after ~~the effective date of this amendment~~ January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code, the court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(J) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or

towards a person in a school safety zone, the court shall impose 2275
upon the offender an additional prison term of two years. The 2276
offender shall serve the additional two years consecutively to and 2277
prior to the prison term imposed for the underlying offense. 2278

(K) At the time of sentencing, the court may recommend the 2279
offender for placement in a program of shock incarceration under 2280
section 5120.031 of the Revised Code or for placement in an 2281
intensive program prison under section 5120.032 of the Revised 2282
Code, disapprove placement of the offender in a program of shock 2283
incarceration or an intensive program prison of that nature, or 2284
make no recommendation on placement of the offender. In no case 2285
shall the department of rehabilitation and correction place the 2286
offender in a program or prison of that nature unless the 2287
department determines as specified in section 5120.031 or 5120.032 2288
of the Revised Code, whichever is applicable, that the offender is 2289
eligible for the placement. 2290

If the court disapproves placement of the offender in a 2291
program or prison of that nature, the department of rehabilitation 2292
and correction shall not place the offender in any program of 2293
shock incarceration or intensive program prison. 2294

If the court recommends placement of the offender in a 2295
program of shock incarceration or in an intensive program prison, 2296
and if the offender is subsequently placed in the recommended 2297
program or prison, the department shall notify the court of the 2298
placement and shall include with the notice a brief description of 2299
the placement. 2300

If the court recommends placement of the offender in a 2301
program of shock incarceration or in an intensive program prison 2302
and the department does not subsequently place the offender in the 2303
recommended program or prison, the department shall send a notice 2304
to the court indicating why the offender was not placed in the 2305
recommended program or prison. 2306

If the court does not make a recommendation under this 2307
division with respect to an offender and if the department 2308
determines as specified in section 5120.031 or 5120.032 of the 2309
Revised Code, whichever is applicable, that the offender is 2310
eligible for placement in a program or prison of that nature, the 2311
department shall screen the offender and determine if there is an 2312
available program of shock incarceration or an intensive program 2313
prison for which the offender is suited. If there is an available 2314
program of shock incarceration or an intensive program prison for 2315
which the offender is suited, the department shall notify the 2316
court of the proposed placement of the offender as specified in 2317
section 5120.031 or 5120.032 of the Revised Code and shall include 2318
with the notice a brief description of the placement. The court 2319
shall have ten days from receipt of the notice to disapprove the 2320
placement. 2321

(L) If a person is convicted of or pleads guilty to 2322
aggravated vehicular homicide in violation of division (A)(1) of 2323
section 2903.06 of the Revised Code and division (B)(2)(c) of that 2324
section applies, the person shall be sentenced pursuant to section 2325
2929.142 of the Revised Code. 2326

Sec. 2929.141. (A) As used in this section, "~~person on~~ 2327
~~release~~" ~~means a~~ "releasee" ~~or "parolee," both~~ has the same 2328
meaning as ~~defined~~ in section 2967.01 of the Revised Code. 2329

(B) A ~~person on release~~ releasee who by committing a felony 2330
violates ~~any condition of parole,~~ any post-release control 2331
sanction, or any conditions described in division (A) of section 2332
2967.131 of the Revised Code that are imposed upon the ~~person~~ 2333
releasee may be prosecuted for the new felony. Upon the ~~person's~~ 2334
releasee's conviction of or plea of guilty to the new felony, the 2335
court shall impose sentence for the new felony, the court may 2336
terminate the term of post-release control ~~if the person is a~~ 2337

~~releasee,~~ and the court may do either or both of the following ~~for~~ 2338
~~a person who is either a releasee or parolee~~ regardless of whether 2339
the sentencing court or another court of this state imposed the 2340
original prison term for which the ~~person is on parole or~~ releasee 2341
is serving a term of post-release control: 2342

(1) In addition to any prison term for the new felony, impose 2343
a prison term for the violation. ~~If the person is a releasee, the~~ 2344
The maximum prison term for the violation shall be the greater of 2345
twelve months or the period of post-release control for the 2346
earlier felony minus any time the releasee has spent under 2347
post-release control for the earlier felony or, if the releasee's 2348
prison term was reduced under division (B)(1)(b) of section 2349
5120.032 of the Revised Code, the period of time not served in 2350
prison under the sentence as imposed by the court. ~~In all cases,~~ 2351
~~any~~ Any prison term imposed for the violation shall be reduced by 2352
any prison term that is administratively imposed by the parole 2353
board or adult parole authority as a post-release control 2354
sanction. ~~In all cases, a~~ A prison term imposed for the violation 2355
shall be served consecutively to any prison term imposed for the 2356
new felony. ~~If the person is a releasee, a~~ A prison term imposed 2357
for the violation, and a prison term imposed for the new felony, 2358
shall not count as, or be credited toward, the remaining period of 2359
post-release control imposed for the earlier felony. 2360

(2) Impose a sanction under sections 2929.15 to 2929.18 of 2361
the Revised Code for the violation that shall be served 2362
concurrently or consecutively, as specified by the court, with any 2363
community control sanctions for the new felony. 2364

Sec. 2929.15. (A)(1) If in sentencing an offender for a 2365
felony the court is not required to impose a prison term, a 2366
mandatory prison term, or a term of life imprisonment upon the 2367
offender, the court may directly impose a sentence that consists 2368

of one or more community control sanctions authorized pursuant to 2369
section 2929.16, 2929.17, or 2929.18 of the Revised Code. If the 2370
court is sentencing an offender for a fourth degree felony OVI 2371
offense under division (G)(1) of section 2929.13 of the Revised 2372
Code, in addition to the mandatory term of local incarceration 2373
imposed under that division and the mandatory fine required by 2374
division (B)(3) of section 2929.18 of the Revised Code, the court 2375
may impose upon the offender a community control sanction or 2376
combination of community control sanctions in accordance with 2377
sections 2929.16 and 2929.17 of the Revised Code. If the court is 2378
sentencing an offender for a third or fourth degree felony OVI 2379
offense under division (G)(2) of section 2929.13 of the Revised 2380
Code, in addition to the mandatory prison term or mandatory prison 2381
term and additional prison term imposed under that division, the 2382
court also may impose upon the offender a community control 2383
sanction or combination of community control sanctions under 2384
section 2929.16 or 2929.17 of the Revised Code, but the offender 2385
shall serve all of the prison terms so imposed prior to serving 2386
the community control sanction. 2387

The duration of all community control sanctions imposed upon 2388
an offender under this division shall not exceed five years. If 2389
the offender absconds or otherwise leaves the jurisdiction of the 2390
court in which the offender resides without obtaining permission 2391
from the court or the offender's probation officer to leave the 2392
jurisdiction of the court, or if the offender is confined in any 2393
institution for the commission of any offense while under a 2394
community control sanction, the period of the community control 2395
sanction ceases to run until the offender is brought before the 2396
court for its further action. If the court sentences the offender 2397
to one or more nonresidential sanctions under section 2929.17 of 2398
the Revised Code, the court shall impose as a condition of the 2399
nonresidential sanctions that, during the period of the sanctions, 2400
the offender must abide by the law and must not leave the state 2401

without the permission of the court or the offender's probation officer. The court may impose any other conditions of release under a community control sanction that the court considers appropriate, including, but not limited to, requiring that the offender not ingest or be injected with a drug of abuse and submit to random drug testing as provided in division (D) of this section to determine whether the offender ingested or was injected with a drug of abuse and requiring that the results of the drug test indicate that the offender did not ingest or was not injected with a drug of abuse.

(2)(a) If a court sentences an offender to any community control sanction or combination of community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, the court shall place the offender under the general control and supervision of a department of probation in the county that serves the court for purposes of reporting to the court a violation of any condition of the sanctions, any condition of release under a community control sanction imposed by the court, a violation of law, or the departure of the offender from this state without the permission of the court or the offender's probation officer. Alternatively, if the offender resides in another county and a county department of probation has been established in that county or that county is served by a multicounty probation department established under section 2301.27 of the Revised Code, the court may request the court of common pleas of that county to receive the offender into the general control and supervision of that county or multicounty department of probation for purposes of reporting to the court a violation of any condition of the sanctions, any condition of release under a community control sanction imposed by the court, a violation of law, or the departure of the offender from this state without the permission of the court or the offender's probation officer, subject to the jurisdiction of the trial judge over and with respect to the

person of the offender, and to the rules governing that department 2435
of probation. 2436

If there is no department of probation in the county that 2437
serves the court, the court shall place the offender, regardless 2438
of the offender's county of residence, under the general control 2439
and supervision of the adult parole authority for purposes of 2440
reporting to the court a violation of any of the sanctions, any 2441
condition of release under a community control sanction imposed by 2442
the court, a violation of law, or the departure of the offender 2443
from this state without the permission of the court or the 2444
offender's probation officer. 2445

(b) If the court imposing sentence upon an offender sentences 2446
the offender to any community control sanction or combination of 2447
community control sanctions authorized pursuant to section 2448
2929.16, 2929.17, or 2929.18 of the Revised Code, and if the 2449
offender violates any condition of the sanctions, any condition of 2450
release under a community control sanction imposed by the court, 2451
violates any law, or departs the state without the permission of 2452
the court or the offender's probation officer, the public or 2453
private person or entity that operates or administers the sanction 2454
or the program or activity that comprises the sanction shall 2455
report the violation or departure directly to the sentencing 2456
court, or shall report the violation or departure to the county or 2457
multicounty department of probation with general control and 2458
supervision over the offender under division (A)(2)(a) of this 2459
section or the officer of that department who supervises the 2460
offender, or, if there is no such department with general control 2461
and supervision over the offender under that division, to the 2462
adult parole authority. If the public or private person or entity 2463
that operates or administers the sanction or the program or 2464
activity that comprises the sanction reports the violation or 2465
departure to the county or multicounty department of probation or 2466

the adult parole authority, the department's or authority's 2467
officers may treat the offender as if the offender were on 2468
probation and in violation of the probation, and shall report the 2469
violation of the condition of the sanction, any condition of 2470
release under a community control sanction imposed by the court, 2471
the violation of law, or the departure from the state without the 2472
required permission to the sentencing court. 2473

(3) If an offender who is eligible for community control 2474
sanctions under this section admits to being drug addicted or the 2475
court has reason to believe that the offender is drug addicted, 2476
and if the offense for which the offender is being sentenced was 2477
related to the addiction, the court may require that the offender 2478
be assessed by a licensed substance abuse counselor within a 2479
specified period of time and shall require the counselor to file a 2480
written assessment of the offender with the court. If a court 2481
imposes treatment as a community control sanction, the court shall 2482
direct the level and type of treatment after consideration of the 2483
written assessment and recommendations of the counselor and other 2484
treatment providers. 2485

(4) If an assessment completed pursuant to division (A)(3) of 2486
this section indicates that the offender is addicted to drugs or 2487
alcohol, the court may include in any community control sanction 2488
imposed for a violation of section 2925.02, 2925.03, 2925.04, 2489
2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2490
2925.37 of the Revised Code a requirement that the offender 2491
participate in a treatment program certified under section 3793.06 2492
of the Revised Code. 2493

(B) If the conditions of a community control sanction are 2494
violated or if the offender violates a law or leaves the state 2495
without the permission of the court or the offender's probation 2496
officer, the sentencing court may impose a longer time under the 2497
same sanction if the total time under the sanctions does not 2498

exceed the five-year limit specified in division (A) of this 2499
section, may impose a more restrictive sanction under section 2500
2929.16, 2929.17, or 2929.18 of the Revised Code, or may impose a 2501
prison term on the offender pursuant to section 2929.14 of the 2502
Revised Code. The prison term, if any, imposed upon a violator 2503
pursuant to this division shall be within the range of prison 2504
terms available for the offense for which the sanction that was 2505
violated was imposed and shall not exceed the prison term 2506
specified in the notice provided to the offender at the sentencing 2507
hearing pursuant to division (B)(3) of section 2929.19 of the 2508
Revised Code. The court may reduce the longer period of time that 2509
the offender is required to spend under the longer sanction, the 2510
more restrictive sanction, or a prison term imposed pursuant to 2511
this division by the time the offender successfully spent under 2512
the sanction that was initially imposed. 2513

(C) If an offender, for a significant period of time, 2514
fulfills the conditions of a sanction imposed pursuant to section 2515
2929.16, 2929.17, or 2929.18 of the Revised Code in an exemplary 2516
manner, the court may reduce the period of time under the sanction 2517
or impose a less restrictive sanction, but the court shall not 2518
permit the offender to violate any law or permit the offender to 2519
leave the state without the permission of the court or the 2520
offender's probation officer. 2521

(D)(1) If a court under division (A)(1) of this section 2522
imposes a condition of release under a community control sanction 2523
that requires the offender to submit to random drug testing, the 2524
department of probation or the adult parole authority that has 2525
general control and supervision of the offender under division 2526
(A)(2)(a) of this section may cause the offender to submit to 2527
random drug testing performed by a laboratory or entity that has 2528
entered into a contract with any of the governmental entities or 2529
officers authorized to enter into a contract with that laboratory 2530

or entity under section 341.26, 753.33, or 5120.63 of the Revised Code. 2531
2532

(2) If no laboratory or entity described in division (D)(1) 2533
of this section has entered into a contract as specified in that 2534
division, the department of probation or the adult parole 2535
authority that has general control and supervision of the offender 2536
under division (A)(2)(a) of this section shall cause the offender 2537
to submit to random drug testing performed by a reputable public 2538
laboratory to determine whether the individual who is the subject 2539
of the drug test ingested or was injected with a drug of abuse. 2540

(3) A laboratory or entity that has entered into a contract 2541
pursuant to section 341.26, 753.33, or 5120.63 of the Revised Code 2542
shall perform the random drug tests under division (D)(1) of this 2543
section in accordance with the applicable standards that are 2544
included in the terms of that contract. A public laboratory shall 2545
perform the random drug tests under division (D)(2) of this 2546
section in accordance with the standards set forth in the policies 2547
and procedures established by the department of rehabilitation and 2548
correction pursuant to section 5120.63 of the Revised Code. An 2549
offender who is required under division (A)(1) of this section to 2550
submit to random drug testing as a condition of release under a 2551
community control sanction and whose test results indicate that 2552
the offender ingested or was injected with a drug of abuse shall 2553
pay the fee for the drug test if the department of probation or 2554
the adult parole authority that has general control and 2555
supervision of the offender requires payment of a fee. A 2556
laboratory or entity that performs the random drug testing on an 2557
offender under division (D)(1) or (2) of this section shall 2558
transmit the results of the drug test to the appropriate 2559
department of probation or the adult parole authority that has 2560
general control and supervision of the offender under division 2561
(A)(2)(a) of this section. 2562

Sec. 2929.17. Except as provided in this section, the court 2563
imposing a sentence for a felony upon an offender who is not 2564
required to serve a mandatory prison term may impose any 2565
nonresidential sanction or combination of nonresidential sanctions 2566
authorized under this section. If the court imposes one or more 2567
nonresidential sanctions authorized under this section, the court 2568
shall impose as a condition of the sanction that, during the 2569
period of the nonresidential sanction, the offender shall abide by 2570
the law and shall not leave the state without the permission of 2571
the court or the offender's probation officer. 2572

The court imposing a sentence for a fourth degree felony OVI 2573
offense under division (G)(1) or (2) of section 2929.13 of the 2574
Revised Code or for a third degree felony OVI offense under 2575
division (G)(2) of that section may impose upon the offender, in 2576
addition to the mandatory term of local incarceration or mandatory 2577
prison term imposed under the applicable division, a 2578
nonresidential sanction or combination of nonresidential sanctions 2579
under this section, and the offender shall serve or satisfy the 2580
sanction or combination of sanctions after the offender has served 2581
the mandatory term of local incarceration or mandatory prison term 2582
required for the offense. The court shall not impose a term in a 2583
drug treatment program as described in division (D) of this 2584
section until after considering an assessment by a properly 2585
credentialed treatment professional. Nonresidential sanctions 2586
include, but are not limited to, the following: 2587

(A) A term of day reporting; 2588

(B) A term of house arrest with electronic monitoring or 2589
continuous alcohol monitoring or both electronic monitoring and 2590
continuous alcohol monitoring, a term of electronic monitoring or 2591
continuous alcohol monitoring without house arrest, or a term of 2592
house arrest without electronic monitoring or continuous alcohol 2593

monitoring;	2594
(C) A term of community service of up to five hundred hours pursuant to division (B) of section 2951.02 of the Revised Code or, if the court determines that the offender is financially incapable of fulfilling a financial sanction described in section 2929.18 of the Revised Code, a term of community service as an alternative to a financial sanction;	2595 2596 2597 2598 2599 2600
(D) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;	2601 2602
(E) A term of intensive probation supervision;	2603
(F) A term of basic probation supervision;	2604
(G) A term of monitored time;	2605
(H) A term of drug and alcohol use monitoring, including random drug testing;	2606 2607
(I) A curfew term;	2608
(J) A requirement that the offender obtain employment;	2609
(K) A requirement that the offender obtain education or training;	2610 2611
(L) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;	2612 2613 2614
(M) A license violation report;	2615
(N) If the offense is a violation of section 2919.25 or a violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or	2616 2617 2618 2619 2620 2621 2622

more of those children, a requirement that the offender obtain 2623
counseling. This division does not limit the court in requiring 2624
the offender to obtain counseling for any offense or in any 2625
circumstance not specified in this division. 2626

Sec. 2929.19. (A)(1) The court shall hold a sentencing 2627
hearing before imposing a sentence under this chapter upon an 2628
offender who was convicted of or pleaded guilty to a felony and 2629
before resentencing an offender who was convicted of or pleaded 2630
guilty to a felony and whose case was remanded pursuant to section 2631
2953.07 or 2953.08 of the Revised Code. At the hearing, the 2632
offender, the prosecuting attorney, the victim or the victim's 2633
representative in accordance with section 2930.14 of the Revised 2634
Code, and, with the approval of the court, any other person may 2635
present information relevant to the imposition of sentence in the 2636
case. The court shall inform the offender of the verdict of the 2637
jury or finding of the court and ask the offender whether the 2638
offender has anything to say as to why sentence should not be 2639
imposed upon the offender. 2640

(2) Except as otherwise provided in this division, before 2641
imposing sentence on an offender who is being sentenced on or 2642
after January 1, 1997, for a sexually oriented offense that is not 2643
a registration-exempt sexually oriented offense and who is in any 2644
category of offender described in division (B)(1)(a)(i), (ii), or 2645
(iii) of section 2950.09 of the Revised Code, the court shall 2646
conduct a hearing in accordance with division (B) of section 2647
2950.09 of the Revised Code to determine whether the offender is a 2648
sexual predator. The court shall not conduct a hearing under that 2649
division if the offender is being sentenced for a violent sex 2650
offense or a designated homicide, assault, or kidnapping offense 2651
and, in relation to that offense, the offender was adjudicated a 2652
sexually violent predator, if the offender is being sentenced 2653
under section 2971.03 of the Revised Code for a violation of 2654

division (A)(1)(b) of section 2907.02 of the Revised Code 2655
committed on or after ~~the effective date of this amendment~~ January 2656
2, 2007, if the offender is sentenced to a term of life without 2657
parole under division (B) of section 2907.02 of the Revised Code, 2658
or if the offender is being sentenced for attempted rape committed 2659
on or after ~~the effective date of this amendment~~ January 2, 2007, 2660
and a specification of the type described in section 2941.1418, 2661
2941.1419, or 2941.1420 of the Revised Code. Before imposing 2662
sentence on an offender who is being sentenced for a sexually 2663
oriented offense that is not a registration-exempt sexually 2664
oriented offense, the court also shall comply with division (E) of 2665
section 2950.09 of the Revised Code. 2666

Before imposing sentence on or after July 31, 2003, on an 2667
offender who is being sentenced for a child-victim oriented 2668
offense, regardless of when the offense was committed, the court 2669
shall conduct a hearing in accordance with division (B) of section 2670
2950.091 of the Revised Code to determine whether the offender is 2671
a child-victim predator. Before imposing sentence on an offender 2672
who is being sentenced for a child-victim oriented offense, the 2673
court also shall comply with division (E) of section 2950.091 of 2674
the Revised Code. 2675

(B)(1) At the sentencing hearing, the court, before imposing 2676
sentence, shall consider the record, any information presented at 2677
the hearing by any person pursuant to division (A) of this 2678
section, and, if one was prepared, the presentence investigation 2679
report made pursuant to section 2951.03 of the Revised Code or 2680
Criminal Rule 32.2, and any victim impact statement made pursuant 2681
to section 2947.051 of the Revised Code. 2682

(2) The court shall impose a sentence and shall make a 2683
finding that gives its reasons for selecting the sentence imposed 2684
in any of the following circumstances: 2685

(a) Unless the offense is a violent sex offense or designated 2686

homicide, assault, or kidnapping offense for which the court is 2687
required to impose sentence pursuant to division (G) of section 2688
2929.14 of the Revised Code, if it imposes a prison term for a 2689
felony of the fourth or fifth degree or for a felony drug offense 2690
that is a violation of a provision of Chapter 2925. of the Revised 2691
Code and that is specified as being subject to division (B) of 2692
section 2929.13 of the Revised Code for purposes of sentencing, 2693
its reasons for imposing the prison term, based upon the 2694
overriding purposes and principles of felony sentencing set forth 2695
in section 2929.11 of the Revised Code, and any factors listed in 2696
divisions (B)(1)(a) to (i) of section 2929.13 of the Revised Code 2697
that it found to apply relative to the offender. 2698

(b) If it does not impose a prison term for a felony of the 2699
first or second degree or for a felony drug offense that is a 2700
violation of a provision of Chapter 2925. of the Revised Code and 2701
for which a presumption in favor of a prison term is specified as 2702
being applicable, its reasons for not imposing the prison term and 2703
for overriding the presumption, based upon the overriding purposes 2704
and principles of felony sentencing set forth in section 2929.11 2705
of the Revised Code, and the basis of the findings it made under 2706
divisions (D)(1) and (2) of section 2929.13 of the Revised Code. 2707

(c) If it imposes consecutive sentences under section 2929.14 2708
of the Revised Code, its reasons for imposing the consecutive 2709
sentences; 2710

(d) If the sentence is for one offense and it imposes a 2711
prison term for the offense that is the maximum prison term 2712
allowed for that offense by division (A) of section 2929.14 of the 2713
Revised Code or section 2929.142 of the Revised Code, its reasons 2714
for imposing the maximum prison term; 2715

(e) If the sentence is for two or more offenses arising out 2716
of a single incident and it imposes a prison term for those 2717
offenses that is the maximum prison term allowed for the offense 2718

of the highest degree by division (A) of section 2929.14 of the Revised Code or section 2929.142 of the Revised Code, its reasons for imposing the maximum prison term.

(3) Subject to division (B)(4) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) Impose a stated prison term;

(b) Notify if the court imposes a mandatory prison term, ~~notify the offender that, as part of the sentence, the parole board may extend the stated prison term for certain violations of prison rules for up to one half of the stated~~ is a mandatory prison term and include the fact that the prison term is a mandatory prison term in the journal entry of the sentence;

(c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person. If a court imposes a sentence including a prison term of a type described in division (B)(3)(c) of this section on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(3)(c) of this section that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type

described in division (B)(3)(c) of this section and failed to 2751
notify the offender pursuant to division (B)(3)(c) of this section 2752
regarding post-release control or to include in the judgment of 2753
conviction entered on the journal or in the sentence a statement 2754
regarding post-release control. 2755

(d) Notify the offender that the offender may be supervised 2756
under section 2967.28 of the Revised Code after the offender 2757
leaves prison if the offender is being sentenced for a felony of 2758
the third, fourth, or fifth degree that is not subject to division 2759
(B)(3)(c) of this section. Section 2929.191 of the Revised Code 2760
applies if, prior to July 11, 2006, a court imposed a sentence 2761
including a prison term of a type described in division (B)(3)(d) 2762
of this section and failed to notify the offender pursuant to 2763
division (B)(3)(d) of this section regarding post-release control 2764
or to include in the judgment of conviction entered on the journal 2765
or in the sentence a statement regarding post-release control. 2766

(e) Notify the offender that, if a period of supervision is 2767
imposed following the offender's release from prison, as described 2768
in division (B)(3)(c) or (d) of this section, and if the offender 2769
violates that supervision or a condition of post-release control 2770
imposed under division (B) of section 2967.131 of the Revised 2771
Code, the parole board may impose a prison term, as part of the 2772
sentence, of up to one-half of the stated prison term originally 2773
imposed upon the offender. If a court imposes a sentence including 2774
a prison term on or after July 11, 2006, the failure of a court to 2775
notify the offender pursuant to division (B)(3)(e) of this section 2776
that the parole board may impose a prison term as described in 2777
division (B)(3)(e) of this section for a violation of that 2778
supervision or a condition of post-release control imposed under 2779
division (B) of section 2967.131 of the Revised Code or to include 2780
in the judgment of conviction entered on the journal a statement 2781
to that effect does not negate, limit, or otherwise affect the 2782

authority of the parole board to so impose a prison term for a 2783
violation of that nature if, pursuant to division (D)(1) of 2784
section 2967.28 of the Revised Code, the parole board notifies the 2785
offender prior to the offender's release of the board's authority 2786
to so impose a prison term. Section 2929.191 of the Revised Code 2787
applies if, prior to July 11, 2006, a court imposed a sentence 2788
including a prison term and failed to notify the offender pursuant 2789
to division (B)(3)(e) of this section regarding the possibility of 2790
the parole board imposing a prison term for a violation of 2791
supervision or a condition of post-release control. 2792

(f) Require that the offender not ingest or be injected with 2793
a drug of abuse and submit to random drug testing as provided in 2794
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 2795
is applicable to the offender who is serving a prison term, and 2796
require that the results of the drug test administered under any 2797
of those sections indicate that the offender did not ingest or was 2798
not injected with a drug of abuse. 2799

(4) If the offender is being sentenced for a violent sex 2800
offense or designated homicide, assault, or kidnapping offense 2801
that the offender committed on or after January 1, 1997, and the 2802
offender is adjudicated a sexually violent predator in relation to 2803
that offense, if the offender is being sentenced for a sexually 2804
oriented offense that is not a registration-exempt sexually 2805
oriented offense and that the offender committed on or after 2806
January 1, 1997, and the court imposing the sentence has 2807
determined pursuant to division (B) of section 2950.09 of the 2808
Revised Code that the offender is a sexual predator, if the 2809
offender is being sentenced on or after July 31, 2003, for a 2810
child-victim oriented offense and the court imposing the sentence 2811
has determined pursuant to division (B) of section 2950.091 of the 2812
Revised Code that the offender is a child-victim predator, if the 2813
offender is being sentenced for an aggravated sexually oriented 2814

offense as defined in section 2950.01 of the Revised Code, if the 2815
offender is being sentenced under section 2971.03 of the Revised 2816
Code for a violation of division (A)(1)(b) of section 2907.02 of 2817
the Revised Code committed on or after ~~the effective date of this~~ 2818
~~amendment~~ January 2, 2007, if the offender is sentenced to a term 2819
of life without parole under division (B) of section 2907.02 of 2820
the Revised Code, or if the offender is being sentenced for 2821
attempted rape committed on or after ~~the effective date of this~~ 2822
~~amendment~~ January 2, 2007, and a specification of the type 2823
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2824
Revised Code, the court shall include in the offender's sentence a 2825
statement that the offender has been adjudicated a sexual 2826
predator, has been adjudicated a child victim predator, or has 2827
been convicted of or pleaded guilty to an aggravated sexually 2828
oriented offense, whichever is applicable, and shall comply with 2829
the requirements of section 2950.03 of the Revised Code. 2830
Additionally, in the circumstances described in division (G) of 2831
section 2929.14 of the Revised Code, the court shall impose 2832
sentence on the offender as described in that division. 2833

(5) If the sentencing court determines at the sentencing 2834
hearing that a community control sanction should be imposed and 2835
the court is not prohibited from imposing a community control 2836
sanction, the court shall impose a community control sanction. The 2837
court shall notify the offender that, if the conditions of the 2838
sanction are violated, if the offender commits a violation of any 2839
law, or if the offender leaves this state without the permission 2840
of the court or the offender's probation officer, the court may 2841
impose a longer time under the same sanction, may impose a more 2842
restrictive sanction, or may impose a prison term on the offender 2843
and shall indicate the specific prison term that may be imposed as 2844
a sanction for the violation, as selected by the court from the 2845
range of prison terms for the offense pursuant to section 2929.14 2846
of the Revised Code. 2847

(6) Before imposing a financial sanction under section 2848
2929.18 of the Revised Code or a fine under section 2929.32 of the 2849
Revised Code, the court shall consider the offender's present and 2850
future ability to pay the amount of the sanction or fine. 2851

(7) If the sentencing court sentences the offender to a 2852
sanction of confinement pursuant to section 2929.14 or 2929.16 of 2853
the Revised Code that is to be served in a local detention 2854
facility, as defined in section 2929.36 of the Revised Code, and 2855
if the local detention facility is covered by a policy adopted 2856
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 2857
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 2858
and section 2929.37 of the Revised Code, both of the following 2859
apply: 2860

(a) The court shall specify both of the following as part of 2861
the sentence: 2862

(i) If the offender is presented with an itemized bill 2863
pursuant to section 2929.37 of the Revised Code for payment of the 2864
costs of confinement, the offender is required to pay the bill in 2865
accordance with that section. 2866

(ii) If the offender does not dispute the bill described in 2867
division (B)(7)(a)(i) of this section and does not pay the bill by 2868
the times specified in section 2929.37 of the Revised Code, the 2869
clerk of the court may issue a certificate of judgment against the 2870
offender as described in that section. 2871

(b) The sentence automatically includes any certificate of 2872
judgment issued as described in division (B)(7)(a)(ii) of this 2873
section. 2874

(C)(1) If the offender is being sentenced for a fourth degree 2875
felony OVI offense under division (G)(1) of section 2929.13 of the 2876
Revised Code, the court shall impose the mandatory term of local 2877
incarceration in accordance with that division, shall impose a 2878

mandatory fine in accordance with division (B)(3) of section 2879
2929.18 of the Revised Code, and, in addition, may impose 2880
additional sanctions as specified in sections 2929.15, 2929.16, 2881
2929.17, and 2929.18 of the Revised Code. The court shall not 2882
impose a prison term on the offender except that the court may 2883
impose a prison term upon the offender as provided in division 2884
(A)(1) of section 2929.13 of the Revised Code. 2885

(2) If the offender is being sentenced for a third or fourth 2886
degree felony OVI offense under division (G)(2) of section 2929.13 2887
of the Revised Code, the court shall impose the mandatory prison 2888
term in accordance with that division, shall impose a mandatory 2889
fine in accordance with division (B)(3) of section 2929.18 of the 2890
Revised Code, and, in addition, may impose an additional prison 2891
term as specified in section 2929.14 of the Revised Code. In 2892
addition to the mandatory prison term or mandatory prison term and 2893
additional prison term the court imposes, the court also may 2894
impose a community control sanction on the offender, but the 2895
offender shall serve all of the prison terms so imposed prior to 2896
serving the community control sanction. 2897

(D) The sentencing court, pursuant to division (K) of section 2898
2929.14 of the Revised Code, may recommend placement of the 2899
offender in a program of shock incarceration under section 2900
5120.031 of the Revised Code or an intensive program prison under 2901
section 5120.032 of the Revised Code, disapprove placement of the 2902
offender in a program or prison of that nature, or make no 2903
recommendation. If the court recommends or disapproves placement, 2904
it shall make a finding that gives its reasons for its 2905
recommendation or disapproval. 2906

Sec. 2929.20. (A) As used in this section, "eligible 2907
offender" means any person serving a stated prison term ~~of ten~~ 2908
~~years or less~~ when either of the following applies: 2909

(1) The stated prison term does not include a mandatory 2910
prison term. 2911

(2) The stated prison term includes a mandatory prison term, 2912
and the person has served the mandatory prison term. 2913

(B) Upon the filing of a motion by the eligible offender or 2914
upon its own motion, a sentencing court may reduce the offender's 2915
stated prison term through a judicial release in accordance with 2916
this section. The court shall not reduce the stated prison term of 2917
an offender who is not an eligible offender. An eligible offender 2918
may file a motion for judicial release with the sentencing court 2919
within the following applicable period of time: 2920

(1)(a) Except as otherwise provided in division (B)(1)(b) or 2921
(c) of this section, if the stated prison term was imposed for a 2922
felony of the fourth or fifth degree, the eligible offender may 2923
file the motion not earlier than thirty days ~~or later than ninety~~ 2924
~~days~~ after the offender is delivered to a state correctional 2925
institution. 2926

(b) If the stated prison term is five years and is an 2927
aggregate of stated prison terms that are being served 2928
consecutively and that were imposed for any combination of 2929
felonies of the fourth degree and felonies of the fifth degree, 2930
the eligible offender may file the motion after the eligible 2931
offender has served four years of the stated prison term. 2932

(c) If the stated prison term is more than five years ~~and not~~ 2933
~~more than ten years~~ and is an aggregate of stated prison terms 2934
that are being served consecutively and that were imposed for any 2935
combination of felonies of the fourth degree and felonies of the 2936
fifth degree, the eligible offender may file the motion after the 2937
eligible offender has served five years of the stated prison term. 2938

(2) Except as otherwise provided in division (B)(3) or (4) of 2939
this section, if the stated prison term was imposed for a felony 2940

of the first, second, or third degree, the eligible offender may 2941
file the motion not earlier than one hundred eighty days after the 2942
offender is delivered to a state correctional institution. 2943

(3) If the stated prison term is five years, the eligible 2944
offender may file the motion after the eligible offender has 2945
served four years of the stated prison term. 2946

(4) If the stated prison term is more than five years ~~and not~~ 2947
~~more than ten years~~, the eligible offender may file the motion 2948
after the eligible offender has served five years of the stated 2949
prison term. 2950

(5) If the offender's stated prison term includes a mandatory 2951
prison term, the offender shall file the motion within the time 2952
authorized under division (B)(1), (2), (3), or (4) of this section 2953
for the nonmandatory portion of the prison term, but the time for 2954
filing the motion does not begin to run until after the expiration 2955
of the mandatory portion of the prison term. 2956

(C) Upon receipt of a timely motion for judicial release 2957
filed by an eligible offender under division (B) of this section 2958
or upon the sentencing court's own motion made within the 2959
appropriate time period specified in that division, the court may 2960
schedule a hearing on the motion. The court may deny the motion 2961
without a hearing but shall not grant the motion without a 2962
hearing. If a court denies a motion without a hearing, the court 2963
may consider a subsequent judicial release for that eligible 2964
offender on its own motion or a subsequent motion filed by that 2965
eligible offender. If a court denies a motion after a hearing, the 2966
court shall not consider a subsequent motion for that eligible 2967
offender. The court shall hold only one hearing for any eligible 2968
offender. 2969

A hearing under this section shall be conducted in open court 2970
within sixty days after the date on which the motion is filed, 2971

provided that the court may delay the hearing for a period not to 2972
exceed one hundred eighty additional days. If the court holds a 2973
hearing on the motion, the court shall enter a ruling on the 2974
motion within ten days after the hearing. If the court denies the 2975
motion without a hearing, the court shall enter its ruling on the 2976
motion within sixty days after the motion is filed. 2977

(D) If a court schedules a hearing under division (C) of this 2978
section, the court shall notify the eligible offender of the 2979
hearing and shall notify the head of the state correctional 2980
institution in which the eligible offender is confined of the 2981
hearing prior to the hearing. The head of the state correctional 2982
institution immediately shall notify the appropriate person at the 2983
department of rehabilitation and correction of the hearing, and 2984
the department within twenty-four hours after receipt of the 2985
notice, shall post on the database it maintains pursuant to 2986
section 5120.66 of the Revised Code the offender's name and all of 2987
the information specified in division (A)(1)(c)(i) of that 2988
section. If the court schedules a hearing for judicial release, 2989
the court promptly shall give notice of the hearing to the 2990
prosecuting attorney of the county in which the eligible offender 2991
was indicted. Upon receipt of the notice from the court, the 2992
prosecuting attorney shall notify the victim of the offense for 2993
which the stated prison term was imposed or the victim's 2994
representative, pursuant to section 2930.16 of the Revised Code, 2995
of the hearing. 2996

(E) Upon an eligible offender's successful completion of 2997
rehabilitative activities, the head of the state correctional 2998
institution may notify the sentencing court of the offender's 2999
eligibility for judicial release under this section and of the 3000
successful completion of the activities. 3001

(F) Prior to the date of the hearing on a motion for judicial 3002
release under this section, the head of the state correctional 3003

institution in which the eligible offender in question is confined 3004
shall send to the court a report on the eligible offender's 3005
conduct in the institution and in any institution from which the 3006
eligible offender may have been transferred. The report shall 3007
cover the eligible offender's participation in school, vocational 3008
training, work, treatment, and other rehabilitative activities and 3009
any disciplinary action taken against the eligible offender. The 3010
report shall be made part of the record of the hearing. 3011

~~(F)~~(G) If the court grants a hearing on a motion for judicial 3012
release under this section, the eligible offender shall attend the 3013
hearing if ordered to do so by the court. Upon receipt of a copy 3014
of the journal entry containing the order, the head of the state 3015
correctional institution in which the eligible offender is 3016
incarcerated shall deliver the eligible offender to the sheriff of 3017
the county in which the hearing is to be held. The sheriff shall 3018
convey the eligible offender to the hearing and return the 3019
offender to the institution after the hearing. 3020

~~(G)~~(H) At the hearing on a motion for judicial release under 3021
this section, the court shall afford the eligible offender and the 3022
eligible offender's attorney an opportunity to present written 3023
information relevant to the motion and shall afford the eligible 3024
offender, if present, and the eligible offender's attorney an 3025
opportunity to present oral information relevant to the motion. 3026
The court shall afford a similar opportunity to the prosecuting 3027
attorney, the victim or the victim's representative, as defined in 3028
section 2930.01 of the Revised Code, and any other person the 3029
court determines is likely to present additional relevant 3030
information. The court shall consider any statement of a victim 3031
made pursuant to section 2930.14 or 2930.17 of the Revised Code, 3032
any victim impact statement prepared pursuant to section 2947.051 3033
of the Revised Code, and any report made under division ~~(E)~~(F) of 3034
this section. The court may consider any written statement of any 3035

person submitted to the court pursuant to division ~~(J)~~(K) of this 3036
section. After ruling on the motion, the court shall notify the 3037
victim of the ruling in accordance with sections 2930.03 and 3038
2930.16 of the Revised Code. 3039

~~(H)~~(I)(1) A court shall not grant a judicial release under 3040
this section to an eligible offender who is imprisoned for a 3041
felony of the first or second degree, or to an eligible offender 3042
who committed an offense contained in Chapter 2925. or 3719. of 3043
the Revised Code and for whom there was a presumption under 3044
section 2929.13 of the Revised Code in favor of a prison term, 3045
unless the court, with reference to factors under section 2929.12 3046
of the Revised Code, finds both of the following: 3047

(a) That a sanction other than a prison term would adequately 3048
punish the offender and protect the public from future criminal 3049
violations by the eligible offender because the applicable factors 3050
indicating a lesser likelihood of recidivism outweigh the 3051
applicable factors indicating a greater likelihood of recidivism; 3052

(b) That a sanction other than a prison term would not demean 3053
the seriousness of the offense because factors indicating that the 3054
eligible offender's conduct in committing the offense was less 3055
serious than conduct normally constituting the offense outweigh 3056
factors indicating that the eligible offender's conduct was more 3057
serious than conduct normally constituting the offense. 3058

(2) A court that grants a judicial release to an eligible 3059
offender under division ~~(H)~~(I)(1) of this section shall specify on 3060
the record both findings required in that division and also shall 3061
list all the factors described in that division that were 3062
presented at the hearing. 3063

~~(I)~~(J) If the court grants a motion for judicial release 3064
under this section, the court shall order the release of the 3065
eligible offender, shall place the eligible offender under an 3066

appropriate community control sanction, under appropriate 3067
community control conditions, and under the supervision of the 3068
department of probation serving the court, and shall reserve the 3069
right to reimpose the sentence that it reduced pursuant to the 3070
judicial release if the offender violates the sanction. If the 3071
court reimposes the reduced sentence pursuant to this reserved 3072
right, it may do so either concurrently with, or consecutive to, 3073
any new sentence imposed upon the eligible offender as a result of 3074
the violation that is a new offense. The period of the community 3075
control sanction shall be no longer than five years. The court, in 3076
its discretion, may reduce the period of the community control 3077
sanction by the amount of time the eligible offender spent in jail 3078
for the offense and in prison. If the court made any findings 3079
pursuant to division ~~(H)~~(I)(1) of this section, the court shall 3080
serve a copy of the findings upon counsel for the parties within 3081
fifteen days after the date on which the court grants the motion 3082
for judicial release. 3083

~~Prior to being released pursuant to a judicial release 3084
granted under this section, the eligible offender shall serve any 3085
extension of sentence that was imposed under section 2967.11 of 3086
the Revised Code. 3087~~

If the court grants a motion for judicial release, the court 3088
shall notify the appropriate person at the department of 3089
rehabilitation and correction of the judicial release, and the 3090
department shall post notice of the release on the database it 3091
maintains pursuant to section 5120.66 of the Revised Code. 3092

~~(J)~~(K) In addition to and independent of the right of a 3093
victim to make a statement pursuant to section 2930.14, 2930.17, 3094
or 2946.051 of the Revised Code and any right of a person to 3095
present written information or make a statement pursuant to 3096
division ~~(G)~~(H) of this section, any person may submit to the 3097
court, at any time prior to the hearing on the offender's motion 3098

for judicial release, a written statement concerning the effects 3099
of the offender's crime or crimes, the circumstances surrounding 3100
the crime or crimes, the manner in which the crime or crimes were 3101
perpetrated, and the person's opinion as to whether the offender 3102
should be released. 3103

Sec. 2935.36. (A) The prosecuting attorney may establish 3104
pre-trial diversion programs for adults who are accused of 3105
committing criminal offenses and whom the prosecuting attorney 3106
believes probably will not offend again. The prosecuting attorney 3107
may require, as a condition of an accused's participation in the 3108
program, the accused to pay a reasonable fee for supervision 3109
services that include, but are not limited to, monitoring and drug 3110
testing. The programs shall be operated pursuant to written 3111
standards approved by journal entry by the presiding judge or, in 3112
courts with only one judge, the judge of the court of common pleas 3113
and shall not be applicable to any of the following: 3114

(1) Repeat offenders or dangerous offenders; 3115

(2) Persons accused of an offense of violence, of a violation 3116
of section 2903.06, 2907.04, 2907.05, 2907.21, 2907.22, 2907.31, 3117
2907.32, 2907.34, 2911.31, 2919.12, 2919.13, 2919.22, 2921.02, 3118
2921.11, 2921.12, 2921.32, or 2923.20 of the Revised Code, or of a 3119
violation of section 2905.01, 2905.02, or 2919.23 of the Revised 3120
Code that, had it occurred prior to July 1, 1996, would have been 3121
a violation of section 2905.04 of the Revised Code as it existed 3122
prior to that date, with the exception that the prosecuting 3123
attorney may permit persons accused of any such offense to enter a 3124
pre-trial diversion program, if the prosecuting attorney finds any 3125
of the following: 3126

(a) The accused did not cause, threaten, or intend serious 3127
physical harm to any person; 3128

(b) The offense was the result of circumstances not likely to 3129

recur; 3130

(c) The accused has no history of prior delinquency or 3131
criminal activity; 3132

(d) The accused has led a law-abiding life for a substantial 3133
time before commission of the alleged offense; 3134

(e) Substantial grounds tending to excuse or justify the 3135
alleged offense. 3136

(3) Persons accused of a violation of Chapter 2925. or 3719. 3137
of the Revised Code; 3138

~~(4) Drug dependent persons or persons in danger of becoming 3139
drug dependent persons, as defined in section 3719.011 of the 3140
Revised Code. However, this division does not affect the 3141
eligibility of such persons for intervention in lieu of conviction 3142
pursuant to section 2951.041 of the Revised Code. 3143~~

~~(5) Persons accused of a violation of section 4511.19 of the 3144
Revised Code or a violation of any substantially similar municipal 3145
ordinance. 3146~~

(B) An accused who enters a diversion program shall do all of 3147
the following: 3148

(1) Waive, in writing and contingent upon the accused's 3149
successful completion of the program, the accused's right to a 3150
speedy trial, the preliminary hearing, the time period within 3151
which the grand jury may consider an indictment against the 3152
accused, and arraignment, unless the hearing, indictment, or 3153
arraignment has already occurred; 3154

(2) Agree, in writing, to the tolling while in the program of 3155
all periods of limitation established by statutes or rules of 3156
court, that are applicable to the offense with which the accused 3157
is charged and to the conditions of the diversion program 3158
established by the prosecuting attorney; 3159

(3) Agree, in writing, to pay any reasonable fee for supervision services established by the prosecuting attorney.

(C) The trial court, upon the application of the prosecuting attorney, shall order the release from confinement of any accused who has agreed to enter a pre-trial diversion program and shall discharge and release any existing bail and release any sureties on recognizances and shall release the accused on a recognizance bond conditioned upon the accused's compliance with the terms of the diversion program. The prosecuting attorney shall notify every victim of the crime and the arresting officers of the prosecuting attorney's intent to permit the accused to enter a pre-trial diversion program. The victim of the crime and the arresting officers shall have the opportunity to file written objections with the prosecuting attorney prior to the commencement of the pre-trial diversion program.

(D) If the accused satisfactorily completes the diversion program, the prosecuting attorney shall recommend to the trial court that the charges against the accused be dismissed, and the court, upon the recommendation of the prosecuting attorney, shall dismiss the charges. If the accused chooses not to enter the prosecuting attorney's diversion program, or if the accused violates the conditions of the agreement pursuant to which the accused has been released, the accused may be brought to trial upon the charges in the manner provided by law, and the waiver executed pursuant to division (B)(1) of this section shall be void on the date the accused is removed from the program for the violation.

(E) As used in this section:

(1) "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that the person will commit another offense. It is prima-facie evidence that a person is a repeat

offender if any of the following applies:	3192
(a) Having been convicted of one or more offenses of violence	3193
and having been imprisoned pursuant to sentence for any such	3194
offense, the person commits a subsequent offense of violence;	3195
(b) Having been convicted of one or more sexually oriented	3196
offenses or child-victim oriented offenses, both as defined in	3197
section 2950.01 of the Revised Code, and having been imprisoned	3198
pursuant to sentence for one or more of those offenses, the person	3199
commits a subsequent sexually oriented offense or child-victim	3200
oriented offense;	3201
(c) Having been convicted of one or more theft offenses as	3202
defined in section 2913.01 of the Revised Code and having been	3203
imprisoned pursuant to sentence for one or more of those theft	3204
offenses, the person commits a subsequent theft offense;	3205
(d) Having been convicted of one or more felony drug abuse	3206
offenses as defined in section 2925.01 of the Revised Code and	3207
having been imprisoned pursuant to sentence for one or more of	3208
those felony drug abuse offenses, the person commits a subsequent	3209
felony drug abuse offense;	3210
(e) Having been convicted of two or more felonies and having	3211
been imprisoned pursuant to sentence for one or more felonies, the	3212
person commits a subsequent offense;	3213
(f) Having been convicted of three or more offenses of any	3214
type or degree other than traffic offenses, alcoholic intoxication	3215
offenses, or minor misdemeanors and having been imprisoned	3216
pursuant to sentence for any such offense, the person commits a	3217
subsequent offense.	3218
(2) "Dangerous offender" means a person who has committed an	3219
offense, whose history, character, and condition reveal a	3220
substantial risk that the person will be a danger to others, and	3221
whose conduct has been characterized by a pattern of repetitive,	3222

compulsive, or aggressive behavior with heedless indifference to 3223
the consequences. 3224

Sec. 2943.032. Prior to accepting a guilty plea or a plea of 3225
no contest to an indictment, information, or complaint that 3226
charges a felony, the court shall inform the defendant personally 3227
that, if the defendant pleads guilty or no contest to the felony 3228
so charged or any other felony ~~and~~, if the court imposes a prison 3229
term upon the defendant for the felony, ~~all of the following~~ 3230
~~apply:~~ 3231

~~(A) The parole board may extend the stated prison term if the 3232
defendant commits any criminal offense under the law of this state 3233
or the United States while serving the prison term. 3234~~

~~(B) Any such extension will be done administratively as part 3235
of the defendant's sentence in accordance with section 2967.11 of 3236
the Revised Code and may be for thirty, sixty, or ninety days for 3237
each violation. 3238~~

~~(C) All such extensions of the stated prison term for all 3239
violations during the course of the term may not exceed one half 3240
of the term's duration. 3241~~

~~(D) The sentence imposed for the felony automatically 3242
includes any such extension of the stated prison term by the 3243
parole board. 3244~~

~~(E) If and if the offender violates the conditions of a 3245
post-release control sanction imposed by the parole board upon the 3246
completion of the stated prison term, the parole board may impose 3247
upon the offender a residential sanction that includes a new 3248
prison term of up to nine months. 3249~~

Sec. 2949.12. Unless the execution of sentence is suspended 3250
or the convicted felon has less than thirty days to serve in 3251
prison and the department of rehabilitation and correction and the 3252

county sheriff agree otherwise, a convicted felon who is sentenced 3253
to serve a term of imprisonment in a state correctional 3254
institution shall be conveyed, within five days after sentencing, 3255
excluding Saturdays, Sundays, and legal holidays, by the sheriff 3256
of the county in which the conviction was had to the facility that 3257
is designated by the department of rehabilitation and correction 3258
for the reception of convicted felons. The sheriff shall deliver 3259
the convicted felon into the custody of the managing officer of 3260
the reception facility and, at that time, unless the department 3261
and the sheriff have agreed to electronically processed prisoner 3262
commitment, shall present the managing officer with a copy of the 3263
convicted felon's sentence that clearly describes each offense for 3264
which the felon was sentenced to a correctional institution, 3265
designates each section of the Revised Code that the felon 3266
violated and that resulted in the felon's conviction and sentence 3267
to a correctional institution, designates the sentence imposed for 3268
each offense for which the felon was sentenced to a correctional 3269
institution, and, pursuant to section 2967.191 of the Revised 3270
Code, specifies the total number of days, if any, that the felon 3271
was confined for any reason prior to conviction and sentence. The 3272
sheriff, at that time, also shall present the managing officer 3273
with a copy of the indictment. The clerk of the court of common 3274
pleas shall furnish the copies of the sentence and indictment. In 3275
the case of a person under the age of eighteen years who is 3276
certified to the court of common pleas by the juvenile court, the 3277
clerk of the court of common pleas also shall attach a copy of the 3278
certification to the copy of the indictment. 3279

The convicted felon shall be assigned to an institution or 3280
designated to be housed in a county, multicounty, municipal, 3281
municipal-county, or multicounty-municipal jail or workhouse, if 3282
authorized pursuant to section 5120.161 of the Revised Code, shall 3283
be conveyed to the institution, jail, or workhouse, and shall be 3284
kept within the institution, jail, or workhouse until the term of 3285

the felon's imprisonment expires, the felon is pardoned, paroled, 3286
or placed under a post-release control sanction, or the felon is 3287
transferred under laws permitting the transfer of prisoners. If 3288
the execution of the felon's sentence is suspended, and the 3289
judgment thereafter affirmed, the felon shall be conveyed, in the 3290
same manner as if the execution of the felon's sentence had not 3291
been suspended, to the reception facility as soon as practicable 3292
after the judge directs the execution of sentence. The trial judge 3293
or other judge of the court, in the judge's discretion and for 3294
good cause shown, may extend the time of the conveyance. 3295

Sec. 2951.021. (A)(1) If a court places a misdemeanor 3296
offender under a community control sanction under section 2929.26, 3297
2929.27, or 2929.28 of the Revised Code or places a felony 3298
offender under a community control sanction under section 2929.16, 3299
2929.17, or 2929.18 of the Revised Code and if the court places 3300
the offender under the control and supervision of a probation 3301
agency, the court may require the offender, as a condition of 3302
community control, to pay a monthly supervision fee of not more 3303
than fifty dollars for supervision services. If the court requires 3304
an offender to pay a monthly supervision fee and the offender will 3305
be under the control of a county department of probation, a 3306
multicounty department of probation, or a municipal court 3307
department of probation established under section 1901.33 of the 3308
Revised Code, the court shall specify whether the offender is to 3309
pay the fee to the probation agency that will have control over 3310
the offender or to the clerk of the court for which the 3311
supervision agency is established. If the court requires an 3312
offender to pay a monthly probation fee and the offender will be 3313
under the control of the adult parole authority, the court shall 3314
specify that the offender is to pay the fee to the clerk of the 3315
court of common pleas. 3316

(2) No person shall be assessed, in any month, more than 3317

fifty dollars in supervision fees. 3318

(3) The prosecuting attorney of the county or the chief legal 3319
officer of a municipal corporation in which is located the court 3320
that imposed sentence upon an offender may bring a civil action to 3321
recover unpaid monthly supervision fees that the offender was 3322
required to pay. Any amount recovered in the civil action shall be 3323
paid into the appropriate county or municipal probation services 3324
fund in accordance with division (B) of this section. 3325

(4) The failure of an offender to comply with a condition of 3326
community control that requires the offender to pay a monthly 3327
supervision fee and that is imposed under division (A)(1) of this 3328
section shall not constitute the basis for the modification of the 3329
offender's community control sanctions pursuant to section 2929.15 3330
or 2929.25 of the Revised Code but may be considered with any 3331
other factors that form the basis of a modification of a sanction 3332
for violating a community control sanction under those sections. 3333
If the court determines that a misdemeanor offender on community 3334
control failed to pay a monthly supervision fee imposed under 3335
division (A)(1) of this section and that no other factors 3336
warranting the modification of the offender's community control 3337
sanction are present, the court shall remand the offender to the 3338
custody of the probation agency and may impose any additional 3339
conditions of community control upon the offender, including a 3340
requirement that the offender perform community service, as the 3341
ends of justice require. Any requirement imposed pursuant to 3342
division (A)(4) of this section that the offender perform 3343
community service shall be in addition to and shall not limit or 3344
otherwise affect any order that the offender perform community 3345
service pursuant to division (B) of section 2951.02 of the Revised 3346
Code. 3347

(B) Prior to the last day of the month in each month during 3348
the period of community control, an offender who is ordered to pay 3349

a monthly supervision fee under this section shall pay the fee to 3350
the probation agency that has control and supervision over the 3351
offender or to the clerk of the court for which the probation 3352
agency is established, as specified by the court, except that, if 3353
the probation agency is the adult parole authority, the offender 3354
shall pay the fee to the clerk of the court of common pleas. Each 3355
probation agency or clerk of a court that receives any monthly 3356
supervision fees shall keep a record of the monthly supervision 3357
fees that are paid to the agency or the clerk and shall give a 3358
written receipt to each person who pays a supervision fee to the 3359
agency or clerk. 3360

(C) Subject to division (E) of this section, all monthly 3361
supervision fees collected under this section by a probation 3362
agency or the clerk of a court shall be disposed of in the 3363
following manner: 3364

(1) For offenders who are under the control and supervision 3365
of a county department of probation or a municipal court 3366
department of probation in a county-operated municipal court, on 3367
or before the fifth business day of each month, the chief 3368
probation officer, the chief probation officer's designee, or the 3369
clerk of the court shall pay all monthly supervision fees 3370
collected in the previous month to the county treasurer of the 3371
county in which the county department of probation or municipal 3372
court department of probation is established for deposit into the 3373
county probation services fund established in the county treasury 3374
of that county pursuant to division (A)(1) of section 321.44 of 3375
the Revised Code. 3376

(2) For offenders who are under the control and supervision 3377
of a multicounty department of probation, on or before the fifth 3378
business day of each month, the chief probation officer, the chief 3379
probation officer's designee, or the clerk of the court shall pay 3380
all monthly supervision fees collected in the previous month to 3381

the county treasurer of the county in which is located the court 3382
of common pleas that placed the offender under a community control 3383
sanction under the control of the department for deposit into the 3384
county probation services fund established in the county treasury 3385
of that county pursuant to division (A)(1) of section 321.44 of 3386
the Revised Code and for subsequent appropriation and transfer in 3387
accordance with division (A)(2) of that section to the appropriate 3388
multicounty probation services fund established pursuant to 3389
division (B) of that section. 3390

(3) For offenders who are under the control and supervision 3391
of a municipal court department of probation in a municipal court 3392
that is not a county-operated municipal court, on or before the 3393
fifth business day of each month, the chief probation officer, the 3394
chief probation officer's designee, or the clerk of the court 3395
shall pay all monthly supervision fees collected in the previous 3396
month to the treasurer of the municipal corporation for deposit 3397
into the municipal probation services fund established pursuant to 3398
section 737.41 of the Revised Code. 3399

(4) For offenders who are under the control and supervision 3400
of the adult parole authority, the clerk of the court of common 3401
pleas, on or before the fifth business day of January, April, 3402
July, and October, shall pay all monthly supervision fees 3403
collected by the clerk in the previous three months to the 3404
treasurer of the county in which is located the court of common 3405
pleas that placed the offender under a community control sanction 3406
under the control of the authority for deposit into the county 3407
probation services fund established in the county treasury of that 3408
county pursuant to division (A)(1) of section 321.44 of the 3409
Revised Code ~~and for subsequent appropriation and transfer in~~ 3410
~~accordance with division (A)(2) of that section to the adult~~ 3411
~~parole authority probation services fund established pursuant to~~ 3412
~~section 5149.06 of the Revised Code.~~ 3413

(D) Not later than the first day of December of each year, 3414
each probation agency or the court of common pleas of a county in 3415
which the court has entered into an agreement with the adult 3416
parole authority pursuant to section 2301.32 of the Revised Code 3417
shall prepare a report regarding its use of money from a county 3418
probation services fund, a multicounty probation services fund, or 3419
a municipal probation services fund, ~~or the adult parole authority~~ 3420
~~probation services fund~~, whichever is applicable. The report shall 3421
specify the amount appropriated from the fund to the probation 3422
agency or court during the current calendar year, an estimate of 3423
the amount that the probation agency or court will expend by the 3424
end of the year, a summary of how the amount appropriated has been 3425
expended for probation services, and an estimate of the amount of 3426
supervision fees that the probation agency or court will collect 3427
and pay to the appropriate treasurer for deposit in the 3428
appropriate fund in the next calendar year. The report shall be 3429
filed with one of the following: 3430

(1) If the probation agency is a county department of 3431
probation or a municipal court department of probation in a 3432
county-operated municipal court, with the board of county 3433
commissioners of that county; 3434

(2) If the probation agency is a multicounty department of 3435
probation, with the board of county commissioners of the county 3436
whose treasurer, in accordance with section 2301.27 of the Revised 3437
Code, is designated as the treasurer to whom supervision fees 3438
collected under this section are to be appropriated and 3439
transferred under division (A)(2) of section 321.44 of the Revised 3440
Code; 3441

(3) If the probation agency is a department of probation of a 3442
municipal court that is not a county-operated municipal court, 3443
with the legislative authority of the municipal corporation that 3444
operates the court; 3445

(4) If the ~~probation agency is~~ court of common pleas has 3446
entered into an agreement with the adult parole authority, with 3447
the ~~chairpersons of the finance committees of the senate and the~~ 3448
~~house of representatives, the directors of the office of budget~~ 3449
~~and management and the legislative service commission,~~ director of 3450
rehabilitation and correction, the chief of the adult parole 3451
authority, and the board of county commissioners in each county 3452
for which the adult parole authority provides probation services. 3453

(E) If the clerk of a court of common pleas or the clerk of a 3454
municipal court collects any monthly supervision fees under this 3455
section, the clerk may retain up to two per cent of the fees so 3456
collected to cover any administrative costs experienced in 3457
complying with the clerk's duties under this section. 3458

Sec. 2951.041. (A)(1) If an offender is charged with a 3459
criminal offense, including but not limited to, a violation of 3460
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 of 3461
the Revised Code, and the court has reason to believe that drug or 3462
alcohol usage by the offender was a factor leading to the 3463
offender's criminal behavior, the court may accept, prior to the 3464
entry of a guilty plea, the offender's request for intervention in 3465
lieu of conviction. The request shall include a waiver of the 3466
defendant's right to a speedy trial, the preliminary hearing, the 3467
time period within which the grand jury may consider an indictment 3468
against the offender, and arraignment, unless the hearing, 3469
indictment, or arraignment has already occurred. The court may 3470
reject an offender's request without a hearing. If the court 3471
elects to consider an offender's request, the court shall conduct 3472
a hearing to determine whether the offender is eligible under this 3473
section for intervention in lieu of conviction and shall stay all 3474
criminal proceedings pending the outcome of the hearing. If the 3475
court schedules a hearing, the court shall order an assessment of 3476
the offender for the purpose of determining the offender's 3477

eligibility for intervention in lieu of conviction and 3478
recommending an appropriate intervention plan. 3479

(2) The victim notification provisions of division (C) of 3480
section 2930.08 of the Revised Code apply in relation to any 3481
hearing held under division (A)(1) of this section. 3482

(B) An offender is eligible for intervention in lieu of 3483
conviction if the court finds all of the following: 3484

(1) The offender previously has not been convicted of or 3485
pleaded guilty to a felony offense of violence, previously has not 3486
been through intervention in lieu of conviction under this section 3487
or any similar regimen, and is charged with a felony for which the 3488
court, upon conviction, would impose sentence under division 3489
(B)(2)(b) of section 2929.13 of the Revised Code or with a 3490
misdemeanor. 3491

(2) The offense is not a felony of the first, second, or 3492
third degree, is not an offense of violence, is not a violation of 3493
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 3494
not a violation of division (A)(1) of section 2903.08 of the 3495
Revised Code, is not a violation of division (A) of section 3496
4511.19 of the Revised Code or a municipal ordinance that is 3497
substantially similar to that division, and is not an offense for 3498
which a sentencing court is required to impose a mandatory prison 3499
term, a mandatory term of local incarceration, or a mandatory term 3500
of imprisonment in a jail. 3501

(3) The offender is not charged with a violation of section 3502
2925.02, ~~2925.03~~, 2925.04, or 2925.06 of the Revised Code, is not 3503
charged with a violation of section 2925.03 of the Revised Code 3504
that is a felony of the first, second, third, or fourth degree, 3505
and is not charged with a violation of section 2925.11 of the 3506
Revised Code that is a felony of the first, second, or third 3507
degree. 3508

~~(4) The offender is not charged with a violation of section 2925.11 of the Revised Code that is a felony of the fourth degree, or the offender is charged with a violation of that section that is a felony of the fourth degree and the prosecutor in the case has recommended that the offender be classified as being eligible for intervention in lieu of conviction under this section.~~

~~(5)~~ The offender has been assessed by an appropriately licensed provider, certified facility, or licensed and credentialed professional, including, but not limited to, a program licensed by the department of alcohol and drug addiction services pursuant to section 3793.11 of the Revised Code, a program certified by that department pursuant to section 3793.06 of the Revised Code, a public or private hospital, the United States department of veterans affairs, another appropriate agency of the government of the United States, or a licensed physician, psychiatrist, psychologist, independent social worker, professional counselor, or chemical dependency counselor for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.

~~(6)~~(5) The offender's drug or alcohol usage was a factor leading to the criminal offense with which the offender is charged, intervention in lieu of conviction would not demean the seriousness of the offense, and intervention would substantially reduce the likelihood of any future criminal activity.

~~(7)~~(6) The alleged victim of the offense was not sixty-five years of age or older, permanently and totally disabled, under thirteen years of age, or a peace officer engaged in the officer's official duties at the time of the alleged offense.

~~(8)~~(7) If the offender is charged with a violation of section 2925.24 of the Revised Code, the alleged violation did not result in physical harm to any person, and the offender previously has

not been treated for drug abuse. 3541

~~(9)~~(8) The offender is willing to comply with all terms and 3542
conditions imposed by the court pursuant to division (D) of this 3543
section. 3544

(C) At the conclusion of a hearing held pursuant to division 3545
(A) of this section, the court shall enter its determination as to 3546
whether the offender is eligible for intervention in lieu of 3547
conviction and as to whether to grant the offender's request. If 3548
the court finds under division (B) of this section that the 3549
offender is eligible for intervention in lieu of conviction and 3550
grants the offender's request, the court shall accept the 3551
offender's plea of guilty and waiver of the defendant's right to a 3552
speedy trial, the preliminary hearing, the time period within 3553
which the grand jury may consider an indictment against the 3554
offender, and arraignment, unless the hearing, indictment, or 3555
arraignment has already occurred. In addition, the court then may 3556
stay all criminal proceedings and order the offender to comply 3557
with all terms and conditions imposed by the court pursuant to 3558
division (D) of this section. If the court finds that the offender 3559
is not eligible or does not grant the offender's request, the 3560
criminal proceedings against the offender shall proceed as if the 3561
offender's request for intervention in lieu of conviction had not 3562
been made. 3563

(D) If the court grants an offender's request for 3564
intervention in lieu of conviction, the court shall place the 3565
offender under the general control and supervision of the county 3566
probation department, the adult parole authority, or another 3567
appropriate local probation or court services agency, if one 3568
exists, as if the offender was subject to a community control 3569
sanction imposed under section 2929.15, 2929.18, or 2929.25 of the 3570
Revised Code. The court shall establish an intervention plan for 3571
the offender. The terms and conditions of the intervention plan 3572

shall require the offender, for at least one year from the date on 3573
which the court grants the order of intervention in lieu of 3574
conviction, to abstain from the use of illegal drugs and alcohol, 3575
to participate in drug or alcohol treatment, and to submit to 3576
regular random testing for drug and alcohol use and may include 3577
any other treatment terms and conditions, or terms and conditions 3578
similar to community control sanctions, which may include 3579
community service or restitution, that are ordered by the court. 3580

(E) If the court grants an offender's request for 3581
intervention in lieu of conviction and the court finds that the 3582
offender has successfully completed the intervention plan for the 3583
offender, including the requirement that the offender abstain from 3584
using drugs and alcohol for a period of at least one year from the 3585
date on which the court granted the order of intervention in lieu 3586
of conviction and all other terms and conditions ordered by the 3587
court, the court shall dismiss the proceedings against the 3588
offender. Successful completion of the intervention plan and 3589
period of abstinence under this section shall be without 3590
adjudication of guilt and is not a criminal conviction for 3591
purposes of any disqualification or disability imposed by law and 3592
upon conviction of a crime, and the court may order the sealing of 3593
records related to the offense in question in the manner provided 3594
in sections 2953.31 to 2953.36 of the Revised Code. 3595

(F) If the court grants an offender's request for 3596
intervention in lieu of conviction and the offender fails to 3597
comply with any term or condition imposed as part of the 3598
intervention plan for the offender, the supervising authority for 3599
the offender promptly shall advise the court of this failure, and 3600
the court shall hold a hearing to determine whether the offender 3601
failed to comply with any term or condition imposed as part of the 3602
plan. If the court determines that the offender has failed to 3603
comply with any of those terms and conditions, it shall enter a 3604

finding of guilty and shall impose an appropriate sanction under 3605
Chapter 2929. of the Revised Code. If the court sentences the 3606
offender to a prison term, the court, after consulting with the 3607
department of rehabilitation and correction regarding the 3608
availability of services, may order continued court-supervised 3609
activity and treatment of the offender during the prison term and, 3610
upon consideration of reports received from the department 3611
concerning the offender's progress in the program of activity and 3612
treatment, may consider judicial release under section 2929.20 of 3613
the Revised Code. 3614

(G) As used in this section: 3615

(1) "Community control sanction" has the same meaning as in 3616
section 2929.01 of the Revised Code. 3617

(2) "Intervention in lieu of conviction" means any 3618
court-supervised activity that complies with this section. 3619

(3) "Peace officer" has the same meaning as in section 3620
2935.01 of the Revised Code. 3621

Sec. 2953.08. (A) In addition to any other right to appeal 3622
and except as provided in division (D) of this section, a 3623
defendant who is convicted of or pleads guilty to a felony may 3624
appeal as a matter of right the sentence imposed upon the 3625
defendant on one of the following grounds: 3626

(1) The sentence consisted of or included the maximum prison 3627
term allowed for the offense by division (A) of section 2929.14 of 3628
the Revised Code, the sentence was not imposed pursuant to 3629
division (D)(3)(b) of section 2929.14 of the Revised Code, the 3630
maximum prison term was not required for the offense pursuant to 3631
Chapter 2925. or any other provision of the Revised Code, and the 3632
court imposed the sentence under one of the following 3633
circumstances: 3634

(a) The sentence was imposed for only one offense. 3635

(b) The sentence was imposed for two or more offenses arising 3636
out of a single incident, and the court imposed the maximum prison 3637
term for the offense of the highest degree. 3638

(2) The sentence consisted of or included a prison term, the 3639
offense for which it was imposed is a felony of the fourth or 3640
fifth degree or is a felony drug offense that is a violation of a 3641
provision of Chapter 2925. of the Revised Code and that is 3642
specified as being subject to division (B) of section 2929.13 of 3643
the Revised Code for purposes of sentencing, and the court did not 3644
specify at sentencing that it found one or more factors specified 3645
in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised 3646
Code to apply relative to the defendant. If the court specifies 3647
that it found one or more of those factors to apply relative to 3648
the defendant, the defendant is not entitled under this division 3649
to appeal as a matter of right the sentence imposed upon the 3650
offender. 3651

(3) The person was convicted of or pleaded guilty to a 3652
violent sex offense or a designated homicide, assault, or 3653
kidnapping offense, was adjudicated a sexually violent predator in 3654
relation to that offense, and was sentenced pursuant to division 3655
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 3656
of the indefinite term imposed pursuant to division (A)(3) of 3657
section 2971.03 of the Revised Code is the longest term available 3658
for the offense from among the range of terms listed in section 3659
2929.14 of the Revised Code. As used in this division, "designated 3660
homicide, assault, or kidnapping offense" and "violent sex 3661
offense" have the same meanings as in section 2971.01 of the 3662
Revised Code. As used in this division, "adjudicated a sexually 3663
violent predator" has the same meaning as in section 2929.01 of 3664
the Revised Code, and a person is "adjudicated a sexually violent 3665
predator" in the same manner and the same circumstances as are 3666

described in that section. 3667

(4) The sentence is contrary to law. 3668

(5) The sentence consisted of an additional prison term of 3669
ten years imposed pursuant to division (D)(2)(a) of section 3670
2929.14 of the Revised Code. 3671

(6) The sentence consisted of an additional prison term of 3672
ten years imposed pursuant to division (D)(3)(b) of section 3673
2929.14 of the Revised Code. 3674

(B) In addition to any other right to appeal and except as 3675
provided in division (D) of this section, a prosecuting attorney, 3676
a city director of law, village solicitor, or similar chief legal 3677
officer of a municipal corporation, or the attorney general, if 3678
one of those persons prosecuted the case, may appeal as a matter 3679
of right a sentence imposed upon a defendant who is convicted of 3680
or pleads guilty to a felony or, in the circumstances described in 3681
division (B)(3) of this section the modification of a sentence 3682
imposed upon such a defendant, on any of the following grounds: 3683

(1) The sentence did not include a prison term despite a 3684
presumption favoring a prison term for the offense for which it 3685
was imposed, as set forth in section 2929.13 or Chapter 2925. of 3686
the Revised Code. 3687

(2) The sentence is contrary to law. 3688

(3) The sentence is a modification under section 2929.20 of 3689
the Revised Code of a sentence that was imposed for a felony of 3690
the first or second degree. 3691

(C)(1) In addition to the right to appeal a sentence granted 3692
under division (A) or (B) of this section, a defendant who is 3693
convicted of or pleads guilty to a felony may seek leave to appeal 3694
a sentence imposed upon the defendant on the basis that the 3695
sentencing judge has imposed consecutive sentences under division 3696

(E)(3) or (4) of section 2929.14 of the Revised Code and that the
consecutive sentences exceed the maximum prison term allowed by
division (A) of that section for the most serious offense of which
the defendant was convicted. Upon the filing of a motion under
this division, the court of appeals may grant leave to appeal the
sentence if the court determines that the allegation included as
the basis of the motion is true.

(2) A defendant may seek leave to appeal an additional
sentence imposed upon the defendant pursuant to division (D)(2)(a)
or (b) of section 2929.14 of the Revised Code if the additional
sentence is for a definite prison term that is longer than five
years.

(D)(1) A sentence imposed upon a defendant is not subject to
review under this section if the sentence is authorized by law,
has been recommended jointly by the defendant and the prosecution
in the case, and is imposed by a sentencing judge.

(2) Except as provided in division (C)(2) of this section, a
sentence imposed upon a defendant is not subject to review under
this section if the sentence is imposed pursuant to division
(D)(2)(b) of section 2929.14 of the Revised Code. Except as
otherwise provided in this division, a defendant retains all
rights to appeal as provided under this chapter or any other
provision of the Revised Code. A defendant has the right to appeal
under this chapter or any other provision of the Revised Code the
court's application of division (D)(2)(c) of section 2929.14 of
the Revised Code.

(3) A sentence imposed for aggravated murder or murder
pursuant to sections 2929.02 to 2929.06 of the Revised Code is not
subject to review under this section.

(E) A defendant, prosecuting attorney, city director of law,
village solicitor, or chief municipal legal officer shall file an

appeal of a sentence under this section to a court of appeals 3728
within the time limits specified in Rule 4(B) of the Rules of 3729
Appellate Procedure, provided that if the appeal is pursuant to 3730
division (B)(3) of this section, the time limits specified in that 3731
rule shall not commence running until the court grants the motion 3732
that makes the sentence modification in question. A sentence 3733
appeal under this section shall be consolidated with any other 3734
appeal in the case. If no other appeal is filed, the court of 3735
appeals may review only the portions of the trial record that 3736
pertain to sentencing. 3737

(F) On the appeal of a sentence under this section, the 3738
record to be reviewed shall include all of the following, as 3739
applicable: 3740

(1) Any presentence, psychiatric, or other investigative 3741
report that was submitted to the court in writing before the 3742
sentence was imposed. An appellate court that reviews a 3743
presentence investigation report prepared pursuant to section 3744
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 3745
connection with the appeal of a sentence under this section shall 3746
comply with division (D)(3) of section 2951.03 of the Revised Code 3747
when the appellate court is not using the presentence 3748
investigation report, and the appellate court's use of a 3749
presentence investigation report of that nature in connection with 3750
the appeal of a sentence under this section does not affect the 3751
otherwise confidential character of the contents of that report as 3752
described in division (D)(1) of section 2951.03 of the Revised 3753
Code and does not cause that report to become a public record, as 3754
defined in section 149.43 of the Revised Code, following the 3755
appellate court's use of the report. 3756

(2) The trial record in the case in which the sentence was 3757
imposed; 3758

(3) Any oral or written statements made to or by the court at 3759

the sentencing hearing at which the sentence was imposed; 3760

(4) Any written findings that the court was required to make 3761
in connection with the modification of the sentence pursuant to a 3762
judicial release under division ~~(H)~~(I) of section 2929.20 of the 3763
Revised Code. 3764

(G)(1) If the sentencing court was required to make the 3765
findings required by division (B) or (D) of section 2929.13, 3766
division (D)(2)(e) or (E)(4) of section 2929.14, or division 3767
~~(H)~~(I) of section 2929.20 of the Revised Code relative to the 3768
imposition or modification of the sentence, and if the sentencing 3769
court failed to state the required findings on the record, the 3770
court hearing an appeal under division (A), (B), or (C) of this 3771
section shall remand the case to the sentencing court and instruct 3772
the sentencing court to state, on the record, the required 3773
findings. 3774

(2) The court hearing an appeal under division (A), (B), or 3775
(C) of this section shall review the record, including the 3776
findings underlying the sentence or modification given by the 3777
sentencing court. 3778

The appellate court may increase, reduce, or otherwise modify 3779
a sentence that is appealed under this section or may vacate the 3780
sentence and remand the matter to the sentencing court for 3781
resentencing. The appellate court's standard for review is not 3782
whether the sentencing court abused its discretion. The appellate 3783
court may take any action authorized by this division if it 3784
clearly and convincingly finds either of the following: 3785

(a) That the record does not support the sentencing court's 3786
findings under division (B) or (D) of section 2929.13, division 3787
(D)(2)(e) or (E)(4) of section 2929.14, or division ~~(H)~~(I) of 3788
section 2929.20 of the Revised Code, whichever, if any, is 3789
relevant; 3790

(b) That the sentence is otherwise contrary to law. 3791

(H) A judgment or final order of a court of appeals under 3792
this section may be appealed, by leave of court, to the supreme 3793
court. 3794

(I)(1) There is hereby established the felony sentence appeal 3795
cost oversight committee, consisting of eight members. One member 3796
shall be the chief justice of the supreme court or a 3797
representative of the court designated by the chief justice, one 3798
member shall be a member of the senate appointed by the president 3799
of the senate, one member shall be a member of the house of 3800
representatives appointed by the speaker of the house of 3801
representatives, one member shall be the director of budget and 3802
management or a representative of the office of budget and 3803
management designated by the director, one member shall be a judge 3804
of a court of appeals, court of common pleas, municipal court, or 3805
county court appointed by the chief justice of the supreme court, 3806
one member shall be the state public defender or a representative 3807
of the office of the state public defender designated by the state 3808
public defender, one member shall be a prosecuting attorney 3809
appointed by the Ohio prosecuting attorneys association, and one 3810
member shall be a county commissioner appointed by the county 3811
commissioners association of Ohio. No more than three of the 3812
appointed members of the committee may be members of the same 3813
political party. 3814

The president of the senate, the speaker of the house of 3815
representatives, the chief justice of the supreme court, the Ohio 3816
prosecuting attorneys association, and the county commissioners 3817
association of Ohio shall make the initial appointments to the 3818
committee of the appointed members no later than ninety days after 3819
July 1, 1996. Of those initial appointments to the committee, the 3820
members appointed by the speaker of the house of representatives 3821
and the Ohio prosecuting attorneys association shall serve a term 3822

ending two years after July 1, 1996, the member appointed by the 3823
chief justice of the supreme court shall serve a term ending three 3824
years after July 1, 1996, and the members appointed by the 3825
president of the senate and the county commissioners association 3826
of Ohio shall serve terms ending four years after July 1, 1996. 3827
Thereafter, terms of office of the appointed members shall be for 3828
four years, with each term ending on the same day of the same 3829
month as did the term that it succeeds. Members may be 3830
reappointed. Vacancies shall be filled in the same manner provided 3831
for original appointments. A member appointed to fill a vacancy 3832
occurring prior to the expiration of the term for which that 3833
member's predecessor was appointed shall hold office as a member 3834
for the remainder of the predecessor's term. An appointed member 3835
shall continue in office subsequent to the expiration date of that 3836
member's term until that member's successor takes office or until 3837
a period of sixty days has elapsed, whichever occurs first. 3838

If the chief justice of the supreme court, the director of 3839
the office of budget and management, or the state public defender 3840
serves as a member of the committee, that person's term of office 3841
as a member shall continue for as long as that person holds office 3842
as chief justice, director of the office of budget and management, 3843
or state public defender. If the chief justice of the supreme 3844
court designates a representative of the court to serve as a 3845
member, the director of budget and management designates a 3846
representative of the office of budget and management to serve as 3847
a member, or the state public defender designates a representative 3848
of the office of the state public defender to serve as a member, 3849
the person so designated shall serve as a member of the commission 3850
for as long as the official who made the designation holds office 3851
as chief justice, director of the office of budget and management, 3852
or state public defender or until that official revokes the 3853
designation. 3854

The chief justice of the supreme court or the representative 3855
of the supreme court appointed by the chief justice shall serve as 3856
chairperson of the committee. The committee shall meet within two 3857
weeks after all appointed members have been appointed and shall 3858
organize as necessary. Thereafter, the committee shall meet at 3859
least once every six months or more often upon the call of the 3860
chairperson or the written request of three or more members, 3861
provided that the committee shall not meet unless moneys have been 3862
appropriated to the judiciary budget administered by the supreme 3863
court specifically for the purpose of providing financial 3864
assistance to counties under division (I)(2) of this section and 3865
the moneys so appropriated then are available for that purpose. 3866

The members of the committee shall serve without 3867
compensation, but, if moneys have been appropriated to the 3868
judiciary budget administered by the supreme court specifically 3869
for the purpose of providing financial assistance to counties 3870
under division (I)(2) of this section, each member shall be 3871
reimbursed out of the moneys so appropriated that then are 3872
available for actual and necessary expenses incurred in the 3873
performance of official duties as a committee member. 3874

(2) The state criminal sentencing commission periodically 3875
shall provide to the felony sentence appeal cost oversight 3876
committee all data the commission collects pursuant to division 3877
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 3878
data from the state criminal sentencing commission, the felony 3879
sentence appeal cost oversight committee periodically shall review 3880
the data; determine whether any money has been appropriated to the 3881
judiciary budget administered by the supreme court specifically 3882
for the purpose of providing state financial assistance to 3883
counties in accordance with this division for the increase in 3884
expenses the counties experience as a result of the felony 3885
sentence appeal provisions set forth in this section or as a 3886

result of a postconviction relief proceeding brought under 3887
division (A)(2) of section 2953.21 of the Revised Code or an 3888
appeal of a judgment in that proceeding; if it determines that any 3889
money has been so appropriated, determine the total amount of 3890
moneys that have been so appropriated specifically for that 3891
purpose and that then are available for that purpose; and develop 3892
a recommended method of distributing those moneys to the counties. 3893
The committee shall send a copy of its recommendation to the 3894
supreme court. Upon receipt of the committee's recommendation, the 3895
supreme court shall distribute to the counties, based upon that 3896
recommendation, the moneys that have been so appropriated 3897
specifically for the purpose of providing state financial 3898
assistance to counties under this division and that then are 3899
available for that purpose. 3900

Sec. 2953.13. When a defendant has been committed to a state 3901
correctional institution and the judgment, by virtue of which the 3902
commitment was made, is reversed on appeal, and the defendant is 3903
entitled to ~~his~~ discharge or a new trial, or when the case is 3904
remanded to the trial court for any reason, the clerk of the court 3905
reversing the judgment or remanding the case, under the seal 3906
thereof of the court, shall forthwith certify ~~said~~ the reversal or 3907
remand to the warden of the state correctional institution. 3908

The warden, on receipt of the certificate, if a discharge of 3909
the defendant is ordered, shall forthwith discharge ~~him~~ the 3910
defendant from the state correctional institution. 3911

If a new trial is ordered or the case is remanded, the warden 3912
shall forthwith cause the defendant to be conveyed to the jail of 3913
the county in which ~~he~~ the defendant was convicted, and committed 3914
to the custody of the sheriff ~~thereof~~ of that county. 3915

Sec. 2967.03. The adult parole authority may exercise its 3916

functions and duties in relation to the pardon, commutation of 3917
sentence, or reprieve of a convict upon direction of the governor 3918
or upon its own initiative. It may exercise its functions and 3919
duties in relation to the parole of a prisoner who is eligible for 3920
parole upon the initiative of the head of the institution in which 3921
the prisoner is confined or upon its own initiative. It may 3922
exercise its functions and duties in relation to the medical 3923
release of a prisoner when the head of the institution notifies 3924
the authority of the prisoner's medical incapacitation, terminal 3925
illness, or imminent danger of death in accordance with rules 3926
adopted by the authority under section 2967.05 of the Revised 3927
Code. When a prisoner becomes eligible for parole, the head of the 3928
institution in which the prisoner is confined shall notify the 3929
authority in the manner prescribed by the authority. The authority 3930
may investigate and examine, or cause the investigation and 3931
examination of, prisoners confined in state correctional 3932
institutions concerning their conduct in the institutions, their 3933
mental and moral qualities and characteristics, their knowledge of 3934
a trade or profession, their former means of livelihood, their 3935
family relationships, and any other matters affecting their 3936
fitness to be at liberty without being a threat to society. 3937

The authority may recommend to the governor the pardon, 3938
commutation of sentence, medical release, or reprieve of any 3939
convict or prisoner or grant a parole to any prisoner for whom 3940
parole is authorized, if in its judgment there is reasonable 3941
ground to believe that granting a pardon, commutation, medical 3942
release, or reprieve to the convict or paroling the prisoner would 3943
further the interests of justice and be consistent with the 3944
welfare and security of society. However, the authority shall not 3945
recommend a pardon ~~or~~, commutation of sentence, or medical release 3946
of, or grant a parole to, any convict or prisoner until the 3947
authority has complied with the applicable notice requirements of 3948
sections 2930.16 and 2967.12 of the Revised Code and until it has 3949

considered any statement made by a victim or a victim's 3950
representative that is relevant to the convict's or prisoner's 3951
case and that was sent to the authority pursuant to section 3952
2930.17 of the Revised Code, any other statement made by a victim 3953
or a victim's representative that is relevant to the convict's or 3954
prisoner's case and that was received by the authority after it 3955
provided notice of the pendency of the action under sections 3956
2930.16 and 2967.12 of the Revised Code, and any written statement 3957
of any person submitted to the court pursuant to division ~~(H)~~(G) 3958
of section 2967.12 of the Revised Code. If a victim, victim's 3959
representative, or the victim's spouse, parent, sibling, or child 3960
appears at a full board hearing of the parole board and gives 3961
testimony as authorized by section 5149.101 of the Revised Code, 3962
the authority shall consider the testimony in determining whether 3963
to grant a parole. The trial judge and prosecuting attorney of the 3964
trial court in which a person was convicted shall furnish to the 3965
authority, at the request of the authority, a summarized statement 3966
of the facts proved at the trial and of all other facts having 3967
reference to the propriety of recommending a pardon ~~or~~ 3968
commutation, or medical release, or granting a parole, together 3969
with a recommendation for or against a pardon, commutation, 3970
medical release, or parole, and the reasons for the 3971
recommendation. The trial judge, the prosecuting attorney, 3972
specified law enforcement agency members, and a representative of 3973
the prisoner may appear at a full board hearing of the parole 3974
board and give testimony in regard to the grant of a parole to the 3975
prisoner as authorized by section 5149.101 of the Revised Code. 3976
All state and local officials shall furnish information to the 3977
authority, when so requested by it in the performance of its 3978
duties. 3979

The adult parole authority shall exercise its functions and 3980
duties in relation to the release of prisoners who are serving a 3981
stated prison term in accordance with section 2967.28 of the 3982

Revised Code. 3983

Sec. 2967.05. Upon the recommendation of the director of 3984
rehabilitation and correction, accompanied by a certificate of the 3985
attending physician that a prisoner or convict is terminally ill, 3986
medically incapacitated, or in imminent danger of death, the 3987
governor may order ~~his~~ the prisoner's or convict's release ~~as if~~ 3988
~~on parole, reserving the right to return him to the institution~~ 3989
~~pursuant to this section. If, subsequent to his release, his~~ 3990
~~health improves so that he is no longer in imminent danger of~~ 3991
~~death, he shall be returned, by order of the governor, to the~~ 3992
~~institution from which he was released. If he violates any rules~~ 3993
~~or conditions applicable to him, he may be returned to an~~ 3994
~~institution under the control of the department of rehabilitation~~ 3995
~~and correction. The governor may direct the adult parole authority~~ 3996
to investigate or cause to be investigated the prisoner and make a 3997
recommendation in the manner set forth in section 2967.03 of the 3998
Revised Code. An inmate released under this section shall be 3999
subject to supervision by the adult parole authority in accordance 4000
with any recommendation of the adult parole authority that is 4001
approved by the governor. The adult parole authority shall adopt 4002
rules pursuant to section 119.03 of the Revised Code to establish 4003
the eligibility and procedure for medical release of an inmate 4004
when an inmate is terminally ill, medically incapacitated, or in 4005
imminent danger of death. 4006

Sec. 2967.141. (A) As used in this section, "alternative 4007
residential facility" has the same meaning as in section 2929.01 4008
of the Revised Code. 4009

(B) The department of rehabilitation and correction, through 4010
its division of parole and community services, may operate or 4011
contract for the operation of one or more violation sanction 4012
centers as an alternative residential facility. A violation 4013

sanction center operated under authority of this division is not a 4014
prison ~~within the meaning of division (BB) of~~ as defined in 4015
section 2929.01 of the Revised Code. A violation sanction center 4016
operated under authority of this division may be used for either 4017
of the following purposes: 4018

(1) Service of the term of a more restrictive post-release 4019
control sanction that the parole board, subsequent to a hearing, 4020
imposes pursuant to division (F)(2) of section 2967.28 of the 4021
Revised Code upon a releasee who has violated a post-release 4022
control sanction imposed upon the releasee under that section; 4023

(2) Service of a sanction that the adult parole authority or 4024
parole board imposes upon a parolee whom the authority determines 4025
to be a parole violator because of a violation of the terms and 4026
conditions of the parolee's parole or conditional pardon. 4027

(C) If a violation sanction center is established under the 4028
authority of this section, notwithstanding the fact that the 4029
center is an alternative residential facility for the purposes 4030
described in division (B) of this section, the center shall be 4031
used only for the purposes described in that division. A violation 4032
sanction center established under the authority of this section is 4033
not an alternative residential facility for the purpose of 4034
imposing sentence on an offender who is convicted of or pleads 4035
guilty to a felony, and a court that is sentencing an offender for 4036
a felony pursuant to sections 2929.11 to 2929.19 of the Revised 4037
Code shall not sentence the offender to a community residential 4038
sanction that requires the offender to serve a term in the center. 4039

(D) If a releasee is ordered to serve a sanction in a 4040
violation sanction center, as described in division (B)(1) of this 4041
section, all of the following apply: 4042

(1) The releasee shall not be considered to be under a new 4043
prison term for a violation of post-release control. 4044

(2) The time the releasee serves in the center shall not count toward, and shall not be considered in determining, the maximum cumulative prison term for all violations that is described in division (F)(3) of section 2967.28 of the Revised Code.

(3) The time the releasee serves in the center shall count as part of, and shall be credited toward, the remaining period of post-release control that is applicable to the releasee.

Sec. 2967.28. (A) As used in this section:

(1) "Monitored time" means the monitored time sanction specified in section 2929.17 of the Revised Code.

(2) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(3) "Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.

(B) Each sentence to a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person shall include a requirement that the offender be subject to a period of post-release control imposed by the parole board after the offender's release from imprisonment. If a court imposes a sentence including a prison term of a type described in this division on or after ~~the effective date of this amendment~~ July 11, 2006, the failure of a sentencing court to notify the offender pursuant to division (B)(3)(c) of section 2929.19 of the Revised Code of this requirement or to include in the judgment of conviction entered on the journal a statement that the offender's sentence includes this requirement does not negate, limit, or

otherwise affect the mandatory period of supervision that is 4075
required for the offender under this division. Section 2929.191 of 4076
the Revised Code applies if, prior to ~~the effective date of this~~ 4077
~~amendment~~ July 11, 2006, a court imposed a sentence including a 4078
prison term of a type described in this division and failed to 4079
notify the offender pursuant to division (B)(3)(c) of section 4080
2929.19 of the Revised Code regarding post-release control or to 4081
include in the judgment of conviction entered on the journal or in 4082
the sentence pursuant to division (F)(1) of section 2929.14 of the 4083
Revised Code a statement regarding post-release control. Unless 4084
reduced by the parole board pursuant to division (D) of this 4085
section when authorized under that division, a period of 4086
post-release control required by this division for an offender 4087
shall be of one of the following periods: 4088

(1) For a felony of the first degree or for a felony sex 4089
offense, five years; 4090

(2) For a felony of the second degree that is not a felony 4091
sex offense, three years; 4092

(3) For a felony of the third degree that is not a felony sex 4093
offense and in the commission of which the offender caused or 4094
threatened physical harm to a person, three years. 4095

(C) Any sentence to a prison term for a felony of the third, 4096
fourth, or fifth degree that is not subject to division (B)(1) or 4097
(3) of this section shall include a requirement that the offender 4098
be subject to a period of post-release control of up to three 4099
years after the offender's release from imprisonment, if the 4100
parole board, in accordance with division (D) of this section, 4101
determines that a period of post-release control is necessary for 4102
that offender. Section 2929.191 of the Revised Code applies if, 4103
prior to ~~the effective date of this amendment~~ July 11, 2006, a 4104
court imposed a sentence including a prison term of a type 4105
described in this division and failed to notify the offender 4106

pursuant to division (B)(3)(d) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(2) of section 2929.14 of the Revised Code a statement regarding post-release control. Pursuant to an agreement entered into under section 2967.29 of the Revised Code, a court of common pleas or parole board may impose sanctions or conditions on an offender who is placed on post-release control under this division.

(D)(1) Before the prisoner is released from imprisonment, the parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court shall impose upon a prisoner described in division (B) of this section, may impose upon a prisoner described in division (C) of this section, and shall impose upon a prisoner described in division (B)(2)(b) of section 5120.031 or in division (B)(1) of section 5120.032 of the Revised Code, one or more post-release control sanctions to apply during the prisoner's period of post-release control. Whenever the board or court imposes one or more post-release control sanctions upon a prisoner, the board or court, in addition to imposing the sanctions, also shall include as a condition of the post-release control that the ~~individual or felon~~ offender not leave the state without permission of the court or the ~~individual's or felon's~~ offender's parole or probation officer and that the ~~individual or felon~~ offender abide by the law. The board or court may impose any other conditions of release under a post-release control sanction that the board or court considers appropriate, and the conditions of release may include any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code. Prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole

board or court shall review the prisoner's criminal history, all 4140
juvenile court adjudications finding the prisoner, while a 4141
juvenile, to be a delinquent child, and the record of the 4142
prisoner's conduct while imprisoned. The parole board or court 4143
shall consider any recommendation regarding post-release control 4144
sanctions for the prisoner made by the office of victims' 4145
services. After considering those materials, the board or court 4146
shall determine, for a prisoner described in division (B) of this 4147
section, division (B)(2)(b) of section 5120.031, or division 4148
(B)(1) of section 5120.032 of the Revised Code, which post-release 4149
control sanction or combination of post-release control sanctions 4150
is reasonable under the circumstances or, for a prisoner described 4151
in division (C) of this section, whether a post-release control 4152
sanction is necessary and, if so, which post-release control 4153
sanction or combination of post-release control sanctions is 4154
reasonable under the circumstances. In the case of a prisoner 4155
convicted of a felony of the fourth or fifth degree other than a 4156
felony sex offense, the board or court shall presume that 4157
monitored time is the appropriate post-release control sanction 4158
unless the board or court determines that a more restrictive 4159
sanction is warranted. A post-release control sanction imposed 4160
under this division takes effect upon the prisoner's release from 4161
imprisonment. 4162

Regardless of whether the prisoner was sentenced to the 4163
prison term prior to, on, or after ~~the effective date of this~~ 4164
~~amendment~~ July 11, 2006, prior to the release of a prisoner for 4165
whom it will impose one or more post-release control sanctions 4166
under this division, the parole board shall notify the prisoner 4167
that, if the prisoner violates any sanction so imposed or any 4168
condition of post-release control described in division (B) of 4169
section 2967.131 of the Revised Code that is imposed on the 4170
prisoner, the parole board may impose a prison term of up to 4171
one-half of the stated prison term originally imposed upon the 4172

prisoner. 4173

(2) At any time after a prisoner is released from 4174
imprisonment and during the period of post-release control 4175
applicable to the releasee, the adult parole authority or, 4176
pursuant to an agreement under section 2967.29 of the Revised 4177
Code, the court may review the releasee's behavior under the 4178
post-release control sanctions imposed upon the releasee under 4179
this section. The authority or court may determine, based upon the 4180
review and in accordance with the standards established under 4181
division (E) of this section, that a more restrictive or a less 4182
restrictive sanction is appropriate and may impose a different 4183
sanction. ~~Unless the period of post-release control was imposed~~ 4184
~~for an offense described in division (B)(1) of this section, the~~ 4185
~~The~~ authority also may recommend that the parole board or court 4186
increase or reduce the duration of the period of post-release 4187
control imposed by the court. If the authority recommends that the 4188
board or court increase the duration of post-release control, the 4189
board or court shall review the releasee's behavior and may 4190
increase the duration of the period of post-release control 4191
imposed by the court up to eight years. If the authority 4192
recommends that the board or court reduce the duration of control 4193
for an offense described in division (B)(2), ~~(B)(3),~~ or (C) of 4194
this section, the board or court shall review the releasee's 4195
behavior and may reduce the duration of the period of control 4196
imposed by the court. In no case shall the board or court reduce 4197
the duration of the period of control imposed ~~by the court~~ for an 4198
offense described in division (B)(1) of this section to a period 4199
less than the length of the stated prison term originally imposed, 4200
and in no case shall the board or court permit the releasee to 4201
leave the state without permission of the court or the releasee's 4202
parole or probation officer. 4203

(E) The department of rehabilitation and correction, in 4204

accordance with Chapter 119. of the Revised Code, shall adopt 4205
rules that do all of the following: 4206

(1) Establish standards for the imposition by the parole 4207
board of post-release control sanctions under this section that 4208
are consistent with the overriding purposes and sentencing 4209
principles set forth in section 2929.11 of the Revised Code and 4210
that are appropriate to the needs of releasees; 4211

(2) Establish standards by which the parole board can 4212
determine which prisoners described in division (C) of this 4213
section should be placed under a period of post-release control; 4214

(3) Establish standards to be used by the parole board in 4215
reducing the duration of the period of post-release control 4216
imposed by the court when authorized under division (D) of this 4217
section, in imposing a more restrictive post-release control 4218
sanction than monitored time upon a prisoner convicted of a felony 4219
of the fourth or fifth degree other than a felony sex offense, or 4220
in imposing a less restrictive control sanction upon a releasee 4221
based on the releasee's activities including, but not limited to, 4222
remaining free from criminal activity and from the abuse of 4223
alcohol or other drugs, successfully participating in approved 4224
rehabilitation programs, maintaining employment, and paying 4225
restitution to the victim or meeting the terms of other financial 4226
sanctions; 4227

(4) Establish standards to be used by the adult parole 4228
authority in modifying a releasee's post-release control sanctions 4229
pursuant to division (D)(2) of this section; 4230

(5) Establish standards to be used by the adult parole 4231
authority or parole board in imposing further sanctions under 4232
division (F) of this section on releasees who violate post-release 4233
control sanctions, including standards that do the following: 4234

(a) Classify violations according to the degree of 4235

seriousness;	4236
(b) Define the circumstances under which formal action by the parole board is warranted;	4237 4238
(c) Govern the use of evidence at violation hearings;	4239
(d) Ensure procedural due process to an alleged violator;	4240
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	4241 4242
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	4243 4244
(F)(1) Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.	4245 4246 4247 4248 4249 4250 4251 4252 4253 4254 4255 4256 4257 4258 4259 4260 4261 4262
(2) If the adult parole authority <u>or, pursuant to an agreement under section 2967.29 of the Revised Code, the court</u> determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section	4263 4264 4265 4266

2967.131 of the Revised Code imposed upon the releasee and that a 4267
more restrictive sanction is appropriate, the authority or court 4268
may impose a more restrictive sanction upon the releasee, in 4269
accordance with the standards established under division (E) of 4270
this section, or may report the violation to the parole board for 4271
a hearing pursuant to division (F)(3) of this section. The 4272
authority or court may not, pursuant to this division, increase 4273
the duration of the releasee's post-release control or impose as a 4274
post-release control sanction a residential sanction that includes 4275
a prison term, but the authority or court may impose on the 4276
releasee any other residential sanction, nonresidential sanction, 4277
or financial sanction that the sentencing court was authorized to 4278
impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the 4279
Revised Code. 4280

(3) The parole board or, pursuant to an agreement under 4281
section 2967.29 of the Revised Code, the court may hold a hearing 4282
on any alleged violation by a releasee of a post-release control 4283
sanction or any conditions described in division (A) of section 4284
2967.131 of the Revised Code that are imposed upon the releasee. 4285
If after the hearing the board or court finds that the releasee 4286
violated the sanction or condition, the board or court may 4287
increase the duration of the releasee's post-release control up to 4288
the maximum duration authorized by division (B) or (C) of this 4289
section or impose a more restrictive post-release control 4290
sanction. When appropriate, the board or court may impose as a 4291
post-release control sanction a residential sanction that includes 4292
a prison term. The board or court shall consider a prison term as 4293
a post-release control sanction imposed for a violation of 4294
post-release control when the violation involves a deadly weapon 4295
or dangerous ordnance, physical harm or attempted serious physical 4296
harm to a person, or sexual misconduct, or when the releasee 4297
committed repeated violations of post-release control sanctions. 4298
The Unless a releasee's stated prison term was reduced pursuant to 4299

section 5120.032 of the Revised Code, the period of a prison term 4300
that is imposed as a post-release control sanction under this 4301
division shall not exceed nine months, and the maximum cumulative 4302
prison term for all violations under this division shall not 4303
exceed one-half of the stated prison term originally imposed upon 4304
the offender as part of this sentence. If a releasee's stated 4305
prison term was reduced pursuant to section 5120.032 of the 4306
Revised Code, the period of a prison term that is imposed as a 4307
post-release control sanction under this division and the maximum 4308
cumulative prison term for all violations under this division 4309
shall not exceed the period of time not served in prison under the 4310
sentence imposed by the court. The period of a prison term that is 4311
imposed as a post-release control sanction under this division 4312
shall not count as, or be credited toward, the remaining period of 4313
post-release control. 4314

If an offender is imprisoned for a felony committed while 4315
under post-release control supervision and is again released on 4316
post-release control for a period of time determined by division 4317
(F)(4)(d) of this section, the maximum cumulative prison term for 4318
all violations under this division shall not exceed one-half of 4319
the total stated prison terms of the earlier felony, reduced by 4320
any prison term administratively imposed by the parole board or 4321
court, plus one-half of the total stated prison term of the new 4322
felony. 4323

(4) Any period of post-release control shall commence upon an 4324
offender's actual release from prison. If an offender is serving 4325
an indefinite prison term or a life sentence in addition to a 4326
stated prison term, the offender shall serve the period of 4327
post-release control in the following manner: 4328

(a) If a period of post-release control is imposed upon the 4329
offender and if the offender also is subject to a period of parole 4330
under a life sentence or an indefinite sentence, and if the period 4331

of post-release control ends prior to the period of parole, the 4332
offender shall be supervised on parole. The offender shall receive 4333
credit for post-release control supervision during the period of 4334
parole. The offender is not eligible for final release under 4335
section 2967.16 of the Revised Code until the post-release control 4336
period otherwise would have ended. 4337

(b) If a period of post-release control is imposed upon the 4338
offender and if the offender also is subject to a period of parole 4339
under an indefinite sentence, and if the period of parole ends 4340
prior to the period of post-release control, the offender shall be 4341
supervised on post-release control. The requirements of parole 4342
supervision shall be satisfied during the post-release control 4343
period. 4344

(c) If an offender is subject to more than one period of 4345
post-release control, the period of post-release control for all 4346
of the sentences shall be the period of post-release control that 4347
expires last, as determined by the parole board or court. Periods 4348
of post-release control shall be served concurrently and shall not 4349
be imposed consecutively to each other. 4350

(d) The period of post-release control for a releasee who 4351
commits a felony while under post-release control for an earlier 4352
felony shall be the longer of the period of post-release control 4353
specified for the new felony under division (B) or (C) of this 4354
section or the time remaining under the period of post-release 4355
control imposed for the earlier felony as determined by the parole 4356
board or court. 4357

Sec. 2967.29. (A) A court of common pleas may cooperate with 4358
the department of rehabilitation and correction in the supervision 4359
of offenders who return to the court's territorial jurisdiction 4360
after serving a prison term. The court, after consultation with 4361
the board of county commissioners, may enter into an agreement 4362

with the department allowing the court and the parole board to 4363
make joint decisions relating to parole and post-release control 4364
to the extent permitted by section 2967.28 of the Revised Code. 4365

(B) An agreement made under this section shall include at 4366
least all of the following: 4367

(1) The categories of offenders with regard to which the 4368
court may participate in making decisions; 4369

(2) The process by which the offenders in each category will 4370
be identified; 4371

(3) The process by which the court and the parole board will 4372
monitor offenders and make recommendations regarding programming 4373
while the offenders are in prison; 4374

(4) The process by which the court will participate in 4375
setting appropriate sanctions and conditions on offenders who 4376
leave prison on post-release control or parole; 4377

(5) The process by which the court may participate in 4378
reducing the duration of the period of post-release control; 4379

(6) Guidelines for the supervision of offenders under 4380
post-release control or parole supervision; 4381

(7) Guidelines for sanctions for violations of parole or 4382
post-release control; 4383

(8) Provisions that take into account the perspective of 4384
affected victims. 4385

(C) A court that enters into an agreement under this section 4386
shall provide the department of rehabilitation and correction with 4387
a presentence investigation upon the offender's admission to 4388
prison. The department shall provide the court with a summary of 4389
an offender's progress while in prison prior to the release of the 4390
offender. 4391

Sec. 3923.233. Notwithstanding any provision of any 4392
certificate furnished by an insurer in connection with or pursuant 4393
to any group sickness and accident insurance policy delivered, 4394
issued, renewed, or used, in or outside this state, on or after 4395
January 1, 1985, and notwithstanding any provision of any policy 4396
of insurance delivered, issued for delivery, renewed, or used, in 4397
or outside this state, on or after January 1, 1985, whenever the 4398
policy or certificate is subject to the jurisdiction of this state 4399
and provides for reimbursement for any service that may be legally 4400
performed by a certified nurse-midwife who is authorized under 4401
section 4723.42 of the Revised Code to practice nurse-midwifery, 4402
reimbursement under the policy or certificate shall not be denied 4403
to a certified nurse-midwife performing the service in 4404
collaboration with a licensed physician. The collaborating 4405
physician shall be identified on an insurance claim form. 4406

The cost of collaboration with a certified nurse-midwife by a 4407
licensed physician as required under section 4723.43 of the 4408
Revised Code is a reimbursable expense. 4409

The division of any reimbursement payment for services 4410
performed by a certified nurse-midwife between the nurse-midwife 4411
and the nurse-midwife's collaborating physician shall be 4412
determined and mutually agreed upon by the certified nurse-midwife 4413
and the physician. The division of fees shall not be considered a 4414
violation of division (B)~~(17)~~(13) of section 4731.22 of the 4415
Revised Code. In no case shall the total fees charged exceed the 4416
fee the physician would have charged had the physician provided 4417
the entire service. 4418

Sec. 3923.301. Every person, the state and any of its 4419
instrumentalities, any county, township, school district, or other 4420
political subdivision and any of its instrumentalities, and any 4421
municipal corporation and any of its instrumentalities that 4422

provides payment for health care benefits for any of its employees 4423
resident in this state, which benefits are not provided by 4424
contract with an insurer qualified to provide sickness and 4425
accident insurance or a health insuring corporation, and that 4426
includes reimbursement for any service that may be legally 4427
performed by a certified nurse-midwife who is authorized under 4428
section 4723.42 of the Revised Code to practice nurse-midwifery, 4429
shall not deny reimbursement to a certified nurse-midwife 4430
performing the service if the service is performed in 4431
collaboration with a licensed physician. The collaborating 4432
physician shall be identified on the claim form. 4433

The cost of collaboration with a certified nurse-midwife by a 4434
licensed physician as required under section 4723.43 of the 4435
Revised Code is a reimbursable expense. 4436

The division of any reimbursement payment for services 4437
performed by a certified nurse-midwife between the nurse-midwife 4438
and the nurse-midwife's collaborating physician shall be 4439
determined and mutually agreed upon by the certified nurse-midwife 4440
and the physician. The division of fees shall not be considered a 4441
violation of division (B)~~(17)~~(13) of section 4731.22 of the 4442
Revised Code. In no case shall the total fees charged exceed the 4443
fee the physician would have charged had the physician provided 4444
the entire service. 4445

Sec. 4507.50. (A) The registrar of motor vehicles or a deputy 4446
registrar, upon receipt of an application filed in compliance with 4447
section 4507.51 of the Revised Code by any person who is a 4448
resident or a temporary resident of this state and, except as 4449
otherwise provided in this section, is not licensed as an operator 4450
of a motor vehicle in this state or another licensing 4451
jurisdiction, and, except as provided in division (B) of this 4452
section, upon receipt of a fee of three dollars and fifty cents, 4453

shall issue an identification card to that person. 4454

Any person who is a resident or temporary resident of this 4455
state whose Ohio driver's or commercial driver's license has been 4456
suspended or canceled, upon application in compliance with section 4457
4507.51 of the Revised Code and, except as provided in division 4458
(B) of this section, payment of a fee of three dollars and fifty 4459
cents, may be issued a temporary identification card. The 4460
temporary identification card shall be identical to an 4461
identification card, except that it shall be printed on its face 4462
with a statement that the card is valid during the effective dates 4463
of the suspension or cancellation of the cardholder's license, or 4464
until the birthday of the cardholder in the fourth year after the 4465
date on which it is issued, whichever is shorter. The cardholder 4466
shall surrender the identification card to the registrar or any 4467
deputy registrar before the cardholder's driver's or commercial 4468
driver's license is restored or reissued. 4469

Except as provided in division (B) of this section, the 4470
deputy registrar shall be allowed a fee of two dollars and 4471
seventy-five cents commencing on July 1, 2001, three dollars and 4472
twenty-five cents commencing on January 1, 2003, and three dollars 4473
and fifty cents commencing on January 1, 2004, for each 4474
identification card issued under this section. The fee allowed to 4475
the deputy registrar shall be in addition to the fee for issuing 4476
an identification card. 4477

Neither the registrar nor any deputy registrar shall charge a 4478
fee in excess of one dollar and fifty cents for laminating an 4479
identification card or temporary identification card. A deputy 4480
registrar laminating such a card shall retain the entire amount of 4481
the fee charged for lamination, less the actual cost to the 4482
registrar of the laminating materials used for that lamination, as 4483
specified in the contract executed by the bureau for the 4484
laminating materials and laminating equipment. The deputy 4485

registrar shall forward the amount of the cost of the laminating materials to the registrar for deposit as provided in this section.

The fee collected for issuing an identification card under this section, except the fee allowed to the deputy registrar, shall be paid into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(B)(1) A disabled veteran who has a service-connected disability rated at one hundred per cent by the veterans' administration may apply to the registrar or a deputy registrar for the issuance to that veteran of an identification card or a temporary identification card under this section without payment of any fee prescribed in division (A) of this section, including any lamination fee.

An application made under division (B)(1) of this section shall be accompanied by such documentary evidence of disability as the registrar may require by rule.

(2) A person who has been released from a state correctional institution and has received an identification card from the department of rehabilitation and correction under section 5120.59 of the Revised Code may apply to the registrar or a deputy registrar for the issuance to that person of an identification card under this section without payment of any fee, including any lamination fee, prescribed in division (A) of this section.

Sec. 4507.51. (A)(1) Every application for an identification card or duplicate shall be made on a form furnished by the registrar of motor vehicles, shall be signed by the applicant, and by the applicant's parent or guardian if the applicant is under eighteen years of age, and shall contain the following information pertaining to the applicant: name, date of birth, sex, general

description including the applicant's height, weight, hair color, 4517
and eye color, address, and social security number. The 4518
application also shall state whether an applicant wishes to 4519
certify willingness to make an anatomical gift under section 4520
2108.04 of the Revised Code and shall include information about 4521
the requirements of that section that apply to persons who are 4522
less than eighteen years of age. The statement regarding 4523
willingness to make such a donation shall be given no 4524
consideration in the decision of whether to issue an 4525
identification card. Each applicant shall be photographed in color 4526
at the time of making application. 4527

(2) The application also shall state whether the applicant 4528
has executed a valid durable power of attorney for health care 4529
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 4530
executed a declaration governing the use or continuation, or the 4531
withholding or withdrawal, of life-sustaining treatment pursuant 4532
to sections 2133.01 to 2133.15 of the Revised Code and, if the 4533
applicant has executed either type of instrument, whether the 4534
applicant wishes the identification card issued to indicate that 4535
the applicant has executed the instrument. 4536

(3) The registrar or deputy registrar, in accordance with 4537
section 3503.11 of the Revised Code, shall register as an elector 4538
any person who applies for an identification card or duplicate if 4539
the applicant is eligible and wishes to be registered as an 4540
elector. The decision of an applicant whether to register as an 4541
elector shall be given no consideration in the decision of whether 4542
to issue the applicant an identification card or duplicate. 4543

(B) The application for an identification card or duplicate 4544
shall be filed in the office of the registrar or deputy registrar. 4545
Each applicant shall present documentary evidence as required by 4546
the registrar of the applicant's age and identity, and the 4547
applicant shall swear that all information given is true. An 4548

identification card issued by the department of rehabilitation and 4549
correction under section 5120.59 of the Revised Code shall be 4550
sufficient documentary evidence under this division. Upon issuing 4551
an identification card under this section for a person who has 4552
been issued an identification card under section 5120.59 of the 4553
Revised Code, the registrar or deputy registrar shall destroy the 4554
identification card issued under section 5120.59 of the Revised 4555
Code. 4556

All applications for an identification card or duplicate 4557
shall be filed in duplicate, and if submitted to a deputy 4558
registrar, a copy shall be forwarded to the registrar. The 4559
registrar shall prescribe rules for the manner in which a deputy 4560
registrar is to file and maintain applications and other records. 4561
The registrar shall maintain a suitable, indexed record of all 4562
applications denied and cards issued or canceled. 4563

Sec. 4701.16. (A) After notice and hearing as provided in 4564
Chapter 119. of the Revised Code, the accountancy board may 4565
discipline as described in division (B) of this section a person 4566
holding an Ohio permit, an Ohio registration, a firm registration, 4567
a CPA certificate, or a PA registration or any other person whose 4568
activities are regulated by the board for any one or any 4569
combination of the following causes: 4570

(1) Fraud or deceit in obtaining a firm registration or in 4571
obtaining a CPA certificate, a PA registration, an Ohio permit, or 4572
an Ohio registration; 4573

(2) Dishonesty, fraud, or gross negligence in the practice of 4574
public accounting; 4575

(3) Violation of any of the provisions of section 4701.14 of 4576
the Revised Code; 4577

(4) Violation of a rule of professional conduct promulgated 4578

by the board under the authority granted by this chapter;	4579
(5) Conviction of a felony under the laws of any state or of	4580
the United States;	4581
(6) Conviction of any crime, an element of which is	4582
dishonesty or fraud, under the laws of any state or of the United	4583
States;	4584
(7) <u>(6)</u> Cancellation, revocation, suspension, or refusal to	4585
renew authority to practice as a certified public accountant, a	4586
public accountant, or a public accounting firm by any other state,	4587
for any cause other than failure to pay registration fees in that	4588
other state;	4589
(8) <u>(7)</u> Suspension or revocation of the right to practice	4590
before any state or federal agency;	4591
(9) <u>(8)</u> Failure of a holder of a CPA certificate or PA	4592
registration to obtain an Ohio permit or an Ohio registration, or	4593
the failure of a public accounting firm to obtain a firm	4594
registration;	4595
(10) <u>(9)</u> Conduct discreditable to the public accounting	4596
profession or to the holder of an Ohio permit, Ohio registration,	4597
or foreign certificate;	4598
(11) <u>(10)</u> Failure of a public accounting firm to comply with	4599
section 4701.04 of the Revised Code.	4600
(B) For any of the reasons specified in division (A) of this	4601
section, the board may do any of the following:	4602
(1) Revoke, suspend, or refuse to renew any CPA certificate	4603
or PA registration or any Ohio permit, Ohio registration, or firm	4604
registration;	4605
(2) Disqualify a person who is not a holder of an Ohio permit	4606
or a foreign certificate from owning an equity interest in a	4607
public accounting firm or qualified firm;	4608

(3) Publicly censure a registered firm or a holder of a CPA certificate, a PA registration, an Ohio permit, or an Ohio registration;

(4) Levy against a registered firm or a holder of a CPA certificate, a PA registration, an Ohio permit, or an Ohio registration a penalty or fine not to exceed five thousand dollars for each offense. Any fine shall be reasonable and in relation to the severity of the offense.

(5) In the case of violations of division (A)(2) or (4) of this section, require completion of remedial continuing education programs prescribed by the board in addition to those required by section 4701.11 of the Revised Code;

(6) In the case of violations of division (A)(2) or (4) of this section, require the holder of a CPA certificate, PA registration, or firm registration to submit to a peer review by a professional committee designated by the board, which committee shall report to the board concerning that holder's compliance with generally accepted accounting principles, generally accepted auditing standards, or other generally accepted technical standards;

(7) Revoke or suspend the privileges to offer or render attest services in this state or to use a CPA title or designation in this state of an individual who holds a foreign certificate.

(C) If the board levies a fine against or suspends the certificate of a person or registration of a person or firm for a violation of division (A)(2) or (4) of this section, it may waive all or any portion of the fine or suspension if the holder of the CPA certificate, PA registration, or firm registration complies fully with division (B)(5) or (6) of this section.

Sec. 4703.15. (A) The state board of examiners of architects

may by three concurring votes deny renewal of, revoke, or suspend 4639
any certificate of qualification to practice architecture, issued 4640
or renewed under sections 4703.10, 4703.13, and 4703.14 of the 4641
Revised Code, or any certificate of authorization, issued or 4642
renewed under sections 4703.13 and 4703.18 of the Revised Code, if 4643
proof satisfactory to the board is presented in any of the 4644
following cases: 4645

(1) In case it is shown that the certificate was obtained by 4646
fraud; 4647

(2) In case the holder of the certificate has been found 4648
guilty by the board or by a court of justice of any fraud or 4649
deceit in the holder's professional practice, ~~or has been~~ 4650
~~convicted of a felony by a court of justice;~~ 4651

(3) In case the holder has been found guilty by the board of 4652
gross negligence, incompetency, or misconduct in the performance 4653
of the holder's services as an architect or in the practice of 4654
architecture; 4655

(4) In case the holder of the certificate has been found 4656
guilty by the board of signing plans for the construction of a 4657
building as a "registered architect" where the holder is not the 4658
actual architect of such building and where the holder is without 4659
prior written consent of the architect originating the design or 4660
other documents used in the plans; 4661

(5) In case the holder of the certificate has been found 4662
guilty by the board of aiding and abetting another person or 4663
persons not properly registered as required by sections 4703.01 to 4664
4703.19 of the Revised Code, in the performance of activities that 4665
in any manner or extent constitute the practice of architecture. 4666

At any time after the expiration of six months from the date 4667
of the revocation or suspension of a certificate, the individual, 4668
firm, partnership, association, or corporation may apply for 4669

reinstatement of the certificate. Upon showing that all loss 4670
caused by the individual, firm, partnership, association, or 4671
corporation whose certificate has been revoked or suspended has 4672
been fully satisfied and that all conditions imposed by the 4673
revocation or suspension decision have been complied with, and 4674
upon the payment of all costs incurred by the board as a result of 4675
the case at issue, the board, at its discretion and upon evidence 4676
that in its opinion would so warrant, may restore the certificate. 4677

(B) In addition to disciplinary action the board may take 4678
against a certificate holder under division (A) of this section or 4679
section 4703.151 of the Revised Code, the board may impose a fine 4680
against a certificate holder who obtained a certificate by fraud 4681
or who is found guilty of any act specified in divisions (A)(2) to 4682
(A)(5) of this section or who violates any rule governing the 4683
standards of service, conduct, and practice adopted pursuant to 4684
section 4703.02 of the Revised Code. The fine imposed shall be not 4685
more than one thousand dollars for each offense but shall not 4686
exceed five thousand dollars regardless of the number of offenses 4687
the certificate holder has committed between the time the fine is 4688
imposed and the time any previous fine was imposed. 4689

Sec. 4707.02. No person shall act as an auction firm, 4690
auctioneer, apprentice auctioneer, or special auctioneer within 4691
this state without a license issued by the department of 4692
agriculture. No auction shall be conducted in this state except by 4693
an auctioneer licensed by the department. 4694

The department shall not issue or renew a license if the 4695
applicant or licensee has been convicted of a ~~felony~~ or crime 4696
involving fraud or theft in this or another state at any time 4697
during the ten years immediately preceding application or renewal. 4698

This section does not apply to: 4699

(A) Sales at auction that either are required by law to be at 4700

auction, other than sales pursuant to a judicial order or decree, 4701
or that are conducted by or under the direction of a public 4702
authority; 4703

(B) The owner of any real or personal property desiring to 4704
sell the property at auction, provided that the property was not 4705
acquired for the purpose of resale; 4706

(C) An auction mediation company; 4707

(D) An auction that is conducted in a course of study for 4708
auctioneers that is approved by the state auctioneers commission 4709
created under section 4707.03 of the Revised Code for purposes of 4710
student training and is supervised by a licensed auctioneer; 4711

(E) An auction that is sponsored by a nonprofit or charitable 4712
organization that is registered in this state under Chapter 1702. 4713
or Chapter 1716. of the Revised Code, respectively, if the auction 4714
only involves the property of the members of the organization and 4715
the auction is part of a fair that is organized by an agricultural 4716
society under Chapter 1711. of the Revised Code or by the Ohio 4717
expositions commission under Chapter 991. of the Revised Code at 4718
which an auctioneer who is licensed under this chapter physically 4719
conducts the auction; 4720

(F) A person licensed as a livestock dealer under Chapter 4721
943. of the Revised Code who exclusively sells livestock and uses 4722
an auctioneer who is licensed under this chapter to conduct the 4723
auction; 4724

(G) A person licensed as a motor vehicle auction owner under 4725
Chapter 4517. of the Revised Code who exclusively sells motor 4726
vehicles and who uses an auctioneer who is licensed under this 4727
chapter to conduct the auction; 4728

(H) A person who sells real or personal property by means of 4729
the internet. 4730

Sec. 4709.13. (A) The barber board may refuse to issue or 4731
renew or may suspend or revoke or impose conditions upon any 4732
license issued pursuant to this chapter for any one or more of the 4733
following causes: 4734

(1) Conviction of a ~~felony shown by a certified copy of the~~ 4735
~~record of the court of conviction~~ criminal offense substantially 4736
related to the fitness or ability of the applicant or licensee to 4737
perform the duties and meet the responsibilities of a barber; 4738

(2) Advertising by means of knowingly false or deceptive 4739
statements; 4740

(3) Habitual drunkenness or possession of or addiction to the 4741
use of any controlled drug prohibited by state or federal law; 4742

(4) Immoral or unprofessional conduct; 4743

(5) Continuing to be employed in a barber shop wherein rules 4744
of the board or department of health are violated; 4745

(6) Employing any person who does not have a current Ohio 4746
license to perform the practice of barbering; 4747

(7) Owning, managing, operating, or controlling any barber 4748
school or portion thereof, wherein the practice of barbering is 4749
carried on, whether in the same building or not, without 4750
displaying a sign at all entrances to the places where the 4751
barbering is carried on, indicating that the work therein is done 4752
by students exclusively; 4753

(8) Owning, managing, operating, or controlling any barber 4754
shop, unless it displays a recognizable sign or barber pole 4755
indicating that it is a barber shop, and the sign or pole is 4756
clearly visible at the main entrance to the shop; 4757

(9) Violating any sanitary rules approved by the department 4758
of health or the board; 4759

(10) Employing another person to perform or ~~himself~~ 4760
personally perform the practice of barbering in a licensed barber 4761
shop unless that person is licensed as a barber under this 4762
chapter; 4763

(11) Gross incompetence. 4764

(B) Prior to taking any action under division (A) of this 4765
section, the board shall provide the person with a statement of 4766
the charges against ~~him~~ the person and notice of the time and 4767
place of a hearing on the charges. The board shall conduct the 4768
hearing according to Chapter 119. of the Revised Code. Any person 4769
dissatisfied with a decision of the board may appeal the board's 4770
decision to the court of common pleas in Franklin county. 4771

(C) The board may adopt rules in accordance with Chapter 119. 4772
of the Revised Code, specifying additional grounds upon which the 4773
board may take action under division (A) of this section. 4774

Sec. 4712.03. After notice and a hearing conducted in 4775
accordance with Chapter 119. of the Revised Code, the 4776
superintendent of financial institutions may suspend, revoke, or 4777
refuse to issue or renew a certificate of registration if any of 4778
the following conditions applies to the applicant for registration 4779
or registrant: 4780

(A) The applicant or registrant obtained a certificate of 4781
registration through any false or fraudulent representation or 4782
made any substantial misrepresentation in any registration 4783
application. 4784

(B) The applicant or registrant made false promises through 4785
advertising or other means or engaged in a continued course of 4786
misrepresentations. 4787

(C) The applicant or registrant violated any provision of 4788
Chapter 1345. or sections 4712.01 to 4712.14 of the Revised Code 4789

or the rules adopted thereunder. 4790

(D) The applicant or registrant was convicted, in a court of 4791
competent jurisdiction of this state or any other state, of a 4792
~~felony or any criminal offense involving fraud,~~ substantially 4793
related to the fitness or ability of the applicant or registrant 4794
to perform the duties and meet the responsibilities of a credit 4795
services organization or failed to notify the division of 4796
financial institutions of any such conviction. 4797

(E) The applicant or registrant engaged in conduct that 4798
constituted improper, fraudulent, or dishonest dealings. 4799

Sec. 4715.30. (A) The holder of a certificate or license 4800
issued under this chapter is subject to disciplinary action by the 4801
state dental board for any of the following reasons: 4802

(1) Employing or cooperating in fraud or material deception 4803
in applying for or obtaining a license or certificate; 4804

(2) Obtaining or attempting to obtain money or anything of 4805
value by intentional misrepresentation or material deception in 4806
the course of practice; 4807

(3) Advertising services in a false or misleading manner or 4808
violating the board's rules governing time, place, and manner of 4809
advertising; 4810

(4) Conviction of a ~~misdemeanor committed in the course of~~ 4811
~~practice or of any felony~~ criminal offense substantially related 4812
to the fitness or ability of the applicant, certificate holder, or 4813
licensee to perform the duties and meet the responsibilities of a 4814
dentist or dental hygienist; 4815

(5) Engaging in lewd or immoral conduct in connection with 4816
the provision of dental services; 4817

(6) Selling, prescribing, giving away, or administering drugs 4818
for other than legal and legitimate therapeutic purposes, or 4819

conviction of violating any law of this state or the federal 4820
government regulating the possession, distribution, or use of any 4821
drug; 4822

(7) Providing or allowing dental hygienists, expanded 4823
function dental auxiliaries, or other practitioners of auxiliary 4824
dental occupations working under the certificate or license 4825
holder's supervision, or a dentist holding a temporary limited 4826
continuing education license under division (C) of section 4715.16 4827
of the Revised Code working under the certificate or license 4828
holder's direct supervision, to provide dental care that departs 4829
from or fails to conform to accepted standards for the profession, 4830
whether or not injury to a patient results; 4831

(8) Inability to practice under accepted standards of the 4832
profession because of physical or mental disability, dependence on 4833
alcohol or other drugs, or excessive use of alcohol or other 4834
drugs; 4835

(9) Violation of any provision of this chapter or any rule 4836
adopted thereunder; 4837

(10) Failure to use universal blood and body fluid 4838
precautions established by rules adopted under section 4715.03 of 4839
the Revised Code; 4840

(11) Waiving the payment of all or any part of a deductible 4841
or copayment that a patient, pursuant to a health insurance or 4842
health care policy, contract, or plan that covers dental services, 4843
would otherwise be required to pay if the waiver is used as an 4844
enticement to a patient or group of patients to receive health 4845
care services from that provider. 4846

(12) Advertising that the certificate or license holder will 4847
waive the payment of all or any part of a deductible or copayment 4848
that a patient, pursuant to a health insurance or health care 4849
policy, contract, or plan that covers dental services, would 4850

otherwise be required to pay. 4851

(B) A manager, proprietor, operator, or conductor of a dental 4852
facility shall be subject to disciplinary action if any dentist, 4853
dental hygienist, expanded function dental auxiliary, or qualified 4854
personnel providing services in the facility is found to have 4855
committed a violation listed in division (A) of this section and 4856
the manager, proprietor, operator, or conductor knew of the 4857
violation and permitted it to occur on a recurring basis. 4858

(C) Subject to Chapter 119. of the Revised Code, the board 4859
may take one or more of the following disciplinary actions if one 4860
or more of the grounds for discipline listed in divisions (A) and 4861
(B) of this section exist: 4862

(1) Censure the license or certificate holder; 4863

(2) Place the license or certificate on probationary status 4864
for such period of time the board determines necessary and require 4865
the holder to: 4866

(a) Report regularly to the board upon the matters which are 4867
the basis of probation; 4868

(b) Limit practice to those areas specified by the board; 4869

(c) Continue or renew professional education until a 4870
satisfactory degree of knowledge or clinical competency has been 4871
attained in specified areas. 4872

(3) Suspend the certificate or license; 4873

(4) Revoke the certificate or license. 4874

Where the board places a holder of a license or certificate 4875
on probationary status pursuant to division (C)(2) of this 4876
section, the board may subsequently suspend or revoke the license 4877
or certificate if it determines that the holder has not met the 4878
requirements of the probation or continues to engage in activities 4879
that constitute grounds for discipline pursuant to division (A) or 4880

(B) of this section. 4881

Any order suspending a license or certificate shall state the 4882
conditions under which the license or certificate will be 4883
restored, which may include a conditional restoration during which 4884
time the holder is in a probationary status pursuant to division 4885
(C)(2) of this section. The board shall restore the license or 4886
certificate unconditionally when such conditions are met. 4887

(D) If the physical or mental condition of a license or 4888
certificate holder is at issue in a disciplinary proceeding, the 4889
board may order the license or certificate holder to submit to 4890
reasonable examinations by an individual designated or approved by 4891
the board and at the board's expense. The physical examination may 4892
be conducted by any individual authorized by the Revised Code to 4893
do so, including a physician assistant, a clinical nurse 4894
specialist, a certified nurse practitioner, or a certified 4895
nurse-midwife. Any written documentation of the physical 4896
examination shall be completed by the individual who conducted the 4897
examination. 4898

Failure to comply with an order for an examination shall be 4899
grounds for summary suspension of a license or certificate under 4900
division (E) of this section. 4901

(E) If the board has reason to believe that the holder 4902
represents a clear and immediate danger to the public health and 4903
safety if the holder is allowed to continue to practice, or if the 4904
holder has failed to comply with an order under division (D) of 4905
this section, the board may apply to the court of common pleas of 4906
the county in which the holder resides for an order temporarily 4907
suspending the holder's license or certificate, without a prior 4908
hearing being afforded by the board, until the board conducts an 4909
adjudication hearing pursuant to Chapter 119. of the Revised Code. 4910
If the court temporarily suspends a holder's license or 4911
certificate, the board shall give written notice of the suspension 4912

personally or by certified mail to the license or certificate 4913
holder. Such notice shall include specific facts and reasons for 4914
finding a clear and immediate danger to the public health and 4915
safety and shall inform the license or certificate holder of the 4916
right to a hearing pursuant to Chapter 119. of the Revised Code. 4917

(F) Any holder of a certificate or license issued under this 4918
chapter who has pleaded guilty to, has been convicted of, or has 4919
had a judicial finding of eligibility for intervention in lieu of 4920
conviction entered against the holder in this state for aggravated 4921
murder, murder, voluntary manslaughter, felonious assault, 4922
kidnapping, rape, sexual battery, gross sexual imposition, 4923
aggravated arson, aggravated robbery, or aggravated burglary, or 4924
who has pleaded guilty to, has been convicted of, or has had a 4925
judicial finding of eligibility for treatment or intervention in 4926
lieu of conviction entered against the holder in another 4927
jurisdiction for any substantially equivalent criminal offense, is 4928
automatically suspended from practice under this chapter in this 4929
state and any certificate or license issued to the holder under 4930
this chapter is automatically suspended, as of the date of the 4931
guilty plea, conviction, or judicial finding, whether the 4932
proceedings are brought in this state or another jurisdiction. 4933
Continued practice by an individual after the suspension of the 4934
individual's certificate or license under this division shall be 4935
considered practicing without a certificate or license. The board 4936
shall notify the suspended individual of the suspension of the 4937
individual's certificate or license under this division by 4938
certified mail or in person in accordance with section 119.07 of 4939
the Revised Code. If an individual whose certificate or license is 4940
suspended under this division fails to make a timely request for 4941
an adjudicatory hearing, the board shall enter a final order 4942
revoking the individual's certificate or license. 4943

(G) Notwithstanding divisions (A)(11) and (12) of this 4944

section, sanctions shall not be imposed against any licensee who 4945
waives deductibles and copayments: 4946

(1) In compliance with the health benefit plan that expressly 4947
allows such a practice. Waiver of the deductibles or copayments 4948
shall be made only with the full knowledge and consent of the plan 4949
purchaser, payer, and third-party administrator. Such consent 4950
shall be made available to the board upon request. 4951

(2) For professional services rendered to any other person 4952
licensed pursuant to this chapter to the extent allowed by this 4953
chapter and the rules of the board. 4954

Sec. 4717.14. (A) The board of embalmers and funeral 4955
directors may refuse to grant or renew, or may suspend or revoke, 4956
any license issued under this chapter for any of the following 4957
reasons: 4958

(1) The license was obtained by fraud or misrepresentation 4959
either in the application or in passing the examination. 4960

(2) The applicant or licensee has been convicted of ~~or has~~ 4961
~~pleaded guilty to a felony or of any crime involving moral~~ 4962
~~turpitude~~ criminal offense substantially related to the fitness or 4963
ability of the applicant or licensee to perform the duties and 4964
meet the responsibilities of an embalmer or funeral director. 4965

(3) The applicant or licensee has purposely violated any 4966
provision of sections 4717.01 to 4717.15 or a rule adopted under 4967
any of those sections; division (A) or (B) of section 4717.23; 4968
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 4969
or divisions (H) to (K) of section 4717.26; division (D)(1) of 4970
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 4971
Revised Code; any rule or order of the department of health or a 4972
board of health of a health district governing the disposition of 4973
dead human bodies; or any other rule or order applicable to the 4974

applicant or licensee.	4975
(4) The applicant or licensee has committed immoral or unprofessional conduct.	4976 4977
(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.	4978 4979 4980 4981
(6) The applicant or licensee has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.	4982 4983 4984
(7) The applicant or licensee has refused to promptly submit the custody of a dead human body upon the express order of the person legally entitled to the body.	4985 4986 4987
(8) The licensee loaned the licensee's own license, or the applicant or licensee borrowed or used the license of another person, or knowingly aided or abetted the granting of an improper license.	4988 4989 4990 4991
(9) The applicant or licensee transferred a license to operate a funeral home, embalming facility, or crematory from one owner or operator to another, or from one location to another, without notifying the board.	4992 4993 4994 4995
(10) The applicant or licensee mislead the public by using false or deceptive advertising.	4996 4997
(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke, an embalmer's, funeral director's, funeral home, or embalming facility license only in accordance with Chapter 119. of the Revised Code.	4998 4999 5000 5001 5002
(2) The board shall send to the crematory review board written notice that it proposes to refuse to issue or renew, or	5003 5004

proposes to suspend or revoke, a license to operate a crematory 5005
facility. If, after the conclusion of the adjudicatory hearing on 5006
the matter conducted under division (E) of section 4717.03 of the 5007
Revised Code, the board of embalmers and funeral directors finds 5008
that any of the circumstances described in divisions (A)(1) to 5009
(10) of this section apply to the person named in its proposed 5010
action, the board may issue a final order under division (E) of 5011
section 4717.03 of the Revised Code refusing to issue or renew, or 5012
suspending or revoking, the person's license to operate a 5013
crematory facility. 5014

(C) If the board of embalmers and funeral directors 5015
determines that there is clear and convincing evidence that any of 5016
the circumstances described in divisions (A)(1) to (10) of this 5017
section apply to the holder of a license issued under this chapter 5018
and that the licensee's continued practice presents a danger of 5019
immediate and serious harm to the public, the board may suspend 5020
the licensee's license without a prior adjudicatory hearing. The 5021
executive director of the board shall prepare written allegations 5022
for consideration by the board. 5023

The board, after reviewing the written allegations, may 5024
suspend a license without a prior hearing. 5025

The board shall issue a written order of suspension by 5026
certified mail or in person in accordance with section 119.07 of 5027
the Revised Code. Such an order is not subject to suspension by 5028
the court during the pendency of any appeal filed under section 5029
119.12 of the Revised Code. If the holder of an embalmer's, 5030
funeral director's, funeral home, or embalming facility license 5031
requests an adjudicatory hearing by the board, the date set for 5032
the hearing shall be within fifteen days, but not earlier than 5033
seven days, after the licensee has requested a hearing, unless the 5034
board and the licensee agree to a different time for holding the 5035
hearing. 5036

Upon issuing a written order of suspension to the holder of a license to operate a crematory facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division (E) of section 4717.03 of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (E) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order.

(D) Any holder of a license issued under this chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of

eligibility for treatment in lieu of conviction entered against 5069
the individual in another jurisdiction for any substantially 5070
equivalent criminal offense, is hereby suspended from practice 5071
under this chapter by operation of law, and any license issued to 5072
the individual under this chapter is hereby suspended by operation 5073
of law as of the date of the guilty plea, verdict or finding of 5074
guilt, or judicial finding of eligibility for treatment in lieu of 5075
conviction, regardless of whether the proceedings are brought in 5076
this state or another jurisdiction. The board shall notify the 5077
suspended individual of the suspension of the individual's license 5078
by the operation of this division by certified mail or in person 5079
in accordance with section 119.07 of the Revised Code. If an 5080
individual whose license is suspended under this division fails to 5081
make a timely request for an adjudicatory hearing, the board shall 5082
enter a final order revoking the license. 5083

(E) No person whose license has been suspended or revoked 5084
under or by the operation of this section shall practice embalming 5085
or funeral directing or operate a funeral home, embalming 5086
facility, or crematory facility until the board has reinstated the 5087
person's license. 5088

Sec. 4719.03. (A) Except as otherwise provided in division 5089
(B) of this section, the attorney general shall issue a 5090
certificate of registration or registration renewal as a telephone 5091
solicitor to any applicant or registrant that submits a completed 5092
application for the certificate, as specified under section 5093
4719.02 of the Revised Code, and pays, as applicable, the 5094
registration fee or renewal fee prescribed pursuant to rule of the 5095
attorney general adopted under section 4719.10 of the Revised 5096
Code. All fees collected under this division shall be deposited 5097
into the state treasury to the credit of the telemarketing fraud 5098
enforcement fund created in section 4719.17 of the Revised Code. 5099
The certificate of registration or registration renewal shall 5100

expire one year after the date on which it is issued. 5101

(B) After an adjudication conducted in accordance with 5102
Chapter 119. of the Revised Code, the attorney general may deny a 5103
certificate of registration or registration renewal or may suspend 5104
or revoke a certificate if the attorney general finds, by a 5105
preponderance of the evidence, that any of the following 5106
conditions apply: 5107

(1) The applicant or registrant obtained a certificate of 5108
registration or registration renewal through any false or 5109
fraudulent representation or made any material misrepresentation 5110
in any registration application. 5111

(2) The applicant or registrant made false promises through 5112
advertising or other means or engaged in a continued course of 5113
misrepresentations. 5114

(3) The applicant or registrant violated any provision of 5115
Chapter 1345. or sections 4719.01 to 4719.18 of the Revised Code 5116
or a rule adopted under that chapter or those sections. 5117

(4) In a court of competent jurisdiction of this state or any 5118
other state or of the United States, the applicant or registrant 5119
was convicted of, pleaded guilty to, or entered a plea of no 5120
contest for ~~a felony~~, engaging in a pattern of corrupt activity, 5121
racketeering, a violation of federal or state securities law, or a 5122
theft offense as defined in section 2913.01 of the Revised Code or 5123
in a similar law of any other state or of the United States, or 5124
failed to notify the attorney general of any conviction of that 5125
type as required under division (H) of section 4719.08 of the 5126
Revised Code. 5127

(5) The applicant or registrant engaged in conduct that 5128
constituted improper, fraudulent, or dishonest dealings. 5129

Sec. 4723.07. In accordance with Chapter 119. of the Revised 5130

Code, the board of nursing shall adopt and may amend and rescind 5131
rules that establish all of the following: 5132

(A) Provisions for the board's government and control of its 5133
actions and business affairs; 5134

(B) Minimum curricula and standards for nursing education 5135
programs that prepare graduates to be licensed under this chapter 5136
and procedures for granting, renewing, and withdrawing approval of 5137
those programs; 5138

(C) Criteria that applicants for licensure must meet to be 5139
eligible to take examinations for licensure; 5140

(D) Standards and procedures for renewal of the licenses and 5141
certificates issued by the board; 5142

(E) Standards for approval of continuing nursing education 5143
programs and courses for registered nurses, licensed practical 5144
nurses, certified registered nurse anesthetists, clinical nurse 5145
specialists, certified nurse-midwives, and certified nurse 5146
practitioners. The standards may provide for approval of 5147
continuing nursing education programs and courses that have been 5148
approved by other state boards of nursing or by national 5149
accreditation systems for nursing, including, but not limited to, 5150
the American nurses' credentialing center and the national 5151
association for practical nurse education and service. 5152

(F) Standards that persons must meet to be authorized by the 5153
board to approve continuing nursing education programs and courses 5154
and a schedule by which that authorization expires and may be 5155
renewed; 5156

(G) Requirements, including continuing education 5157
requirements, for restoring inactive nursing licenses, dialysis 5158
technician certificates, and community health worker certificates, 5159
and for restoring nursing licenses, dialysis technician 5160

certificates, and community health worker certificates that have	5161
lapsed through failure to renew;	5162
(H) Conditions that may be imposed for reinstatement of a	5163
nursing license, dialysis technician certificate, or community	5164
health worker certificate following action taken under section	5165
3123.47, 4723.28, 4723.281, or 4723.86 of the Revised Code	5166
resulting in a license or certificate suspension;	5167
(I) Standards for approval of peer support programs for	5168
persons who hold a nursing license, dialysis technician	5169
certificate, or community health worker certificate;	5170
(J) Requirements for board approval of courses in medication	5171
administration by licensed practical nurses;	5172
(K) Criteria for evaluating the qualifications of an	5173
applicant for a license to practice nursing as a registered nurse	5174
or licensed practical nurse, a certificate of authority issued	5175
under division (E) of section 4723.41 of the Revised Code, a	5176
dialysis technician certificate, or a community health worker	5177
certificate by the board's endorsement of the applicant's	5178
authority to practice issued by the licensing agency of another	5179
state;	5180
(L) Universal blood and body fluid precautions that shall be	5181
used by each person holding a nursing license or dialysis	5182
technician certificate issued under this chapter who performs	5183
exposure-prone invasive procedures. The rules shall define and	5184
establish requirements for universal blood and body fluid	5185
precautions that include the following:	5186
(1) Appropriate use of hand washing;	5187
(2) Disinfection and sterilization of equipment;	5188
(3) Handling and disposal of needles and other sharp	5189
instruments;	5190

(4) Wearing and disposal of gloves and other protective garments and devices.	5191 5192
(M) Standards and procedures for approving certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, and for renewal of those certificates;	5193 5194 5195 5196 5197
(N) Quality assurance standards for certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;	5198 5199 5200
(O) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;	5201 5202 5203 5204 5205
(P) Continuing education standards for clinical nurse specialists who are exempt under division (C) of section 4723.41 of the Revised Code from the requirement of having passed a certification examination;	5206 5207 5208 5209
(Q) For purposes of division (B) (31) <u>(30)</u> of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient.	5210 5211 5212 5213
The board may adopt other rules necessary to carry out the provisions of this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.	5214 5215 5216
Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may revoke or may refuse to grant a nursing license, certificate of authority, or dialysis technician certificate to a person found by the board to have committed fraud in passing an	5217 5218 5219 5220

examination required to obtain the license, certificate of 5221
authority, or dialysis technician certificate or to have committed 5222
fraud, misrepresentation, or deception in applying for or securing 5223
any nursing license, certificate of authority, or dialysis 5224
technician certificate issued by the board. 5225

(B) Subject to division (N) of this section, the board of 5226
nursing, by a vote of a quorum, may impose one or more of the 5227
following sanctions: deny, revoke, suspend, or place restrictions 5228
on any nursing license, certificate of authority, or dialysis 5229
technician certificate issued by the board; reprimand or otherwise 5230
discipline a holder of a nursing license, certificate of 5231
authority, or dialysis technician certificate; or impose a fine of 5232
not more than five hundred dollars per violation. The sanctions 5233
may be imposed for any of the following: 5234

(1) Denial, revocation, suspension, or restriction of 5235
authority to practice a health care occupation, including nursing 5236
or practice as a dialysis technician, for any reason other than a 5237
failure to renew, in Ohio or another state or jurisdiction; 5238

(2) Engaging in the practice of nursing or engaging in 5239
practice as a dialysis technician, having failed to renew a 5240
nursing license or dialysis technician certificate issued under 5241
this chapter, or while a nursing license or dialysis technician 5242
certificate is under suspension; 5243

(3) Conviction of, a plea of guilty to, a judicial finding of 5244
guilt of, a judicial finding of guilt resulting from a plea of no 5245
contest to, or a judicial finding of eligibility for intervention 5246
in lieu of conviction for, a misdemeanor committed in the course 5247
of practice; 5248

(4) Conviction of, a plea of guilty to, a judicial finding of 5249
guilt of, a judicial finding of guilt resulting from a plea of no 5250
contest to, or a judicial finding of eligibility for intervention 5251

in lieu of conviction for, ~~any felony or of any crime involving~~ 5252
~~gross immorality or moral turpitude~~ criminal offense substantially 5253
related to the person's fitness or ability to perform the duties 5254
and responsibilities of a nursing licensee or a holder of a 5255
certificate of authority or dialysis technician certificate under 5256
this chapter; 5257

(5) Selling, giving away, or administering drugs or 5258
therapeutic devices for other than legal and legitimate 5259
therapeutic purposes; or conviction of, a plea of guilty to, a 5260
judicial finding of guilt of, a judicial finding of guilt 5261
resulting from a plea of no contest to, or a judicial finding of 5262
eligibility for intervention in lieu of conviction for, violating 5263
any municipal, state, county, or federal drug law; 5264

(6) Conviction of, a plea of guilty to, a judicial finding of 5265
guilt of, a judicial finding of guilt resulting from a plea of no 5266
contest to, or a judicial finding of eligibility for intervention 5267
in lieu of conviction for, an act in another jurisdiction that 5268
would ~~constitute a felony or a crime of moral turpitude~~ in Ohio 5269
constitute a criminal offense substantially related to the 5270
person's fitness or ability to perform the duties and 5271
responsibilities of a nursing licensee or a holder of a 5272
certificate of authority or dialysis technician certificate under 5273
this chapter; 5274

~~(7) Conviction of, a plea of guilty to, a judicial finding of~~ 5275
~~guilt of, a judicial finding of guilt resulting from a plea of no~~ 5276
~~contest to, or a judicial finding of eligibility for intervention~~ 5277
~~in lieu of conviction for, an act in the course of practice in~~ 5278
~~another jurisdiction that would constitute a misdemeanor in Ohio;~~ 5279

~~(8)~~ Self-administering or otherwise taking into the body any 5280
dangerous drug, as defined in section 4729.01 of the Revised Code, 5281
in any way not in accordance with a legal, valid prescription 5282
issued for that individual; 5283

(9) <u>(8)</u> Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs ability to practice;	5284 5285 5286
(10) <u>(9)</u> Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;	5287 5288 5289 5290
(11) <u>(10)</u> Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;	5291 5292 5293
(12) <u>(11)</u> Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	5294 5295
(13) <u>(12)</u> Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	5296 5297 5298
(14) <u>(13)</u> Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	5299 5300 5301 5302 5303 5304
(15) <u>(14)</u> The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	5305 5306 5307
(16) <u>(15)</u> Violation of this chapter or any rules adopted under it;	5308 5309
(17) <u>(16)</u> Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	5310 5311
(18) <u>(17)</u> Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of	5312 5313

the Revised Code;	5314
(19) <u>(18)</u> Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	5315 5316 5317
(20) <u>(19)</u> In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	5318 5319 5320
(21) <u>(20)</u> In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	5321 5322 5323
(22) <u>(21)</u> In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	5324 5325 5326
(23) <u>(22)</u> 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;	5327 5328 5329
(24) <u>(23)</u> In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, except as provided in division (M) of this section, either of the following:	5330 5331 5332 5333
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	5334 5335 5336 5337 5338 5339
(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to	5340 5341 5342 5343

pay.	5344
(25) <u>(24)</u> Failure to comply with the terms and conditions of participation in the chemical dependency monitoring program established under section 4723.35 of the Revised Code;	5345 5346 5347
(26) <u>(25)</u> Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;	5348 5349 5350
(27) <u>(26)</u> In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:	5351 5352 5353
(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	5354 5355 5356
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	5357 5358
(28) <u>(27)</u> In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	5359 5360 5361 5362 5363
(29) <u>(28)</u> In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	5364 5365 5366 5367 5368
(30) <u>(29)</u> Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	5369 5370
(31) <u>(30)</u> Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	5371 5372 5373

~~(32)~~(31) Regardless of whether the contact or verbal behavior 5374
is consensual, engaging with a patient other than the spouse of 5375
the registered nurse, licensed practical nurse, or dialysis 5376
technician in any of the following: 5377

(a) Sexual contact, as defined in section 2907.01 of the 5378
Revised Code; 5379

(b) Verbal behavior that is sexually demeaning to the patient 5380
or may be reasonably interpreted by the patient as sexually 5381
demeaning. 5382

~~(33)~~(32) Assisting suicide as defined in section 3795.01 of 5383
the Revised Code. 5384

(C) Disciplinary actions taken by the board under divisions 5385
(A) and (B) of this section shall be taken pursuant to an 5386
adjudication conducted under Chapter 119. of the Revised Code, 5387
except that in lieu of a hearing, the board may enter into a 5388
consent agreement with an individual to resolve an allegation of a 5389
violation of this chapter or any rule adopted under it. A consent 5390
agreement, when ratified by a vote of a quorum, shall constitute 5391
the findings and order of the board with respect to the matter 5392
addressed in the agreement. If the board refuses to ratify a 5393
consent agreement, the admissions and findings contained in the 5394
agreement shall be of no effect. 5395

(D) The hearings of the board shall be conducted in 5396
accordance with Chapter 119. of the Revised Code, the board may 5397
appoint a hearing examiner, as provided in section 119.09 of the 5398
Revised Code, to conduct any hearing the board is authorized to 5399
hold under Chapter 119. of the Revised Code. 5400

In any instance in which the board is required under Chapter 5401
119. of the Revised Code to give notice of an opportunity for a 5402
hearing and the applicant or license holder does not make a timely 5403
request for a hearing in accordance with section 119.07 of the 5404

Revised Code, the board is not required to hold a hearing, but may 5405
adopt, by a vote of a quorum, a final order that contains the 5406
board's findings. In the final order, the board may order any of 5407
the sanctions listed in division (A) or (B) of this section. 5408

(E) If a criminal action is brought against a registered 5409
nurse, licensed practical nurse, or dialysis technician for an act 5410
or crime described in divisions (B)(3) to ~~(7)~~(6) of this section 5411
and the action is dismissed by the trial court other than on the 5412
merits, the board shall conduct an adjudication to determine 5413
whether the registered nurse, licensed practical nurse, or 5414
dialysis technician committed the act on which the action was 5415
based. If the board determines on the basis of the adjudication 5416
that the registered nurse, licensed practical nurse, or dialysis 5417
technician committed the act, or if the registered nurse, licensed 5418
practical nurse, or dialysis technician fails to participate in 5419
the adjudication, the board may take action as though the 5420
registered nurse, licensed practical nurse, or dialysis technician 5421
had been convicted of the act. 5422

If the board takes action on the basis of a conviction, plea, 5423
or a judicial finding as described in divisions (B)(3) to ~~(7)~~(6) 5424
of this section that is overturned on appeal, the registered 5425
nurse, licensed practical nurse, or dialysis technician may, on 5426
exhaustion of the appeal process, petition the board for 5427
reconsideration of its action. On receipt of the petition and 5428
supporting court documents, the board shall temporarily rescind 5429
its action. If the board determines that the decision on appeal 5430
was a decision on the merits, it shall permanently rescind its 5431
action. If the board determines that the decision on appeal was 5432
not a decision on the merits, it shall conduct an adjudication to 5433
determine whether the registered nurse, licensed practical nurse, 5434
or dialysis technician committed the act on which the original 5435
conviction, plea, or judicial finding was based. If the board 5436

determines on the basis of the adjudication that the registered 5437
nurse, licensed practical nurse, or dialysis technician committed 5438
such act, or if the registered nurse, licensed practical nurse, or 5439
dialysis technician does not request an adjudication, the board 5440
shall reinstate its action; otherwise, the board shall permanently 5441
rescind its action. 5442

Notwithstanding the provision of division (C)(2) of section 5443
2953.32 of the Revised Code specifying that if records pertaining 5444
to a criminal case are sealed under that section the proceedings 5445
in the case shall be deemed not to have occurred, sealing of the 5446
records of a conviction on which the board has based an action 5447
under this section shall have no effect on the board's action or 5448
any sanction imposed by the board under this section. 5449

The board shall not be required to seal, destroy, redact, or 5450
otherwise modify its records to reflect the court's sealing of 5451
conviction records. 5452

(F) The board may investigate an individual's criminal 5453
background in performing its duties under this section. 5454

(G) During the course of an investigation conducted under 5455
this section, the board may compel any registered nurse, licensed 5456
practical nurse, or dialysis technician or applicant under this 5457
chapter to submit to a mental or physical examination, or both, as 5458
required by the board and at the expense of the individual, if the 5459
board finds reason to believe that the individual under 5460
investigation may have a physical or mental impairment that may 5461
affect the individual's ability to provide safe nursing care. 5462
Failure of any individual to submit to a mental or physical 5463
examination when directed constitutes an admission of the 5464
allegations, unless the failure is due to circumstances beyond the 5465
individual's control, and a default and final order may be entered 5466
without the taking of testimony or presentation of evidence. 5467

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 investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities investigating a registered nurse, licensed practical nurse, or dialysis technician

or a person who may have engaged in the unauthorized practice of 5500
nursing. No law enforcement officer or government entity with 5501
knowledge of any information disclosed by the board pursuant to 5502
this division shall divulge the information to any other person or 5503
government entity except for the purpose of an adjudication by a 5504
court or licensing or registration board or officer to which the 5505
person to whom the information relates is a party. 5506

(2) If an investigation requires a review of patient records, 5507
the investigation and proceeding shall be conducted in such a 5508
manner as to protect patient confidentiality. 5509

(3) All adjudications and investigations of the board shall 5510
be considered civil actions for the purposes of section 2305.252 5511
of the Revised Code. 5512

(4) Any board activity that involves continued monitoring of 5513
an individual as part of or following any disciplinary action 5514
taken under this section shall be conducted in a manner that 5515
maintains the individual's confidentiality. Information received 5516
or maintained by the board with respect to the board's monitoring 5517
activities is confidential and not subject to discovery in any 5518
civil action. 5519

(J) Any action taken by the board under this section 5520
resulting in a suspension from practice shall be accompanied by a 5521
written statement of the conditions under which the person may be 5522
reinstated to practice. 5523

(K) When the board refuses to grant a license or certificate 5524
to an applicant, revokes a license or certificate, or refuses to 5525
reinstate a license or certificate, the board may specify that its 5526
action is permanent. An individual subject to permanent action 5527
taken by the board is forever ineligible to hold a license or 5528
certificate of the type that was refused or revoked and the board 5529
shall not accept from the individual an application for 5530

reinstatement of the license or certificate or for a new license 5531
or certificate. 5532

(L) No unilateral surrender of a nursing license, certificate 5533
of authority, or dialysis technician certificate issued under this 5534
chapter shall be effective unless accepted by majority vote of the 5535
board. No application for a nursing license, certificate of 5536
authority, or dialysis technician certificate issued under this 5537
chapter may be withdrawn without a majority vote of the board. The 5538
board's jurisdiction to take disciplinary action under this 5539
section is not removed or limited when an individual has a license 5540
or certificate classified as inactive or fails to renew a license 5541
or certificate. 5542

(M) Sanctions shall not be imposed under division (B)(24) of 5543
this section against any licensee who waives deductibles and 5544
copayments as follows: 5545

(1) In compliance with the health benefit plan that expressly 5546
allows such a practice. Waiver of the deductibles or copayments 5547
shall be made only with the full knowledge and consent of the plan 5548
purchaser, payer, and third-party administrator. Documentation of 5549
the consent shall be made available to the board upon request. 5550

(2) For professional services rendered to any other person 5551
licensed pursuant to this chapter to the extent allowed by this 5552
chapter and the rules of the board. 5553

(N)(1) Any person who enters a prelicensure nursing education 5554
program on or after June 1, 2003, and who subsequently applies 5555
under division (A) of section 4723.09 of the Revised Code for 5556
licensure to practice as a registered nurse or as a licensed 5557
practical nurse and any person who applies under division (B) of 5558
that section for license by endorsement to practice nursing as a 5559
registered nurse or as a licensed practical nurse shall submit a 5560
request to the bureau of criminal identification and investigation 5561

for the bureau to conduct a criminal records check of the 5562
applicant and to send the results to the board, in accordance with 5563
section 4723.09 of the Revised Code. 5564

The board shall refuse to grant a license to practice nursing 5565
as a registered nurse or as a licensed practical nurse under 5566
section 4723.09 of the Revised Code to a person who entered a 5567
prelicensure nursing education program on or after June 1, 2003, 5568
and applied under division (A) of section 4723.09 of the Revised 5569
Code for the license or a person who applied under division (B) of 5570
that section for the license, if the criminal records check 5571
performed in accordance with division (C) of that section 5572
indicates that the person has pleaded guilty to, been convicted 5573
of, or has had a judicial finding of guilt for violating section 5574
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 5575
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 5576
substantially similar law of another state, the United States, or 5577
another country. 5578

(2) Any person who enters a dialysis training program on or 5579
after June 1, 2003, and who subsequently applies for a certificate 5580
to practice as a dialysis technician shall submit a request to the 5581
bureau of criminal identification and investigation for the bureau 5582
to conduct a criminal records check of the applicant and to send 5583
the results to the board, in accordance with section 4723.75 of 5584
the Revised Code. 5585

The board shall refuse to issue a certificate to practice as 5586
a dialysis technician under section 4723.75 of the Revised Code to 5587
a person who entered a dialysis training program on or after June 5588
1, 2003, and whose criminal records check performed in accordance 5589
with division (C) of that section indicates that the person has 5590
pleaded guilty to, been convicted of, or has had a judicial 5591
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 5592
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 5593

2911.11 of the Revised Code or a substantially similar law of 5594
another state, the United States, or another country. 5595

Sec. 4725.19. (A) In accordance with Chapter 119. of the 5596
Revised Code and by an affirmative vote of a majority of its 5597
members, the state board of optometry, for any of the reasons 5598
specified in division (B) of this section, shall refuse to grant a 5599
certificate of licensure to an applicant and may, with respect to 5600
a licensed optometrist, do one or more of the following: 5601

(1) Suspend the operation of any certificate of licensure, 5602
topical ocular pharmaceutical agents certificate, or therapeutic 5603
pharmaceutical agents certificate, or all certificates granted by 5604
it to the optometrist; 5605

(2) Permanently revoke any or all of the certificates; 5606

(3) Limit or otherwise place restrictions on any or all of 5607
the certificates; 5608

(4) Reprimand the optometrist; 5609

(5) Impose a monetary penalty. If the reason for which the 5610
board is imposing the penalty involves a criminal offense that 5611
carries a fine under the Revised Code, the penalty shall not 5612
exceed the maximum fine that may be imposed for the criminal 5613
offense. In any other case, the penalty imposed by the board shall 5614
not exceed five hundred dollars. 5615

(B) The sanctions specified in division (A) of this section 5616
may be taken by the board for any of the following reasons: 5617

(1) Committing fraud in passing the licensing examination or 5618
making false or purposely misleading statements in an application 5619
for a certificate of licensure; 5620

~~(2) Being at any time guilty of immorality, regardless of the 5621
jurisdiction in which the act was committed; 5622~~

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;	5623 5624
(4) <u>(3)</u> Being at any time guilty of a felony <u>criminal offense</u> <u>substantially related to the person's fitness or ability to</u> <u>perform the duties and responsibilities of an optometrist,</u> regardless of the jurisdiction in which the act was committed;	5625 5626 5627 5628
(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;	5629 5630 5631
(6) <u>(4)</u> Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board;	5632 5633 5634
(7) <u>(5)</u> Engaging in the practice of optometry as provided in division (A)(1), (2), or (3) of section 4725.01 of the Revised Code when the certificate authorizing that practice is under suspension, in which case the board shall permanently revoke the certificate;	5635 5636 5637 5638 5639
(8) <u>(6)</u> Being denied a license to practice optometry in another state or country or being subject to any other sanction by the optometric licensing authority of another state or country, other than sanctions imposed for the nonpayment of fees;	5640 5641 5642 5643
(9) <u>(7)</u> Departing from or failing to conform to acceptable and prevailing standards of care in the practice of optometry as followed by similar practitioners under the same or similar circumstances, regardless of whether actual injury to a patient is established;	5644 5645 5646 5647 5648
(10) <u>(8)</u> Failing to maintain comprehensive patient records;	5649
(11) <u>(9)</u> Advertising a price of optical accessories, eye examinations, or other products or services by any means that would deceive or mislead the public;	5650 5651 5652

~~(12)~~(10) Being addicted to the use of alcohol, stimulants, 5653
narcotics, or any other substance which impairs the intellect and 5654
judgment to such an extent as to hinder or diminish the 5655
performance of the duties included in the person's practice of 5656
optometry; 5657

~~(13)~~(11) Engaging in the practice of optometry as provided in 5658
division (A)(2) or (3) of section 4725.01 of the Revised Code 5659
without authority to do so or, if authorized, in a manner 5660
inconsistent with the authority granted; 5661

~~(14)~~(12) Failing to make a report to the board as required by 5662
division (A) of section 4725.21 or section 4725.31 of the Revised 5663
Code; 5664

~~(15)~~(13) Soliciting patients from door to door or 5665
establishing temporary offices, in which case the board shall 5666
suspend all certificates held by the optometrist; 5667

~~(16)~~(14) Except as provided in division (D) of this section: 5668

(a) Waiving the payment of all or any part of a deductible or 5669
copayment that a patient, pursuant to a health insurance or health 5670
care policy, contract, or plan that covers optometric services, 5671
would otherwise be required to pay if the waiver is used as an 5672
enticement to a patient or group of patients to receive health 5673
care services from that optometrist. 5674

(b) Advertising that the optometrist will waive the payment 5675
of all or any part of a deductible or copayment that a patient, 5676
pursuant to a health insurance or health care policy, contract, or 5677
plan that covers optometric services, would otherwise be required 5678
to pay. 5679

(c) Any person who is the holder of a certificate of 5680
licensure, or who is an applicant for a certificate of licensure 5681
against whom is preferred any charges, shall be furnished by the 5682
board with a copy of the complaint and shall have a hearing before 5683

the board in accordance with Chapter 119. of the Revised Code. 5684

(D) Sanctions shall not be imposed under division (B)~~(16)~~ 5685
(14) of this section against any optometrist who waives 5686
deductibles and copayments: 5687

(1) In compliance with the health benefit plan that expressly 5688
allows such a practice. Waiver of the deductibles or copayments 5689
shall be made only with the full knowledge and consent of the plan 5690
purchaser, payer, and third-party administrator. Documentation of 5691
the consent shall be made available to the board upon request. 5692

(2) For professional services rendered to any other 5693
optometrist licensed by the board, to the extent allowed by 5694
sections 4725.01 to 4725.34 of the Revised Code and the rules of 5695
the board. 5696

Sec. 4725.53. (A) The Ohio optical dispensers board, by a 5697
majority vote of its members, may refuse to grant a license and, 5698
in accordance with Chapter 119. of the Revised Code, may suspend 5699
or revoke the license of a licensed dispensing optician or impose 5700
a fine or order restitution pursuant to division (B) of this 5701
section on any of the following grounds: 5702

(1) Conviction of a ~~felony or a crime involving moral~~ 5703
~~turpitude~~ criminal offense substantially related to the person's 5704
fitness or ability to perform the duties and responsibilities of a 5705
dispensing optician; 5706

(2) Obtaining or attempting to obtain a license by fraud or 5707
deception; 5708

(3) Obtaining any fee or making any sale of an optical aid by 5709
means of fraud or misrepresentation; 5710

(4) Habitual indulgence in the use of controlled substances 5711
or other habit-forming drugs, or in the use of alcoholic liquors 5712
to an extent that affects professional competency; 5713

- (5) Finding by a court of competent jurisdiction that the applicant or licensee is incompetent by reason of mental illness and no subsequent finding by the court of competency;
- (6) Finding by a court of law that the licensee is guilty of incompetence or negligence in the dispensing of optical aids;
- (7) Knowingly permitting or employing a person whose license has been suspended or revoked or an unlicensed person to engage in optical dispensing;
- (8) Permitting another person to use ~~his~~ the licensee's license;
- (9) Engaging in optical dispensing not pursuant to the prescription of a licensed physician or licensed optometrist, but nothing in this section shall prohibit the duplication or replacement of previously prepared optical aids, except contact lenses shall not be duplicated or replaced without a written prescription;
- (10) Violation of sections 4725.40 to 4725.59 of the Revised Code;
- (11) 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 optical dispensing 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.
- (12) Advertising that ~~he~~ the licensee 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 optical dispensing services, would otherwise be required to pay.
- (B) The board may impose a fine of not more than five hundred

dollars for a first occurrence of an action that is grounds for discipline under this section and of not less than five hundred nor more than one thousand dollars for a subsequent occurrence, or may order the licensee to make restitution to a person who has suffered a financial loss as a result of the licensee's failure to comply with sections 4725.40 to 4725.59 of the Revised Code.

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

(1) 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 ~~knowlege~~ knowledge and consent of the plan purchaser, payer, and third-party administrator. Such 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. 4727.15. (A) No person licensed as a pawnbroker under this chapter, and no agent, officer, or employee ~~thereof of a person licensed as a pawnbroker under this chapter,~~ shall violate this chapter.

~~(B) Upon the criminal conviction of a licensee or any employee, manager, officer, director, shareholder, member, or partner of a licensee for a violation of this chapter, the superintendent of financial institutions may suspend the license of the licensee without a prior hearing to protect the public interest and subsequently may act to revoke the license of the licensee pursuant to chapter 119. of the Revised Code.~~

~~(C) Upon the criminal conviction of a licensee or any employee, manager, officer, director, shareholder, member, or~~

partner of a licensee ~~under any section in Title XXIX of the~~ 5774
~~Revised Code or under federal law for theft, receiving stolen~~ 5775
~~property, or money laundering~~ for a criminal offense substantially 5776
related to the person's fitness or ability to perform the duties 5777
and responsibilities of a pawnbroker, the superintendent may 5778
suspend the license of the licensee without a prior hearing to 5779
protect the public interest and subsequently may act to revoke the 5780
license of the licensee pursuant to ~~chapter~~ Chapter 119. of the 5781
Revised Code. 5782

~~(D)~~(C) Upon the ~~criminal~~ conviction of a licensee ~~under any~~ 5783
~~section of Title XXIX of the Revised Code or under federal law for~~ 5784
~~a crime other than theft, receiving stolen property, or money~~ 5785
~~laundering~~ for a criminal offense substantially related to the 5786
person's fitness or ability to perform the duties and 5787
responsibilities of a pawnbroker, the superintendent may assess a 5788
penalty against the licensee ~~or act to revoke or suspend the~~ 5789
~~license of the licensee~~ pursuant to ~~chapter~~ Chapter 119. of the 5790
Revised Code. 5791

Sec. 4728.13. (A) No person, firm, partnership, corporation, 5792
or association, and no agent, officer, or employee ~~thereof~~ of a 5793
person, firm, partnership, corporation, or association, shall 5794
violate this chapter. The division of financial institutions upon 5795
a ~~criminal~~ conviction ~~shall~~ of a licensee for a criminal offense 5796
substantially related to the licensee's fitness or ability to 5797
perform the duties and responsibilities of a precious metals 5798
dealer may revoke any license theretofore issued to the person, 5799
firm, partnership, corporation, or association. ~~The division also~~ 5800
~~may revoke or suspend the license of any licensee in accordance~~ 5801
~~with section 4728.03 of the Revised Code upon a criminal~~ 5802
~~conviction of the licensee for any felony offense or crime~~ 5803
~~involving moral turpitude.~~ 5804

(B) No person shall obstruct or refuse to permit any 5805
investigation conducted under this chapter by the superintendent 5806
of financial institutions, a person acting on behalf of an agency 5807
or a political subdivision of this state, or a law enforcement 5808
officer. All articles purchased by a person licensed under this 5809
chapter shall be made promptly available for inspection by these 5810
officials. 5811

(C) In any proceeding or action brought under this chapter, 5812
the burden of proving an exemption from a requirement of this 5813
chapter falls on the person claiming the benefit of the exemption. 5814

Sec. 4729.16. (A) The state board of pharmacy, after notice 5815
and hearing in accordance with Chapter 119. of the Revised Code, 5816
may revoke, suspend, limit, place on probation, or refuse to grant 5817
or renew an identification card, or may impose a monetary penalty 5818
or forfeiture not to exceed in severity any fine designated under 5819
the Revised Code for a similar offense, or in the case of a 5820
violation of a section of the Revised Code that does not bear a 5821
penalty, a monetary penalty or forfeiture of not more than five 5822
hundred dollars, if the board finds a pharmacist or pharmacy 5823
intern: 5824

(1) Guilty of a ~~felony or gross immorality~~ criminal offense 5825
substantially related to the person's fitness or ability to 5826
perform the duties and responsibilities of the holder of a 5827
pharmacist or pharmacy intern license; 5828

(2) Guilty of dishonesty or unprofessional conduct in the 5829
practice of pharmacy; 5830

(3) Addicted to or abusing liquor or drugs or impaired 5831
physically or mentally to such a degree as to render the 5832
pharmacist or pharmacy intern unfit to practice pharmacy; 5833

(4) ~~Has been convicted of a misdemeanor related to, or~~ 5834

~~committed in, the practice of pharmacy;~~ 5835

~~(5)~~ Guilty of willfully violating, conspiring to violate, 5836
attempting to violate, or aiding and abetting the violation of any 5837
of the provisions of this chapter, sections 3715.52 to 3715.72 of 5838
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 5839
any rule adopted by the board under those provisions; 5840

~~(6)~~(5) Guilty of permitting anyone other than a pharmacist or 5841
pharmacy intern to practice pharmacy; 5842

~~(7)~~(6) Guilty of knowingly lending the pharmacist's or 5843
pharmacy intern's name to an illegal practitioner of pharmacy or 5844
having professional connection with an illegal practitioner of 5845
pharmacy; 5846

~~(8)~~(7) Guilty of dividing or agreeing to divide remuneration 5847
made in the practice of pharmacy with any other individual, 5848
including, but not limited to, any licensed health professional 5849
authorized to prescribe drugs or any owner, manager, or employee 5850
of a health care facility, residential care facility, or nursing 5851
home; 5852

~~(9)~~(8) Has violated the terms of a consult agreement entered 5853
into pursuant to section 4729.39 of the Revised Code; 5854

~~(10)~~(9) Has committed fraud, misrepresentation, or deception 5855
in applying for or securing a license or identification card 5856
issued by the board under this chapter or under Chapter 3715. or 5857
3719. of the Revised Code. 5858

(B) Any individual whose identification card is revoked, 5859
suspended, or refused, shall return the identification card and 5860
license to the offices of the state board of pharmacy within ten 5861
days after receipt of notice of such action. 5862

(C) As used in this section: 5863

"Unprofessional conduct in the practice of pharmacy" includes 5864

any of the following: 5865

(1) Advertising or displaying signs that promote dangerous 5866
drugs to the public in a manner that is false or misleading; 5867

(2) Except as provided in section 4729.281 of the Revised 5868
Code, the sale of any drug for which a prescription is required, 5869
without having received a prescription for the drug; 5870

(3) Knowingly dispensing medication pursuant to false or 5871
forged prescriptions; 5872

(4) Knowingly failing to maintain complete and accurate 5873
records of all dangerous drugs received or dispensed in compliance 5874
with federal laws and regulations and state laws and rules; 5875

(5) Obtaining any remuneration by fraud, misrepresentation, 5876
or deception. 5877

(D) The board may suspend a license or identification card 5878
under division (B) of section 3719.121 of the Revised Code by 5879
utilizing a telephone conference call to review the allegations 5880
and take a vote. 5881

(E) If, pursuant to an adjudication under Chapter 119. of the 5882
Revised Code, the board has reasonable cause to believe that a 5883
pharmacist or pharmacy intern is physically or mentally impaired, 5884
the board may require the pharmacist or pharmacy intern to submit 5885
to a physical or mental examination, or both. 5886

Sec. 4729.53. (A) The board of pharmacy shall not register 5887
any person as a wholesale distributor of dangerous drugs unless 5888
the applicant for registration furnishes satisfactory proof to the 5889
board of pharmacy that ~~he~~ the applicant meets all of the 5890
following: 5891

(1) That if the applicant has been convicted of a violation 5892
of any federal, state, or local law relating to drug samples, 5893
wholesale or retail drug distribution, or distribution of 5894

controlled substances or of a ~~felony~~ criminal offense 5895
substantially related to the person's fitness or ability to 5896
perform the duties and responsibilities of a wholesale distributor 5897
of dangerous drugs, or if a federal, state, or local governmental 5898
entity has suspended or revoked any current or prior license or 5899
registration of the applicant for the manufacture or sale of any 5900
dangerous drugs, including controlled substances, the applicant, 5901
to the satisfaction of the board, assures that ~~he~~ the applicant 5902
has in place adequate safeguards to prevent the recurrence of any 5903
such violations; 5904

(2) The applicant's past experience in the manufacture or 5905
distribution of dangerous drugs, including controlled substances, 5906
is acceptable to the board. 5907

(3) The applicant is equipped as to land, buildings, 5908
equipment, and personnel to properly carry on the business of a 5909
wholesale distributor of dangerous drugs, including providing 5910
adequate security for and proper storage conditions and handling 5911
for dangerous drugs, and is complying with the requirements under 5912
this chapter and the rules adopted pursuant thereto for 5913
maintaining and making available records to properly identified 5914
board officials and federal, state, and local law enforcement 5915
agencies. 5916

(4) Personnel employed by the applicant have the appropriate 5917
education or experience, as determined by the board, to assume 5918
responsibility for positions related to compliance with this 5919
chapter and the rules adopted pursuant thereto. 5920

(5) The applicant has designated the name and address of a 5921
person to whom communications from the board may be directed and 5922
upon whom the notices and citations provided for in section 5923
4729.56 of the Revised Code may be served. 5924

(6) Adequate safeguards are assured to prevent the sale of 5925

dangerous drugs to any person other than those named in division 5926
(B) of section 4729.51 of the Revised Code. 5927

(7) Any other requirement or qualification the board, by rule 5928
adopted in accordance with Chapter 119. of the Revised Code, 5929
considers relevant to and consistent with the public safety and 5930
health. 5931

(B) The board may refuse to register or renew the 5932
registration certificate of any person if the board determines 5933
that the granting of the registration certificate or its renewal 5934
is not in the public interest. 5935

Sec. 4729.56. (A) In accordance with Chapter 119. of the 5936
Revised Code, the board of pharmacy may suspend, revoke, or refuse 5937
to renew any registration certificate issued to a wholesale 5938
distributor of dangerous drugs pursuant to section 4729.52 of the 5939
Revised Code or may impose a monetary penalty or forfeiture not to 5940
exceed in severity any fine designated under the Revised Code for 5941
a similar offense or one thousand dollars if the acts committed 5942
are not classified as an offense by the Revised Code for any of 5943
the following causes: 5944

(1) Making any false material statements in an application 5945
for registration as a wholesale distributor of dangerous drugs; 5946

(2) Violating any federal, state, or local drug law; any 5947
provision of this chapter or Chapter 2925., 3715., or 3719. of the 5948
Revised Code; or any rule of the board; 5949

(3) A conviction of a ~~felony~~ criminal offense substantially 5950
related to the person's fitness or ability to perform the duties 5951
and responsibilities of a wholesale distributor of dangerous 5952
drugs; 5953

(4) Ceasing to satisfy the qualifications for registration 5954
under section 4729.53 of the Revised Code or the rules of the 5955

board. 5956

(B) Upon the suspension or revocation of the registration 5957
certificate of any wholesale distributor of dangerous drugs, the 5958
distributor shall immediately surrender ~~his~~ the distributor's 5959
registration certificate to the board. 5960

(C) If the board suspends, revokes, or refuses to renew any 5961
registration certificate issued to a wholesale distributor of 5962
dangerous drugs and determines that there is clear and convincing 5963
evidence of a danger of immediate and serious harm to any person, 5964
the board may place under seal all dangerous drugs owned by or in 5965
the possession, custody, or control of the affected wholesale 5966
distributor of dangerous drugs. Except as provided in this 5967
division, the board shall not dispose of the dangerous drugs 5968
sealed under this division until the wholesale distributor of 5969
dangerous drugs exhausts all of ~~his~~ the distributor's appeal 5970
rights under Chapter 119. of the Revised Code. The court involved 5971
in such an appeal may order the board, during the pendency of the 5972
appeal, to sell sealed dangerous drugs that are perishable. The 5973
board shall deposit the proceeds of the sale with the court. 5974

Sec. 4730.25. (A) The state medical board, by an affirmative 5975
vote of not fewer than six members, may revoke or may refuse to 5976
grant a certificate to practice as a physician assistant or a 5977
certificate to prescribe to a person found by the board to have 5978
committed fraud, misrepresentation, or deception in applying for 5979
or securing the certificate. 5980

(B) The board, by an affirmative vote of not fewer than six 5981
members, shall, to the extent permitted by law, limit, revoke, or 5982
suspend an individual's certificate to practice as a physician 5983
assistant or certificate to prescribe, refuse to issue a 5984
certificate to an applicant, refuse to reinstate a certificate, or 5985
reprimand or place on probation the holder of a certificate for 5986

any of the following reasons:	5987
(1) Failure to practice in accordance with the conditions	5988
under which the supervising physician's supervision agreement with	5989
the physician assistant was approved, including the requirement	5990
that when practicing under a particular supervising physician, the	5991
physician assistant must practice only according to the physician	5992
supervisory plan the board approved for that physician or the	5993
policies of the health care facility in which the supervising	5994
physician and physician assistant are practicing;	5995
(2) Failure to comply with the requirements of this chapter,	5996
Chapter 4731. of the Revised Code, or any rules adopted by the	5997
board;	5998
(3) Violating or attempting to violate, directly or	5999
indirectly, or assisting in or abetting the violation of, or	6000
conspiring to violate, any provision of this chapter, Chapter	6001
4731. of the Revised Code, or the rules adopted by the board;	6002
(4) Inability to practice according to acceptable and	6003
prevailing standards of care by reason of mental illness or	6004
physical illness, including physical deterioration that adversely	6005
affects cognitive, motor, or perceptive skills;	6006
(5) Impairment of ability to practice according to acceptable	6007
and prevailing standards of care because of habitual or excessive	6008
use or abuse of drugs, alcohol, or other substances that impair	6009
ability to practice;	6010
(6) Administering drugs for purposes other than those	6011
authorized under this chapter;	6012
(7) Willfully betraying a professional confidence;	6013
(8) Making a false, fraudulent, deceptive, or misleading	6014
statement in soliciting or advertising for employment as a	6015
physician assistant; in connection with any solicitation or	6016

advertisement for patients; in relation to the practice of 6017
medicine as it pertains to physician assistants; or in securing or 6018
attempting to secure a certificate to practice as a physician 6019
assistant, a certificate to prescribe, or approval of a 6020
supervision agreement. 6021

As used in this division, "false, fraudulent, deceptive, or 6022
misleading statement" means a statement that includes a 6023
misrepresentation of fact, is likely to mislead or deceive because 6024
of a failure to disclose material facts, is intended or is likely 6025
to create false or unjustified expectations of favorable results, 6026
or includes representations or implications that in reasonable 6027
probability will cause an ordinarily prudent person to 6028
misunderstand or be deceived. 6029

(9) Representing, with the purpose of obtaining compensation 6030
or other advantage personally or for any other person, that an 6031
incurable disease or injury, or other incurable condition, can be 6032
permanently cured; 6033

(10) The obtaining of, or attempting to obtain, money or 6034
anything of value by fraudulent misrepresentations in the course 6035
of practice; 6036

(11) A plea of guilty to, a judicial finding of guilt of, or 6037
a judicial finding of eligibility for intervention in lieu of 6038
conviction for, ~~a felony~~ criminal offense substantially related to 6039
the person's fitness or ability to perform the duties and 6040
responsibilities of a physician assistant; 6041

(12) Commission of an act that constitutes a ~~felony~~ in this 6042
state a criminal offense substantially related to the person's 6043
fitness or ability to perform the duties and responsibilities of a 6044
physician assistant, regardless of the jurisdiction in which the 6045
act was committed; 6046

(13) ~~A plea of guilty to, a judicial finding of guilt of, or~~ 6047

~~a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;~~ 6048
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~~(14) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;~~ 6050
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~~(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~ 6053
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~~(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~ 6056
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~~(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;~~ 6059
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~~(18)~~(14) Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand; 6064
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~~(19)~~(15) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established; 6072
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~~(20)~~(16) Violation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement; 6076
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6078

~~(21)~~(17) Failure to use universal blood and body fluid 6079
precautions established by rules adopted under section 4731.051 of 6080
the Revised Code; 6081

~~(22)~~(18) Failure to cooperate in an investigation conducted 6082
by the board under section 4730.26 of the Revised Code, including 6083
failure to comply with a subpoena or order issued by the board or 6084
failure to answer truthfully a question presented by the board at 6085
a deposition or in written interrogatories, except that failure to 6086
cooperate with an investigation shall not constitute grounds for 6087
discipline under this section if a court of competent jurisdiction 6088
has issued an order that either quashes a subpoena or permits the 6089
individual to withhold the testimony or evidence in issue; 6090

~~(23)~~(19) Assisting suicide as defined in section 3795.01 of 6091
the Revised Code; 6092

~~(24)~~(20) Prescribing any drug or device to perform or induce 6093
an abortion, or otherwise performing or inducing an abortion. 6094

(C) Disciplinary actions taken by the board under divisions 6095
(A) and (B) of this section shall be taken pursuant to an 6096
adjudication under Chapter 119. of the Revised Code, except that 6097
in lieu of an adjudication, the board may enter into a consent 6098
agreement with a physician assistant or applicant to resolve an 6099
allegation of a violation of this chapter or any rule adopted 6100
under it. A consent agreement, when ratified by an affirmative 6101
vote of not fewer than six members of the board, shall constitute 6102
the findings and order of the board with respect to the matter 6103
addressed in the agreement. If the board refuses to ratify a 6104
consent agreement, the admissions and findings contained in the 6105
consent agreement shall be of no force or effect. 6106

(D) For purposes of ~~divisions~~ division (B)(12), ~~(15), and~~ 6107
~~(16)~~ of this section, the commission of the act may be established 6108
by a finding by the board, pursuant to an adjudication under 6109

Chapter 119. of the Revised Code, that the applicant or 6110
certificate holder committed the act in question. The board shall 6111
have no jurisdiction under these divisions in cases where the 6112
trial court renders a final judgment in the certificate holder's 6113
favor and that judgment is based upon an adjudication on the 6114
merits. The board shall have jurisdiction under these divisions in 6115
cases where the trial court issues an order of dismissal upon 6116
technical or procedural grounds. 6117

(E) The sealing of conviction records by any court shall have 6118
no effect upon a prior board order entered under the provisions of 6119
this section or upon the board's jurisdiction to take action under 6120
the provisions of this section if, based upon a plea of guilty, a 6121
judicial finding of guilt, or a judicial finding of eligibility 6122
for intervention in lieu of conviction, the board issued a notice 6123
of opportunity for a hearing prior to the court's order to seal 6124
the records. The board shall not be required to seal, destroy, 6125
redact, or otherwise modify its records to reflect the court's 6126
sealing of conviction records. 6127

(F) For purposes of this division, any individual who holds a 6128
certificate issued under this chapter, or applies for a 6129
certificate issued under this chapter, shall be deemed to have 6130
given consent to submit to a mental or physical examination when 6131
directed to do so in writing by the board and to have waived all 6132
objections to the admissibility of testimony or examination 6133
reports that constitute a privileged communication. 6134

(1) In enforcing division (B)(4) of this section, the board, 6135
upon a showing of a possible violation, may compel any individual 6136
who holds a certificate issued under this chapter or who has 6137
applied for a certificate pursuant to this chapter to submit to a 6138
mental examination, physical examination, including an HIV test, 6139
or both a mental and physical examination. The expense of the 6140
examination is the responsibility of the individual compelled to 6141

be examined. Failure to submit to a mental or physical examination 6142
or consent to an HIV test ordered by the board constitutes an 6143
admission of the allegations against the individual unless the 6144
failure is due to circumstances beyond the individual's control, 6145
and a default and final order may be entered without the taking of 6146
testimony or presentation of evidence. If the board finds a 6147
physician assistant unable to practice because of the reasons set 6148
forth in division (B)(4) of this section, the board shall require 6149
the physician assistant to submit to care, counseling, or 6150
treatment by physicians approved or designated by the board, as a 6151
condition for an initial, continued, reinstated, or renewed 6152
certificate. An individual affected under this division shall be 6153
afforded an opportunity to demonstrate to the board the ability to 6154
resume practicing in compliance with acceptable and prevailing 6155
standards of care. 6156

(2) For purposes of division (B)(5) of this section, if the 6157
board has reason to believe that any individual who holds a 6158
certificate issued under this chapter or any applicant for a 6159
certificate suffers such impairment, the board may compel the 6160
individual to submit to a mental or physical examination, or both. 6161
The expense of the examination is the responsibility of the 6162
individual compelled to be examined. Any mental or physical 6163
examination required under this division shall be undertaken by a 6164
treatment provider or physician qualified to conduct such 6165
examination and chosen by the board. 6166

Failure to submit to a mental or physical examination ordered 6167
by the board constitutes an admission of the allegations against 6168
the individual unless the failure is due to circumstances beyond 6169
the individual's control, and a default and final order may be 6170
entered without the taking of testimony or presentation of 6171
evidence. If the board determines that the individual's ability to 6172
practice is impaired, the board shall suspend the individual's 6173

certificate or deny the individual's application and shall require 6174
the individual, as a condition for initial, continued, reinstated, 6175
or renewed certification to practice or prescribe, to submit to 6176
treatment. 6177

Before being eligible to apply for reinstatement of a 6178
certificate suspended under this division, the physician assistant 6179
shall demonstrate to the board the ability to resume practice or 6180
prescribing in compliance with acceptable and prevailing standards 6181
of care. The demonstration shall include the following: 6182

(a) Certification from a treatment provider approved under 6183
section 4731.25 of the Revised Code that the individual has 6184
successfully completed any required inpatient treatment; 6185

(b) Evidence of continuing full compliance with an aftercare 6186
contract or consent agreement; 6187

(c) Two written reports indicating that the individual's 6188
ability to practice has been assessed and that the individual has 6189
been found capable of practicing according to acceptable and 6190
prevailing standards of care. The reports shall be made by 6191
individuals or providers approved by the board for making such 6192
assessments and shall describe the basis for their determination. 6193

The board may reinstate a certificate suspended under this 6194
division after such demonstration and after the individual has 6195
entered into a written consent agreement. 6196

When the impaired physician assistant resumes practice or 6197
prescribing, the board shall require continued monitoring of the 6198
physician assistant. The monitoring shall include compliance with 6199
the written consent agreement entered into before reinstatement or 6200
with conditions imposed by board order after a hearing, and, upon 6201
termination of the consent agreement, submission to the board for 6202
at least two years of annual written progress reports made under 6203
penalty of falsification stating whether the physician assistant 6204

has maintained sobriety. 6205

(G) If the secretary and supervising member determine that 6206
there is clear and convincing evidence that a physician assistant 6207
has violated division (B) of this section and that the 6208
individual's continued practice or prescribing presents a danger 6209
of immediate and serious harm to the public, they may recommend 6210
that the board suspend the individual's certificate to practice or 6211
prescribe without a prior hearing. Written allegations shall be 6212
prepared for consideration by the board. 6213

The board, upon review of those allegations and by an 6214
affirmative vote of not fewer than six of its members, excluding 6215
the secretary and supervising member, may suspend a certificate 6216
without a prior hearing. A telephone conference call may be 6217
utilized for reviewing the allegations and taking the vote on the 6218
summary suspension. 6219

The board shall issue a written order of suspension by 6220
certified mail or in person in accordance with section 119.07 of 6221
the Revised Code. The order shall not be subject to suspension by 6222
the court during pendency of any appeal filed under section 119.12 6223
of the Revised Code. If the physician assistant requests an 6224
adjudicatory hearing by the board, the date set for the hearing 6225
shall be within fifteen days, but not earlier than seven days, 6226
after the physician assistant requests the hearing, unless 6227
otherwise agreed to by both the board and the certificate holder. 6228

A summary suspension imposed under this division shall remain 6229
in effect, unless reversed on appeal, until a final adjudicative 6230
order issued by the board pursuant to this section and Chapter 6231
119. of the Revised Code becomes effective. The board shall issue 6232
its final adjudicative order within sixty days after completion of 6233
its hearing. Failure to issue the order within sixty days shall 6234
result in dissolution of the summary suspension order, but shall 6235
not invalidate any subsequent, final adjudicative order. 6236

(H) If the board takes action under division (B)(11),~~(13),~~ 6237
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 6238
plea, or judicial finding of eligibility for intervention in lieu 6239
of conviction is overturned on appeal, upon exhaustion of the 6240
criminal appeal, a petition for reconsideration of the order may 6241
be filed with the board along with appropriate court documents. 6242
Upon receipt of a petition and supporting court documents, the 6243
board shall reinstate the certificate to practice or prescribe. 6244
The board may then hold an adjudication under Chapter 119. of the 6245
Revised Code to determine whether the individual committed the act 6246
in question. Notice of opportunity for hearing shall be given in 6247
accordance with Chapter 119. of the Revised Code. If the board 6248
finds, pursuant to an adjudication held under this division, that 6249
the individual committed the act, or if no hearing is requested, 6250
it may order any of the sanctions identified under division (B) of 6251
this section. 6252

(I) The certificate to practice issued to a physician 6253
assistant and the physician assistant's practice in this state are 6254
automatically suspended as of the date the physician assistant 6255
pleads guilty to, is found by a judge or jury to be guilty of, or 6256
is subject to a judicial finding of eligibility for intervention 6257
in lieu of conviction in this state or treatment or intervention 6258
in lieu of conviction in another state for any of the following 6259
criminal offenses in this state or a substantially equivalent 6260
criminal offense in another jurisdiction: aggravated murder, 6261
murder, voluntary manslaughter, felonious assault, kidnapping, 6262
rape, sexual battery, gross sexual imposition, aggravated arson, 6263
aggravated robbery, or aggravated burglary. Continued practice 6264
after the suspension shall be considered practicing without a 6265
certificate. 6266

The board shall notify the individual subject to the 6267
suspension by certified mail or in person in accordance with 6268

section 119.07 of the Revised Code. If an individual whose 6269
certificate is suspended under this division fails to make a 6270
timely request for an adjudication under Chapter 119. of the 6271
Revised Code, the board shall enter a final order permanently 6272
revoking the individual's certificate to practice. 6273

(J) In any instance in which the board is required by Chapter 6274
119. of the Revised Code to give notice of opportunity for hearing 6275
and the individual subject to the notice does not timely request a 6276
hearing in accordance with section 119.07 of the Revised Code, the 6277
board is not required to hold a hearing, but may adopt, by an 6278
affirmative vote of not fewer than six of its members, a final 6279
order that contains the board's findings. In that final order, the 6280
board may order any of the sanctions identified under division (A) 6281
or (B) of this section. 6282

(K) Any action taken by the board under division (B) of this 6283
section resulting in a suspension shall be accompanied by a 6284
written statement of the conditions under which the physician 6285
assistant's certificate may be reinstated. The board shall adopt 6286
rules in accordance with Chapter 119. of the Revised Code 6287
governing conditions to be imposed for reinstatement. 6288
Reinstatement of a certificate suspended pursuant to division (B) 6289
of this section requires an affirmative vote of not fewer than six 6290
members of the board. 6291

(L) When the board refuses to grant to an applicant a 6292
certificate to practice as a physician assistant or a certificate 6293
to prescribe, revokes an individual's certificate, refuses to 6294
issue a certificate, or refuses to reinstate an individual's 6295
certificate, the board may specify that its action is permanent. 6296
An individual subject to a permanent action taken by the board is 6297
forever thereafter ineligible to hold the certificate and the 6298
board shall not accept an application for reinstatement of the 6299
certificate or for issuance of a new certificate. 6300

(M) Notwithstanding any other provision of the Revised Code, 6301
all of the following apply: 6302

(1) The surrender of a certificate issued under this chapter 6303
is not effective unless or until accepted by the board. 6304
Reinstatement of a certificate surrendered to the board requires 6305
an affirmative vote of not fewer than six members of the board. 6306

(2) An application made under this chapter for a certificate, 6307
approval of a physician supervisory plan, or approval of a 6308
supervision agreement may not be withdrawn without approval of the 6309
board. 6310

(3) Failure by an individual to renew a certificate in 6311
accordance with section 4730.14 or section 4730.48 of the Revised 6312
Code shall not remove or limit the board's jurisdiction to take 6313
disciplinary action under this section against the individual. 6314

Sec. 4731.22. (A) The state medical board, by an affirmative 6315
vote of not fewer than six of its members, may revoke or may 6316
refuse to grant a certificate to a person found by the board to 6317
have committed fraud during the administration of the examination 6318
for a certificate to practice or to have committed fraud, 6319
misrepresentation, or deception in applying for or securing any 6320
certificate to practice or certificate of registration issued by 6321
the board. 6322

(B) The board, by an affirmative vote of not fewer than six 6323
members, shall, to the extent permitted by law, limit, revoke, or 6324
suspend an individual's certificate to practice, refuse to 6325
register an individual, refuse to reinstate a certificate, or 6326
reprimand or place on probation the holder of a certificate for 6327
one or more of the following reasons: 6328

(1) Permitting one's name or one's certificate to practice or 6329
certificate of registration to be used by a person, group, or 6330

corporation when the individual concerned is not actually 6331
directing the treatment given; 6332

(2) Failure to maintain minimal standards applicable to the 6333
selection or administration of drugs, or failure to employ 6334
acceptable scientific methods in the selection of drugs or other 6335
modalities for treatment of disease; 6336

(3) Selling, giving away, personally furnishing, prescribing, 6337
or administering drugs for other than legal and legitimate 6338
therapeutic purposes or a plea of guilty to, a judicial finding of 6339
guilt of, or a judicial finding of eligibility for intervention in 6340
lieu of conviction of, a violation of any federal or state law 6341
regulating the possession, distribution, or use of any drug; 6342

(4) Willfully betraying a professional confidence. 6343

For purposes of this division, "willfully betraying a 6344
professional confidence" does not include providing any 6345
information, documents, or reports to a child fatality review 6346
board under sections 307.621 to 307.629 of the Revised Code and 6347
does not include the making of a report of an employee's use of a 6348
drug of abuse, or a report of a condition of an employee other 6349
than one involving the use of a drug of abuse, to the employer of 6350
the employee as described in division (B) of section 2305.33 of 6351
the Revised Code. Nothing in this division affects the immunity 6352
from civil liability conferred by that section upon a physician 6353
who makes either type of report in accordance with division (B) of 6354
that section. As used in this division, "employee," "employer," 6355
and "physician" have the same meanings as in section 2305.33 of 6356
the Revised Code. 6357

(5) Making a false, fraudulent, deceptive, or misleading 6358
statement in the solicitation of or advertising for patients; in 6359
relation to the practice of medicine and surgery, osteopathic 6360
medicine and surgery, podiatric medicine and surgery, or a limited 6361

branch of medicine; or in securing or attempting to secure any 6362
certificate to practice or certificate of registration issued by 6363
the board. 6364

As used in this division, "false, fraudulent, deceptive, or 6365
misleading statement" means a statement that includes a 6366
misrepresentation of fact, is likely to mislead or deceive because 6367
of a failure to disclose material facts, is intended or is likely 6368
to create false or unjustified expectations of favorable results, 6369
or includes representations or implications that in reasonable 6370
probability will cause an ordinarily prudent person to 6371
misunderstand or be deceived. 6372

(6) A departure from, or the failure to conform to, minimal 6373
standards of care of similar practitioners under the same or 6374
similar circumstances, whether or not actual injury to a patient 6375
is established; 6376

(7) Representing, with the purpose of obtaining compensation 6377
or other advantage as personal gain or for any other person, that 6378
an incurable disease or injury, or other incurable condition, can 6379
be permanently cured; 6380

(8) The obtaining of, or attempting to obtain, money or 6381
anything of value by fraudulent misrepresentations in the course 6382
of practice; 6383

(9) A plea of guilty to, a judicial finding of guilt of, or a 6384
judicial finding of eligibility for intervention in lieu of 6385
conviction for, ~~a felony~~ criminal offense substantially related to 6386
the person's fitness or ability to perform the duties and 6387
responsibilities of a certificate holder under this chapter; 6388

(10) Commission of an act that constitutes ~~a felony~~ in this 6389
state a criminal offense substantially related to the person's 6390
fitness or ability to perform the duties and responsibilities of a 6391
certificate holder under this chapter, regardless of the 6392

jurisdiction in which the act was committed; 6393

~~(11) A plea of guilty to, a judicial finding of guilt of, or~~ 6394
~~a judicial finding of eligibility for intervention in lieu of~~ 6395
~~conviction for, a misdemeanor committed in the course of practice;~~ 6396

~~(12) Commission of an act in the course of practice that~~ 6397
~~constitutes a misdemeanor in this state, regardless of the~~ 6398
~~jurisdiction in which the act was committed;~~ 6399

~~(13) A plea of guilty to, a judicial finding of guilt of, or~~ 6400
~~a judicial finding of eligibility for intervention in lieu of~~ 6401
~~conviction for, a misdemeanor involving moral turpitude;~~ 6402

~~(14) Commission of an act involving moral turpitude that~~ 6403
~~constitutes a misdemeanor in this state, regardless of the~~ 6404
~~jurisdiction in which the act was committed;~~ 6405

~~(15) Violation of the conditions of limitation placed by the~~ 6406
~~board upon a certificate to practice;~~ 6407

~~(16)~~(12) Failure to pay license renewal fees specified in 6408
this chapter; 6409

~~(17)~~(13) Except as authorized in section 4731.31 of the 6410
Revised Code, engaging in the division of fees for referral of 6411
patients, or the receiving of a thing of value in return for a 6412
specific referral of a patient to utilize a particular service or 6413
business; 6414

~~(18)~~(14) Subject to section 4731.226 of the Revised Code, 6415
violation of any provision of a code of ethics of the American 6416
medical association, the American osteopathic association, the 6417
American podiatric medical association, or any other national 6418
professional organizations that the board specifies by rule. The 6419
state medical board shall obtain and keep on file current copies 6420
of the codes of ethics of the various national professional 6421
organizations. The individual whose certificate is being suspended 6422

or revoked shall not be found to have violated any provision of a 6423
code of ethics of an organization not appropriate to the 6424
individual's profession. 6425

For purposes of this division, a "provision of a code of 6426
ethics of a national professional organization" does not include 6427
any provision that would preclude the making of a report by a 6428
physician of an employee's use of a drug of abuse, or of a 6429
condition of an employee other than one involving the use of a 6430
drug of abuse, to the employer of the employee as described in 6431
division (B) of section 2305.33 of the Revised Code. Nothing in 6432
this division affects the immunity from civil liability conferred 6433
by that section upon a physician who makes either type of report 6434
in accordance with division (B) of that section. As used in this 6435
division, "employee," "employer," and "physician" have the same 6436
meanings as in section 2305.33 of the Revised Code. 6437

~~(19)~~(15) Inability to practice according to acceptable and 6438
prevailing standards of care by reason of mental illness or 6439
physical illness, including, but not limited to, physical 6440
deterioration that adversely affects cognitive, motor, or 6441
perceptive skills. 6442

In enforcing this division, the board, upon a showing of a 6443
possible violation, may compel any individual authorized to 6444
practice by this chapter or who has submitted an application 6445
pursuant to this chapter to submit to a mental examination, 6446
physical examination, including an HIV test, or both a mental and 6447
a physical examination. The expense of the examination is the 6448
responsibility of the individual compelled to be examined. Failure 6449
to submit to a mental or physical examination or consent to an HIV 6450
test ordered by the board constitutes an admission of the 6451
allegations against the individual unless the failure is due to 6452
circumstances beyond the individual's control, and a default and 6453
final order may be entered without the taking of testimony or 6454

presentation of evidence. If the board finds an individual unable 6455
to practice because of the reasons set forth in this division, the 6456
board shall require the individual to submit to care, counseling, 6457
or treatment by physicians approved or designated by the board, as 6458
a condition for initial, continued, reinstated, or renewed 6459
authority to practice. An individual affected under this division 6460
shall be afforded an opportunity to demonstrate to the board the 6461
ability to resume practice in compliance with acceptable and 6462
prevailing standards under the provisions of the individual's 6463
certificate. For the purpose of this division, any individual who 6464
applies for or receives a certificate to practice under this 6465
chapter accepts the privilege of practicing in this state and, by 6466
so doing, shall be deemed to have given consent to submit to a 6467
mental or physical examination when directed to do so in writing 6468
by the board, and to have waived all objections to the 6469
admissibility of testimony or examination reports that constitute 6470
a privileged communication. 6471

~~(20)~~(16) Except when civil penalties are imposed under 6472
section 4731.225 or 4731.281 of the Revised Code, and subject to 6473
section 4731.226 of the Revised Code, violating or attempting to 6474
violate, directly or indirectly, or assisting in or abetting the 6475
violation of, or conspiring to violate, any provisions of this 6476
chapter or any rule promulgated by the board. 6477

This division does not apply to a violation or attempted 6478
violation of, assisting in or abetting the violation of, or a 6479
conspiracy to violate, any provision of this chapter or any rule 6480
adopted by the board that would preclude the making of a report by 6481
a physician of an employee's use of a drug of abuse, or of a 6482
condition of an employee other than one involving the use of a 6483
drug of abuse, to the employer of the employee as described in 6484
division (B) of section 2305.33 of the Revised Code. Nothing in 6485
this division affects the immunity from civil liability conferred 6486

by that section upon a physician who makes either type of report 6487
in accordance with division (B) of that section. As used in this 6488
division, "employee," "employer," and "physician" have the same 6489
meanings as in section 2305.33 of the Revised Code. 6490

~~(21)~~(17) The violation of section 3701.79 of the Revised Code 6491
or of any abortion rule adopted by the public health council 6492
pursuant to section 3701.341 of the Revised Code; 6493

~~(22)~~(18) Any of the following actions taken by the agency 6494
responsible for regulating the practice of medicine and surgery, 6495
osteopathic medicine and surgery, podiatric medicine and surgery, 6496
or the limited branches of medicine in another jurisdiction, for 6497
any reason other than the nonpayment of fees: the limitation, 6498
revocation, or suspension of an individual's license to practice; 6499
acceptance of an individual's license surrender; denial of a 6500
license; refusal to renew or reinstate a license; imposition of 6501
probation; or issuance of an order of censure or other reprimand; 6502

~~(23)~~(19) The violation of section 2919.12 of the Revised Code 6503
or the performance or inducement of an abortion upon a pregnant 6504
woman with actual knowledge that the conditions specified in 6505
division (B) of section 2317.56 of the Revised Code have not been 6506
satisfied or with a heedless indifference as to whether those 6507
conditions have been satisfied, unless an affirmative defense as 6508
specified in division (H)(2) of that section would apply in a 6509
civil action authorized by division (H)(1) of that section; 6510

~~(24)~~(20) The revocation, suspension, restriction, reduction, 6511
or termination of clinical privileges by the United States 6512
department of defense or department of veterans affairs or the 6513
termination or suspension of a certificate of registration to 6514
prescribe drugs by the drug enforcement administration of the 6515
United States department of justice; 6516

~~(25)~~(21) Termination or suspension from participation in the 6517

medicare or medicaid programs by the department of health and 6518
human services or other responsible agency for any act or acts 6519
that also would constitute a violation of division (B)(2), (3), 6520
(6), (8), or ~~(19)~~(15) of this section; 6521

~~(26)~~(22) Impairment of ability to practice according to 6522
acceptable and prevailing standards of care because of habitual or 6523
excessive use or abuse of drugs, alcohol, or other substances that 6524
impair ability to practice. 6525

For the purposes of this division, any individual authorized 6526
to practice by this chapter accepts the privilege of practicing in 6527
this state subject to supervision by the board. By filing an 6528
application for or holding a certificate to practice under this 6529
chapter, an individual shall be deemed to have given consent to 6530
submit to a mental or physical examination when ordered to do so 6531
by the board in writing, and to have waived all objections to the 6532
admissibility of testimony or examination reports that constitute 6533
privileged communications. 6534

If it has reason to believe that any individual authorized to 6535
practice by this chapter or any applicant for certification to 6536
practice suffers such impairment, the board may compel the 6537
individual to submit to a mental or physical examination, or both. 6538
The expense of the examination is the responsibility of the 6539
individual compelled to be examined. Any mental or physical 6540
examination required under this division shall be undertaken by a 6541
treatment provider or physician who is qualified to conduct the 6542
examination and who is chosen by the board. 6543

Failure to submit to a mental or physical examination ordered 6544
by the board constitutes an admission of the allegations against 6545
the individual unless the failure is due to circumstances beyond 6546
the individual's control, and a default and final order may be 6547
entered without the taking of testimony or presentation of 6548
evidence. If the board determines that the individual's ability to 6549

practice is impaired, the board shall suspend the individual's 6550
certificate or deny the individual's application and shall require 6551
the individual, as a condition for initial, continued, reinstated, 6552
or renewed certification to practice, to submit to treatment. 6553

Before being eligible to apply for reinstatement of a 6554
certificate suspended under this division, the impaired 6555
practitioner shall demonstrate to the board the ability to resume 6556
practice in compliance with acceptable and prevailing standards of 6557
care under the provisions of the practitioner's certificate. The 6558
demonstration shall include, but shall not be limited to, the 6559
following: 6560

(a) Certification from a treatment provider approved under 6561
section 4731.25 of the Revised Code that the individual has 6562
successfully completed any required inpatient treatment; 6563

(b) Evidence of continuing full compliance with an aftercare 6564
contract or consent agreement; 6565

(c) Two written reports indicating that the individual's 6566
ability to practice has been assessed and that the individual has 6567
been found capable of practicing according to acceptable and 6568
prevailing standards of care. The reports shall be made by 6569
individuals or providers approved by the board for making the 6570
assessments and shall describe the basis for their determination. 6571

The board may reinstate a certificate suspended under this 6572
division after that demonstration and after the individual has 6573
entered into a written consent agreement. 6574

When the impaired practitioner resumes practice, the board 6575
shall require continued monitoring of the individual. The 6576
monitoring shall include, but not be limited to, compliance with 6577
the written consent agreement entered into before reinstatement or 6578
with conditions imposed by board order after a hearing, and, upon 6579
termination of the consent agreement, submission to the board for 6580

at least two years of annual written progress reports made under 6581
penalty of perjury stating whether the individual has maintained 6582
sobriety. 6583

~~(27)~~(23) A second or subsequent violation of section 4731.66 6584
or 4731.69 of the Revised Code; 6585

~~(28)~~(24) Except as provided in division (N) of this section: 6586

(a) Waiving the payment of all or any part of a deductible or 6587
copayment that a patient, pursuant to a health insurance or health 6588
care policy, contract, or plan that covers the individual's 6589
services, otherwise would be required to pay if the waiver is used 6590
as an enticement to a patient or group of patients to receive 6591
health care services from that individual; 6592

(b) Advertising that the individual will waive the payment of 6593
all or any part of a deductible or copayment that a patient, 6594
pursuant to a health insurance or health care policy, contract, or 6595
plan that covers the individual's services, otherwise would be 6596
required to pay. 6597

~~(29)~~(25) Failure to use universal blood and body fluid 6598
precautions established by rules adopted under section 4731.051 of 6599
the Revised Code; 6600

~~(30)~~(26) Failure to provide notice to, and receive 6601
acknowledgment of the notice from, a patient when required by 6602
section 4731.143 of the Revised Code prior to providing 6603
nonemergency professional services, or failure to maintain that 6604
notice in the patient's file; 6605

~~(31)~~(27) Failure of a physician supervising a physician 6606
assistant to maintain supervision in accordance with the 6607
requirements of Chapter 4730. of the Revised Code and the rules 6608
adopted under that chapter; 6609

~~(32)~~(28) Failure of a physician or podiatrist to enter into a 6610

standard care arrangement with a clinical nurse specialist, 6611
certified nurse-midwife, or certified nurse practitioner with whom 6612
the physician or podiatrist is in collaboration pursuant to 6613
section 4731.27 of the Revised Code or failure to fulfill the 6614
responsibilities of collaboration after entering into a standard 6615
care arrangement; 6616

~~(33)~~(29) Failure to comply with the terms of a consult 6617
agreement entered into with a pharmacist pursuant to section 6618
4729.39 of the Revised Code; 6619

~~(34)~~(30) Failure to cooperate in an investigation conducted 6620
by the board under division (F) of this section, including failure 6621
to comply with a subpoena or order issued by the board or failure 6622
to answer truthfully a question presented by the board at a 6623
deposition or in written interrogatories, except that failure to 6624
cooperate with an investigation shall not constitute grounds for 6625
discipline under this section if a court of competent jurisdiction 6626
has issued an order that either quashes a subpoena or permits the 6627
individual to withhold the testimony or evidence in issue; 6628

~~(35)~~(31) Failure to supervise an acupuncturist in accordance 6629
with Chapter 4762. of the Revised Code and the board's rules for 6630
supervision of an acupuncturist; 6631

~~(36)~~(32) Failure to supervise an anesthesiologist assistant 6632
in accordance with Chapter 4760. of the Revised Code and the 6633
board's rules for supervision of an anesthesiologist assistant; 6634

~~(37)~~(33) Assisting suicide as defined in section 3795.01 of 6635
the Revised Code. 6636

(C) Disciplinary actions taken by the board under divisions 6637
(A) and (B) of this section shall be taken pursuant to an 6638
adjudication under Chapter 119. of the Revised Code, except that 6639
in lieu of an adjudication, the board may enter into a consent 6640
agreement with an individual to resolve an allegation of a 6641

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.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

(D) For purposes of ~~divisions~~ division (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 6674
no effect upon a prior board order entered under this section or 6675
upon the board's jurisdiction to take action under this section 6676
if, based upon a plea of guilty, a judicial finding of guilt, or a 6677
judicial finding of eligibility for intervention in lieu of 6678
conviction, the board issued a notice of opportunity for a hearing 6679
prior to the court's order to seal the records. The board shall 6680
not be required to seal, destroy, redact, or otherwise modify its 6681
records to reflect the court's sealing of conviction records. 6682

(F)(1) The board shall investigate evidence that appears to 6683
show that a person has violated any provision of this chapter or 6684
any rule adopted under it. Any person may report to the board in a 6685
signed writing any information that the person may have that 6686
appears to show a violation of any provision of this chapter or 6687
any rule adopted under it. In the absence of bad faith, any person 6688
who reports information of that nature or who testifies before the 6689
board in any adjudication conducted under Chapter 119. of the 6690
Revised Code shall not be liable in damages in a civil action as a 6691
result of the report or testimony. Each complaint or allegation of 6692
a violation received by the board shall be assigned a case number 6693
and shall be recorded by the board. 6694

(2) Investigations of alleged violations of this chapter or 6695
any rule adopted under it shall be supervised by the supervising 6696
member elected by the board in accordance with section 4731.02 of 6697
the Revised Code and by the secretary as provided in section 6698
4731.39 of the Revised Code. The president may designate another 6699
member of the board to supervise the investigation in place of the 6700
supervising member. No member of the board who supervises the 6701
investigation of a case shall participate in further adjudication 6702
of the case. 6703

(3) In investigating a possible violation of this chapter or 6704
any rule adopted under this chapter, the board may administer 6705

oaths, order the taking of depositions, issue subpoenas, and 6706
compel the attendance of witnesses and production of books, 6707
accounts, papers, records, documents, and testimony, except that a 6708
subpoena for patient record information shall not be issued 6709
without consultation with the attorney general's office and 6710
approval of the secretary and supervising member of the board. 6711
Before issuance of a subpoena for patient record information, the 6712
secretary and supervising member shall determine whether there is 6713
probable cause to believe that the complaint filed alleges a 6714
violation of this chapter or any rule adopted under it and that 6715
the records sought are relevant to the alleged violation and 6716
material to the investigation. The subpoena may apply only to 6717
records that cover a reasonable period of time surrounding the 6718
alleged violation. 6719

On failure to comply with any subpoena issued by the board 6720
and after reasonable notice to the person being subpoenaed, the 6721
board may move for an order compelling the production of persons 6722
or records pursuant to the Rules of Civil Procedure. 6723

A subpoena issued by the board may be served by a sheriff, 6724
the sheriff's deputy, or a board employee designated by the board. 6725
Service of a subpoena issued by the board may be made by 6726
delivering a copy of the subpoena to the person named therein, 6727
reading it to the person, or leaving it at the person's usual 6728
place of residence. When the person being served is a person whose 6729
practice is authorized by this chapter, service of the subpoena 6730
may be made by certified mail, restricted delivery, return receipt 6731
requested, and the subpoena shall be deemed served on the date 6732
delivery is made or the date the person refuses to accept 6733
delivery. 6734

A sheriff's deputy who serves a subpoena shall receive the 6735
same fees as a sheriff. Each witness who appears before the board 6736
in obedience to a subpoena shall receive the fees and mileage 6737

provided for witnesses in civil cases in the courts of common 6738
pleas. 6739

(4) All hearings and investigations of the board shall be 6740
considered civil actions for the purposes of section 2305.252 of 6741
the Revised Code. 6742

(5) Information received by the board pursuant to an 6743
investigation is confidential and not subject to discovery in any 6744
civil action. 6745

The board shall conduct all investigations and proceedings in 6746
a manner that protects the confidentiality of patients and persons 6747
who file complaints with the board. The board shall not make 6748
public the names or any other identifying information about 6749
patients or complainants unless proper consent is given or, in the 6750
case of a patient, a waiver of the patient privilege exists under 6751
division (B) of section 2317.02 of the Revised Code, except that 6752
consent or a waiver of that nature is not required if the board 6753
possesses reliable and substantial evidence that no bona fide 6754
physician-patient relationship exists. 6755

The board may share any information it receives pursuant to 6756
an investigation, including patient records and patient record 6757
information, with law enforcement agencies, other licensing 6758
boards, and other governmental agencies that are prosecuting, 6759
adjudicating, or investigating alleged violations of statutes or 6760
administrative rules. An agency or board that receives the 6761
information shall comply with the same requirements regarding 6762
confidentiality as those with which the state medical board must 6763
comply, notwithstanding any conflicting provision of the Revised 6764
Code or procedure of the agency or board that applies when it is 6765
dealing with other information in its possession. In a judicial 6766
proceeding, the information may be admitted into evidence only in 6767
accordance with the Rules of Evidence, but the court shall require 6768
that appropriate measures are taken to ensure that confidentiality 6769

is maintained with respect to any part of the information that 6770
contains names or other identifying information about patients or 6771
complainants whose confidentiality was protected by the state 6772
medical board when the information was in the board's possession. 6773
Measures to ensure confidentiality that may be taken by the court 6774
include sealing its records or deleting specific information from 6775
its records. 6776

(6) On a quarterly basis, the board shall prepare a report 6777
that documents the disposition of all cases during the preceding 6778
three months. The report shall contain the following information 6779
for each case with which the board has completed its activities: 6780

(a) The case number assigned to the complaint or alleged 6781
violation; 6782

(b) The type of certificate to practice, if any, held by the 6783
individual against whom the complaint is directed; 6784

(c) A description of the allegations contained in the 6785
complaint; 6786

(d) The disposition of the case. 6787

The report shall state how many cases are still pending and 6788
shall be prepared in a manner that protects the identity of each 6789
person involved in each case. The report shall be a public record 6790
under section 149.43 of the Revised Code. 6791

(G) If the secretary and supervising member determine that 6792
there is clear and convincing evidence that an individual has 6793
violated division (B) of this section and that the individual's 6794
continued practice presents a danger of immediate and serious harm 6795
to the public, they may recommend that the board suspend the 6796
individual's certificate to practice without a prior hearing. 6797
Written allegations shall be prepared for consideration by the 6798
board. 6799

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.

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

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

to practice. The board may then hold an adjudication under Chapter 6832
119. of the Revised Code to determine whether the individual 6833
committed the act in question. Notice of an opportunity for a 6834
hearing shall be given in accordance with Chapter 119. of the 6835
Revised Code. If the board finds, pursuant to an adjudication held 6836
under this division, that the individual committed the act or if 6837
no hearing is requested, the board may order any of the sanctions 6838
identified under division (B) of this section. 6839

(I) The certificate to practice issued to an individual under 6840
this chapter and the individual's practice in this state are 6841
automatically suspended as of the date of the individual's second 6842
or subsequent plea of guilty to, or judicial finding of guilt of, 6843
a violation of section 2919.123 of the Revised Code, or the date 6844
the individual pleads guilty to, is found by a judge or jury to be 6845
guilty of, or is subject to a judicial finding of eligibility for 6846
intervention in lieu of conviction in this state or treatment or 6847
intervention in lieu of conviction in another jurisdiction for any 6848
of the following criminal offenses in this state or a 6849
substantially equivalent criminal offense in another jurisdiction: 6850
aggravated murder, murder, voluntary manslaughter, felonious 6851
assault, kidnapping, rape, sexual battery, gross sexual 6852
imposition, aggravated arson, aggravated robbery, or aggravated 6853
burglary. Continued practice after suspension shall be considered 6854
practicing without a certificate. 6855

The board shall notify the individual subject to the 6856
suspension by certified mail or in person in accordance with 6857
section 119.07 of the Revised Code. If an individual whose 6858
certificate is automatically suspended under this division fails 6859
to make a timely request for an adjudication under Chapter 119. of 6860
the Revised Code, the board shall do whichever of the following is 6861
applicable: 6862

(1) If the automatic suspension under this division is for a 6863

second or subsequent plea of guilty to, or judicial finding of 6864
guilt of, a violation of section 2919.123 of the Revised Code, the 6865
board shall enter an order suspending the individual's certificate 6866
to practice for a period of at least one year or, if determined 6867
appropriate by the board, imposing a more serious sanction 6868
involving the individual's certificate to practice. 6869

(2) In all circumstances in which division (I)(1) of this 6870
section does not apply, enter a final order permanently revoking 6871
the individual's certificate to practice. 6872

(J) If the board is required by Chapter 119. of the Revised 6873
Code to give notice of an opportunity for a hearing and if the 6874
individual subject to the notice does not timely request a hearing 6875
in accordance with section 119.07 of the Revised Code, the board 6876
is not required to hold a hearing, but may adopt, by an 6877
affirmative vote of not fewer than six of its members, a final 6878
order that contains the board's findings. In that final order, the 6879
board may order any of the sanctions identified under division (A) 6880
or (B) of this section. 6881

(K) Any action taken by the board under division (B) of this 6882
section resulting in a suspension from practice shall be 6883
accompanied by a written statement of the conditions under which 6884
the individual's certificate to practice may be reinstated. The 6885
board shall adopt rules governing conditions to be imposed for 6886
reinstatement. Reinstatement of a certificate suspended pursuant 6887
to division (B) of this section requires an affirmative vote of 6888
not fewer than six members of the board. 6889

(L) When the board refuses to grant a certificate to an 6890
applicant, revokes an individual's certificate to practice, 6891
refuses to register an applicant, or refuses to reinstate an 6892
individual's certificate to practice, the board may specify that 6893
its action is permanent. An individual subject to a permanent 6894
action taken by the board is forever thereafter ineligible to hold 6895

a certificate to practice and the board shall not accept an 6896
application for reinstatement of the certificate or for issuance 6897
of a new certificate. 6898

(M) Notwithstanding any other provision of the Revised Code, 6899
all of the following apply: 6900

(1) The surrender of a certificate issued under this chapter 6901
shall not be effective unless or until accepted by the board. 6902
Reinstatement of a certificate surrendered to the board requires 6903
an affirmative vote of not fewer than six members of the board. 6904

(2) An application for a certificate made under the 6905
provisions of this chapter may not be withdrawn without approval 6906
of the board. 6907

(3) Failure by an individual to renew a certificate of 6908
registration in accordance with this chapter shall not remove or 6909
limit the board's jurisdiction to take any disciplinary action 6910
under this section against the individual. 6911

(N) Sanctions shall not be imposed under division (B)~~(28)~~(24) 6912
of this section against any person who waives deductibles and 6913
copayments as follows: 6914

(1) In compliance with the health benefit plan that expressly 6915
allows such a practice. Waiver of the deductibles or copayments 6916
shall be made only with the full knowledge and consent of the plan 6917
purchaser, payer, and third-party administrator. Documentation of 6918
the consent shall be made available to the board upon request. 6919

(2) For professional services rendered to any other person 6920
authorized to practice pursuant to this chapter, to the extent 6921
allowed by this chapter and rules adopted by the board. 6922

(O) Under the board's investigative duties described in this 6923
section and subject to division (F) of this section, the board 6924
shall develop and implement a quality intervention program 6925

designed to improve through remedial education the clinical and 6926
communication skills of individuals authorized under this chapter 6927
to practice medicine and surgery, osteopathic medicine and 6928
surgery, and podiatric medicine and surgery. In developing and 6929
implementing the quality intervention program, the board may do 6930
all of the following: 6931

(1) Offer in appropriate cases as determined by the board an 6932
educational and assessment program pursuant to an investigation 6933
the board conducts under this section; 6934

(2) Select providers of educational and assessment services, 6935
including a quality intervention program panel of case reviewers; 6936

(3) Make referrals to educational and assessment service 6937
providers and approve individual educational programs recommended 6938
by those providers. The board shall monitor the progress of each 6939
individual undertaking a recommended individual educational 6940
program. 6941

(4) Determine what constitutes successful completion of an 6942
individual educational program and require further monitoring of 6943
the individual who completed the program or other action that the 6944
board determines to be appropriate; 6945

(5) Adopt rules in accordance with Chapter 119. of the 6946
Revised Code to further implement the quality intervention 6947
program. 6948

An individual who participates in an individual educational 6949
program pursuant to this division shall pay the financial 6950
obligations arising from that educational program. 6951

Sec. 4731.224. (A) Within sixty days after the imposition of 6952
any formal disciplinary action taken by any health care facility, 6953
including a hospital, health care facility operated by a health 6954
insuring corporation, ambulatory surgical center, or similar 6955

facility, against any individual holding a valid certificate to 6956
practice issued pursuant to this chapter, the chief administrator 6957
or executive officer of the facility shall report to the state 6958
medical board the name of the individual, the action taken by the 6959
facility, and a summary of the underlying facts leading to the 6960
action taken. Upon request, the board shall be provided certified 6961
copies of the patient records that were the basis for the 6962
facility's action. Prior to release to the board, the summary 6963
shall be approved by the peer review committee that reviewed the 6964
case or by the governing board of the facility. As used in this 6965
division, "formal disciplinary action" means any action resulting 6966
in the revocation, restriction, reduction, or termination of 6967
clinical privileges for violations of professional ethics, or for 6968
reasons of medical incompetence, medical malpractice, or drug or 6969
alcohol abuse. "Formal disciplinary action" includes a summary 6970
action, an action that takes effect notwithstanding any appeal 6971
rights that may exist, and an action that results in an individual 6972
surrendering clinical privileges while under investigation and 6973
during proceedings regarding the action being taken or in return 6974
for not being investigated or having proceedings held. "Formal 6975
disciplinary action" does not include any action taken for the 6976
sole reason of failure to maintain records on a timely basis or 6977
failure to attend staff or section meetings. 6978

The filing or nonfiling of a report with the board, 6979
investigation by the board, or any disciplinary action taken by 6980
the board, shall not preclude any action by a health care facility 6981
to suspend, restrict, or revoke the individual's clinical 6982
privileges. 6983

In the absence of fraud or bad faith, no individual or entity 6984
that provides patient records to the board shall be liable in 6985
damages to any person as a result of providing the records. 6986

(B) If any individual authorized to practice under this 6987
chapter or any professional association or society of such 6988
individuals believes that a violation of any provision of this 6989
chapter, Chapter 4730., 4760., or 4762. of the Revised Code, or 6990
any rule of the board has occurred, the individual, association, 6991
or society shall report to the board the information upon which 6992
the belief is based. This division does not require any treatment 6993
provider approved by the board under section 4731.25 of the 6994
Revised Code or any employee, agent, or representative of such a 6995
provider to make reports with respect to an impaired practitioner 6996
participating in treatment or aftercare for substance abuse as 6997
long as the practitioner maintains participation in accordance 6998
with the requirements of section 4731.25 of the Revised Code, and 6999
as long as the treatment provider or employee, agent, or 7000
representative of the provider has no reason to believe that the 7001
practitioner has violated any provision of this chapter or any 7002
rule adopted under it, other than the provisions of division 7003
(B)~~(26)~~(22) of section 4731.22 of the Revised Code. This division 7004
does not require reporting by any member of an impaired 7005
practitioner committee established by a health care facility or by 7006
any representative or agent of a committee or program sponsored by 7007
a professional association or society of individuals authorized to 7008
practice under this chapter to provide peer assistance to 7009
practitioners with substance abuse problems with respect to a 7010
practitioner who has been referred for examination to a treatment 7011
program approved by the board under section 4731.25 of the Revised 7012
Code if the practitioner cooperates with the referral for 7013
examination and with any determination that the practitioner 7014
should enter treatment and as long as the committee member, 7015
representative, or agent has no reason to believe that the 7016
practitioner has ceased to participate in the treatment program in 7017
accordance with section 4731.25 of the Revised Code or has 7018
violated any provision of this chapter or any rule adopted under 7019

it, other than the provisions of division (B)~~(26)~~(22) of section 7020
4731.22 of the Revised Code. 7021

(C) Any professional association or society composed 7022
primarily of doctors of medicine and surgery, doctors of 7023
osteopathic medicine and surgery, doctors of podiatric medicine 7024
and surgery, or practitioners of limited branches of medicine that 7025
suspends or revokes an individual's membership for violations of 7026
professional ethics, or for reasons of professional incompetence 7027
or professional malpractice, within sixty days after a final 7028
decision shall report to the board, on forms prescribed and 7029
provided by the board, the name of the individual, the action 7030
taken by the professional organization, and a summary of the 7031
underlying facts leading to the action taken. 7032

The filing of a report with the board or decision not to file 7033
a report, investigation by the board, or any disciplinary action 7034
taken by the board, does not preclude a professional organization 7035
from taking disciplinary action against an individual. 7036

(D) Any insurer providing professional liability insurance to 7037
an individual authorized to practice under this chapter, or any 7038
other entity that seeks to indemnify the professional liability of 7039
such an individual, shall notify the board within thirty days 7040
after the final disposition of any written claim for damages where 7041
such disposition results in a payment exceeding twenty-five 7042
thousand dollars. The notice shall contain the following 7043
information: 7044

(1) The name and address of the person submitting the 7045
notification; 7046

(2) The name and address of the insured who is the subject of 7047
the claim; 7048

(3) The name of the person filing the written claim; 7049

(4) The date of final disposition; 7050

(5) If applicable, the identity of the court in which the 7051
final disposition of the claim took place. 7052

(E) The board may investigate possible violations of this 7053
chapter or the rules adopted under it that are brought to its 7054
attention as a result of the reporting requirements of this 7055
section, except that the board shall conduct an investigation if a 7056
possible violation involves repeated malpractice. As used in this 7057
division, "repeated malpractice" means three or more claims for 7058
medical malpractice within the previous five-year period, each 7059
resulting in a judgment or settlement in excess of twenty-five 7060
thousand dollars in favor of the claimant, and each involving 7061
negligent conduct by the practicing individual. 7062

(F) All summaries, reports, and records received and 7063
maintained by the board pursuant to this section shall be held in 7064
confidence and shall not be subject to discovery or introduction 7065
in evidence in any federal or state civil action involving a 7066
health care professional or facility arising out of matters that 7067
are the subject of the reporting required by this section. The 7068
board may use the information obtained only as the basis for an 7069
investigation, as evidence in a disciplinary hearing against an 7070
individual whose practice is regulated under this chapter, or in 7071
any subsequent trial or appeal of a board action or order. 7072

The board may disclose the summaries and reports it receives 7073
under this section only to health care facility committees within 7074
or outside this state that are involved in credentialing or 7075
recredentialing the individual or in reviewing the individual's 7076
clinical privileges. The board shall indicate whether or not the 7077
information has been verified. Information transmitted by the 7078
board shall be subject to the same confidentiality provisions as 7079
when maintained by the board. 7080

(G) Except for reports filed by an individual pursuant to 7081
division (B) of this section, the board shall send a copy of any 7082

reports or summaries it receives pursuant to this section to the 7083
individual who is the subject of the reports or summaries. The 7084
individual shall have the right to file a statement with the board 7085
concerning the correctness or relevance of the information. The 7086
statement shall at all times accompany that part of the record in 7087
contention. 7088

(H) An individual or entity that, pursuant to this section, 7089
reports to the board or refers an impaired practitioner to a 7090
treatment provider approved by the board under section 4731.25 of 7091
the Revised Code shall not be subject to suit for civil damages as 7092
a result of the report, referral, or provision of the information. 7093

(I) In the absence of fraud or bad faith, no professional 7094
association or society of individuals authorized to practice under 7095
this chapter that sponsors a committee or program to provide peer 7096
assistance to practitioners with substance abuse problems, no 7097
representative or agent of such a committee or program, and no 7098
member of the state medical board shall be held liable in damages 7099
to any person by reason of actions taken to refer a practitioner 7100
to a treatment provider approved under section 4731.25 of the 7101
Revised Code for examination or treatment. 7102

Sec. 4731.225. If the holder of a certificate issued under 7103
this chapter violates division (A), (B), or (C) of section 4731.66 7104
or section 4731.69 of the Revised Code, or if any other person 7105
violates division (B) or (C) of section 4731.66 or section 4731.69 7106
of the Revised Code, the state medical board, pursuant to an 7107
adjudication under Chapter 119. of the Revised Code and an 7108
affirmative vote of not fewer than six of its members, shall: 7109

(A) For a first violation, impose a civil penalty of not more 7110
than five thousand dollars; 7111

(B) For each subsequent violation, impose a civil penalty of 7112
not more than twenty thousand dollars and, if the violator is a 7113

certificate holder, proceed under division (B)~~(27)~~(23) of section 7114
4731.22 of the Revised Code. 7115

Sec. 4731.226. (A)(1) An individual whom the state medical 7116
board licenses, certificates, or otherwise legally authorizes to 7117
engage in the practice of medicine and surgery, osteopathic 7118
medicine and surgery, or podiatric medicine and surgery may render 7119
the professional services of a doctor of medicine and surgery, 7120
osteopathic medicine and surgery, or podiatric medicine and 7121
surgery within this state through a corporation formed under 7122
division (B) of section 1701.03 of the Revised Code, a limited 7123
liability company formed under Chapter 1705. of the Revised Code, 7124
a partnership, or a professional association formed under Chapter 7125
1785. of the Revised Code. Division (A)(1) of this section does 7126
not preclude an individual of that nature from rendering 7127
professional services as a doctor of medicine and surgery, 7128
osteopathic medicine and surgery, or podiatric medicine and 7129
surgery through another form of business entity, including, but 7130
not limited to, a nonprofit corporation or foundation, or in 7131
another manner that is authorized by or in accordance with this 7132
chapter, another chapter of the Revised Code, or rules of the 7133
state medical board adopted pursuant to this chapter. 7134

(2) An individual whom the state medical board authorizes to 7135
engage in the practice of mechanotherapy may render the 7136
professional services of a mechanotherapist within this state 7137
through a corporation formed under division (B) of section 1701.03 7138
of the Revised Code, a limited liability company formed under 7139
Chapter 1705. of the Revised Code, a partnership, or a 7140
professional association formed under Chapter 1785. of the Revised 7141
Code. Division (A)(2) of this section does not preclude an 7142
individual of that nature from rendering professional services as 7143
a mechanotherapist through another form of business entity, 7144
including, but not limited to, a nonprofit corporation or 7145

foundation, or in another manner that is authorized by or in 7146
accordance with this chapter, another chapter of the Revised Code, 7147
or rules of the state medical board adopted pursuant to this 7148
chapter. 7149

(B) A corporation, limited liability company, partnership, or 7150
professional association described in division (A) of this section 7151
may be formed for the purpose of providing a combination of the 7152
professional services of the following individuals who are 7153
licensed, certificated, or otherwise legally authorized to 7154
practice their respective professions: 7155

(1) Optometrists who are authorized to practice optometry 7156
under Chapter 4725. of the Revised Code; 7157

(2) Chiropractors who are authorized to practice chiropractic 7158
under Chapter 4734. of the Revised Code; 7159

(3) Psychologists who are authorized to practice psychology 7160
under Chapter 4732. of the Revised Code; 7161

(4) Registered or licensed practical nurses who are 7162
authorized to practice nursing as registered nurses or as licensed 7163
practical nurses under Chapter 4723. of the Revised Code; 7164

(5) Pharmacists who are authorized to practice pharmacy under 7165
Chapter 4729. of the Revised Code; 7166

(6) Physical therapists who are authorized to practice 7167
physical therapy under sections 4755.40 to 4755.56 of the Revised 7168
Code; 7169

(7) Occupational therapists who are authorized to practice 7170
occupational therapy under sections 4755.04 to 4755.13 of the 7171
Revised Code; 7172

(8) Mechanotherapists who are authorized to practice 7173
mechanotherapy under section 4731.151 of the Revised Code; 7174

(9) Doctors of medicine and surgery, osteopathic medicine and 7175

surgery, or podiatric medicine and surgery who are authorized for 7176
their respective practices under this chapter. 7177

(C) Division (B) of this section shall apply notwithstanding 7178
a provision of a code of ethics described in division (B)~~(18)~~(14) 7179
of section 4731.22 of the Revised Code that prohibits either of 7180
the following: 7181

(1) A doctor of medicine and surgery, osteopathic medicine 7182
and surgery, or podiatric medicine and surgery from engaging in 7183
the doctor's authorized practice in combination with a person who 7184
is licensed, certificated, or otherwise legally authorized to 7185
engage in the practice of optometry, chiropractic, psychology, 7186
nursing, pharmacy, physical therapy, occupational therapy, or 7187
mechanotherapy, but who is not also licensed, certificated, or 7188
otherwise legally authorized to practice medicine and surgery, 7189
osteopathic medicine and surgery, or podiatric medicine and 7190
surgery. 7191

(2) A mechanotherapist from engaging in the practice of 7192
mechanotherapy in combination with a person who is licensed, 7193
certificated, or otherwise legally authorized to engage in the 7194
practice of optometry, chiropractic, psychology, nursing, 7195
pharmacy, physical therapy, occupational therapy, medicine and 7196
surgery, osteopathic medicine and surgery, or podiatric medicine 7197
and surgery, but who is not also licensed, certificated, or 7198
otherwise legally authorized to engage in the practice of 7199
mechanotherapy. 7200

Sec. 4731.25. The state medical board, in accordance with 7201
Chapter 119. of the Revised Code, shall adopt and may amend and 7202
rescind rules establishing standards for approval of physicians 7203
and facilities as treatment providers for impaired practitioners 7204
who are regulated under this chapter or Chapter 4730., 4760., or 7205
4762. of the Revised Code. The rules shall include standards for 7206

both inpatient and outpatient treatment. The rules shall provide 7207
that in order to be approved, a treatment provider must have the 7208
capability of making an initial examination to determine what type 7209
of treatment an impaired practitioner requires. Subject to the 7210
rules, the board shall review and approve treatment providers on a 7211
regular basis. The board, at its discretion, may withdraw or deny 7212
approval subject to the rules. 7213

An approved impaired practitioner treatment provider shall: 7214

(A) Report to the board the name of any practitioner 7215
suffering or showing evidence of suffering impairment as described 7216
in division (B)(5) of section 4730.25 of the Revised Code, 7217
division (B)~~(26)~~(22) of section 4731.22 of the Revised Code, 7218
division (B)(6) of section 4760.13 of the Revised Code, or 7219
division (B)(6) of section 4762.13 of the Revised Code who fails 7220
to comply within one week with a referral for examination; 7221

(B) Report to the board the name of any impaired practitioner 7222
who fails to enter treatment within forty-eight hours following 7223
the provider's determination that the practitioner needs 7224
treatment; 7225

(C) Require every practitioner who enters treatment to agree 7226
to a treatment contract establishing the terms of treatment and 7227
aftercare, including any required supervision or restrictions of 7228
practice during treatment or aftercare; 7229

(D) Require a practitioner to suspend practice upon entry 7230
into any required inpatient treatment; 7231

(E) Report to the board any failure by an impaired 7232
practitioner to comply with the terms of the treatment contract 7233
during inpatient or outpatient treatment or aftercare; 7234

(F) Report to the board the resumption of practice of any 7235
impaired practitioner before the treatment provider has made a 7236
clear determination that the practitioner is capable of practicing 7237

according to acceptable and prevailing standards of care; 7238

(G) Require a practitioner who resumes practice after 7239
completion of treatment to comply with an aftercare contract that 7240
meets the requirements of rules adopted by the board for approval 7241
of treatment providers; 7242

(H) Report the identity of any practitioner practicing under 7243
the terms of an aftercare contract to hospital administrators, 7244
medical chiefs of staff, and chairpersons of impaired practitioner 7245
committees of all health care institutions at which the 7246
practitioner holds clinical privileges or otherwise practices. If 7247
the practitioner does not hold clinical privileges at any health 7248
care institution, the treatment provider shall report the 7249
practitioner's identity to the impaired practitioner committee of 7250
the county medical society, osteopathic academy, or podiatric 7251
medical association in every county in which the practitioner 7252
practices. If there are no impaired practitioner committees in the 7253
county, the treatment provider shall report the practitioner's 7254
identity to the president or other designated member of the county 7255
medical society, osteopathic academy, or podiatric medical 7256
association. 7257

(I) Report to the board the identity of any practitioner who 7258
suffers a relapse at any time during or following aftercare. 7259

Any individual authorized to practice under this chapter who 7260
enters into treatment by an approved treatment provider shall be 7261
deemed to have waived any confidentiality requirements that would 7262
otherwise prevent the treatment provider from making reports 7263
required under this section. 7264

In the absence of fraud or bad faith, no person or 7265
organization that conducts an approved impaired practitioner 7266
treatment program, no member of such an organization, and no 7267
employee, representative, or agent of the treatment provider shall 7268

be held liable in damages to any person by reason of actions taken 7269
or recommendations made by the treatment provider or its 7270
employees, representatives, or agents. 7271

Sec. 4732.02. The governor, with the advice and consent of 7272
the senate, shall appoint a state board of psychology consisting 7273
of nine persons who are citizens of the United States and 7274
residents of this state. Three members shall be patient advocates 7275
who are not mental health professionals and who either are parents 7276
or other relatives of a person who has received or is receiving 7277
mental health services or are representatives of organizations 7278
that represent persons who have received or are receiving mental 7279
health services. At least one patient advocate member shall be a 7280
parent or other relative of a mental health service recipient, and 7281
at least one patient advocate member shall be a representative of 7282
an organization representing mental health service recipients. 7283
Each of the remaining members shall be a licensed psychologist or 7284
a licensed school psychologist. The terms of the licensed 7285
psychologist and licensed school psychologist members that are in 7286
effect on ~~the effective date of this amendment~~ May 14, 2002, shall 7287
continue as under the law in effect prior to ~~the effective date of~~ 7288
~~this amendment~~ May 14, 2002. Of the patient advocate members whose 7289
positions are created on ~~the effective date of this amendment~~ May 7290
14, 2002, one shall replace the current member who is not a 7291
psychologist or other health professional at the end of that 7292
member's term, one shall be appointed for a term that ends on 7293
October 5, 2003, and one shall be appointed for a term that ends 7294
on October 5, 2006. Thereafter, terms of office for all members 7295
shall be for five years, commencing on the sixth day of October 7296
and ending on the fifth day of October. Each member shall hold 7297
office from the date of appointment until the end of the term for 7298
which the member was appointed. Any member appointed to fill a 7299
vacancy occurring prior to the expiration of the term for which 7300

the member's predecessor was appointed shall hold office for the 7301
remainder of such term. Any member shall continue in office 7302
subsequent to the expiration date of the member's term until the 7303
member's successor takes office, or until a period of sixty days 7304
has elapsed, whichever occurs first. No person shall be appointed 7305
to more than two five-year terms in succession. The licensed 7306
psychologist and licensed school psychologist members of the board 7307
shall be so chosen that they represent the diverse fields of 7308
specialization and practice in the profession of psychology and 7309
the profession of school psychology. The governor may make such 7310
appointments from lists submitted annually by the Ohio 7311
psychological association and by the Ohio school psychologists 7312
association. A vacancy in an unexpired term shall be filled in the 7313
same manner as the original appointment. 7314

The governor may remove any member for malfeasance, 7315
misfeasance, or nonfeasance after a hearing in accordance with 7316
Chapter 119. of the Revised Code. The governor shall remove, after 7317
a hearing in accordance with Chapter 119. of the Revised Code, any 7318
member who has been convicted of or pleaded guilty to the 7319
commission of a ~~felony~~ criminal offense substantially related to 7320
the person's fitness or ability to perform the duties and 7321
responsibilities of a board member under any law of this state, 7322
another state, or the United States. No person may be appointed to 7323
the board who has been convicted of or pleaded guilty to a ~~felony~~ 7324
criminal offense substantially related to the person's fitness or 7325
ability to perform the duties and responsibilities of a board 7326
member under any law of this state, another state, or the United 7327
States. 7328

Sec. 4732.17. (A) The state board of psychology may refuse to 7329
issue a license to any applicant, may issue a reprimand, or 7330
suspend or revoke the license of any licensed psychologist or 7331

licensed school psychologist, on any of the following grounds: 7332

(1) Conviction ~~of a felony, or of any offense involving moral~~ 7333
~~turpitude,~~ in a court of this or any other state or in a federal 7334
court of a criminal offense substantially related to the person's 7335
fitness or ability to perform the duties and responsibilities of a 7336
psychologist or school psychologist; 7337

(2) Using fraud or deceit in the procurement of the license 7338
to practice psychology or school psychology or knowingly assisting 7339
another in the procurement of such a license through fraud or 7340
deceit; 7341

(3) Accepting commissions or rebates or other forms of 7342
remuneration for referring persons to other professionals; 7343

(4) Willful, unauthorized communication of information 7344
received in professional confidence; 7345

(5) Being negligent in the practice of psychology or school 7346
psychology; 7347

(6) Using any controlled substance or alcoholic beverage to 7348
an extent that such use impairs the person's ability to perform 7349
the work of a psychologist or school psychologist with safety to 7350
the public; 7351

(7) Subject to section 4732.28 of the Revised Code, violating 7352
any rule of professional conduct promulgated by the board; 7353

(8) Practicing in an area of psychology for which the person 7354
is clearly untrained or incompetent; 7355

(9) An adjudication by a court, as provided in section 7356
5122.301 of the Revised Code, that the person is incompetent for 7357
the purpose of holding the license. Such person may have the 7358
person's license issued or restored only upon determination by a 7359
court that the person is competent for the purpose of holding the 7360
license and upon the decision by the board that such license be 7361

issued or restored. The board may require an examination prior to 7362
such issuance or restoration. 7363

(10) Waiving the payment of all or any part of a deductible 7364
or copayment that a patient, pursuant to a health insurance or 7365
health care policy, contract, or plan that covers psychological 7366
services, would otherwise be required to pay if the waiver is used 7367
as an enticement to a patient or group of patients to receive 7368
health care services from that provider; 7369

(11) Advertising that the person will waive the payment of 7370
all or any part of a deductible or copayment that a patient, 7371
pursuant to a health insurance or health care policy, contract, or 7372
plan that covers psychological services, would otherwise be 7373
required to pay; 7374

(12) Notwithstanding division (A)(10) and (11) of this 7375
section, sanctions shall not be imposed against any licensee who 7376
waives deductibles and copayments: 7377

(a) In compliance with the health benefit plan that expressly 7378
allows such a practice. Waiver of the deductibles or copays shall 7379
be made only with the full knowledge and consent of the plan 7380
purchaser, payer, and third-party administrator. Such consent 7381
shall be made available to the board upon request. 7382

(b) For professional services rendered to any other person 7383
licensed pursuant to this chapter to the extent allowed by this 7384
chapter and the rules of the board. 7385

(B) Except as provided in section 4732.171 of the Revised 7386
Code, before the board may deny, suspend, or revoke a license 7387
under this section, or otherwise discipline the holder of a 7388
license, written charges shall be filed with the board by the 7389
secretary and a hearing shall be had thereon in accordance with 7390
Chapter 119. of the Revised Code. 7391

Sec. 4733.20. (A) Pursuant to this section, the state board 7392
of registration for professional engineers and surveyors may fine, 7393
revoke, suspend, refuse to renew, or limit the registration, or 7394
reprimand, place on probation, deny an applicant the opportunity 7395
to sit for an examination or to have an examination scored, or 7396
impose any combination of these disciplinary measures on any 7397
applicant or registrant, or revoke the certificate of 7398
authorization of any holder found to be or to have been engaged in 7399
any one or more of the following acts or practices: 7400

(1) Any fraud or deceit in obtaining registration or a 7401
certificate of authorization; 7402

(2) Any gross negligence, incompetency, or misconduct in the 7403
practice of professional engineering or professional surveying as 7404
a registered professional engineer or registered professional 7405
surveyor; 7406

(3) Aiding or abetting any person to practice professional 7407
engineering or professional surveying illegally in the state; 7408

(4) Conviction of or plea of guilty to any ~~felony or crime~~ 7409
involving moral turpitude criminal offense substantially related 7410
to the person's fitness or ability to perform the duties and 7411
responsibilities of an engineer or surveyor; 7412

(5) Violation of this chapter or any rule adopted by the 7413
board; 7414

(6) Violation of any condition of limitation placed by the 7415
board upon the registration of any professional engineer or 7416
professional surveyor; 7417

(7) Failure to abide by or comply with examination 7418
instructions. 7419

(B) The board shall cause to have prepared and shall adopt a 7420
code of ethics, which it shall make known to every registrant. The 7421

board may revise and amend this code of ethics from time to time 7422
in accordance with Chapter 119. of the Revised Code. 7423

(C) Any person may file with the board a complaint alleging 7424
fraud, deceit, gross negligence, incompetency, misconduct, or 7425
violation of this chapter or any rule adopted by the board 7426
pursuant to section 4733.07 of the Revised Code. Complaints shall 7427
be in writing. 7428

(D) The board may investigate any registrant or holder of a 7429
certificate of authorization to determine whether the registrant 7430
or certificate holder is or has been engaged in any one or more of 7431
the acts or practices listed in division (A) of this section. The 7432
board, by subpoena, may compel witnesses to appear and testify in 7433
relation to any investigation under this chapter and may require, 7434
by subpoena duces tecum, the production and copying of any book, 7435
paper, or document pertaining to an investigation. If a person 7436
fails to comply with the subpoena or subpoena duces tecum, the 7437
board may apply to the Franklin county court of common pleas for 7438
an order compelling the person to comply or, for the failure to do 7439
so, to be held in contempt of court. 7440

(E) If the board determines there is cause to believe that an 7441
applicant, registrant, or a holder of a certificate of 7442
authorization is or has been engaged in any act or practice listed 7443
in division (A) of this section, the board shall issue a written 7444
charge and notify the applicant, registrant, or certificate holder 7445
of the right to an adjudication hearing, in accordance with 7446
Chapter 119. of the Revised Code. If the accused applicant, 7447
registrant, or holder of a certificate of authorization fails or 7448
refuses to appear, or does not request a hearing within the time 7449
period specified in Chapter 119. of the Revised Code, the board 7450
may determine the validity of the charge and issue an adjudication 7451
order in accordance with Chapter 119. of the Revised Code. 7452

(F) If a majority of the board votes in favor of sustaining 7453

the charge, the board shall impose one or any combination of the 7454
following disciplinary measures: 7455

(1) Reprimanding the individual; 7456

(2) Imposing a fine on the individual of not more than one 7457
thousand dollars for each offense committed by the individual; 7458

(3) Refusing to renew, suspending, or revoking the 7459
individual's registration, or revoking the holder's certificate of 7460
authorization; 7461

(4) Refusing to allow an applicant to take an examination; 7462

(5) Refusing to score an applicant's examination. 7463

The board, for good cause shown, may reregister any person or 7464
reissue a certificate of authorization to any corporation, firm, 7465
partnership, association, or limited liability company whose 7466
registration or certificate has been revoked or suspended. 7467

(G) Any applicant, registrant, or certificate holder 7468
aggrieved by any action of the board in fining the registrant or 7469
denying, suspending, refusing to renew, or revoking the 7470
registrant's registration or a certificate of authorization, or 7471
denying an applicant the opportunity to take an examination or to 7472
have an examination scored may appeal such action to the proper 7473
court under section 119.12 of the Revised Code. 7474

(H) A new certificate of authorization to replace any 7475
certificate revoked, lost, destroyed, or mutilated, may be issued, 7476
subject to the rules of the board, upon payment of a fee 7477
established by the board at an amount adequate to cover the 7478
expense of issuing a duplicate certificate of authorization. 7479

Sec. 4734.31. (A) The state chiropractic board may take any 7480
of the actions specified in division (B) of this section against 7481
an individual who has applied for or holds a license to practice 7482
chiropractic in this state if any of the reasons specified in 7483

division (C) of this section for taking action against an 7484
individual are applicable. Except as provided in division (D) of 7485
this section, actions taken against an individual shall be taken 7486
in accordance with Chapter 119. of the Revised Code. The board may 7487
specify that any action it takes is a permanent action. The 7488
board's authority to take action against an individual is not 7489
removed or limited by the individual's failure to renew a license. 7490

(B) In its imposition of sanctions against an individual, the 7491
board may do any of the following: 7492

(1) Refuse to issue, renew, restore, or reinstate a license 7493
to practice chiropractic; 7494

(2) Reprimand or censure a license holder; 7495

(3) Place limits, restrictions, or probationary conditions on 7496
a license holder's practice; 7497

(4) Impose a civil fine of not more than five thousand 7498
dollars according to a schedule of fines specified in rules that 7499
the board shall adopt in accordance with ~~chapter~~ Chapter 119. of 7500
the Revised Code. 7501

(5) Suspend a license for a limited or indefinite period; 7502

(6) Revoke a license. 7503

(C) The board may take the actions specified in division (B) 7504
of this section for any of the following reasons: 7505

(1) A plea of guilty to, a judicial finding of guilt of, or a 7506
judicial finding of eligibility for intervention in lieu of 7507
conviction for, ~~a felony~~ criminal offense substantially related to 7508
the person's fitness or ability to perform the duties and 7509
responsibilities of a chiropractor in any jurisdiction, in which 7510
case a certified copy of the court record shall be conclusive 7511
evidence of the conviction; 7512

(2) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

~~(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter;~~

~~(4) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~

~~(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice, in which case a certified copy of the court record shall be conclusive evidence of the matter;~~

~~(6) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~

~~(7) A violation or attempted violation of this chapter or the rules adopted under it governing the practice of chiropractic;~~

~~(8)~~(4) Failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if the board or a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

~~(9)~~(5) Engaging in an ongoing professional relationship with

a person or entity that violates any provision of this chapter or 7544
the rules adopted under it, unless the chiropractor makes a good 7545
faith effort to have the person or entity comply with the 7546
provisions; 7547

~~(10)~~(6) Retaliating against a chiropractor for the 7548
chiropractor's reporting to the board or any other agency with 7549
jurisdiction any violation of the law or for cooperating with the 7550
board of another agency in the investigation of any violation of 7551
the law; 7552

~~(11)~~(7) Aiding, abetting, assisting, counseling, or 7553
conspiring with any person in that person's violation of any 7554
provision of this chapter or the rules adopted under it, including 7555
the practice of chiropractic without a license, or aiding, 7556
abetting, assisting, counseling, or conspiring with any person in 7557
that person's unlicensed practice of any other health care 7558
profession that has licensing requirements; 7559

~~(12)~~(8) With respect to a report or record that is made, 7560
filed, or signed in connection with the practice of chiropractic, 7561
knowingly making or filing a report or record that is false, 7562
intentionally or negligently failing to file a report or record 7563
required by federal, state, or local law or willfully impeding or 7564
obstructing the required filing, or inducing another person to 7565
engage in any such acts; 7566

~~(13)~~(9) Making a false, fraudulent, or deceitful statement to 7567
the board or any agent of the board during any investigation or 7568
other official proceeding conducted by the board under this 7569
chapter or in any filing that must be submitted to the board; 7570

~~(14)~~(10) Attempting to secure a license or to corrupt the 7571
outcome of an official board proceeding through bribery or any 7572
other improper means; 7573

~~(15)~~(11) Willfully obstructing or hindering the board or any 7574

agent of the board in the discharge of the board's duties; 7575

~~(16)~~(12) Habitually using drugs or intoxicants to the extent 7576
that the person is rendered unfit for the practice of 7577
chiropractic; 7578

~~(17)~~(13) Inability to practice chiropractic according to 7579
acceptable and prevailing standards of care by reason of chemical 7580
dependency, mental illness, or physical illness, including 7581
conditions in which physical deterioration has adversely affected 7582
the person's cognitive, motor, or perceptive skills and conditions 7583
in which a chiropractor's continued practice may pose a danger to 7584
the chiropractor or the public; 7585

~~(18)~~(14) Any act constituting gross immorality relative to 7586
the person's practice of chiropractic, including acts involving 7587
sexual abuse, sexual misconduct, or sexual exploitation; 7588

~~(19)~~(15) Exploiting a patient for personal or financial gain; 7589

~~(20)~~(16) Failing to maintain proper, accurate, and legible 7590
records in the English language documenting each patient's care, 7591
including, as appropriate, records of the following: dates of 7592
treatment, services rendered, examinations, tests, x-ray reports, 7593
referrals, and the diagnosis or clinical impression and clinical 7594
treatment plan provided to the patient; 7595

~~(21)~~(17) Except as otherwise required by the board or by law, 7596
disclosing patient information gained during the chiropractor's 7597
professional relationship with a patient without obtaining the 7598
patient's authorization for the disclosure; 7599

~~(22)~~(18) Commission of willful or gross malpractice, or 7600
willful or gross neglect, in the practice of chiropractic; 7601

~~(23)~~(19) Failing to perform or negligently performing an act 7602
recognized by the board as a general duty or the exercise of due 7603
care in the practice of chiropractic, regardless of whether injury 7604

results to a patient from the failure to perform or negligent performance of the act; 7605
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~~(24)~~(20) Engaging in any conduct or practice that impairs or may impair the ability to practice chiropractic safely and skillfully; 7607
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~~(25)~~(21) Practicing, or claiming to be capable of practicing, beyond the scope of the practice of chiropractic as established under this chapter and the rules adopted under this chapter; 7610
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~~(26)~~(22) Accepting and performing professional responsibilities as a chiropractor when not qualified to perform those responsibilities, if the person knew or had reason to know that the person was not qualified to perform them; 7613
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~~(27)~~(23) Delegating any of the professional responsibilities of a chiropractor to an employee or other individual when the delegating chiropractor knows or had reason to know that the employee or other individual is not qualified by training, experience, or professional licensure to perform the responsibilities; 7617
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~~(28)~~(24) Delegating any of the professional responsibilities of a chiropractor to an employee or other individual in a negligent manner or failing to provide proper supervision of the employee or other individual to whom the responsibilities are delegated; 7623
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~~(29)~~(25) Failing to refer a patient to another health care practitioner for consultation or treatment when the chiropractor knows or has reason to know that the referral is in the best interest of the patient; 7628
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~~(30)~~(26) Obtaining or attempting to obtain any fee or other advantage by fraud or misrepresentation; 7632
7633

~~(31)~~(27) Making misleading, deceptive, false, or fraudulent 7634

representations in the practice of chiropractic; 7635

~~(32)~~(28) Being guilty of false, fraudulent, deceptive, or 7636
misleading advertising or other solicitations for patients or 7637
knowingly having professional connection with any person that 7638
advertises or solicits for patients in such a manner; 7639

~~(33)~~(29) Violation of a provision of any code of ethics 7640
established or adopted by the board under section 4734.16 of the 7641
Revised Code; 7642

~~(34)~~(30) Failing to meet the examination requirements for 7643
receipt of a license specified under section 4734.20 of the 7644
Revised Code; 7645

~~(35)~~(31) Actions taken for any reason, other than nonpayment 7646
of fees, by the chiropractic licensing authority of another state 7647
or country; 7648

~~(36)~~(32) Failing to maintain clean and sanitary conditions at 7649
the clinic, office, or other place in which chiropractic services 7650
are provided; 7651

~~(37)~~(33) Except as provided in division (G) of this section: 7652

(a) Waiving the payment of all or any part of a deductible or 7653
copayment that a patient, pursuant to a health insurance or health 7654
care policy, contract, or plan that covers the chiropractor's 7655
services, otherwise would be required to pay if the waiver is used 7656
as an enticement to a patient or group of patients to receive 7657
health care services from that chiropractor; 7658

(b) Advertising that the chiropractor will waive the payment 7659
of all or any part of a deductible or copayment that a patient, 7660
pursuant to a health insurance or health care policy, contract, or 7661
plan that covers the chiropractor's services, otherwise would be 7662
required to pay. 7663

(D) The adjudication requirements of Chapter 119. of the 7664

Revised Code apply to the board when taking actions against an individual under this section, except as follows:

(1) An applicant is not entitled to an adjudication for failing to meet the conditions specified under section 4734.20 of the Revised Code for receipt of a license that involve the board's examination on jurisprudence or the examinations of the national board of chiropractic examiners.

(2) A person is not entitled to an adjudication if the person fails to make a timely request for a hearing, in accordance with Chapter 119. of the Revised Code.

(3) In lieu of an adjudication, the board may accept the surrender of a license from a chiropractor.

(4) 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 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.

(E) This section does not require the board to hire, contract with, or retain the services of an expert witness when the board takes action against a chiropractor concerning compliance with acceptable and prevailing standards of care. As part of an action taken concerning compliance with acceptable and prevailing standards of care, the board may rely on the knowledge of its members for purposes of making a determination of compliance, notwithstanding any expert testimony presented by the chiropractor that contradicts the knowledge and opinions of the members of the board.

(F) The sealing of conviction records by a court shall have

no effect on a prior board order entered under this section or on 7696
the board's jurisdiction to take action under this section if, 7697
based on a plea of guilty, a judicial finding of guilt, or a 7698
judicial finding of eligibility for intervention in lieu of 7699
conviction, the board issued a notice of opportunity for a hearing 7700
prior to the court's order to seal the records. The board shall 7701
not be required to seal, destroy, redact, or otherwise modify its 7702
records to reflect the court's sealing of conviction records. 7703

(G) Actions shall not be taken pursuant to division 7704
(C)~~(37)~~(33) of this section against any chiropractor who waives 7705
deductibles and copayments as follows: 7706

(1) In compliance with the health benefit plan that expressly 7707
allows a practice of that nature. Waiver of the deductibles or 7708
copayments shall be made only with the full knowledge and consent 7709
of the plan purchaser, payer, and third-party administrator. 7710
Documentation of the consent shall be made available to the board 7711
upon request. 7712

(2) For professional services rendered to any other person 7713
licensed pursuant to this chapter, to the extent allowed by this 7714
chapter and the rules of the board. 7715

Sec. 4734.39. (A) For purposes of the state chiropractic 7716
board's enforcement of division (C)~~(16)~~(12) or ~~(17)~~(13) of section 7717
4734.31 of the Revised Code, an individual who applies for or 7718
receives a license under this chapter accepts the privilege of 7719
practicing chiropractic in this state and, by so doing, shall be 7720
deemed to have given consent to submit to a mental or physical 7721
examination when directed to do so in writing by the board in its 7722
enforcement of those divisions, and to have waived all objections 7723
to the admissibility of testimony or examination reports that 7724
constitute a privileged communication. 7725

(B) If the board has reason to believe that a chiropractor or 7726

applicant suffers an impairment described in division (C)~~(16)~~(12) 7727
or ~~(17)~~(13) of section 4734.31 of the Revised Code, the board may 7728
compel the individual to submit to a mental or physical 7729
examination, or both. The expense of the examination is the 7730
responsibility of the individual compelled to be examined. Any 7731
mental or physical examination required under this section shall 7732
be undertaken by a provider who is qualified to conduct the 7733
examination and who is chosen by the board. 7734

Failure to submit to a mental or physical examination ordered 7735
by the board constitutes an admission of the allegations against 7736
the individual unless the failure is due to circumstances beyond 7737
the individual's control. A default and final order may be entered 7738
without the taking of testimony or presentation of evidence. 7739

If the board determines that an individual's ability to 7740
practice is impaired, the board shall suspend the individual's 7741
license or deny the individual's application and shall require the 7742
individual, as a condition for initial, continued, reinstated, 7743
restored, or renewed certification to practice, to submit to care, 7744
counseling, or treatment. 7745

(C) Before being eligible to apply for reinstatement of a 7746
license suspended under division (C)~~(16)~~(12) of section 4734.31 of 7747
the Revised Code or the chemical dependency provisions of division 7748
(C)~~(17)~~(13) of section 4731.34 of the Revised Code, the impaired 7749
individual shall demonstrate to the board the ability to resume 7750
practice in compliance with acceptable and prevailing standards of 7751
care in the practice of chiropractic. If rules have been adopted 7752
under section 4734.40 of the Revised Code, the demonstration shall 7753
include, but shall not be limited to, the following: 7754

(1) Certification from a treatment provider approved under 7755
section 4734.40 of the Revised Code that the individual has 7756
successfully completed any required inpatient treatment; 7757

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement; 7758
7759

(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination. 7760
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The board may reinstate a license suspended under this division after that demonstration and after the individual has entered into a written consent agreement. 7766
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When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety. 7769
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Sec. 4735.07. (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination. 7778
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(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that the applicant: 7784
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7786

(1) Is honest, truthful, and of good reputation; 7787

(2)(a) Has not been convicted of a ~~felony or crime of moral~~ 7788
~~turpitude~~ criminal offense substantially related to the person's 7789
fitness or ability to perform the duties and responsibilities of a 7790
real estate broker, or if the applicant has been so convicted, the 7791
superintendent has disregarded the conviction because the 7792
applicant has proven to the superintendent, by a preponderance of 7793
the evidence, that the applicant's activities and employment 7794
record since the conviction show that the applicant is honest, 7795
truthful, and of good reputation, and there is no basis in fact 7796
for believing that the applicant again will violate the laws 7797
involved; 7798

(b) Has not been finally adjudged by a court to have violated 7799
any municipal, state, or federal civil rights laws relevant to the 7800
protection of purchasers or sellers of real estate or, if the 7801
applicant has been so adjudged, at least two years have passed 7802
since the court decision and the superintendent has disregarded 7803
the adjudication because the applicant has proven, by a 7804
preponderance of the evidence, that the applicant's activities and 7805
employment record since the adjudication show that the applicant 7806
is honest, truthful, and of good reputation, and there is no basis 7807
in fact for believing that the applicant will again violate the 7808
laws involved. 7809

(3) Has not, during any period in which the applicant was 7810
licensed under this chapter, violated any provision of, or any 7811
rule adopted pursuant to, this chapter, or, if the applicant has 7812
violated any such provision or rule, has established to the 7813
satisfaction of the superintendent that the applicant will not 7814
again violate such provision or rule; 7815

(4) Is at least eighteen years of age; 7816

(5) Has been a licensed real estate broker or salesperson for 7817
at least two years; during at least two of the five years 7818
preceding the person's application, has worked as a licensed real 7819

estate broker or salesperson for an average of at least thirty 7820
hours per week; and has completed one of the following: 7821

(a) At least twenty real estate transactions, in which 7822
property was sold for another by the applicant while acting in the 7823
capacity of a real estate broker or salesperson; 7824

(b) Such equivalent experience as is defined by rules adopted 7825
by the commission. 7826

(6)(a) If licensed as a real estate salesperson prior to 7827
August 1, 2001, successfully has completed at an institution of 7828
higher education all of the following: 7829

(i) Thirty hours of classroom instruction in real estate 7830
practice; 7831

(ii) Thirty hours of classroom instruction that includes the 7832
subjects of Ohio real estate law, municipal, state, and federal 7833
civil rights law, new case law on housing discrimination, 7834
desegregation issues, and methods of eliminating the effects of 7835
prior discrimination. If feasible, the classroom instruction in 7836
Ohio real estate law shall be taught by a member of the faculty of 7837
an accredited law school. If feasible, the classroom instruction 7838
in municipal, state, and federal civil rights law, new case law on 7839
housing discrimination, desegregation issues, and methods of 7840
eliminating the effects of prior discrimination shall be taught by 7841
a staff member of the Ohio civil rights commission who is 7842
knowledgeable with respect to those subjects. The requirements of 7843
this division do not apply to an applicant who is admitted to 7844
practice before the supreme court. 7845

(iii) Thirty hours of classroom instruction in real estate 7846
appraisal; 7847

(iv) Thirty hours of classroom instruction in real estate 7848
finance; 7849

(v) Three quarter hours, or its equivalent in semester hours, in financial management;	7850 7851
(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;	7852 7853
(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;	7854 7855
(viii) Three quarter hours, or its equivalent in semester hours, in business law.	7856 7857
(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:	7858 7859 7860
(i) Forty hours of classroom instruction in real estate practice;	7861 7862
(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.	7863 7864 7865 7866 7867 7868 7869 7870 7871 7872 7873 7874 7875 7876
(iii) Twenty hours of classroom instruction in real estate appraisal;	7877 7878
(iv) Twenty hours of classroom instruction in real estate	7879

finance; 7880

(v) The training in the amount of hours specified under 7881
divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 7882

(c) Division (B)(6)(a) or (b) of this section does not apply 7883
to any applicant who holds a valid real estate salesperson's 7884
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 7885
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 7886
do not apply to any applicant who holds a valid real estate 7887
salesperson's license issued prior to January 3, 1984. 7888

(7) If licensed as a real estate salesperson on or after 7889
January 3, 1984, satisfactorily has completed a minimum of two 7890
years of post-secondary education, or its equivalent in semester 7891
or quarter hours, at an institution of higher education, and has 7892
fulfilled the requirements of division (B)(6)(a) or (b) of this 7893
section. The requirements of division (B)(6)(a) or (b) of this 7894
section may be included in the two years of post-secondary 7895
education, or its equivalent in semester or quarter hours, that is 7896
required by this division. 7897

(C) Each applicant for a broker's license shall be examined 7898
in the principles of real estate practice, Ohio real estate law, 7899
and financing and appraisal, and as to the duties of real estate 7900
brokers and real estate salespersons, the applicant's knowledge of 7901
real estate transactions and instruments relating to them, and the 7902
canons of business ethics pertaining to them. The commission from 7903
time to time shall promulgate such canons and cause them to be 7904
published in printed form. 7905

(D) Examinations shall be administered with reasonable 7906
accommodations in accordance with the requirements of the 7907
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 7908
U.S.C. 12101. The contents of an examination shall be consistent 7909
with the requirements of division (B)(6) of this section and with 7910

the other specific requirements of this section. An applicant who 7911
has completed the requirements of division (B)(6) of this section 7912
at the time of application shall be examined no later than twelve 7913
months after the applicant is notified of admission to the 7914
examination. 7915

(E) The superintendent may waive one or more of the 7916
requirements of this section in the case of an application from a 7917
nonresident real estate broker pursuant to a reciprocity agreement 7918
with the licensing authority of the state from which the 7919
nonresident applicant holds a valid real estate broker license. 7920

(F) There shall be no limit placed on the number of times an 7921
applicant may retake the examination. 7922

(G)(1) No later than twelve months after the date of issue of 7923
a real estate broker's license to a licensee, the licensee shall 7924
submit proof satisfactory to the superintendent, on forms made 7925
available by the superintendent, of the completion of ten hours of 7926
classroom instruction in real estate brokerage at an institution 7927
of higher education or any other institution that is approved by 7928
the commission. That instruction shall include, but not be limited 7929
to, current issues in managing a real estate company or office. 7930

If the required proof of completion is not submitted to the 7931
superintendent within twelve months of the date a license is 7932
issued under this section, the license of the real estate broker 7933
is suspended automatically without the taking of any action by the 7934
superintendent. The broker's license shall not be reactivated by 7935
the superintendent until it is established, to the satisfaction of 7936
the superintendent, that the requirements of this division have 7937
been met and that the licensee is in compliance with this chapter. 7938
A licensee's license is revoked automatically without the taking 7939
of any action by the superintendent if the licensee fails to 7940
submit proof of completion of the education requirements specified 7941
under division (G)(1) of this section within twelve months of the 7942

date the license is suspended. 7943

(2) If the license of a real estate broker is suspended 7944
pursuant to division (G)(1) of this section, the license of a real 7945
estate salesperson associated with that broker correspondingly is 7946
suspended pursuant to division (H) of section 4735.20 of the 7947
Revised Code. However, the suspended license of the associated 7948
real estate salesperson shall be reactivated and no fee shall be 7949
charged or collected for that reactivation if all of the following 7950
occur: 7951

(a) That broker subsequently submits satisfactory proof to 7952
the superintendent that the broker has complied with the 7953
requirements of division (G)(1) of this section and requests that 7954
the broker's license as a real estate broker be reactivated; 7955

(b) The superintendent then reactivates the broker's license 7956
as a real estate broker; 7957

(c) The associated real estate salesperson intends to 7958
continue to be associated with that broker and otherwise is in 7959
compliance with this chapter. 7960

Sec. 4735.09. (A) Application for a license as a real estate 7961
salesperson shall be made to the superintendent of real estate on 7962
forms furnished by the superintendent and signed by the applicant. 7963
The application shall be in the form prescribed by the 7964
superintendent and shall contain such information as is required 7965
by this chapter and the rules of the Ohio real estate commission. 7966
The application shall be accompanied by the recommendation of the 7967
real estate broker with whom the applicant is associated or with 7968
whom the applicant intends to be associated, certifying that the 7969
applicant is honest, truthful, and of good reputation, has not 7970
been convicted of a ~~felony or a crime involving moral turpitude~~ 7971
criminal offense substantially related to the applicant's fitness 7972
or ability to perform the duties and responsibilities of a real 7973

estate salesperson, and has not been finally adjudged by a court 7974
to have violated any municipal, state, or federal civil rights 7975
laws relevant to the protection of purchasers or sellers of real 7976
estate, which conviction or adjudication the applicant has not 7977
disclosed to the superintendent, and recommending that the 7978
applicant be admitted to the real estate salesperson examination. 7979

(B) A fee of forty-nine dollars shall accompany the 7980
application, which fee includes the fee for the initial year of 7981
the licensing period, if a license is issued. The application fee 7982
shall be retained by the superintendent if the applicant is 7983
admitted to the examination for the license or the examination 7984
requirement is waived, but, if an applicant is not so admitted and 7985
a waiver is not involved, one-half of the fee shall be retained by 7986
the superintendent to cover the expenses of processing the 7987
application and the other one-half shall be returned to the 7988
applicant. A fee of forty-nine dollars shall be charged by the 7989
superintendent for each successive application made by the 7990
applicant. Four dollars of each application fee shall be credited 7991
to the real estate education and research fund. 7992

(C) There shall be no limit placed on the number of times an 7993
applicant may retake the examination. 7994

(D) The superintendent, with the consent of the commission, 7995
may enter into an agreement with a recognized national testing 7996
service to administer the real estate salesperson's examination 7997
under the superintendent's supervision and control, consistent 7998
with the requirements of this chapter as to the contents of the 7999
examination. 8000

If the superintendent, with the consent of the commission, 8001
enters into an agreement with a national testing service to 8002
administer the real estate salesperson's examination, the 8003
superintendent may require an applicant to pay the testing 8004
service's examination fee directly to the testing service. If the 8005

superintendent requires the payment of the examination fee 8006
directly to the testing service, each applicant shall submit to 8007
the superintendent a processing fee in an amount determined by the 8008
Ohio real estate commission pursuant to division (A)(1) of section 8009
4735.10 of the Revised Code. 8010

(E) The superintendent shall issue a real estate 8011
salesperson's license when satisfied that the applicant has 8012
received a passing score on each portion of the salesperson's 8013
examination as determined by rule by the real estate commission, 8014
except that the superintendent may waive one or more of the 8015
requirements of this section in the case of an applicant who is a 8016
licensed real estate salesperson in another state pursuant to a 8017
reciprocity agreement with the licensing authority of the state 8018
from which the applicant holds a valid real estate salesperson's 8019
license. 8020

(F) No applicant for a salesperson's license shall take the 8021
salesperson's examination who has not established to the 8022
satisfaction of the superintendent that the applicant: 8023

(1) Is honest, truthful, and of good reputation; 8024

(2)(a) Has not been convicted of a ~~felony or crime of moral~~ 8025
~~turpitude~~ criminal offense substantially related to the 8026
applicant's fitness or ability to perform the duties and 8027
responsibilities of a real estate salesperson or, if the applicant 8028
has been so convicted, the superintendent has disregarded the 8029
conviction because the applicant has proven to the superintendent, 8030
by a preponderance of the evidence, that the applicant's 8031
activities and employment record since the conviction show that 8032
the applicant is honest, truthful, and of good reputation, and 8033
there is no basis in fact for believing that the applicant again 8034
will violate the laws involved; 8035

(b) Has not been finally adjudged by a court to have violated 8036

any municipal, state, or federal civil rights laws relevant to the 8037
protection of purchasers or sellers of real estate or, if the 8038
applicant has been so adjudged, at least two years have passed 8039
since the court decision and the superintendent has disregarded 8040
the adjudication because the applicant has proven, by a 8041
preponderance of the evidence, that the applicant is honest, 8042
truthful, and of good reputation, and there is no basis in fact 8043
for believing that the applicant again will violate the laws 8044
involved. 8045

(3) Has not, during any period in which the applicant was 8046
licensed under this chapter, violated any provision of, or any 8047
rule adopted pursuant to this chapter, or, if the applicant has 8048
violated such provision or rule, has established to the 8049
satisfaction of the superintendent that the applicant will not 8050
again violate such provision or rule; 8051

(4) Is at least eighteen years of age; 8052

(5) If born after the year 1950, has a high school diploma or 8053
its equivalent as recognized by the state department of education; 8054

(6)(a) If beginning instruction prior to August 1, 2001, has 8055
successfully completed at an institution of higher education all 8056
of the following: 8057

(i) Thirty hours of classroom instruction in real estate 8058
practice; 8059

(ii) Thirty hours of classroom instruction that includes the 8060
subjects of Ohio real estate law, municipal, state, and federal 8061
civil rights law, new case law on housing discrimination, 8062
desegregation issues, and methods of eliminating the effects of 8063
prior discrimination. If feasible, the classroom instruction in 8064
Ohio real estate law shall be taught by a member of the faculty of 8065
an accredited law school. If feasible, the classroom instruction 8066
in municipal, state, and federal civil rights law, new case law on 8067

housing discrimination, desegregation issues, and methods of 8068
eliminating the effects of prior discrimination shall be taught by 8069
a staff member of the Ohio civil rights commission who is 8070
knowledgeable with respect to those subjects. The requirements of 8071
this division do not apply to an applicant who is admitted to 8072
practice before the supreme court. 8073

(iii) Thirty hours of classroom instruction in real estate 8074
appraisal; 8075

(iv) Thirty hours of classroom instruction in real estate 8076
finance. 8077

(b) Any person who has not been licensed as a real estate 8078
salesperson or broker within a four-year period immediately 8079
preceding the person's current application for the salesperson's 8080
examination shall have successfully completed the classroom 8081
instruction required by division (F)(6)(a) of this section within 8082
a ten-year period immediately preceding the person's current 8083
application for the salesperson's examination. 8084

(7) If beginning instruction, as determined by the 8085
superintendent, on or after August 1, 2001, has successfully 8086
completed at an institution of higher education all of the 8087
following: 8088

(a) Forty hours of classroom instruction in real estate 8089
practice; 8090

(b) Forty hours of classroom instruction that includes the 8091
subjects of Ohio real estate law, municipal, state, and federal 8092
civil rights law, new case law on housing discrimination, 8093
desegregation issues, and methods of eliminating the effects of 8094
prior discrimination. If feasible, the classroom instruction in 8095
Ohio real estate law shall be taught by a member of the faculty of 8096
an accredited law school. If feasible, the classroom instruction 8097
in municipal, state, and federal civil rights law, new case law on 8098

housing discrimination, desegregation issues, and methods of 8099
eliminating the effects of prior discrimination shall be taught by 8100
a staff member of the Ohio civil rights commission who is 8101
knowledgeable with respect to those subjects. The requirements of 8102
this division do not apply to an applicant who is admitted to 8103
practice before the supreme court. 8104

(c) Twenty hours of classroom instruction in real estate 8105
appraisal; 8106

(d) Twenty hours of classroom instruction in real estate 8107
finance. 8108

(G) No later than twelve months after the date of issue of a 8109
real estate salesperson license to a licensee, the licensee shall 8110
submit proof satisfactory to the superintendent, on forms made 8111
available by the superintendent, of completion, at an institution 8112
of higher education or any other institution approved by the 8113
commission, of ten hours of classroom instruction in real estate 8114
courses that cover current issues regarding consumers, real estate 8115
practice, ethics, and real estate law. 8116

If proof of completion of the required instruction is not 8117
submitted within twelve months of the date a license is issued 8118
under this section, the licensee's license is suspended 8119
automatically without the taking of any action by the 8120
superintendent. The superintendent immediately shall notify the 8121
broker with whom such salesperson is associated of the suspension 8122
of the salesperson's license. A salesperson whose license has been 8123
suspended under this division shall have twelve months after the 8124
date of the suspension of the salesperson's license to submit 8125
proof of successful completion of the instruction required under 8126
this division. No such license shall be reactivated by the 8127
superintendent until it is established, to the satisfaction of the 8128
superintendent, that the requirements of this division have been 8129
met and that the licensee is in compliance with this chapter. A 8130

licensee's license is revoked automatically without the taking of 8131
any action by the superintendent when the licensee fails to submit 8132
the required proof of completion of the education requirements 8133
under division (G) of this section within twelve months of the 8134
date the license is suspended. 8135

(H) Examinations shall be administered with reasonable 8136
accommodations in accordance with the requirements of the 8137
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 8138
U.S.C. 12101. The contents of an examination shall be consistent 8139
with the classroom instructional requirements of division (F)(6) 8140
or (7) of this section. An applicant who has completed the 8141
classroom instructional requirements of division (F)(6) or (7) of 8142
this section at the time of application shall be examined no later 8143
than twelve months after the applicant is notified of the 8144
applicant's admission to the examination. 8145

Sec. 4735.13. (A) The license of a real estate broker shall 8146
be prominently displayed in the office or place of business of the 8147
broker, and no license shall authorize the licensee to do business 8148
except from the location specified in it. If the broker maintains 8149
more than one place of business within the state, the broker shall 8150
apply for and procure a duplicate license for each branch office 8151
maintained by the broker. Each branch office shall be in the 8152
charge of a licensed broker or salesperson. The branch office 8153
license shall be prominently displayed at the branch office 8154
location. 8155

(B) The license of each real estate salesperson shall be 8156
mailed to and remain in the possession of the licensed broker with 8157
whom the salesperson is or is to be associated until the licensee 8158
places the license on inactive status or until the salesperson 8159
leaves the brokerage or is terminated. The broker shall keep each 8160
salesperson's license in a way that it can, and shall on request, 8161

be made immediately available for public inspection at the office 8162
or place of business of the broker. Except as provided in 8163
divisions (G) and (H) of this section, immediately upon the 8164
salesperson's leaving the association or termination of the 8165
association of a real estate salesperson with the broker, the 8166
broker shall return the salesperson's license to the 8167
superintendent of real estate. 8168

The failure of a broker to return the license of a real 8169
estate salesperson or broker who leaves or who is terminated, via 8170
certified mail return receipt requested, within three business 8171
days of the receipt of a written request from the superintendent 8172
for the return of the license, is prima-facie evidence of 8173
misconduct under division (A)(6) of section 4735.18 of the Revised 8174
Code. 8175

(C) Any licensee who is convicted of a ~~felony or a crime~~ 8176
involving moral turpitude criminal offense substantially related 8177
to the person's fitness or ability to perform the duties and 8178
responsibilities of a real estate broker or salesperson or of 8179
violating any federal, state, or municipal civil rights law 8180
pertaining to discrimination in housing, or any court that issues 8181
a finding of an unlawful discriminatory practice pertaining to 8182
housing accommodations described in division (H) of section 8183
4112.02 of the Revised Code or that convicts a licensee of a 8184
violation of any municipal civil rights law pertaining to housing 8185
discrimination, shall notify the superintendent of the conviction 8186
or finding within fifteen days. If a licensee fails to notify the 8187
superintendent within the required time, the superintendent 8188
immediately may revoke the license of the licensee. 8189

Any court that convicts a licensee of a violation of any 8190
municipal civil rights law pertaining to housing discrimination 8191
also shall notify the Ohio civil rights commission within fifteen 8192
days of the conviction. 8193

(D) In case of any change of business location, a broker 8194
shall give notice in writing to the superintendent, whereupon the 8195
superintendent shall issue new licenses for the unexpired period 8196
without charge. If a broker changes a business location without 8197
giving the required notice and without receiving new licenses that 8198
action is prima-facie evidence of misconduct under division (A)(6) 8199
of section 4735.18 of the Revised Code. 8200

(E) If a real estate broker desires to associate with another 8201
real estate broker in the capacity of a real estate salesperson, 8202
the broker shall apply to the superintendent to deposit the 8203
broker's real estate broker's license with the superintendent and 8204
for the issuance of a real estate salesperson's license. The 8205
application shall be made on a form prescribed by the 8206
superintendent and shall be accompanied by the recommendation of 8207
the real estate broker with whom the applicant intends to become 8208
associated and a fee of twenty-five dollars for the real estate 8209
salesperson's license. Four dollars of the fee shall be credited 8210
to the real estate education and research fund. If the 8211
superintendent is satisfied that the applicant is honest, 8212
truthful, and of good reputation, has not been convicted of a 8213
felony or a crime involving moral turpitude, and has not been 8214
finally adjudged by a court to have violated any municipal, state, 8215
or federal civil rights laws relevant to the protection of 8216
purchasers or sellers of real estate, and that the association of 8217
the real estate broker and the applicant will be in the public 8218
interest, the superintendent shall grant the application and issue 8219
a real estate salesperson's license to the applicant. Any license 8220
so deposited with the superintendent shall be subject to this 8221
chapter. A broker who intends to deposit the broker's license with 8222
the superintendent, as provided in this section, shall give 8223
written notice of this fact in a format prescribed by the 8224
superintendent to all salespersons associated with the broker when 8225
applying to place the broker's license on deposit. 8226

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. Four dollars of the fee shall be credited to the real estate education and research fund.

No real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is a licensed real estate broker shall perform any acts as a real estate broker other than as the agent of the partnership, association, limited liability company, limited liability partnership, or corporation, and such broker shall not have any real estate salespersons associated with the broker.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's discharge. The commission shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the

licensee's license. 8259

(H) If a licensed real estate salesperson submits an 8260
application to the superintendent to leave the association of one 8261
broker to associate with a different broker, the broker possessing 8262
the licensee's license need not return the salesperson's license 8263
to the superintendent. The superintendent may process the 8264
application regardless of whether the licensee's license is 8265
returned to the superintendent. 8266

Sec. 4735.27. (A) An application to act as a foreign real 8267
estate dealer shall be in writing and filed with the 8268
superintendent of real estate. It shall be in the form the 8269
superintendent prescribes and shall contain the following 8270
information: 8271

(1) The name and address of the applicant; 8272

(2) A description of the applicant, including, if the 8273
applicant is a partnership, unincorporated association, or any 8274
similar form of business organization, the names and the residence 8275
and business addresses of all partners, officers, directors, 8276
trustees, or managers of the organization, and the limitation of 8277
the liability of any partner or member; and if the applicant is a 8278
corporation, a list of its officers and directors, and the 8279
residence and business addresses of each, and, if it is a foreign 8280
corporation, a copy of its articles of incorporation in addition; 8281

(3) The location and addresses of the principal office and 8282
all other offices of the applicant; 8283

(4) A general description of the business of the applicant 8284
prior to the application, including a list of states in which the 8285
applicant is a licensed foreign real estate dealer; 8286

(5) The names and addresses of all ~~salesmen~~ salespersons of 8287
the applicant at the date of the application; 8288

(6) The nature of the business of the applicant, and its 8289
places of business, for the ten-year period preceding the date of 8290
application. 8291

(B) Every nonresident applicant shall name a person within 8292
this state upon whom process against the applicant may be served 8293
and shall give the complete residence and business address of the 8294
person designated. Every applicant shall file an irrevocable 8295
written consent, executed and acknowledged by an individual duly 8296
authorized to give such consent, that actions growing out of a 8297
fraud committed by the applicant in connection with the sale in 8298
this state of foreign real estate may be commenced against it, in 8299
the proper court of any county in this state in which a cause of 8300
action for such fraud may arise or in which the plaintiff in such 8301
action may reside, by serving on the secretary of state any proper 8302
process or pleading authorized by the laws of this state, in the 8303
event that the applicant if a resident of this state, or the 8304
person designated by the nonresident applicant, cannot be found at 8305
the address given. The consent shall stipulate that the service of 8306
process on the secretary of state shall be taken in all courts to 8307
be as valid and binding as if service had been made upon the 8308
foreign real estate dealer. If the applicant is a corporation or 8309
an unincorporated association, the consent shall be accompanied by 8310
a certified copy of the resolution of the board of directors, 8311
trustees, or managers of the corporation or association, 8312
authorizing such individual to execute the consent. 8313

(C) The superintendent may investigate any applicant for a 8314
dealer's license, and may require any additional information ~~he~~ 8315
the superintendent considers necessary to determine the business 8316
repute and qualifications of the applicant to act as a foreign 8317
real estate dealer. If the application for a dealer's license 8318
involves investigation outside this state, the superintendent may 8319
require the applicant to advance sufficient funds to pay any of 8320

the actual expenses of the investigation, and an itemized 8321
statement of such expense shall be furnished to the applicant. 8322

(D) Every applicant shall take a written examination, 8323
prescribed and conducted by the superintendent, which covers ~~his~~ 8324
the applicant's knowledge of the principles of real estate 8325
practice, real estate law, financing and appraisal, real estate 8326
transactions and instruments relating to them, canons of business 8327
ethics relating to real estate transactions, and the duties of 8328
foreign real estate dealers and ~~salesmen~~ salespersons. The fee for 8329
the examination, when administered by the superintendent, is 8330
seventy-five dollars. If the applicant does not appear for the 8331
examination, the fee shall be forfeited and a new application and 8332
fee shall be filed, unless good cause for the failure to appear is 8333
shown to the superintendent. The requirement of an examination may 8334
be waived in whole or in part by the superintendent if an 8335
applicant is licensed as a real estate broker by any state. 8336

Any applicant who fails the examination twice shall wait six 8337
months before applying to retake the examination. 8338

(E) No person shall take the foreign real estate dealer's 8339
examination who has not established to the satisfaction of the 8340
superintendent that ~~he~~ the person: 8341

(1) Has not been convicted of a ~~felony or a crime of moral~~ 8342
~~turpitude~~ criminal offense substantially related to the 8343
applicant's fitness or ability to perform the duties and 8344
responsibilities of a foreign real estate dealer or, if ~~he~~ the 8345
applicant has been so convicted, the superintendent has 8346
disregarded the conviction because the applicant has proven to the 8347
superintendent, by a preponderance of the evidence, that ~~his~~ the 8348
applicant's activities and employment record since the conviction 8349
show that ~~he~~ the applicant is honest, truthful, and of good 8350
reputation, and there is no basis in fact for believing that ~~he~~ 8351
the applicant again will violate the laws involved; 8352

(2) Has not been finally adjudged by a court to have violated 8353
any municipal, state, or federal civil rights laws relevant to the 8354
protection of purchasers or sellers of real estate or, if ~~he~~ the 8355
applicant has been so adjudged, at least two years have passed 8356
since the court decision and the superintendent has disregarded 8357
the adjudication because the applicant has proven, by a 8358
preponderance of the evidence, that ~~his~~ the applicant's activities 8359
and employment record since the adjudication show that ~~he~~ the 8360
applicant is honest, truthful, and of good reputation, and there 8361
is no basis in fact for believing that ~~he~~ the applicant again will 8362
violate the laws involved; 8363

(3) Has not, during any period for which ~~he~~ the applicant was 8364
licensed under this chapter or any former section of the Revised 8365
Code applicable to licensed foreign real estate dealers or 8366
~~salesmen~~ salespersons, violated any provision of, or any rule 8367
adopted pursuant to, this chapter or that section, or, if ~~he~~ the 8368
applicant has violated any such provision or rule, has established 8369
to the satisfaction of the superintendent that ~~he~~ the applicant 8370
will not again violate the provision or rule. 8371

(F) If the superintendent finds that an applicant for a 8372
license as a foreign real estate dealer, or each named member, 8373
manager, or officer of a partnership, association, or corporate 8374
applicant is at least eighteen years of age, is of good business 8375
repute, has passed the examination required under this section or 8376
has had the requirement of an examination waived, and appears 8377
otherwise qualified, the superintendent shall issue a license to 8378
the applicant to engage in business in this state as a foreign 8379
real estate dealer. Dealers licensed pursuant to this section 8380
shall employ as ~~salesmen~~ salespersons of foreign real estate only 8381
persons licensed pursuant to section 4735.28 of the Revised Code. 8382
If at any time such ~~salesmen~~ salespersons resign or are discharged 8383
or new ~~salesmen~~ salespersons are added, the dealer forthwith shall 8384

notify the superintendent and shall file with the division of real estate the names and addresses of new ~~salesmen~~ salespersons. 8385
8386

(G) If the applicant merely is renewing ~~his~~ the applicant's license for the previous year, the application need contain only the information required by divisions (A)(2), (3), and (6) of this section. 8387
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Sec. 4735.28. (A) An application to act as a foreign real estate ~~salesman~~ salesperson shall be in writing and filed with the superintendent of real estate. It shall be in the form the superintendent prescribes and shall contain the following information: 8391
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(1) The name and complete residence and business addresses of the applicant; 8396
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(2) The name of the foreign real estate dealer who is employing the applicant or who intends to employ ~~him~~ the applicant; 8398
8399
8400

(3) The age and education of the applicant, and ~~his~~ the applicant's experience in the sale of foreign real estate; whether ~~he~~ the applicant has ever been licensed by the superintendent, and if so, when; whether ~~he~~ the applicant has ever been refused a license by the superintendent; and whether ~~he~~ the applicant has ever been licensed or refused a license or any similar permit by any division or superintendent of real estate, by whatsoever name known or designated, anywhere; 8401
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(4) The nature of the employment, and the names and addresses of the employers, of the applicant for the period of ten years immediately preceding the date of the application. 8409
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(B) Every applicant shall take a written examination, prescribed and conducted by the superintendent, which covers ~~his~~ the applicant's knowledge of the principles of real estate 8412
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8414

practice, real estate law, financing and appraisal, real estate 8415
transactions and instruments relating to them, canons of business 8416
ethics relating to real estate transactions, and the duties of 8417
foreign real estate ~~salesmen~~ salespersons. The fee for the 8418
examination, when administered by the superintendent, is fifty 8419
dollars. If the applicant does not appear for the examination, the 8420
fee shall be forfeited and a new application and fee shall be 8421
filed, unless good cause for the failure to appear is shown to the 8422
superintendent. The requirement of an examination may be waived in 8423
whole or in part by the superintendent if an applicant is licensed 8424
as a real estate broker or ~~salesman~~ salesperson by any state. 8425

Any applicant who fails the examination twice shall wait six 8426
months before applying to retake the examination. 8427

(C) No person shall take the foreign real estate ~~salesman's~~ 8428
salesperson's examination who has not established to the 8429
satisfaction of the superintendent that ~~he~~ the person: 8430

(1) Has not been convicted of a ~~felony or a crime of moral~~ 8431
~~turpitude~~ criminal offense substantially related to the 8432
applicant's fitness or ability to perform the duties and 8433
responsibilities of a foreign real estate salesperson or, if ~~he~~ 8434
the applicant has been so convicted, the superintendent has 8435
disregarded the conviction because the applicant has proven to the 8436
superintendent, by a preponderance of the evidence, that ~~his~~ the 8437
applicant's activities and employment record since the conviction 8438
show that ~~he~~ the applicant is honest, truthful, and of good 8439
reputation, and there is no basis in fact for believing that ~~he~~ 8440
the applicant again will violate the laws involved; 8441

(2) Has not been finally adjudged by a court to have violated 8442
any municipal, state, or federal civil rights laws relevant to the 8443
protection of purchasers or sellers of real estate or, if ~~he~~ the 8444
applicant has been so adjudged, at least two years have passed 8445
since the court decision and the superintendent has disregarded 8446

the adjudication because the applicant has proven, by a 8447
preponderance of the evidence, that ~~his~~ the applicant's activities 8448
and employment record since the adjudication show that ~~he~~ the 8449
applicant is honest, truthful, and of good reputation, and there 8450
is no basis in fact for believing that ~~he~~ the applicant will again 8451
violate the laws; 8452

(3) Has not, during any period for which ~~he~~ the applicant was 8453
licensed under this chapter or any former section of the Revised 8454
Code ~~aplicable~~ applicable to licensed foreign real estate dealers 8455
or ~~salesmen~~ salespersons, violated any provision of, or any rule 8456
adopted pursuant to, this chapter or that section, or, if ~~he~~ the 8457
applicant has violated any such provision or rule, has established 8458
to the satisfaction of the superintendent that ~~he~~ the applicant 8459
will not again violate the provision or rule. 8460

(D) Every ~~salesman~~ salesperson of foreign real estate shall 8461
be licensed by the superintendent of real estate and shall be 8462
employed only by the licensed foreign real estate dealer specified 8463
on ~~his~~ the salesperson's license. 8464

(E) If the superintendent finds that the applicant is of good 8465
business repute, appears to be qualified to act as a foreign real 8466
estate ~~salesman~~ salesperson, and has fully complied with the 8467
provisions of this chapter, and that the dealer in the application 8468
is a licensed foreign real estate dealer, the superintendent, upon 8469
payment of the fees prescribed by section 4735.15 of the Revised 8470
Code, shall issue a license to the applicant authorizing ~~him~~ the 8471
applicant to act as ~~salesman~~ a salesperson for the dealer named in 8472
the application. 8473

Sec. 4738.07. The registrar of motor vehicles shall deny the 8474
application of any person for a license under this chapter and 8475
refuse to issue him a license if the registrar finds that the 8476
applicant: 8477

(A) Has made false statement of a material fact in his application;	8478 8479
(B) Has not complied with sections 4738.01 to 4738.15 of the Revised Code:	8480 8481
(C) Is of bad business repute or has habitually defaulted on financial obligations;	8482 8483
(D) Has been convicted of a felony <u>criminal offense</u> substantially related to the applicant's fitness or ability to perform the duties and responsibilities of a licensee under this chapter;	8484 8485 8486 8487
(E) Has been guilty of a fraudulent act in connection with dealing in salvage motor vehicles or when operating as a motor vehicle salvage dealer, salvage motor vehicle auction, or salvage motor vehicle pool;	8488 8489 8490 8491
(F) Is insolvent;	8492
(G) Is of insufficient responsibility to assure the prompt payment of any final judgments which might reasonably be entered against him because of the transaction of his business during the period of the license applied for;	8493 8494 8495 8496
(H) Has no established place of business;	8497
(I) Has less than twelve months prior to said application, been denied a license under this chapter.	8498 8499
If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, or partner of the applicant has been guilty of any act or omission which would be cause for refusing or revoking a license issued to the officer, director, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information which he may have. Immediately upon denying an application for any of the reasons in	8500 8501 8502 8503 8504 8505 8506 8507

this section, the registrar shall enter a final order together 8508
with his findings and certify the same to the motor vehicle 8509
salvage dealer's licensing board. 8510

An applicant who has been refused a license may appeal from 8511
the action of the registrar to the motor vehicle salvage dealer's 8512
licensing board in the manner prescribed in section 4738.12 of the 8513
Revised Code. 8514

Sec. 4738.12. The motor vehicle salvage dealer's licensing 8515
board shall hear appeals which may be taken from an order of the 8516
registrar of motor vehicles, refusing to issue a license. All 8517
appeals from any order of the registrar refusing to issue any 8518
license upon proper application made must be taken within thirty 8519
days from the date of the order, or the order is final and 8520
conclusive. All appeals from orders of the registrar must be by 8521
petition in writing and verified under oath by the applicant whose 8522
application for license has been denied, and must set forth the 8523
reason why, in the petitioner's opinion, the order of the 8524
registrar is not correct. In appeals the board may make 8525
investigation to determine the correctness and legality of the 8526
order of the registrar. 8527

The board may make rules governing its actions relative to 8528
the suspension and revocation of licenses and may, upon its own 8529
motion, and shall, upon the verified complaint in writing of any 8530
person, investigate the conduct of any licensee under this 8531
chapter. The board shall suspend or revoke or notify the registrar 8532
to refuse to renew any license if any ground existed upon which 8533
the license would have been refused, or if a ground exists which 8534
would be cause for refusal to issue a license. 8535

The board may suspend or revoke any license if the licensee 8536
has in any manner violated the rules issued pursuant to sections 8537
4738.01 to 4738.16 of the Revised Code, or has been convicted of 8538

committing a ~~felony or violating any law which in any way relates~~ 8539
~~to the theft of motor vehicles~~ criminal offense substantially 8540
related to the person's fitness or ability to perform the duties 8541
and responsibilities of a licensee under this chapter. 8542

Sec. 4738.18. (A) Any person licensed under division (A) of 8543
section 4738.03 of the Revised Code who wishes to purchase salvage 8544
motor vehicles at salvage motor vehicle auctions or salvage motor 8545
vehicle pools shall make application to the registrar of motor 8546
vehicles for a buyer's identification card. The application shall 8547
be on a form prescribed by the registrar and shall contain the 8548
applicant's name, principal business address, the license number 8549
under which the applicant will be making purchases, and such other 8550
information as the registrar requires. In lieu of directly 8551
obtaining a buyer's identification card or in addition thereto, 8552
any person licensed under division (A) of section 4738.03 of the 8553
Revised Code may designate up to two employees to act as buyers 8554
for the licensee. The licensee shall make application for a 8555
buyer's identification card for each employee in the same manner 8556
as for a card for the licensee. 8557

(B) The fee for each buyer's identification card shall be 8558
thirty-five dollars. 8559

(C) Beginning on ~~the effective date of this amendment~~ 8560
September 16, 2004, each buyer's identification card shall expire 8561
biennially on a day within the two-year cycle that is prescribed 8562
by the registrar, unless sooner suspended or revoked. Before the 8563
first day after the day prescribed by the registrar in the year 8564
that the card expires, each cardholder shall file an application 8565
for renewal of the card, in a form that the registrar prescribes. 8566
A buyer's identification card is nontransferable. If the holder of 8567
a card no longer possesses a valid salvage motor vehicle dealer's 8568
license, or if an employee of the licensee leaves the employment 8569

of the licensee, the buyer's identification card of that person is 8570
invalid and the holder shall return the card to the registrar. 8571

(D) Any person who holds a valid salvage motor vehicle 8572
dealer's license from another state that imposes qualifications 8573
and requirements with respect to the license that are equivalent 8574
to those required by Chapter 4738. of the Revised Code may make 8575
application and receive a buyer's identification card. The person 8576
shall make application to the registrar who shall, based upon the 8577
registrar's investigation, issue a buyer's identification card to 8578
those applicants who the registrar determines are qualified. 8579

(E) All applicants for a buyer's identification card must be 8580
of good financial repute and not have been convicted of a ~~felony~~ 8581
criminal offense substantially related to the applicant's fitness 8582
or ability to perform the duties and responsibilities of a 8583
licensee under this chapter as verified by a report from a law 8584
enforcement agency and credit report furnished to the registrar by 8585
the applicant. 8586

(F) The registrar may revoke or suspend the license of any 8587
salvage motor vehicle dealer who allows the dealer's card or the 8588
card of any employee to be used by any unauthorized person. 8589

Sec. 4740.06. (A) Any individual who applies for a license 8590
shall file a written application with the appropriate section of 8591
the Ohio construction industry licensing board, accompanied with 8592
the application fee as determined pursuant to section 4740.09 of 8593
the Revised Code. The individual shall file the application not 8594
more than sixty days nor less than thirty days prior to the date 8595
of the examination. The application shall be on the form the 8596
section prescribes and verified by the applicant's oath. The 8597
applicant shall provide information satisfactory to the section 8598
showing that the applicant meets the requirements of division (B) 8599
of this section. 8600

(B) To qualify to take an examination, an individual shall: 8601

(1) Be at least eighteen years of age; 8602

(2) Be a United States citizen or legal alien who produces 8603
valid documentation to demonstrate the individual is a legal 8604
resident of the United States; 8605

(3) Either have been a tradesperson in the type of licensed 8606
trade for which the application is filed for not less than five 8607
years immediately prior to the date the application is filed, be 8608
an engineer, have three years of business experience in the 8609
construction industry, or have other experience acceptable to the 8610
appropriate section of the board; 8611

(4) Maintain contractor's liability insurance, including 8612
without limitation, complete operations coverage, in an amount the 8613
appropriate section of the board determines; 8614

(5) Not have done any of the following: 8615

(a) Been convicted of or pleaded guilty to a ~~misdemeanor~~ 8616
~~involving moral turpitude or of any felony~~ criminal offense 8617
substantially related to the applicant's fitness or ability to 8618
perform the duties and responsibilities of a licensee under this 8619
chapter; 8620

(b) Violated this chapter or any rule adopted pursuant to it; 8621

(c) Obtained or renewed a license issued pursuant to this 8622
chapter, or any order, ruling, or authorization of the board or a 8623
section of the board by fraud, misrepresentation, or deception; 8624

(d) Engaged in fraud, misrepresentation, or deception in the 8625
conduct of business. 8626

(C) When an applicant for licensure as a contractor in a 8627
licensed trade meets the qualifications set forth in division (B) 8628
of this section and passes the required examination, the 8629
appropriate section of the board, within ninety days after the 8630

application was filed, shall authorize the administrative section 8631
of the board to license the applicant for the type of contractor's 8632
license for which the applicant qualifies. A section of the board 8633
may withdraw its authorization to the administrative section for 8634
issuance of a license for good cause shown, on the condition that 8635
notice of that withdrawal is given prior to the administrative 8636
section's issuance of the license. 8637

(D) Each license expires one year after the date of issue. An 8638
individual holding a valid, unexpired license may renew the 8639
license, without reexamination, by submitting an application to 8640
the appropriate section of the board not more than ninety calendar 8641
days before the expiration of the license, along with the renewal 8642
fee the section requires and proof of compliance with the 8643
applicable continuing education requirements. The applicant shall 8644
provide information in the renewal application satisfactory to 8645
demonstrate to the appropriate section that the applicant 8646
continues to meet the requirements of division (B) of this 8647
section. 8648

Upon application and within one calendar year after a license 8649
has expired, a section may waive any of the requirements for 8650
renewal of a license upon finding that an applicant substantially 8651
meets the renewal requirements or that failure to timely apply for 8652
renewal is due to excusable neglect. A section that waives 8653
requirements for renewal of a license may impose conditions upon 8654
the licensee and assess a late filing fee of not more than double 8655
the usual renewal fee. An applicant shall satisfy any condition 8656
the section imposes before a license is reissued. 8657

(E) An individual holding a valid license may request the 8658
section of the board that authorized that license to place the 8659
license in inactive status under conditions, and for a period of 8660
time, as that section determines. 8661

(F) Except for the ninety-day extension provided for a 8662

license assigned to a business entity under division (D) of 8663
section 4740.07 of the Revised Code, a license held by an 8664
individual immediately terminates upon the death of the 8665
individual. 8666

(G) Nothing in any license issued by the Ohio construction 8667
industry licensing board shall be construed to limit or eliminate 8668
any requirement of or any license issued by the Ohio fire marshal. 8669

Sec. 4740.10. (A) The appropriate section of the Ohio 8670
construction industry licensing board may take any of the 8671
following actions against a licensee who violates Chapter 4740. of 8672
the Revised Code: 8673

(1) Impose a fine on the licensee, not exceeding one thousand 8674
dollars per violation per day; 8675

(2) Direct the administrative section to suspend the 8676
licensee's license for a period of time the section establishes; 8677

(3) Direct the administrative section to revoke the 8678
licensee's license; 8679

(4) Require the licensee to complete additional continuing 8680
education course work. Any continuing education course work 8681
completed pursuant to this division may not count toward any other 8682
continuing education requirements this chapter establishes. 8683

(5) Direct the administrative section to refuse to issue or 8684
renew a license if the section finds that the applicant or 8685
licensee has done any of the following: 8686

(a) Been convicted of a ~~misdemeanor involving moral turpitude~~ 8687
~~or a felony~~ criminal offense substantially related to the person's 8688
fitness or ability to perform the duties and responsibilities of a 8689
licensee under this chapter; 8690

(b) Violated any provision of this chapter or the rules 8691
adopted pursuant thereto; 8692

(c) Obtained a license or any order, ruling, or authorization 8693
of the board by fraud, misrepresentation, or deception; 8694

(d) Engaged in fraud, misrepresentation, or deception in the 8695
conduct of business. 8696

(B) The appropriate section of the board shall determine the 8697
length of time that a license is to be suspended and whether or 8698
when an individual whose license has been revoked may apply for 8699
reinstatement. The appropriate section of the board may accept or 8700
refuse an application for reinstatement and may require an 8701
examination for reinstatement. 8702

(C) The appropriate section of the board may investigate any 8703
alleged violation of this chapter or the rules adopted pursuant to 8704
it. If, after an investigation, a section determines that any 8705
person has engaged or is engaging in any practice that violates 8706
this chapter or the rules adopted pursuant to it, that section may 8707
apply to the court of common pleas of the county in which the 8708
violation occurred or is occurring for an injunction or other 8709
appropriate relief to enjoin or terminate the violation. 8710

(D) Any person who wishes to make a complaint against a 8711
person who holds a license shall submit the complaint in writing 8712
to the appropriate section of the board within three years after 8713
the date of the action or event upon which the complaint is based. 8714

Sec. 4741.22. The state veterinary medical licensing board 8715
may refuse to issue or renew a license, limited license, 8716
registration, or temporary permit to or of any applicant who, and 8717
may issue a reprimand to, suspend or revoke the license, limited 8718
license, registration, or the temporary permit of, or impose a 8719
civil penalty pursuant to this section upon any person holding a 8720
license, limited license, or temporary permit to practice 8721
veterinary medicine or any person registered as a registered 8722
veterinary technician who: 8723

(A) In the conduct of the person's practice does not conform 8724
to the rules of the board or the standards of the profession 8725
governing proper, humane, sanitary, and hygienic methods to be 8726
used in the care and treatment of animals; 8727

(B) Uses fraud, misrepresentation, or deception in any 8728
application or examination for licensure, or any other 8729
documentation created in the course of practicing veterinary 8730
medicine; 8731

(C) Is found to be physically or psychologically addicted to 8732
alcohol or an illegal or controlled substance, as defined in 8733
section 3719.01 of the Revised Code, to such a degree as to render 8734
the person unfit to practice veterinary medicine; 8735

(D) Directly or indirectly employs or lends the person's 8736
services to a solicitor for the purpose of obtaining patients; 8737

(E) Obtains a fee on the assurance that an incurable disease 8738
can be cured; 8739

(F) Advertises in a manner that violates section 4741.21 of 8740
the Revised Code; 8741

(G) Divides fees or charges or has any arrangement to share 8742
fees or charges with any other person, except on the basis of 8743
services performed; 8744

(H) Sells any biologic containing living, dead, or sensitized 8745
organisms or products of those organisms, except in a manner that 8746
the board by rule has prescribed; 8747

(I) Is convicted of or pleads guilty to any ~~felony or crime~~ 8748
~~involving illegal or prescription drugs,~~ criminal offense 8749
substantially related to the person's fitness or ability to 8750
perform the duties and responsibilities of a veterinarian or 8751
veterinary technician or fails to report to the board within sixty 8752
days of the individual's conviction of, plea of guilty to, or 8753

treatment in lieu of conviction involving a ~~felony, misdemeanor of~~ 8754
~~the first degree, or offense involving illegal or prescription~~ 8755
~~drugs~~ any such offense; 8756

(J) Is convicted of any violation of section 959.13 of the 8757
Revised Code; 8758

(K) Swears falsely in any affidavit required to be made by 8759
the person in the course of the practice of veterinary medicine; 8760

(L) Fails to report promptly to the proper official any known 8761
reportable disease; 8762

(M) Fails to report promptly vaccinations or the results of 8763
tests when required to do so by law or rule; 8764

(N) Has been adjudicated incompetent for the purpose of 8765
holding the license or permit by a court, as provided in Chapter 8766
2111. of the Revised Code, and has not been restored to legal 8767
capacity for that purpose; 8768

(O) Permits a person who is not a licensed veterinarian, a 8769
veterinary student, or a registered veterinary technician to 8770
engage in work or perform duties in violation of this chapter; 8771

(P) Is guilty of gross incompetence or gross negligence; 8772

(Q) Has had a license to practice veterinary medicine or a 8773
license, registration, or certificate to engage in activities as a 8774
registered veterinary technician revoked, suspended, or acted 8775
against by disciplinary action by an agency similar to this board 8776
of another state, territory, or country or the District of 8777
Columbia; 8778

(R) Is or has practiced with a revoked, suspended, inactive, 8779
expired, or terminated license or registration; 8780

(S) Represents self as a specialist unless certified as a 8781
specialist by the board; 8782

(T) In the person's capacity as a veterinarian or registered 8783

veterinary technician makes or files a report, health certificate, 8784
vaccination certificate, or other document that the person knows 8785
is false or negligently or intentionally fails to file a report or 8786
record required by any applicable state or federal law; 8787

(U) Fails to use reasonable care in the administration of 8788
drugs or acceptable scientific methods in the selection of those 8789
drugs or other modalities for treatment of a disease or in conduct 8790
of surgery; 8791

(V) Makes available a dangerous drug, as defined in section 8792
4729.01 of the Revised Code, to any person other than for the 8793
specific treatment of an animal patient; 8794

(W) Refuses to permit a board investigator or the board's 8795
designee to inspect the person's business premises during regular 8796
business hours, except as provided in division (A) of section 8797
4741.26 of the Revised Code; 8798

(X) Violates any order of the board or fails to comply with a 8799
subpoena of the board; 8800

(Y) Fails to maintain medical records as required by rule of 8801
the board; 8802

(Z) Engages in cruelty to animals; 8803

(AA) Uses, prescribes, or sells any veterinary prescription 8804
drug or biologic, or prescribes any extra-label use of any 8805
over-the-counter drug or dangerous drug in the absence of a valid 8806
veterinary-client-patient relationship. 8807

Before the board may revoke, deny, refuse to renew, or 8808
suspend a license, registration, or temporary permit or otherwise 8809
discipline the holder of a license, registration, or temporary 8810
permit, the executive director shall file written charges with the 8811
board. The board shall conduct a hearing on the charges as 8812
provided in Chapter 119. of the Revised Code. 8813

If the board, after a hearing conducted pursuant to Chapter 8814
119. of the Revised Code, revokes, refuses to renew, or suspends a 8815
license, registration, or temporary permit for a violation of this 8816
section, section 4741.23, division (C) or (D) of section 4741.19, 8817
or division (B), (C), or (D) of section 4741.21 of the Revised 8818
Code, the board may impose a civil penalty upon the holder of the 8819
license, permit, or registration of not less than one hundred 8820
dollars or more than one thousand dollars. In addition to the 8821
civil penalty and any other penalties imposed pursuant to this 8822
chapter, the board may assess any holder of a license, permit, or 8823
registration the costs of the hearing conducted under this section 8824
if the board determines that the holder has violated any provision 8825
for which the board may impose a civil penalty under this section. 8826

Sec. 4743.06. Each board, commission, or agency created under 8827
or by virtue of Title XLVII of the Revised Code shall determine 8828
which criminal offenses are substantially related to a person's 8829
fitness and ability to perform the duties and responsibilities of 8830
the profession or occupation regulated by the board, commission, 8831
or agency. Not later than one hundred eighty days after the 8832
effective date of this section, every board, commission, or agency 8833
of that type shall promulgate a rule pursuant to Chapter 119. of 8834
the Revised Code that lists by Revised Code section number and 8835
name of the offense every criminal offense it determines to be 8836
substantially related to a person's fitness and ability to perform 8837
the duties and responsibilities of the profession or occupation it 8838
regulates and states the reasons why it determined that the 8839
criminal offense is substantially related to a person's fitness 8840
and ability to perform the duties and responsibilities of the 8841
profession or occupation. 8842

Sec. 4747.12. The hearing aid dealers and fitters licensing 8843
board may revoke or suspend a license or permit if the person who 8844

holds such license or permit: 8845

(A) Is convicted of a ~~felony or a misdemeanor involving moral~~ 8846
~~turpitude~~ criminal offense substantially related to the person's 8847
fitness or ability to perform the duties and responsibilities of a 8848
hearing aid dealer or fitter. The record of conviction, or a copy 8849
thereof certified by the clerk of the court or by the judge in 8850
whose court the conviction occurs, is conclusive evidence of such 8851
conviction; 8852

(B) Procured a license or permit by fraud or deceit practiced 8853
upon the board; 8854

(C) Obtained any fee or made any sale of a hearing aid by 8855
fraud or misrepresentation; 8856

(D) Knowingly employed any person without a license or a 8857
person whose license was suspended or revoked to engage in the 8858
fitting or sale of hearing aids; 8859

(E) Used or caused or promoted the use of any advertising 8860
matter, promotional literature, testimonial, guarantee, warranty, 8861
label, brand, insignia, or any other representation, however 8862
disseminated or published, which is misleading, deceptive, or 8863
untruthful; 8864

(F) Advertised a particular model or type of hearing aid for 8865
sale when purchasers or prospective purchasers responding to the 8866
advertisement cannot purchase the specified model or type of 8867
hearing aid; 8868

(G) Represented or advertised that the service or advice of a 8869
person licensed to practice medicine will be used or made 8870
available in the selection, fitting, adjustment, maintenance, or 8871
repair of hearing aids when such is not true, or using the words 8872
"doctor," "clinic," or similar words, abbreviations, or symbols 8873
which connote the medical profession when such use is not 8874
accurate; 8875

(H) Is found by the board to be a person of habitual 8876
intemperance or gross immorality; 8877

(I) Advertised a manufacturer's product or used a 8878
manufacturer's name or trademark in a manner which suggested the 8879
existence of a relationship with the manufacturer which did not or 8880
does not exist; 8881

(J) Fitted or sold, or attempted to fit or sell, a hearing 8882
aid to a person without first utilizing the appropriate procedures 8883
and instruments required for proper fitting of hearing aids; 8884

(K) Engaged in the fitting and sale of hearing aids under a 8885
false name or an alias; 8886

(L) Engaged in the practice of dealing in or fitting of 8887
hearing aids while suffering from a contagious or infectious 8888
disease; 8889

(M) Was found by the board to be guilty of gross incompetence 8890
or negligence in the fitting or sale of hearing aids; 8891

(N) Permitted another person to use ~~his~~ the licensee's 8892
license. 8893

Sec. 4749.03. (A)(1) Any individual, including a partner in a 8894
partnership, may be licensed as a private investigator under a 8895
class B license, or as a security guard provider under a class C 8896
license, or as a private investigator and a security guard 8897
provider under a class A license, if the individual meets all of 8898
the following requirements: 8899

(a) Has a good reputation for integrity, has not been 8900
convicted of a ~~felony within the last twenty years or any offense~~ 8901
~~involving moral turpitude~~ criminal offense substantially related 8902
to the person's fitness or ability to perform the duties and 8903
responsibilities of a private investigator or security guard 8904
provider, and has not been adjudicated incompetent for the purpose 8905

of holding the license, as provided in section 5122.301 of the Revised Code, without having been restored to legal capacity for that purpose.

(b) Depending upon the class of license for which application is made, for a continuous period of at least two years immediately preceding application for a license, has been engaged in investigatory or security services work for a law enforcement or other public agency engaged in investigatory activities, or for a private investigator or security guard provider, or engaged in the practice of law, or has acquired equivalent experience as determined by rule of the director of public safety.

(c) Demonstrates competency as a private investigator or security guard provider by passing an examination devised for this purpose by the director, except that any individually licensed person who qualifies a corporation for licensure shall not be required to be reexamined if the person qualifies the corporation in the same capacity that the person was individually licensed.

(d) Submits evidence of comprehensive general liability insurance coverage, or other equivalent guarantee approved by the director in such form and in principal amounts satisfactory to the director, but not less than one hundred thousand dollars for each person and three hundred thousand dollars for each occurrence for bodily injury liability, and one hundred thousand dollars for property damage liability.

(e) Pays the requisite examination and license fees.

(2) A corporation may be licensed as a private investigator under a class B license, or as a security guard provider under a class C license, or as a private investigator and a security guard provider under a class A license, if an application for licensure is filed by an officer of the corporation and the officer, another officer, or the qualifying agent of the corporation satisfies the

requirements of divisions (A)(1) and (F)(1) of this section. 8937
Officers and the statutory agent of a corporation shall be 8938
determined in accordance with Chapter 1701. of the Revised Code. 8939

(3) At least one partner in a partnership shall be licensed 8940
as a private investigator, or as a security guard provider, or as 8941
a private investigator and a security guard provider. Partners in 8942
a partnership shall be determined as provided for in Chapter 1775. 8943
of the Revised Code. 8944

(B) An application for a class A, B, or C license shall be 8945
completed in the form the director prescribes. In the case of an 8946
individual, the application shall state the applicant's name, 8947
birth date, citizenship, physical description, current residence, 8948
residences for the preceding ten years, current employment, 8949
employment for the preceding seven years, experience 8950
qualifications, the location of each of the applicant's offices in 8951
this state, and any other information that is necessary in order 8952
for the director to comply with the requirements of this chapter. 8953
In the case of a corporation, the application shall state the name 8954
of the officer or qualifying agent filing the application; the 8955
state in which the corporation is incorporated and the date of 8956
incorporation; the states in which the corporation is authorized 8957
to transact business; the name of its qualifying agent; the name 8958
of the officer or qualifying agent of the corporation who 8959
satisfies the requirements of divisions (A)(1) and (F)(1) of this 8960
section and the birth date, citizenship, physical description, 8961
current residence, residences for the preceding ten years, current 8962
employment, employment for the preceding seven years, and 8963
experience qualifications of that officer or qualifying agent; and 8964
other information that the director requires. A corporation may 8965
specify in its application information relative to one or more 8966
individuals who satisfy the requirements of divisions (A)(1) and 8967
(F)(1) of this section. 8968

The application described in this division shall be 8969
accompanied by all of the following: 8970

(1) One recent full-face photograph of the applicant or, in 8971
the case of a corporation, of each officer or qualifying agent 8972
specified in the application as satisfying the requirements of 8973
divisions (A)(1) and (F)(1) of this section; 8974

(2) Character references from at least five reputable 8975
citizens for the applicant or, in the case of a corporation, for 8976
each officer or qualifying agent specified in the application as 8977
satisfying the requirements of divisions (A)(1) and (F)(1) of this 8978
section, each of whom has known the applicant, officer, or 8979
qualifying agent for at least five years preceding the 8980
application, and none of whom are connected with the applicant, 8981
officer, or qualifying agent by blood or marriage; 8982

(3) An examination fee of twenty-five dollars for the 8983
applicant or, in the case of a corporation, for each officer or 8984
qualifying agent specified in the application as satisfying the 8985
requirements of divisions (A)(1) and (F)(1) of this section, and a 8986
license fee in the amount the director determines, not to exceed 8987
three hundred seventy-five dollars. The license fee shall be 8988
refunded if a license is not issued. 8989

(C)(1) Each individual applying for a license and each 8990
individual specified by a corporation as an officer or qualifying 8991
agent in an application shall submit one complete set of 8992
fingerprints directly to the superintendent of the bureau of 8993
criminal identification and investigation for the purpose of 8994
conducting a criminal records check. The individual shall provide 8995
the fingerprints using a method the superintendent prescribes 8996
pursuant to division (C)(2) of section 109.572 of the Revised Code 8997
and fill out the form the superintendent prescribes pursuant to 8998
division (C)(1) of section 109.572 of the Revised Code. An 8999
applicant who intends to carry a firearm as defined in section 9000

2923.11 of the Revised Code in the course of business or 9001
employment shall so notify the superintendent. This notification 9002
is in addition to any other requirement related to carrying a 9003
firearm that applies to the applicant. The individual or 9004
corporation requesting the criminal records check shall pay the 9005
fee the superintendent prescribes. 9006

(2) The superintendent shall conduct the criminal records 9007
check as set forth in division (B) of section 109.572 of the 9008
Revised Code. If an applicant intends to carry a firearm in the 9009
course of business or employment, the superintendent shall make a 9010
request to the federal bureau of investigation for any information 9011
and review the information the bureau provides pursuant to 9012
division (B)(2) of section 109.572 of the Revised Code. The 9013
superintendent shall submit all results of the completed 9014
investigation to the director of public safety. 9015

(3) If the director determines that the applicant, officer, 9016
or qualifying agent meets the requirements of divisions (A)(1)(a), 9017
(b), and (d) of this section and that an officer or qualifying 9018
agent meets the requirement of division (F)(1) of this section, 9019
the director shall notify the applicant, officer, or agent of the 9020
time and place for the examination. If the director determines 9021
that an applicant does not meet the requirements of divisions 9022
(A)(1)(a), (b), and (d) of this section, the director shall notify 9023
the applicant that the applicant's application is refused and 9024
refund the license fee. If the director determines that none of 9025
the individuals specified in the application of a corporation as 9026
satisfying the requirements of divisions (A)(1) and (F)(1) of this 9027
section meet the requirements of divisions (A)(1)(a), (b), and (d) 9028
and (F)(1) of this section, the director shall notify the 9029
corporation that its application is refused and refund the license 9030
fee. If the bureau assesses the director a fee for any 9031
investigation, the director, in addition to any other fee assessed 9032

pursuant to this chapter, may assess the applicant, officer, or 9033
qualifying agent, as appropriate, a fee that is equal to the fee 9034
assessed by the bureau. 9035

(D) If upon application, investigation, and examination, the 9036
director finds that the applicant or, in the case of a 9037
corporation, any officer or qualifying agent specified in the 9038
application as satisfying the requirements of divisions (A)(1) and 9039
(F)(1) of this section, meets the applicable requirements, the 9040
director shall issue the applicant or the corporation a class A, 9041
B, or C license. The director also shall issue an identification 9042
card to an applicant, but not an officer or qualifying agent of a 9043
corporation, who meets the applicable requirements. The license 9044
and identification card shall state the licensee's name, the 9045
classification of the license, the location of the licensee's 9046
principal place of business in this state, and the expiration date 9047
of the license, and, in the case of a corporation, it also shall 9048
state the name of each officer or qualifying agent who satisfied 9049
the requirements of divisions (A)(1) and (F)(1) of this section. 9050

Licenses expire on the first day of March following the date 9051
of initial issue, and on the first day of March of each year 9052
thereafter. Annual renewals shall be according to the standard 9053
renewal procedures contained in Chapter 4745. of the Revised Code, 9054
upon payment of an annual renewal fee the director determines, not 9055
to exceed two hundred seventy-five dollars. No license shall be 9056
renewed if the licensee or, in the case of a corporation, each 9057
officer or qualifying agent who qualified the corporation for 9058
licensure no longer meets the applicable requirements of this 9059
section. No license shall be renewed unless the licensee provides 9060
evidence of workers' compensation risk coverage and unemployment 9061
compensation insurance coverage, other than for clerical employees 9062
and excepting sole proprietors who are exempted therefrom, as 9063
provided for in Chapters 4123. and 4141. of the Revised Code, 9064

respectively, as well as the licensee's state tax identification 9065
number. No reexamination shall be required for renewal of a 9066
current license. 9067

For purposes of this chapter, a class A, B, or C license 9068
issued to a corporation shall be considered as also having 9069
licensed the individuals who qualified the corporation for 9070
licensure, for as long as they are associated with the 9071
corporation. 9072

For purposes of this division, "sole proprietor" means an 9073
individual licensed under this chapter who does not employ any 9074
other individual. 9075

(E) The director may issue a duplicate copy of a license 9076
issued under this section for the purpose of replacement of a 9077
lost, spoliated, or destroyed license, upon payment of a fee the 9078
director determines, not exceeding twenty-five dollars. Any change 9079
in license classification requires new application and application 9080
fees. 9081

(F)(1) In order to qualify a corporation for a class A, B, or 9082
C license, an officer or qualifying agent may qualify another 9083
corporation for similar licensure, provided that the officer or 9084
qualifying agent is actively engaged in the business of both 9085
corporations. 9086

(2) Each officer or qualifying agent who qualifies a 9087
corporation for class A, B, or C licensure shall surrender any 9088
personal license of a similar nature that the officer or 9089
qualifying agent possesses. 9090

(3) Upon written notification to the director, completion of 9091
an application similar to that for original licensure, surrender 9092
of the corporation's current license, and payment of a twenty-five 9093
dollar fee, a corporation's class A, B, or C license may be 9094
transferred to another corporation. 9095

(4) Upon written notification to the director, completion of 9096
an application similar to that for an individual seeking class A, 9097
B, or C licensure, payment of a twenty-five dollar fee, and, if 9098
the individual was the only individual that qualified a 9099
corporation for licensure, surrender of the corporation's license, 9100
any officer or qualifying agent who qualified a corporation for 9101
licensure under this chapter may obtain a similar license in the 9102
individual's own name without reexamination. A request by an 9103
officer or qualifying agent for an individual license shall not 9104
affect a corporation's license unless the individual is the only 9105
individual that qualified the corporation for licensure or all the 9106
other individuals who qualified the corporation for licensure 9107
submit such requests. 9108

(G) If a corporation is for any reason no longer associated 9109
with an individual who qualified it for licensure under this 9110
chapter, an officer of the corporation shall notify the director 9111
of that fact by certified mail, return receipt requested, within 9112
ten days after the association terminates. If the notification is 9113
so given, the individual was the only individual that qualified 9114
the corporation for licensure, and the corporation submits the 9115
name of another officer or qualifying agent to qualify the 9116
corporation for the license within thirty days after the 9117
association terminates, the corporation may continue to operate in 9118
the business of private investigation, the business of security 9119
services, or both businesses in this state under that license for 9120
ninety days after the association terminates. If the officer or 9121
qualifying agent whose name is submitted satisfies the 9122
requirements of divisions (A)(1) and (F)(1) of this section, the 9123
director shall issue a new license to the corporation within that 9124
ninety-day period. The names of more than one individual may be 9125
submitted. 9126

Sec. 4749.04. (A) The director of public safety may revoke, 9127

suspend, or refuse to renew, when a renewal form has been 9128
submitted, the license of any private investigator or security 9129
guard provider, or the registration of any employee of a private 9130
investigator or security guard provider, for any of the following: 9131

(1) Violation of any of the provisions of division (B) or (C) 9132
of section 4749.13 of the Revised Code; 9133

(2) Conviction of a ~~felony or a crime involving moral~~ 9134
~~turpitude~~ criminal offense substantially related to the person's 9135
fitness or ability to perform the duties and responsibilities of a 9136
licensee or registrant under this chapter; 9137

(3) Violation of any rule of the director governing private 9138
investigators, the business of private investigation, security 9139
guard providers, or the business of security services; 9140

(4) Testifying falsely under oath, or suborning perjury, in 9141
any judicial proceeding; 9142

(5) Failure to satisfy the requirements specified in division 9143
(D) of section 4749.03 of the Revised Code. 9144

Any person whose license or registration is revoked, 9145
suspended, or not renewed when a renewal form is submitted may 9146
appeal in accordance with Chapter 119. of the Revised Code. 9147

(B) In lieu of suspending, revoking, or refusing to renew the 9148
class A, B, or C license, or of suspending, revoking, or refusing 9149
to renew the registration of an employee of a class A, B, or C 9150
licensee, the director may impose a civil penalty of not more than 9151
one hundred dollars for each calendar day of a violation of any of 9152
the provisions of this section or of division (B) or (C) of 9153
section 4749.13 of the Revised Code or of a violation of any rule 9154
of the director governing private investigators, the business of 9155
private investigation, security guard providers, or the business 9156
of security services. 9157

Sec. 4749.06. (A) Each class A, B, or C licensee shall 9158
register the licensee's investigator or security guard employees, 9159
with the department of public safety, which shall maintain a 9160
record of each licensee and registered employee and make it 9161
available, upon request, to any law enforcement agency. The class 9162
A, B, or C licensee shall file an application to register a new 9163
employee no sooner than three days nor later than seven calendar 9164
days after the date on which the employee is hired. 9165

(B)(1) Each employee's registration application shall be 9166
accompanied by one recent photograph of the employee, the 9167
employee's physical description, and the registration fee the 9168
director determines, not to exceed forty dollars. 9169

(2) The employee shall submit one complete set of 9170
fingerprints directly to the superintendent of the bureau of 9171
criminal identification and investigation for the purpose of 9172
conducting a criminal records check. The employee shall provide 9173
the fingerprints using a method the superintendent prescribes 9174
pursuant to division (C)(2) of section 109.572 of the Revised Code 9175
and fill out the form the superintendent prescribes pursuant to 9176
division (C)(1) of section 109.572 of the Revised Code. An 9177
employee who intends to carry a firearm as defined in section 9178
2923.11 of the Revised Code in the course of business or 9179
employment shall so notify the superintendent. This notification 9180
is in addition to any other requirement related to carrying a 9181
firearm that applies to the employee. The individual or 9182
corporation requesting the criminal records check shall pay the 9183
fee the superintendent prescribes. 9184

The superintendent shall conduct the criminal records check 9185
as set forth in division (B) of section 109.572 of the Revised 9186
Code. If an employee intends to carry a firearm in the course of 9187
business or employment, pursuant to division (B)(2) of section 9188

109.572 of the Revised Code the superintendent shall make a 9189
request of the federal bureau of investigation for any information 9190
and review the information the bureau provides. The superintendent 9191
shall submit all results of the completed investigation to the 9192
director of public safety. 9193

(3) If, after investigation, the bureau finds that the 9194
employee has not been convicted of a ~~felony within the last twenty~~ 9195
years criminal offense substantially related to the person's 9196
fitness or ability to perform the duties and responsibilities of a 9197
registered investigator or security guard employee, the director 9198
shall issue to the employee an identification card bearing the 9199
license number and signature of the licensee, which in the case of 9200
a corporation shall be the signature of its president or its 9201
qualifying agent, and containing the employee's name, address, 9202
age, physical description, and right thumb print or other 9203
identifying mark as the director prescribes, a recent photograph 9204
of the employee, and the employee's signature. The director may 9205
issue a duplicate of a lost, spoliated, or destroyed 9206
identification card issued under this section, upon payment of a 9207
fee fixed by the director, not exceeding five dollars. 9208

(C) Except as provided in division (E) of this section, no 9209
class A, B, or C licensee shall permit an employee, other than an 9210
individual who qualified a corporation for licensure, to engage in 9211
the business of private investigation, the business of security 9212
services, or both businesses until the employee receives an 9213
identification card from the department, except that pending the 9214
issuance of an identification card, a class A, B, or C licensee 9215
may offer for hire security guard or investigator employees 9216
provided the licensee obtains a waiver from the person who 9217
receives, for hire, security guard or investigative services, 9218
acknowledging that the person is aware the employees have not 9219
completed their registration and agreeing to their employment. 9220

(D) If a class A, B, or C licensee, or a registered employee 9221
of a class A, B, or C licensee, intends to carry a firearm, as 9222
defined in section 2923.11 of the Revised Code, in the course of 9223
engaging in the business or employment, the licensee or registered 9224
employee shall satisfactorily complete a firearms basic training 9225
program that includes twenty hours of handgun training and five 9226
hours of training in the use of other firearms, if any other 9227
firearm is to be used, or equivalency training, if authorized, or 9228
shall be a former peace officer who previously had successfully 9229
completed a firearms training course, shall receive a certificate 9230
of satisfactory completion of that program or written evidence of 9231
approval of the equivalency training, shall file an application 9232
for registration, shall receive a firearm-bearer notation on the 9233
licensee's or registered employee's identification card, and shall 9234
annually requalify on a firearms range, all as described in 9235
division (A) of section 4749.10 of the Revised Code. A private 9236
investigator, security guard provider, or employee is authorized 9237
to carry a firearm only in accordance with that division. 9238

(E) This section does not apply to commissioned peace 9239
officers, as defined in division (B) of section 2935.01 of the 9240
Revised Code, working for, either as an employee or independent 9241
contractor, a class A, B, or C licensee. For purposes of this 9242
chapter, a commissioned peace officer is an employee exempt from 9243
registration. 9244

(F) The registration of an investigator or security guard 9245
employee expires annually on the anniversary date of its initial 9246
issuance. Annual renewals shall be made pursuant to procedures the 9247
director establishes by rule and upon payment of a renewal fee the 9248
director determines, not to exceed thirty-five dollars. The 9249
director shall not renew the registration of any investigator or 9250
security guard employee who no longer meets the requirements of 9251
this section. No background check is required for annual renewal, 9252

but an investigator or security guard employee shall report any 9253
felony conviction to the employer and the director of public 9254
safety as a condition of continued registration. 9255

Sec. 4751.10. The license or registration, or both, or the 9256
temporary license of any person practicing or offering to practice 9257
nursing home administration, shall be revoked or suspended by the 9258
board of examiners of nursing home administrators if such licensee 9259
or temporary licensee: 9260

(A) Is unfit or incompetent by reason of negligence, habits, 9261
or other causes; 9262

(B) Has willfully or repeatedly violated any of the 9263
provisions of Chapter 4751. of the Revised Code or the regulations 9264
adopted thereunder; or willfully or repeatedly acted in a manner 9265
inconsistent with the health and safety of the patients of the 9266
nursing home in which ~~he~~ the licensee or temporary licensee is the 9267
administrator; 9268

(C) Is guilty of fraud or deceit in the practice of nursing 9269
home administration or in ~~his~~ the licensee's or temporary
licensee's admission to such practice; 9270
9271

(D) Has been convicted in a court of competent jurisdiction, 9272
either within or without this state, of a ~~felony~~ criminal offense
substantially related to the person's fitness or ability to
perform the duties and responsibilities of a nursing home
administrator. 9273
9274
9275
9276

Proceedings under this section shall be instituted by the 9277
board or shall be begun by filing with the board charges in 9278
writing and under oath. 9279

Sec. 4753.10. In accordance with Chapter 119. of the Revised 9280
Code, the board of speech-language pathology and audiology may 9281
reprimand or place on probation a speech-language pathologist or 9282

audiologist or suspend, revoke, or refuse to issue or renew the	9283
license of a speech-language pathologist or audiologist.	9284
Disciplinary actions may be taken by the board for conduct that	9285
may result from but not necessarily be limited to:	9286
(A) Fraud, deception, or misrepresentation in obtaining or	9287
attempting to obtain a license;	9288
(B) Fraud, deception, or misrepresentation in using a	9289
license;	9290
(C) Altering a license;	9291
(D) Aiding or abetting unlicensed practice;	9292
(E) Committing fraud, deception, or misrepresentation in the	9293
practice of speech-language pathology or audiology including:	9294
(1) Making or filing a false report or record in the practice	9295
of speech-language pathology or audiology;	9296
(2) Submitting a false statement to collect a fee;	9297
(3) Obtaining a fee through fraud, deception, or	9298
misrepresentation, or accepting commissions or rebates or other	9299
forms of remuneration for referring persons to others.	9300
(F) Using or promoting or causing the use of any misleading,	9301
deceiving, improbable, or untruthful advertising matter,	9302
promotional literature, testimonial, guarantee, warranty, label,	9303
brand, insignia, or any other representation;	9304
(G) Falsely representing the use or availability of services	9305
or advice of a physician;	9306
(H) Misrepresenting the applicant, licensee, or holder by	9307
using the word "doctor" or any similar word, abbreviation, or	9308
symbol if the use is not accurate or if the degree was not	9309
obtained from an accredited institution;	9310
(I) Committing any act of dishonorable, immoral, or	9311

unprofessional conduct while engaging in the practice of	9312
speech-language pathology or audiology;	9313
(J) Engaging in illegal, incompetent, or habitually negligent	9314
practice;	9315
(K) Providing professional services while:	9316
(1) Mentally incompetent;	9317
(2) Under the influence of alcohol;	9318
(3) Using any narcotic or controlled substance or other drug	9319
that is in excess of therapeutic amounts or without valid medical	9320
indication.	9321
(L) Providing services or promoting the sale of devices,	9322
appliances, or products to a person who cannot reasonably be	9323
expected to benefit from such services, devices, appliances, or	9324
products in accordance with results obtained utilizing appropriate	9325
assessment procedures and instruments;	9326
(M) Violating this chapter or any lawful order given or rule	9327
adopted by the board;	9328
(N) Being convicted of or pleading guilty or nolo contendere	9329
to a felony or to a crime involving moral turpitude <u>criminal</u>	9330
<u>offense substantially related to the person's fitness or ability</u>	9331
<u>to perform the duties and responsibilities of a speech-language</u>	9332
<u>pathologist or audiologist</u> , whether or not any appeal or other	9333
proceeding is pending to have the conviction or plea set aside;	9334
(O) Being disciplined by a licensing or disciplinary	9335
authority of this or any other state or country or convicted or	9336
disciplined by a court of this or any other state or country for	9337
an act that would be grounds for disciplinary action under this	9338
section.	9339
After revocation of a license under this section, application	9340
may be made to the board for reinstatement. The board, in	9341

accordance with an order of revocation as issued under Chapter 9342
119. of the Revised Code, may require an examination for such 9343
reinstatement. 9344

If any person has engaged in any practice which constitutes 9345
an offense under the provisions of this chapter or rules 9346
promulgated thereunder by the board, the board may apply to the 9347
court of common pleas of the county for an injunction or other 9348
appropriate order restraining such conduct, and the court may 9349
issue such order. 9350

Any person who wishes to make a complaint against any person 9351
licensed pursuant to this chapter shall submit the complaint in 9352
writing to the board within one year from the date of the action 9353
or event upon which the complaint is based. The board shall 9354
determine whether the allegations in the complaint are of a 9355
sufficiently serious nature to warrant formal disciplinary charges 9356
against the licensee pursuant to this section. If the board 9357
determines that formal disciplinary charges are warranted, it 9358
shall proceed in accordance with the procedures established in 9359
Chapter 119. of the Revised Code. 9360

Sec. 4755.11. (A) In accordance with Chapter 119. of the 9361
Revised Code, the occupational therapy section of the Ohio 9362
occupational therapy, physical therapy, and athletic trainers 9363
board may suspend, revoke, or refuse to issue or renew an 9364
occupational therapist license, occupational therapy assistant 9365
license, occupational therapist limited permit, occupational 9366
therapy assistant limited permit, or reprimand, fine, or place a 9367
license or limited permit holder on probation, for any of the 9368
following: 9369

(1) Conviction of ~~an a criminal~~ offense involving ~~moral~~ 9370
~~turpitude or a felony~~ substantially related to the fitness or 9371
ability of the licensee or applicant to perform the duties and 9372

<u>responsibilities of an occupational therapist or occupational</u>	9373
<u>therapy assistant</u> , regardless of the state or country in which the	9374
conviction occurred;	9375
(2) Violation of any provision of sections 4755.04 to 4755.13	9376
of the Revised Code;	9377
(3) Violation of any lawful order or rule of the occupational	9378
therapy section;	9379
(4) Obtaining or attempting to obtain a license or limited	9380
permit issued by the occupational therapy section by fraud or	9381
deception, including the making of a false, fraudulent, deceptive,	9382
or misleading statements in relation to these activities;	9383
(5) Negligence, unprofessional conduct, or gross misconduct	9384
in the practice of the profession of occupational therapy;	9385
(6) Accepting commissions or rebates or other forms of	9386
remuneration for referring persons to other professionals;	9387
(7) Communicating, without authorization, information	9388
received in professional confidence;	9389
(8) Using controlled substances, habit forming drugs, or	9390
alcohol to an extent that it impairs the ability to perform the	9391
work of an occupational therapist, occupational therapy assistant,	9392
occupational therapist limited permit holder, or occupational	9393
therapy assistant limited permit holder;	9394
(9) Practicing in an area of occupational therapy for which	9395
the individual is untrained or incompetent;	9396
(10) Failing the licensing or Ohio jurisprudence examination;	9397
(11) Aiding, abetting, directing, or supervising the	9398
unlicensed practice of occupational therapy;	9399
(12) Denial, revocation, suspension, or restriction of	9400
authority to practice a health care occupation, including	9401
occupational therapy, for any reason other than a failure to	9402

renew, in Ohio or another state or jurisdiction;	9403
(13) Except as provided in division (B) of this section:	9404
(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 occupational therapy, 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;	9405 9406 9407 9408 9409 9410
(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.	9411 9412 9413 9414 9415
(14) Working or representing oneself as an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder without a current and valid license or limited permit issued by the occupational therapy section;	9416 9417 9418 9419 9420
(15) Engaging in a deceptive trade practice, as defined in section 4165.02 of the Revised Code;	9421 9422
(16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;	9423 9424 9425
(17) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders, whether or not actual injury to a patient is established;	9426 9427 9428
(18) An adjudication by a court that the applicant, licensee, or limited permit holder is incompetent for the purpose of holding a license or limited permit and has not thereafter been restored to legal capacity for that purpose;	9429 9430 9431 9432

(19)(a) Except as provided in division (A)(19)(b) of this 9433
section, failure to cooperate with an investigation conducted by 9434
the occupational therapy section, including failure to comply with 9435
a subpoena or orders issued by the section or failure to answer 9436
truthfully a question presented by the section at a deposition or 9437
in written interrogatories. 9438

(b) Failure to cooperate with an investigation does not 9439
constitute grounds for discipline under this section if a court of 9440
competent jurisdiction issues an order that either quashes a 9441
subpoena or permits the individual to withhold the testimony or 9442
evidence at issue. 9443

(20) Conviction of a misdemeanor reasonably related to the 9444
practice of occupational therapy, regardless of the state or 9445
country in which the conviction occurred; 9446

(21) Inability to practice according to acceptable and 9447
prevailing standards of care because of mental or physical 9448
illness, including physical deterioration that adversely affects 9449
cognitive, motor, or perception skills; 9450

(22) Violation of conditions, limitations, or agreements 9451
placed by the occupational therapy section on a license or limited 9452
permit to practice; 9453

(23) Making a false, fraudulent, deceptive, or misleading 9454
statement in the solicitation of or advertising for patients in 9455
relation to the practice of occupational therapy; 9456

(24) Failure to complete continuing education requirements as 9457
prescribed in rules adopted by the occupational therapy section 9458
under section 4755.06 of the Revised Code. 9459

(B) Sanctions shall not be imposed under division (A)(13) of 9460
this section against any individual who waives deductibles and 9461
copayments as follows: 9462

(1) In compliance with the health benefit plan that expressly 9463
allows such a practice. Waiver of the deductibles or copayments 9464
shall be made only with the full knowledge and consent of the plan 9465
purchaser, payer, and third-party administrator. Documentation of 9466
the consent shall be made available to the section upon request. 9467

(2) For professional services rendered to any other person 9468
licensed pursuant to sections 4755.04 to 4755.13 of the Revised 9469
Code to the extent allowed by those sections and the rules of the 9470
occupational therapy section. 9471

(C) Except as provided in division (D) of this section, the 9472
suspension or revocation of a license or limited permit under this 9473
section is not effective until either the order for suspension or 9474
revocation has been affirmed following an adjudication hearing, or 9475
the time for requesting a hearing has elapsed. 9476

When a license or limited permit is revoked under this 9477
section, application for reinstatement may not be made sooner than 9478
one year after the date of revocation. The occupational therapy 9479
section may accept or refuse an application for reinstatement and 9480
may require that the applicant pass an examination as a condition 9481
of reinstatement. 9482

When a license or limited permit holder is placed on 9483
probation under this section, the occupational therapy section's 9484
probation order shall be accompanied by a statement of the 9485
conditions under which the individual may be removed from 9486
probation and restored to unrestricted practice. 9487

(D) On receipt of a complaint that a person who holds a 9488
license or limited permit issued by the occupational therapy 9489
section has committed any of the prohibited actions listed in 9490
division (A) of this section, the section may immediately suspend 9491
the license or limited permit prior to holding a hearing in 9492
accordance with Chapter 119. of the Revised Code if it determines, 9493

based on the complaint, that the licensee or limited permit holder 9494
poses an immediate threat to the public. The section shall notify 9495
the licensee or limited permit holder of the suspension in 9496
accordance with section 119.07 of the Revised Code. If the 9497
individual whose license or limited permit is suspended fails to 9498
make a timely request for an adjudication under Chapter 119. of 9499
the Revised Code, the section shall enter a final order 9500
permanently revoking the individual's license or limited permit. 9501

(E) If any person other than a person who holds a license or 9502
limited permit issued under section 4755.08 of the Revised Code 9503
has engaged in any practice that is prohibited under sections 9504
4755.04 to 4755.13 of the Revised Code or the rules of the 9505
occupational therapy section, the section may apply to the court 9506
of common pleas of the county in which the violation occurred, for 9507
an injunction or other appropriate order restraining this conduct, 9508
and the court shall issue this order. 9509

Sec. 4755.47. (A) In accordance with Chapter 119. of the 9510
Revised Code, the physical therapy section of the Ohio 9511
occupational therapy, physical therapy, and athletic trainers 9512
board may refuse to grant a license to an applicant for an initial 9513
or renewed license as a physical therapist or physical therapist 9514
assistant or, by an affirmative vote of not less than five 9515
members, may limit, suspend, or revoke the license of a physical 9516
therapist or physical therapist assistant or reprimand, fine, or 9517
place a license holder on probation, on any of the following 9518
grounds: 9519

(1) Habitual indulgence in the use of controlled substances, 9520
other habit-forming drugs, or alcohol to an extent that affects 9521
the individual's professional competency; 9522

(2) Conviction of a ~~felony or a crime involving moral~~ 9523
~~turpitude~~ criminal offense substantially related to the person's 9524

fitness or ability to perform the duties and responsibilities of a 9525
physical therapist or physical therapist assistant, regardless of 9526
the state or country in which the conviction occurred; 9527

(3) Obtaining or attempting to obtain a license issued by the 9528
physical therapy section by fraud or deception, including the 9529
making of a false, fraudulent, deceptive, or misleading statement; 9530

(4) An adjudication by a court, as provided in section 9531
5122.301 of the Revised Code, that the applicant or licensee is 9532
incompetent for the purpose of holding the license and has not 9533
thereafter been restored to legal capacity for that purpose; 9534

(5) Subject to section 4755.471 of the Revised Code, 9535
violation of the code of ethics adopted by the physical therapy 9536
section; 9537

(6) Violating or attempting to violate, directly or 9538
indirectly, or assisting in or abetting the violation of or 9539
conspiring to violate sections 4755.40 to 4755.56 of the Revised 9540
Code or any order issued or rule adopted under those sections; 9541

(7) Failure of one or both of the examinations required under 9542
section 4755.43 or 4755.431 of the Revised Code; 9543

(8) Permitting the use of one's name or license by a person, 9544
group, or corporation when the one permitting the use is not 9545
directing the treatment given; 9546

(9) Denial, revocation, suspension, or restriction of 9547
authority to practice a health care occupation, including physical 9548
therapy, for any reason other than a failure to renew, in Ohio or 9549
another state or jurisdiction; 9550

(10) Failure to maintain minimal standards of practice in the 9551
administration or handling of drugs, as defined in section 4729.01 9552
of the Revised Code, or failure to employ acceptable scientific 9553
methods in the selection of drugs, as defined in section 4729.01 9554

of the Revised Code, or other modalities for treatment;	9555
(11) Willful betrayal of a professional confidence;	9556
(12) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of physical therapy;	9557 9558 9559
(13) A departure from, or the failure to conform to, minimal standards of care required of licensees when under the same or similar circumstances, whether or not actual injury to a patient is established;	9560 9561 9562 9563
(14) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	9564 9565
(15) Violation of the conditions of limitation or agreements placed by the physical therapy section on a license to practice;	9566 9567
(16) Failure to renew a license in accordance with section 4755.46 of the Revised Code;	9568 9569
(17) Except as provided in section 4755.471 of the Revised Code, engaging in the division of fees for referral of patients or receiving anything of value in return for a specific referral of a patient to utilize a particular service or business;	9570 9571 9572 9573
(18) Inability to practice according to acceptable and prevailing standards of care because of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;	9574 9575 9576 9577
(19) The revocation, suspension, restriction, or termination of clinical privileges by the United States department of defense or department of veterans affairs;	9578 9579 9580
(20) Termination or suspension from participation in the medicare or medicaid program established under Title XVIII and Title XIX, respectively, of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for an act or acts that	9581 9582 9583 9584

constitute a violation of sections 4755.40 to 4755.56 of the Revised Code; 9585
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(21) Failure of a physical therapist to maintain supervision of a student, physical therapist assistant, unlicensed support personnel, other assistant personnel, or a license applicant in accordance with the requirements of sections 4755.40 to 4755.56 of the Revised Code and rules adopted under those sections; 9587
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(22) Failure to complete continuing education requirements as prescribed in section 4755.51 or 4755.511 of the Revised Code or to satisfy any rules applicable to continuing education requirements that are adopted by the physical therapy section; 9592
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(23) Conviction of a misdemeanor when the act that constitutes the misdemeanor occurs during the practice of physical therapy; 9596
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(24)(a) Except as provided in division (A)(24)(b) of this section, failure to cooperate with an investigation conducted by the physical therapy section, including failure to comply with a subpoena or orders issued by the section or failure to answer truthfully a question presented by the section at a deposition or in written interrogatories. 9599
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(b) Failure to cooperate with an investigation does not constitute grounds for discipline under this section if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue. 9605
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(25) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the physical therapist or physical therapist assistant, in any of the following: 9610
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(a) Sexual contact, as defined in section 2907.01 of the Revised Code; 9614
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(b) Verbal behavior that is sexually demeaning to the patient 9616
or may be reasonably interpreted by the patient as sexually 9617
demeaning. 9618

(26) Failure to notify the physical therapy section of a 9619
change in name, business address, or home address within thirty 9620
days after the date of change; 9621

(27) Except as provided in division (B) of this section: 9622

(a) Waiving the payment of all or any part of a deductible or 9623
copayment that a patient, pursuant to a health insurance or health 9624
care policy, contract, or plan that covers physical therapy, would 9625
otherwise be required to pay if the waiver is used as an 9626
enticement to a patient or group of patients to receive health 9627
care services from that provider; 9628

(b) Advertising that the individual will waive the payment of 9629
all or any part of a deductible or copayment that a patient, 9630
pursuant to a health insurance or health care policy, contract, or 9631
plan that covers physical therapy, would otherwise be required to 9632
pay; 9633

(28) Violation of any section of this chapter or rule adopted 9634
under it. 9635

(B) Sanctions shall not be imposed under division (A)(27) of 9636
this section against any individual who waives deductibles and 9637
copayments as follows: 9638

(1) In compliance with the health benefit plan that expressly 9639
allows such a practice. Waiver of the deductibles or copayments 9640
shall be made only with the full knowledge and consent of the plan 9641
purchaser, payer, and third-party administrator. Documentation of 9642
the consent shall be made available to the physical therapy 9643
section upon request. 9644

(2) For professional services rendered to any other person 9645

licensed pursuant to sections 4755.40 to 4755.56 of the Revised Code to the extent allowed by those sections and the rules of the physical therapy section.

(C) When a license is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The physical therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.

When a license holder is placed on probation under this section, the physical therapy section's order for placement on probation shall be accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.

(D) When an application for an initial or renewed license is refused under this section, the physical therapy section shall notify the applicant in writing of the section's decision to refuse issuance of a license and the reason for its decision.

(E) On receipt of a complaint that a person licensed by the physical therapy section has committed any of the actions listed in division (A) of this section, the physical therapy section may immediately suspend the license of the physical therapist or physical therapist assistant prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the person poses an immediate threat to the public. The physical therapy section shall notify the person of the suspension in accordance with section 119.07 of the Revised Code. If the person fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the physical therapy section shall enter a final order permanently revoking the person's license.

Sec. 4755.64. (A) In accordance with Chapter 119. of the

Revised Code, the athletic trainers section of the Ohio 9677
occupational therapy, physical therapy, and athletic trainers 9678
board may suspend, revoke, or refuse to issue or renew an athletic 9679
trainers license, or reprimand, fine, or place a licensee on 9680
probation, for any of the following: 9681

(1) Conviction of a ~~felony or~~ criminal offense ~~involving~~ 9682
~~moral turpitude~~ substantially related to the fitness or ability of 9683
the applicant or licensee to perform the duties and 9684
responsibilities of an athletic trainer, regardless of the state 9685
or country in which the conviction occurred; 9686

(2) Violation of sections 4755.61 to 4755.65 of the Revised 9687
Code or any order issued or rule adopted thereunder; 9688

(3) Obtaining a license through fraud, false or misleading 9689
representation, or concealment of material facts; 9690

(4) Negligence or gross misconduct in the practice of 9691
athletic training; 9692

(5) Violating the standards of ethical conduct in the 9693
practice of athletic training as adopted by the athletic trainers 9694
section under section 4755.61 of the Revised Code; 9695

(6) Using any controlled substance or alcohol to the extent 9696
that the ability to practice athletic training at a level of 9697
competency is impaired; 9698

(7) Practicing in an area of athletic training for which the 9699
individual is untrained, incompetent, or practicing without the 9700
referral of a practitioner licensed under Chapter 4731. of the 9701
Revised Code, a dentist licensed under Chapter 4715. of the 9702
Revised Code, a chiropractor licensed under Chapter 4734. of the 9703
Revised Code, or a physical therapist licensed under this chapter; 9704

(8) Employing, directing, or supervising a person in the 9705
performance of athletic training procedures who is not authorized 9706

to practice as a licensed athletic trainer under this chapter; 9707

(9) Misrepresenting educational attainments or the functions 9708
the individual is authorized to perform for the purpose of 9709
obtaining some benefit related to the individual's athletic 9710
training practice; 9711

(10) Failing the licensing examination; 9712

(11) Aiding or abetting the unlicensed practice of athletic 9713
training; 9714

(12) Denial, revocation, suspension, or restriction of 9715
authority to practice a health care occupation, including athletic 9716
training, for any reason other than a failure to renew, in Ohio or 9717
another state or jurisdiction. 9718

(B) If the athletic trainers section places a licensee on 9719
probation under division (A) of this section, the section's order 9720
for placement on probation shall be accompanied by a written 9721
statement of the conditions under which the person may be removed 9722
from probation and restored to unrestricted practice. 9723

(C) A licensee whose license has been revoked under division 9724
(A) of this section may apply to the athletic trainers section for 9725
reinstatement of the license one year following the date of 9726
revocation. The athletic trainers section may accept or deny the 9727
application for reinstatement and may require that the applicant 9728
pass an examination as a condition for reinstatement. 9729

(D) On receipt of a complaint that a person licensed by the 9730
athletic trainers section has committed any of the prohibited 9731
actions listed in division (A) of this section, the section may 9732
immediately suspend the license of a licensed athletic trainer 9733
prior to holding a hearing in accordance with Chapter 119. of the 9734
Revised Code if it determines, based on the complaint, that the 9735
licensee poses an immediate threat to the public. The section 9736
shall notify the licensed athletic trainer of the suspension in 9737

accordance with section 119.07 of the Revised Code. If the 9738
individual whose license is suspended fails to make a timely 9739
request for an adjudication under Chapter 119. of the Revised 9740
Code, the section shall enter a final order permanently revoking 9741
the individual's license. 9742

Sec. 4757.36. (A) The professional standards committees of 9743
the counselor, social worker, and marriage and family therapist 9744
board, in accordance with Chapter 119. of the Revised Code, may 9745
refuse to issue a license or certificate of registration applied 9746
for under this chapter; refuse to renew a license or certificate 9747
of registration issued under this chapter; suspend, revoke, or 9748
otherwise restrict a license or certificate of registration issued 9749
under this chapter; or reprimand a person holding a license or 9750
certificate of registration issued under this chapter. Such 9751
actions may be taken by the appropriate committee if the applicant 9752
for a license or certificate of registration or the person holding 9753
a license or certificate of registration has: 9754

(1) Committed a violation of any provision of this chapter or 9755
rules adopted under it; 9756

(2) Knowingly made a false statement on an application for 9757
licensure or registration, or for renewal of a license or 9758
certificate of registration; 9759

(3) Accepted a commission or rebate for referring persons to 9760
any professionals licensed, certified, or registered by any court 9761
or board, commission, department, division, or other agency of the 9762
state, including, but not limited to, individuals practicing 9763
counseling, social work, or marriage and family therapy or 9764
practicing in fields related to counseling, social work, or 9765
marriage and family therapy; 9766

(4) Failed to comply with section 4757.12 of the Revised 9767
Code; 9768

(5) Been convicted in this or any other state of any ~~crime~~ 9769
~~that is a felony in this state~~ criminal offense substantially 9770
related to the person's fitness or ability to perform the duties 9771
and responsibilities of a holder of a license or certificate under 9772
this chapter; 9773

(6) Had the ability to perform properly as a professional 9774
clinical counselor, professional counselor, independent marriage 9775
and family therapist, marriage and family therapist, social work 9776
assistant, social worker, or independent social worker impaired 9777
due to the use of alcohol or other drugs or any other physical or 9778
mental condition; 9779

(7) Been convicted in this state or in any other state of a 9780
misdemeanor committed in the course of practice as a professional 9781
clinical counselor, professional counselor, independent marriage 9782
and family therapist, marriage and family therapist, social work 9783
assistant, social worker, or independent social worker; 9784

(8) Practiced outside the scope of practice applicable to 9785
that person; 9786

(9) Practiced without complying with the supervision 9787
requirements specified under sections 4757.21 and 4757.26, and 9788
division (F) of section 4757.30, of the Revised Code; 9789

(10) Violated the person's code of ethical practice adopted 9790
by rule of the board pursuant to section 4757.11 of the Revised 9791
Code; 9792

(11) Had a license or certificate of registration revoked or 9793
suspended, or voluntarily surrendered a license or certificate of 9794
registration in another state or jurisdiction for an offense that 9795
would be a violation of this chapter. 9796

(B) One year or more after the date of suspension or 9797
revocation of a license or certificate of registration under this 9798
section, application may be made to the appropriate professional 9799

standards committee for reinstatement. The committee may accept or 9800
refuse an application for reinstatement. If a license has been 9801
suspended or revoked, the committee may require an examination for 9802
reinstatement. 9803

Sec. 4758.30. (A) The chemical dependency professionals 9804
board, in accordance with Chapter 119. of the Revised Code, may 9805
refuse to issue a license or certificate applied for under this 9806
chapter; refuse to renew a license or certificate issued under 9807
this chapter; suspend, revoke, or otherwise restrict a license or 9808
certificate issued under this chapter; or reprimand an individual 9809
holding a license or certificate issued under this chapter. These 9810
actions may be taken by the board regarding the applicant for a 9811
license or certificate or the individual holding a license or 9812
certificate for one or more of the following reasons: 9813

(1) Violation of any provision of this chapter or rules 9814
adopted under it; 9815

(2) Knowingly making a false statement on an application for 9816
a license or certificate or for renewal, restoration, or 9817
reinstatement of a license or certificate; 9818

(3) Acceptance of a commission or rebate for referring an 9819
individual to a person who holds a license or certificate issued 9820
by, or who is registered with, an entity of state government, 9821
including persons practicing chemical dependency counseling, 9822
alcohol and other drug prevention services, or fields related to 9823
chemical dependency counseling or alcohol and other drug 9824
prevention services; 9825

(4) Conviction in this or any other state of any ~~crime that~~ 9826
~~is a felony in this state~~ criminal offense substantially related 9827
to the person's fitness or ability to perform the duties and 9828
responsibilities of a holder of a license or certificate under 9829
this chapter; 9830

(5) Conviction in this or any other state of a misdemeanor committed in the course of practice as an independent chemical dependency counselor, chemical dependency counselor III, chemical dependency counselor II, chemical dependency counselor I, chemical dependency counselor assistant, prevention specialist II, prevention specialist I, or registered applicant;	9831 9832 9833 9834 9835 9836
(6) Inability to practice as an independent chemical dependency counselor, chemical dependency counselor III, chemical dependency counselor II, chemical dependency counselor I, chemical dependency counselor assistant, prevention specialist II, prevention specialist I, or registered applicant due to abuse of or dependency on alcohol or other drugs or other physical or mental condition;	9837 9838 9839 9840 9841 9842 9843
(7) Practicing outside the individual's scope of practice;	9844
(8) Practicing without complying with the supervision requirements specified under section 4758.56, 4758.59, or 4758.61 of the Revised Code;	9845 9846 9847
(9) Violation of the code of ethical practice and professional conduct for chemical dependency counseling or alcohol and other drug prevention services adopted by the board pursuant to section 4758.23 of the Revised Code;	9848 9849 9850 9851
(10) Revocation of a license or certificate or voluntary surrender of a license or certificate in another state or jurisdiction for an offense that would be a violation of this chapter.	9852 9853 9854 9855
(B) An individual whose license or certificate has been suspended or revoked under this section may apply to the board for reinstatement after an amount of time the board shall determine in accordance with rules adopted under section 4758.20 of the Revised Code. The board may accept or refuse an application for reinstatement. The board may require an examination for	9856 9857 9858 9859 9860 9861

reinstatement of a license or certificate that has been suspended 9862
or revoked. 9863

Sec. 4759.07. (A) The Ohio board of dietetics may, in 9864
accordance with Chapter 119. of the Revised Code, refuse to issue, 9865
review, or renew, or may suspend, revoke, or impose probationary 9866
conditions upon any license or permit to practice dietetics, if 9867
the applicant has: 9868

(1) Violated sections 4759.02 to 4759.10 of the Revised Code 9869
or rules adopted under those sections; 9870

(2) Knowingly made a false statement in ~~his~~ an application 9871
for licensure or license renewal; 9872

(3) Been convicted of any ~~crime constituting a felony in this~~ 9873
~~or any other state~~ criminal offense substantially related to the 9874
person's fitness or ability to perform the duties and 9875
responsibilities of a dietitian; 9876

(4) Been impaired in ~~his~~ ability to perform as a licensed 9877
dietitian due to the use of a controlled substance or alcoholic 9878
beverage; 9879

(5) ~~Been convicted of a misdemeanor committed in the course~~ 9880
~~of his work as a dietitian in this or any other state;~~ 9881

~~(6)~~ A record of incompetent or negligent conduct in ~~his~~ the 9882
practice of dietetics. 9883

(B) One year or more after the date of suspension or 9884
revocation of a license or permit, an application for 9885
reinstatement of the license or permit may be made to the board. 9886
The board shall grant or deny reinstatement with a hearing, at the 9887
request of the applicant, in accordance with Chapter 119. of the 9888
Revised Code and may impose conditions upon the reinstatement, 9889
including the requirement of passing an examination approved by 9890
the board. 9891

Sec. 4760.13. (A) The state medical board, by an affirmative 9892
vote of not fewer than six members, may revoke or may refuse to 9893
grant a certificate of registration as an anesthesiologist 9894
assistant to a person found by the board to have committed fraud, 9895
misrepresentation, or deception in applying for or securing the 9896
certificate. 9897

(B) The board, by an affirmative vote of not fewer than six 9898
members, shall, to the extent permitted by law, limit, revoke, or 9899
suspend an individual's certificate of registration as an 9900
anesthesiologist assistant, refuse to issue a certificate to an 9901
applicant, refuse to reinstate a certificate, or reprimand or 9902
place on probation the holder of a certificate for any of the 9903
following reasons: 9904

(1) Permitting the holder's name or certificate to be used by 9905
another person; 9906

(2) Failure to comply with the requirements of this chapter, 9907
Chapter 4731. of the Revised Code, or any rules adopted by the 9908
board; 9909

(3) Violating or attempting to violate, directly or 9910
indirectly, or assisting in or abetting the violation of, or 9911
conspiring to violate, any provision of this chapter, Chapter 9912
4731. of the Revised Code, or the rules adopted by the board; 9913

(4) A departure from, or failure to conform to, minimal 9914
standards of care of similar practitioners under the same or 9915
similar circumstances whether or not actual injury to the patient 9916
is established; 9917

(5) Inability to practice according to acceptable and 9918
prevailing standards of care by reason of mental illness or 9919
physical illness, including physical deterioration that adversely 9920
affects cognitive, motor, or perceptive skills; 9921

(6) Impairment of ability to practice according to acceptable 9922
and prevailing standards of care because of habitual or excessive 9923
use or abuse of drugs, alcohol, or other substances that impair 9924
ability to practice; 9925

(7) Willfully betraying a professional confidence; 9926

(8) Making a false, fraudulent, deceptive, or misleading 9927
statement in securing or attempting to secure a certificate of 9928
registration to practice as an anesthesiologist assistant. 9929

As used in this division, "false, fraudulent, deceptive, or 9930
misleading statement" means a statement that includes a 9931
misrepresentation of fact, is likely to mislead or deceive because 9932
of a failure to disclose material facts, is intended or is likely 9933
to create false or unjustified expectations of favorable results, 9934
or includes representations or implications that in reasonable 9935
probability will cause an ordinarily prudent person to 9936
misunderstand or be deceived. 9937

(9) The obtaining of, or attempting to obtain, money or a 9938
thing of value by fraudulent misrepresentations in the course of 9939
practice; 9940

(10) A plea of guilty to, a judicial finding of guilt of, or 9941
a judicial finding of eligibility for intervention in lieu of 9942
conviction for, a felony criminal offense substantially related to 9943
the person's fitness or ability to perform the duties and 9944
responsibilities of an anesthesiologist assistant; 9945

(11) Commission of an act that constitutes ~~a felony~~ in this 9946
state a criminal offense substantially related to the person's 9947
fitness or ability to perform the duties and responsibilities of 9948
an anesthesiologist assistant, regardless of the jurisdiction in 9949
which the act was committed; 9950

~~(12) A plea of guilty to, a judicial finding of guilt of, or~~ 9951
~~a judicial finding of eligibility for intervention in lieu of~~ 9952

conviction for, a misdemeanor committed in the course of practice;	9953
(13) A plea of guilty to, a judicial finding of guilt of, or	9954
a judicial finding of eligibility for intervention in lieu of	9955
conviction for, a misdemeanor involving moral turpitude;	9956
(14) Commission of an act in the course of practice that	9957
constitutes a misdemeanor in this state, regardless of the	9958
jurisdiction in which the act was committed;	9959
(15) Commission of an act involving moral turpitude that	9960
constitutes a misdemeanor in this state, regardless of the	9961
jurisdiction in which the act was committed;	9962
(16) A plea of guilty to, a judicial finding of guilt of, or	9963
a judicial finding of eligibility for intervention in lieu of	9964
conviction for violating any state or federal law regulating the	9965
possession, distribution, or use of any drug, including	9966
trafficking in drugs;	9967
(17) <u>(13)</u> Any of the following actions taken by the state	9968
agency responsible for regulating the practice of anesthesiologist	9969
assistants in another jurisdiction, for any reason other than the	9970
nonpayment of fees: the limitation, revocation, or suspension of	9971
an individual's license to practice; acceptance of an individual's	9972
license surrender; denial of a license; refusal to renew or	9973
reinstate a license; imposition of probation; or issuance of an	9974
order of censure or other reprimand;	9975
(18) <u>(14)</u> Violation of the conditions placed by the board on a	9976
certificate of registration;	9977
(19) <u>(15)</u> Failure to use universal blood and body fluid	9978
precautions established by rules adopted under section 4731.051 of	9979
the Revised Code;	9980
(20) <u>(16)</u> Failure to cooperate in an investigation conducted	9981
by the board under section 4760.14 of the Revised Code, including	9982

failure to comply with a subpoena or order issued by the board or 9983
failure to answer truthfully a question presented by the board at 9984
a deposition or in written interrogatories, except that failure to 9985
cooperate with an investigation shall not constitute grounds for 9986
discipline under this section if a court of competent jurisdiction 9987
has issued an order that either quashes a subpoena or permits the 9988
individual to withhold the testimony or evidence in issue; 9989

~~(21)~~(17) Failure to comply with any code of ethics 9990
established by the national commission for the certification of 9991
anesthesiologist assistants; 9992

~~(22)~~(18) Failure to notify the state medical board of the 9993
revocation or failure to maintain certification from the national 9994
commission for certification of anesthesiologist assistants. 9995

(C) Disciplinary actions taken by the board under divisions 9996
(A) and (B) of this section shall be taken pursuant to an 9997
adjudication under Chapter 119. of the Revised Code, except that 9998
in lieu of an adjudication, the board may enter into a consent 9999
agreement with an anesthesiologist assistant or applicant to 10000
resolve an allegation of a violation of this chapter or any rule 10001
adopted under it. A consent agreement, when ratified by an 10002
affirmative vote of not fewer than six members of the board, shall 10003
constitute the findings and order of the board with respect to the 10004
matter addressed in the agreement. If the board refuses to ratify 10005
a consent agreement, the admissions and findings contained in the 10006
consent agreement shall be of no force or effect. 10007

(D) For purposes of ~~divisions~~ division (B)(11), ~~(14)~~, and 10008
~~(15)~~ of this section, the commission of the act may be established 10009
by a finding by the board, pursuant to an adjudication under 10010
Chapter 119. of the Revised Code, that the applicant or 10011
certificate holder committed the act in question. The board shall 10012
have no jurisdiction under these divisions in cases where the 10013
trial court renders a final judgment in the certificate holder's 10014

favor and that judgment is based upon an adjudication on the 10015
merits. The board shall have jurisdiction under these divisions in 10016
cases where the trial court issues an order of dismissal on 10017
technical or procedural grounds. 10018

(E) The sealing of conviction records by any court shall have 10019
no effect on a prior board order entered under the provisions of 10020
this section or on the board's jurisdiction to take action under 10021
the provisions of this section if, based upon a plea of guilty, a 10022
judicial finding of guilt, or a judicial finding of eligibility 10023
for intervention in lieu of conviction, the board issued a notice 10024
of opportunity for a hearing prior to the court's order to seal 10025
the records. The board shall not be required to seal, destroy, 10026
redact, or otherwise modify its records to reflect the court's 10027
sealing of conviction records. 10028

(F) For purposes of this division, any individual who holds a 10029
certificate of registration issued under this chapter, or applies 10030
for a certificate of registration, shall be deemed to have given 10031
consent to submit to a mental or physical examination when 10032
directed to do so in writing by the board and to have waived all 10033
objections to the admissibility of testimony or examination 10034
reports that constitute a privileged communication. 10035

(1) In enforcing division (B)(5) of this section, the board, 10036
on a showing of a possible violation, may compel any individual 10037
who holds a certificate of registration issued under this chapter 10038
or who has applied for a certificate of registration pursuant to 10039
this chapter to submit to a mental or physical examination, or 10040
both. A physical examination may include an HIV test. The expense 10041
of the examination is the responsibility of the individual 10042
compelled to be examined. Failure to submit to a mental or 10043
physical examination or consent to an HIV test ordered by the 10044
board constitutes an admission of the allegations against the 10045
individual unless the failure is due to circumstances beyond the 10046

individual's control, and a default and final order may be entered 10047
without the taking of testimony or presentation of evidence. If 10048
the board finds an anesthesiologist assistant unable to practice 10049
because of the reasons set forth in division (B)(5) of this 10050
section, the board shall require the anesthesiologist assistant to 10051
submit to care, counseling, or treatment by physicians approved or 10052
designated by the board, as a condition for an initial, continued, 10053
reinstated, or renewed certificate of registration. An individual 10054
affected by this division shall be afforded an opportunity to 10055
demonstrate to the board the ability to resume practicing in 10056
compliance with acceptable and prevailing standards of care. 10057

(2) For purposes of division (B)(6) of this section, if the 10058
board has reason to believe that any individual who holds a 10059
certificate of registration issued under this chapter or any 10060
applicant for a certificate of registration suffers such 10061
impairment, the board may compel the individual to submit to a 10062
mental or physical examination, or both. The expense of the 10063
examination is the responsibility of the individual compelled to 10064
be examined. Any mental or physical examination required under 10065
this division shall be undertaken by a treatment provider or 10066
physician qualified to conduct such examination and chosen by the 10067
board. 10068

Failure to submit to a mental or physical examination ordered 10069
by the board constitutes an admission of the allegations against 10070
the individual unless the failure is due to circumstances beyond 10071
the individual's control, and a default and final order may be 10072
entered without the taking of testimony or presentation of 10073
evidence. If the board determines that the individual's ability to 10074
practice is impaired, the board shall suspend the individual's 10075
certificate or deny the individual's application and shall require 10076
the individual, as a condition for an initial, continued, 10077
reinstated, or renewed certificate of registration, to submit to 10078

treatment. 10079

Before being eligible to apply for reinstatement of a 10080
certificate suspended under this division, the anesthesiologist 10081
assistant shall demonstrate to the board the ability to resume 10082
practice in compliance with acceptable and prevailing standards of 10083
care. The demonstration shall include the following: 10084

(a) Certification from a treatment provider approved under 10085
section 4731.25 of the Revised Code that the individual has 10086
successfully completed any required inpatient treatment; 10087

(b) Evidence of continuing full compliance with an aftercare 10088
contract or consent agreement; 10089

(c) Two written reports indicating that the individual's 10090
ability to practice has been assessed and that the individual has 10091
been found capable of practicing according to acceptable and 10092
prevailing standards of care. The reports shall be made by 10093
individuals or providers approved by the board for making such 10094
assessments and shall describe the basis for their determination. 10095

The board may reinstate a certificate suspended under this 10096
division after such demonstration and after the individual has 10097
entered into a written consent agreement. 10098

When the impaired anesthesiologist assistant resumes 10099
practice, the board shall require continued monitoring of the 10100
anesthesiologist assistant. The monitoring shall include 10101
monitoring of compliance with the written consent agreement 10102
entered into before reinstatement or with conditions imposed by 10103
board order after a hearing, and, on termination of the consent 10104
agreement, submission to the board for at least two years of 10105
annual written progress reports made under penalty of 10106
falsification stating whether the anesthesiologist assistant has 10107
maintained sobriety. 10108

(G) If the secretary and supervising member determine that 10109

there is clear and convincing evidence that an anesthesiologist 10110
assistant has violated division (B) of this section and that the 10111
individual's continued practice presents a danger of immediate and 10112
serious harm to the public, they may recommend that the board 10113
suspend the individual's certificate or registration without a 10114
prior hearing. Written allegations shall be prepared for 10115
consideration by the board. 10116

The board, on review of the allegations and by an affirmative 10117
vote of not fewer than six of its members, excluding the secretary 10118
and supervising member, may suspend a certificate without a prior 10119
hearing. A telephone conference call may be utilized for reviewing 10120
the allegations and taking the vote on the summary suspension. 10121

The board shall issue a written order of suspension by 10122
certified mail or in person in accordance with section 119.07 of 10123
the Revised Code. The order shall not be subject to suspension by 10124
the court during pendency of any appeal filed under section 119.12 10125
of the Revised Code. If the anesthesiologist assistant requests an 10126
adjudicatory hearing by the board, the date set for the hearing 10127
shall be within fifteen days, but not earlier than seven days, 10128
after the anesthesiologist assistant requests the hearing, unless 10129
otherwise agreed to by both the board and the certificate holder. 10130

A summary suspension imposed under this division shall remain 10131
in effect, unless reversed on appeal, until a final adjudicative 10132
order issued by the board pursuant to this section and Chapter 10133
119. of the Revised Code becomes effective. The board shall issue 10134
its final adjudicative order within sixty days after completion of 10135
its hearing. Failure to issue the order within sixty days shall 10136
result in dissolution of the summary suspension order, but shall 10137
not invalidate any subsequent, final adjudicative order. 10138

(H) If the board takes action under division (B)(11), ~~(13)~~, 10139
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 10140
plea, or judicial finding of eligibility for intervention in lieu 10141

of conviction is overturned on appeal, on exhaustion of the 10142
criminal appeal, a petition for reconsideration of the order may 10143
be filed with the board along with appropriate court documents. On 10144
receipt of a petition and supporting court documents, the board 10145
shall reinstate the certificate of registration. The board may 10146
then hold an adjudication under Chapter 119. of the Revised Code 10147
to determine whether the individual committed the act in question. 10148
Notice of opportunity for hearing shall be given in accordance 10149
with Chapter 119. of the Revised Code. If the board finds, 10150
pursuant to an adjudication held under this division, that the 10151
individual committed the act, or if no hearing is requested, it 10152
may order any of the sanctions specified in division (B) of this 10153
section. 10154

(I) The certificate of registration of an anesthesiologist 10155
assistant and the assistant's practice in this state are 10156
automatically suspended as of the date the anesthesiologist 10157
assistant pleads guilty to, is found by a judge or jury to be 10158
guilty of, or is subject to a judicial finding of eligibility for 10159
intervention in lieu of conviction in this state or treatment of 10160
intervention in lieu of conviction in another jurisdiction for any 10161
of the following criminal offenses in this state or a 10162
substantially equivalent criminal offense in another jurisdiction: 10163
aggravated murder, murder, voluntary manslaughter, felonious 10164
assault, kidnapping, rape, sexual battery, gross sexual 10165
imposition, aggravated arson, aggravated robbery, or aggravated 10166
burglary. Continued practice after the suspension shall be 10167
considered practicing without a certificate. 10168

The board shall notify the individual subject to the 10169
suspension by certified mail or in person in accordance with 10170
section 119.07 of the Revised Code. If an individual whose 10171
certificate is suspended under this division fails to make a 10172
timely request for an adjudication under Chapter 119. of the 10173

Revised Code, the board shall enter a final order permanently 10174
revoking the individual's certificate of registration. 10175

(J) In any instance in which the board is required by Chapter 10176
119. of the Revised Code to give notice of opportunity for hearing 10177
and the individual subject to the notice does not timely request a 10178
hearing in accordance with section 119.07 of the Revised Code, the 10179
board is not required to hold a hearing, but may adopt, by an 10180
affirmative vote of not fewer than six of its members, a final 10181
order that contains the board's findings. In the final order, the 10182
board may order any of the sanctions identified under division (A) 10183
or (B) of this section. 10184

(K) Any action taken by the board under division (B) of this 10185
section resulting in a suspension shall be accompanied by a 10186
written statement of the conditions under which the 10187
anesthesiologist assistant's certificate may be reinstated. The 10188
board shall adopt rules in accordance with Chapter 119. of the 10189
Revised Code governing conditions to be imposed for reinstatement. 10190
Reinstatement of a certificate suspended pursuant to division (B) 10191
of this section requires an affirmative vote of not fewer than six 10192
members of the board. 10193

(L) When the board refuses to grant a certificate of 10194
registration as an anesthesiologist assistant to an applicant, 10195
revokes an individual's certificate of registration, refuses to 10196
renew a certificate of registration, or refuses to reinstate an 10197
individual's certificate of registration, the board may specify 10198
that its action is permanent. An individual subject to a permanent 10199
action taken by the board is forever thereafter ineligible to hold 10200
a certificate of registration as an anesthesiologist assistant and 10201
the board shall not accept an application for reinstatement of the 10202
certificate or for issuance of a new certificate. 10203

(M) Notwithstanding any other provision of the Revised Code, 10204
all of the following apply: 10205

(1) The surrender of a certificate of registration issued 10206
under this chapter is not effective unless or until accepted by 10207
the board. Reinstatement of a certificate surrendered to the board 10208
requires an affirmative vote of not fewer than six members of the 10209
board. 10210

(2) An application made under this chapter for a certificate 10211
of registration may not be withdrawn without approval of the 10212
board. 10213

(3) Failure by an individual to renew a certificate of 10214
registration in accordance with section 4760.06 of the Revised 10215
Code shall not remove or limit the board's jurisdiction to take 10216
disciplinary action under this section against the individual. 10217

Sec. 4760.15. (A) As used in this section, "prosecutor" has 10218
the same meaning as in section 2935.01 of the Revised Code. 10219

(B) Whenever any person holding a valid certificate issued 10220
pursuant to this chapter pleads guilty to, is subject to a 10221
judicial finding of guilt of, or is subject to a judicial finding 10222
of eligibility for intervention in lieu of conviction for a 10223
violation of Chapter 2907., 2925., or 3719. of the Revised Code or 10224
of any substantively comparable ordinance of a municipal 10225
corporation in connection with the person's practice, the 10226
prosecutor in the case, on forms prescribed and provided by the 10227
state medical board, shall promptly notify the board of the 10228
conviction. Within thirty days of receipt of that information, the 10229
board shall initiate action in accordance with Chapter 119. of the 10230
Revised Code to determine whether to suspend or revoke the 10231
certificate under section 4760.13 of the Revised Code. 10232

(C) The prosecutor in any case against any person holding a 10233
valid certificate of registration issued pursuant to this chapter, 10234
on forms prescribed and provided by the state medical board, shall 10235
notify the board of ~~any of the following:~~ 10236

~~(1) A a plea of guilty to, a finding of guilt by a jury or court of, or a judicial finding of eligibility for intervention in lieu of conviction for a ~~felony~~ criminal offense substantially related to the person's fitness or ability to perform the duties and responsibilities of an anesthesiologist assistant, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a ~~felony~~ charge;~~ 10237
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~~(2) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;~~ 10244
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~~(3) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude of a criminal offense of that nature.~~ 10251
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The report shall include the name and address of the certificate holder, the nature of the offense for which the action was taken, and the certified court documents recording the action. 10257
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Sec. 4761.09. (A) The Ohio respiratory care board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds: 10260
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(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for ~~an~~ a criminal offense ~~involving moral turpitude or~~ 10265
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of a felony <u>substantially related to the person's fitness or</u>	10268
<u>ability to perform the duties and responsibilities of a</u>	10269
<u>respiratory care professional</u> , in which case a certified copy of	10270
the court record shall be conclusive evidence of the matter;	10271
(2) Violating any provision of this chapter or an order or	10272
rule of the board;	10273
(3) Assisting another person in that person's violation of	10274
any provision of this chapter or an order or rule of the board;	10275
(4) Obtaining a license or limited permit by means of fraud,	10276
false or misleading representation, or concealment of material	10277
facts or making any other material misrepresentation to the board;	10278
(5) Being guilty of negligence or gross misconduct in the	10279
practice of respiratory care;	10280
(6) Violating the standards of ethical conduct adopted by the	10281
board, in the practice of respiratory care;	10282
(7) Engaging in dishonorable, unethical, or unprofessional	10283
conduct of a character likely to deceive, defraud, or harm the	10284
public;	10285
(8) Using any dangerous drug, as defined in section 4729.01	10286
of the Revised Code, or alcohol to the extent that the use impairs	10287
the ability to practice respiratory care at an acceptable level of	10288
competency;	10289
(9) Practicing respiratory care while mentally incompetent;	10290
(10) Accepting commissions, rebates, or other forms of	10291
remuneration for patient referrals;	10292
(11) Practicing in an area of respiratory care for which the	10293
person is clearly untrained or incompetent or practicing in a	10294
manner that conflicts with section 4761.17 of the Revised Code;	10295
(12) Employing, directing, or supervising a person who is not	10296
authorized to practice respiratory care under this chapter in the	10297

performance of respiratory care procedures; 10298

(13) Misrepresenting educational attainments or authorized 10299
functions for the purpose of obtaining some benefit related to the 10300
practice of respiratory care; 10301

(14) Assisting suicide as defined in section 3795.01 of the 10302
Revised Code. 10303

Before the board may take any action under this section, 10304
other than issuance of a summary suspension order under division 10305
(C) of this section, the executive director of the board shall 10306
prepare and file written charges with the board. Disciplinary 10307
actions taken by the board under this section shall be taken 10308
pursuant to an adjudication under Chapter 119. of the Revised 10309
Code, except that in lieu of an adjudication, the board may enter 10310
into a consent agreement to resolve an allegation of a violation 10311
of this chapter or any rule adopted under it. A consent agreement, 10312
when ratified by the board, shall constitute the findings and 10313
order of the board with respect to the matter addressed in the 10314
agreement. If the board refuses to ratify a consent agreement, the 10315
admissions and findings contained in the consent agreement shall 10316
be of no effect. 10317

(B) If the board orders a license or limited permit holder 10318
placed on probation, the order shall be accompanied by a written 10319
statement of the conditions under which the person may be restored 10320
to practice. 10321

The person may reapply to the board for original issuance of 10322
a license after one year following the date the license was 10323
denied. 10324

A person may apply to the board for the reinstatement of a 10325
license or limited permit after one year following the date of 10326
suspension or refusal to renew. The board may accept or refuse the 10327
application for reinstatement and may require that the applicant 10328

pass a reexamination as a condition of eligibility for 10329
reinstatement. 10330

(C) If the president and secretary of the board determine 10331
that there is clear and convincing evidence that a license or 10332
limited permit holder has committed an act that is grounds for 10333
board action under division (A) of this section and that continued 10334
practice by the license or permit holder presents a danger of 10335
immediate and serious harm to the public, the president and 10336
secretary may recommend that the board suspend the license or 10337
limited permit without a prior hearing. The president and 10338
secretary shall submit in writing to the board the allegations 10339
causing them to recommend the suspension. 10340

On review of the allegations, the board, by a vote of not 10341
less than seven of its members, may suspend a license or limited 10342
permit without a prior hearing. The board may review the 10343
allegations and vote on the suspension by a telephone conference 10344
call. 10345

If the board votes to suspend a license or limited permit 10346
under this division, the board shall issue a written order of 10347
summary suspension to the license or limited permit holder in 10348
accordance with section 119.07 of the Revised Code. If the license 10349
or limited permit holder requests a hearing by the board, the 10350
board shall conduct the hearing in accordance with Chapter 119. of 10351
the Revised Code. Notwithstanding section 119.12 of the Revised 10352
Code, a court of common pleas shall not grant a suspension of the 10353
board's order of summary suspension pending determination of an 10354
appeal filed under that section. 10355

Any order of summary suspension issued under this division 10356
shall remain in effect until a final adjudication order issued by 10357
the board pursuant to division (A) of this section becomes 10358
effective. The board shall issue its final adjudication order 10359
regarding an order of summary suspension issued under this 10360

division not later than sixty days after completion of its 10361
hearing. Failure to issue the order within sixty days shall result 10362
in immediate dissolution of the suspension order, but shall not 10363
invalidate any subsequent, final adjudication order. 10364

Sec. 4762.13. (A) The state medical board, by an affirmative 10365
vote of not fewer than six members, may revoke or may refuse to 10366
grant a certificate of registration as an acupuncturist to a 10367
person found by the board to have committed fraud, 10368
misrepresentation, or deception in applying for or securing the 10369
certificate. 10370

(B) The board, by an affirmative vote of not fewer than six 10371
members, shall, to the extent permitted by law, limit, revoke, or 10372
suspend an individual's certificate of registration as an 10373
acupuncturist, refuse to issue a certificate to an applicant, 10374
refuse to reinstate a certificate, or reprimand or place on 10375
probation the holder of a certificate for any of the following 10376
reasons: 10377

(1) Permitting the holder's name or certificate to be used by 10378
another person; 10379

(2) Failure to comply with the requirements of this chapter, 10380
Chapter 4731. of the Revised Code, or any rules adopted by the 10381
board; 10382

(3) Violating or attempting to violate, directly or 10383
indirectly, or assisting in or abetting the violation of, or 10384
conspiring to violate, any provision of this chapter, Chapter 10385
4731. of the Revised Code, or the rules adopted by the board; 10386

(4) A departure from, or failure to conform to, minimal 10387
standards of care of similar practitioners under the same or 10388
similar circumstances whether or not actual injury to the patient 10389
is established; 10390

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a certificate of registration to practice as an acupuncturist.

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

(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(10) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a ~~felony~~ criminal offense substantially related to

the person's fitness or ability to perform the duties and 10422
responsibilities of an acupuncturist; 10423

(12) Commission of an act that constitutes ~~a felony~~ in this 10424
state a criminal offense substantially related to the person's 10425
fitness or ability to perform the duties and responsibilities of 10426
an acupuncturist, regardless of the jurisdiction in which the act 10427
was committed; 10428

(13) ~~A plea of guilty to, a judicial finding of guilt of, or~~ 10429
~~a judicial finding of eligibility for intervention in lieu of~~ 10430
~~conviction for, a misdemeanor committed in the course of practice;~~ 10431

(14) ~~A plea of guilty to, a judicial finding of guilt of, or~~ 10432
~~a judicial finding of eligibility for intervention in lieu of~~ 10433
~~conviction for, a misdemeanor involving moral turpitude;~~ 10434

(15) ~~Commission of an act in the course of practice that~~ 10435
~~constitutes a misdemeanor in this state, regardless of the~~ 10436
~~jurisdiction in which the act was committed;~~ 10437

(16) ~~Commission of an act involving moral turpitude that~~ 10438
~~constitutes a misdemeanor in this state, regardless of the~~ 10439
~~jurisdiction in which the act was committed;~~ 10440

(17) ~~A plea of guilty to, a judicial finding of guilt of, or~~ 10441
~~a judicial finding of eligibility for intervention in lieu of~~ 10442
~~conviction for violating any state or federal law regulating the~~ 10443
~~possession, distribution, or use of any drug, including~~ 10444
~~trafficking in drugs;~~ 10445

(18) ~~Any of the following actions taken by the state agency~~ 10446
~~responsible for regulating the practice of acupuncture in another~~ 10447
~~jurisdiction, for any reason other than the nonpayment of fees:~~ 10448
~~the limitation, revocation, or suspension of an individual's~~ 10449
~~license to practice; acceptance of an individual's license~~ 10450
~~surrender; denial of a license; refusal to renew or reinstate a~~ 10451
~~license; imposition of probation; or issuance of an order of~~ 10452

censure or other reprimand; 10453

~~(19)~~(14) Violation of the conditions placed by the board on a 10454
certificate of registration; 10455

~~(20)~~(15) Failure to use universal blood and body fluid 10456
precautions established by rules adopted under section 4731.051 of 10457
the Revised Code; 10458

~~(21)~~(16) Failure to cooperate in an investigation conducted 10459
by the board under section 4762.14 of the Revised Code, including 10460
failure to comply with a subpoena or order issued by the board or 10461
failure to answer truthfully a question presented by the board at 10462
a deposition or in written interrogatories, except that failure to 10463
cooperate with an investigation shall not constitute grounds for 10464
discipline under this section if a court of competent jurisdiction 10465
has issued an order that either quashes a subpoena or permits the 10466
individual to withhold the testimony or evidence in issue; 10467

~~(22)~~(17) Failure to comply with the standards of the national 10468
certification commission for acupuncture and oriental medicine 10469
regarding professional ethics, commitment to patients, commitment 10470
to the profession, and commitment to the public. 10471

(C) Disciplinary actions taken by the board under divisions 10472
(A) and (B) of this section shall be taken pursuant to an 10473
adjudication under Chapter 119. of the Revised Code, except that 10474
in lieu of an adjudication, the board may enter into a consent 10475
agreement with an acupuncturist or applicant to resolve an 10476
allegation of a violation of this chapter or any rule adopted 10477
under it. A consent agreement, when ratified by an affirmative 10478
vote of not fewer than six members of the board, shall constitute 10479
the findings and order of the board with respect to the matter 10480
addressed in the agreement. If the board refuses to ratify a 10481
consent agreement, the admissions and findings contained in the 10482
consent agreement shall be of no force or effect. 10483

(D) For purposes of ~~divisions~~ division (B)(12), ~~(15), and~~ 10484
~~(16)~~ of this section, the commission of the act may be established 10485
by a finding by the board, pursuant to an adjudication under 10486
Chapter 119. of the Revised Code, that the applicant or 10487
certificate holder committed the act in question. The board shall 10488
have no jurisdiction under these divisions in cases where the 10489
trial court renders a final judgment in the certificate holder's 10490
favor and that judgment is based upon an adjudication on the 10491
merits. The board shall have jurisdiction under these divisions in 10492
cases where the trial court issues an order of dismissal upon 10493
technical or procedural grounds. 10494

(E) The sealing of conviction records by any court shall have 10495
no effect upon a prior board order entered under the provisions of 10496
this section or upon the board's jurisdiction to take action under 10497
the provisions of this section if, based upon a plea of guilty, a 10498
judicial finding of guilt, or a judicial finding of eligibility 10499
for intervention in lieu of conviction, the board issued a notice 10500
of opportunity for a hearing prior to the court's order to seal 10501
the records. The board shall not be required to seal, destroy, 10502
redact, or otherwise modify its records to reflect the court's 10503
sealing of conviction records. 10504

(F) For purposes of this division, any individual who holds a 10505
certificate of registration issued under this chapter, or applies 10506
for a certificate of registration, shall be deemed to have given 10507
consent to submit to a mental or physical examination when 10508
directed to do so in writing by the board and to have waived all 10509
objections to the admissibility of testimony or examination 10510
reports that constitute a privileged communication. 10511

(1) In enforcing division (B)(5) of this section, the board, 10512
upon a showing of a possible violation, may compel any individual 10513
who holds a certificate of registration issued under this chapter 10514
or who has applied for a certificate of registration pursuant to 10515

this chapter to submit to a mental examination, physical 10516
examination, including an HIV test, or both a mental and physical 10517
examination. The expense of the examination is the responsibility 10518
of the individual compelled to be examined. Failure to submit to a 10519
mental or physical examination or consent to an HIV test ordered 10520
by the board constitutes an admission of the allegations against 10521
the individual unless the failure is due to circumstances beyond 10522
the individual's control, and a default and final order may be 10523
entered without the taking of testimony or presentation of 10524
evidence. If the board finds an acupuncturist unable to practice 10525
because of the reasons set forth in division (B)(5) of this 10526
section, the board shall require the acupuncturist to submit to 10527
care, counseling, or treatment by physicians approved or 10528
designated by the board, as a condition for an initial, continued, 10529
reinstated, or renewed certificate of registration. An individual 10530
affected by this division shall be afforded an opportunity to 10531
demonstrate to the board the ability to resume practicing in 10532
compliance with acceptable and prevailing standards of care. 10533

(2) For purposes of division (B)(6) of this section, if the 10534
board has reason to believe that any individual who holds a 10535
certificate of registration issued under this chapter or any 10536
applicant for a certificate of registration suffers such 10537
impairment, the board may compel the individual to submit to a 10538
mental or physical examination, or both. The expense of the 10539
examination is the responsibility of the individual compelled to 10540
be examined. Any mental or physical examination required under 10541
this division shall be undertaken by a treatment provider or 10542
physician qualified to conduct such examination and chosen by the 10543
board. 10544

Failure to submit to a mental or physical examination ordered 10545
by the board constitutes an admission of the allegations against 10546
the individual unless the failure is due to circumstances beyond 10547

the individual's control, and a default and final order may be 10548
entered without the taking of testimony or presentation of 10549
evidence. If the board determines that the individual's ability to 10550
practice is impaired, the board shall suspend the individual's 10551
certificate or deny the individual's application and shall require 10552
the individual, as a condition for an initial, continued, 10553
reinstated, or renewed certificate of registration, to submit to 10554
treatment. 10555

Before being eligible to apply for reinstatement of a 10556
certificate suspended under this division, the acupuncturist shall 10557
demonstrate to the board the ability to resume practice in 10558
compliance with acceptable and prevailing standards of care. The 10559
demonstration shall include the following: 10560

(a) Certification from a treatment provider approved under 10561
section 4731.25 of the Revised Code that the individual has 10562
successfully completed any required inpatient treatment; 10563

(b) Evidence of continuing full compliance with an aftercare 10564
contract or consent agreement; 10565

(c) Two written reports indicating that the individual's 10566
ability to practice has been assessed and that the individual has 10567
been found capable of practicing according to acceptable and 10568
prevailing standards of care. The reports shall be made by 10569
individuals or providers approved by the board for making such 10570
assessments and shall describe the basis for their determination. 10571

The board may reinstate a certificate suspended under this 10572
division after such demonstration and after the individual has 10573
entered into a written consent agreement. 10574

When the impaired acupuncturist resumes practice, the board 10575
shall require continued monitoring of the acupuncturist. The 10576
monitoring shall include monitoring of compliance with the written 10577
consent agreement entered into before reinstatement or with 10578

conditions imposed by board order after a hearing, and, upon 10579
termination of the consent agreement, submission to the board for 10580
at least two years of annual written progress reports made under 10581
penalty of falsification stating whether the acupuncturist has 10582
maintained sobriety. 10583

(G) If the secretary and supervising member determine that 10584
there is clear and convincing evidence that an acupuncturist has 10585
violated division (B) of this section and that the individual's 10586
continued practice presents a danger of immediate and serious harm 10587
to the public, they may recommend that the board suspend the 10588
individual's certificate of registration without a prior hearing. 10589
Written allegations shall be prepared for consideration by the 10590
board. 10591

The board, upon review of the allegations and by an 10592
affirmative vote of not fewer than six of its members, excluding 10593
the secretary and supervising member, may suspend a certificate 10594
without a prior hearing. A telephone conference call may be 10595
utilized for reviewing the allegations and taking the vote on the 10596
summary suspension. 10597

The board shall issue a written order of suspension by 10598
certified mail or in person in accordance with section 119.07 of 10599
the Revised Code. The order shall not be subject to suspension by 10600
the court during pendency of any appeal filed under section 119.12 10601
of the Revised Code. If the acupuncturist requests an adjudicatory 10602
hearing by the board, the date set for the hearing shall be within 10603
fifteen days, but not earlier than seven days, after the 10604
acupuncturist requests the hearing, unless otherwise agreed to by 10605
both the board and the certificate holder. 10606

A summary suspension imposed under this division shall remain 10607
in effect, unless reversed on appeal, until a final adjudicative 10608
order issued by the board pursuant to this section and Chapter 10609
119. of the Revised Code becomes effective. The board shall issue 10610

its final adjudicative order within sixty days after completion of 10611
its hearing. Failure to issue the order within sixty days shall 10612
result in dissolution of the summary suspension order, but shall 10613
not invalidate any subsequent, final adjudicative order. 10614

(H) If the board takes action under division (B)(11),~~(13),~~ 10615
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 10616
plea, or judicial finding of eligibility for intervention in lieu 10617
of conviction is overturned on appeal, upon exhaustion of the 10618
criminal appeal, a petition for reconsideration of the order may 10619
be filed with the board along with appropriate court documents. 10620
Upon receipt of a petition and supporting court documents, the 10621
board shall reinstate the certificate of registration. The board 10622
may then hold an adjudication under Chapter 119. of the Revised 10623
Code to determine whether the individual committed the act in 10624
question. Notice of opportunity for hearing shall be given in 10625
accordance with Chapter 119. of the Revised Code. If the board 10626
finds, pursuant to an adjudication held under this division, that 10627
the individual committed the act, or if no hearing is requested, 10628
it may order any of the sanctions specified in division (B) of 10629
this section. 10630

(I) The certificate of registration of an acupuncturist and 10631
the acupuncturist's practice in this state are automatically 10632
suspended as of the date the acupuncturist pleads guilty to, is 10633
found by a judge or jury to be guilty of, or is subject to a 10634
judicial finding of eligibility for intervention in lieu of 10635
conviction in this state or treatment or intervention in lieu of 10636
conviction in another jurisdiction for any of the following 10637
criminal offenses in this state or a substantially equivalent 10638
criminal offense in another jurisdiction: aggravated murder, 10639
murder, voluntary manslaughter, felonious assault, kidnapping, 10640
rape, sexual battery, gross sexual imposition, aggravated arson, 10641
aggravated robbery, or aggravated burglary. Continued practice 10642

after the suspension shall be considered practicing without a certificate. 10643
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The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division 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 certificate of registration. 10645
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(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section. 10652
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(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the acupuncturist's certificate may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board. 10661
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(L) When the board refuses to grant a certificate of registration as an acupuncturist to an applicant, revokes an individual's certificate of registration, refuses to renew a certificate of registration, or refuses to reinstate an individual's certificate of registration, the board may specify 10670
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that its action is permanent. An individual subject to a permanent 10675
action taken by the board is forever thereafter ineligible to hold 10676
a certificate of registration as an acupuncturist and the board 10677
shall not accept an application for reinstatement of the 10678
certificate or for issuance of a new certificate. 10679

(M) Notwithstanding any other provision of the Revised Code, 10680
all of the following apply: 10681

(1) The surrender of a certificate of registration as an 10682
acupuncturist issued under this chapter is not effective unless or 10683
until accepted by the board. Reinstatement of a certificate 10684
surrendered to the board requires an affirmative vote of not fewer 10685
than six members of the board. 10686

(2) An application made under this chapter for a certificate 10687
of registration may not be withdrawn without approval of the 10688
board. 10689

(3) Failure by an individual to renew a certificate of 10690
registration in accordance with section 4762.06 of the Revised 10691
Code shall not remove or limit the board's jurisdiction to take 10692
disciplinary action under this section against the individual. 10693

Sec. 4762.15. (A) As used in this section, "prosecutor" has 10694
the same meaning as in section 2935.01 of the Revised Code. 10695

(B) Whenever any person holding a valid certificate issued 10696
pursuant to this chapter pleads guilty to, is subject to a 10697
judicial finding of guilt of, or is subject to a judicial finding 10698
of eligibility for intervention in lieu of conviction for a 10699
violation of Chapter 2907., 2925., or 3719. of the Revised Code or 10700
of any substantively comparable ordinance of a municipal 10701
corporation in connection with the person's practice, the 10702
prosecutor in the case, on forms prescribed and provided by the 10703
state medical board, shall promptly notify the board of the 10704

conviction. Within thirty days of receipt of that information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the certificate under section 4762.13 of the Revised Code.

(C) The prosecutor in any case against any person holding a valid certificate issued pursuant to this chapter, on forms prescribed and provided by the state medical board, shall notify the board of any of the following:

~~(1) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a felony, criminal offense substantially related to the person's fitness or ability to perform the duties and responsibilities of an acupuncturist or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;~~

~~(2) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;~~

~~(3) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude of a criminal offense substantially related to the person's fitness or ability to perform the duties and responsibilities of an acupuncturist.~~

The report shall include the name and address of the

certificate holder, the nature of the offense for which the action 10736
was taken, and the certified court documents recording the action. 10737

Sec. 4763.11. (A) Within five business days after a person 10738
files a signed written complaint against a person certified, 10739
registered, or licensed under this chapter with the division of 10740
real estate, the superintendent of real estate shall acknowledge 10741
receipt of the complaint or request and send a notice to the 10742
certificate holder, registrant, or licensee describing the acts of 10743
which there is a complaint. The acknowledgement to the complainant 10744
and the notice to the certificate holder, registrant, or licensee 10745
shall state that an informal meeting will be held with the 10746
complainant, the certificate holder, registrant, or licensee, and 10747
an investigator from the investigation and audit section of the 10748
division, if the complainant and certificate holder, registrant, 10749
or licensee both file a request for such a meeting within ten 10750
business days thereafter on a form the superintendent provides. 10751

(B) If the complainant and certificate holder, registrant, or 10752
licensee both file with the division requests for an informal 10753
meeting, the superintendent shall notify the complainant and 10754
certificate holder, registrant, or licensee of the date of the 10755
meeting, which shall be within twenty business days thereafter, 10756
except that the complainant, certificate holder, registrant, or 10757
licensee may request an extension of up to fifteen business days 10758
for good cause shown. If the complainant and certificate holder, 10759
registrant, or licensee reach an accommodation at an informal 10760
meeting, the investigator shall so report to the superintendent 10761
and to the complainant and certificate holder, registrant, or 10762
licensee and the complaint file shall be closed, unless, based 10763
upon the investigator's report, the superintendent finds evidence 10764
that the certificate holder, registrant, or licensee has violated 10765
division (G) of this section. 10766

(C) If the complainant and certificate holder, registrant, or licensee fail to agree to an informal meeting or fail to reach an accommodation, or if the superintendent finds evidence of a violation of division (G) of this section pursuant to an investigation conducted pursuant to division (B)(9) of section 4763.03 of the Revised Code, the superintendent shall, within five business days of such determination, notify the complainant and certificate holder, registrant, or licensee and investigate the conduct of the certificate holder, registrant, or licensee against whom the complaint is filed.

(D) Within sixty business days after receipt of the complaint, or, if an informal meeting is held, within sixty days after such meeting, the investigator shall file a written report of the results of the investigation with the superintendent. Within ten business days thereafter, the superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of division (G) of this section by the certificate holder, registrant, or licensee. If the superintendent finds such evidence exists, within five business days of that determination, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the determination. The certificate holder, registrant, or licensee may request a hearing pursuant to Chapter 119. of the Revised Code. If the superintendent finds that such evidence does not exist, within five business days thereafter, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of that determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and certificate holder, registrant, or licensee that such evidence does not exist, the complainant may file with the division a request that the real estate appraiser board review the determination. If the complainant files such request, the board shall review the determination at the next regularly scheduled

meeting held at least fifteen business days after the request is filed but no longer than six months after the request is filed. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee at the meeting upon the request of that party. If the board affirms the determination of the superintendent, the superintendent shall notify the complainant and the certificate holder, registrant, or licensee within five business days thereafter. If the board reverses the determination of the superintendent, a hearing shall be held and the complainant and certificate holder, registrant, or licensee notified as provided in this division.

(E) The board shall review the referee's or examiner's report and the evidence at the next regularly scheduled board meeting held at least fifteen business days after receipt of the referee's or examiner's report. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee upon request. If the complainant is the Ohio civil rights commission, the board shall review the complaint

(F) If the board determines that a licensee, registrant, or certificate holder has violated this chapter for which disciplinary action may be taken under division (G) of this section, after review of the referee's or examiner's report and the evidence as provided in division (E) of this section, the board shall order the disciplinary action the board considers appropriate, which may include, but is not limited to, any of the following:

(1) Reprimand of the certificate holder, registrant, or licensee;

(2) Suspension of the certificate, registration, or license for a specific period of time;

(3) Suspension of the certificate, registration, or license

until the certificate holder, registrant, or licensee complies 10831
with conditions the board sets, including but not limited to, 10832
successful completion of the real estate appraiser examination 10833
described in division (D) of section 4763.05 of the Revised Code 10834
or completion of a specific number of hours of continuing 10835
education instruction in courses or seminars approved by the 10836
board; 10837

(4) Revocation of the certificate, registration, or license. 10838

The decision and order of the board is final, subject to 10839
review in the manner provided for in Chapter 119. of the Revised 10840
Code and appeal to any court of common pleas. 10841

(G) The board shall take any disciplinary action authorized 10842
by this section against a certificate holder, registrant, or 10843
licensee who is found to have committed any of the following acts, 10844
omissions, or violations during the appraiser's certification, 10845
registration, or licensure: 10846

(1) Procuring or attempting to procure a certificate, 10847
registration, or license pursuant to this chapter by knowingly 10848
making a false statement, submitting false information, refusing 10849
to provide complete information in response to a question in an 10850
application for certification, registration, or licensure, or by 10851
any means of fraud or misrepresentation; 10852

(2) Paying, or attempting to pay, anything of value, other 10853
than the fees or assessments required by this chapter, to any 10854
member or employee of the board for the purpose of procuring a 10855
certificate, registration, or license; 10856

(3) Being convicted in a criminal proceeding for a ~~felony or~~ 10857
~~a crime involving moral turpitude~~ criminal offense substantially 10858
related to the person's fitness or ability to perform the duties 10859
and responsibilities of a person certified, registered, or 10860
licensed under this chapter; 10861

(4) Dishonesty, fraud, or misrepresentation, with the intent to either benefit the certificate holder, registrant, or licensee or another person or injure another person;	10862 10863 10864
(5) Violation of any of the standards for the development or communication of real estate appraisals set forth in this chapter and rules of the board;	10865 10866 10867
(6) Failure or refusal to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;	10868 10869 10870
(7) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;	10871 10872
(8) Willfully disregarding or violating this chapter or the rules adopted thereunder;	10873 10874
(9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the consequences resulting from the appraisal assignment;	10875 10876 10877 10878 10879 10880
(10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by a governmental agency;	10881 10882 10883 10884
(11) Entry of final judgment against the certificate holder, registrant, or licensee on the grounds of fraud, deceit, misrepresentation, or gross negligence in the making of any appraisal of real estate;	10885 10886 10887 10888
(12) Violating any federal or state civil rights law;	10889
(13) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or	10890 10891

inaccurate in any material particular, or in any way having 10892
misrepresented any appraisal or specialized service; 10893

(14) Failing to maintain records for five years as required 10894
by section 4763.14 of the Revised Code. 10895

(H) The board immediately shall notify the superintendent of 10896
real estate of any disciplinary action taken under this section 10897
against a certificate holder, registrant, or licensee who also is 10898
licensed under Chapter 4735. of the Revised Code, and also shall 10899
notify any other federal, state, or local agency and any other 10900
public or private association that the board determines is 10901
responsible for licensing or otherwise regulating the professional 10902
or business activity of the appraiser. Additionally, the board 10903
shall notify the complainant and any other party who may have 10904
suffered financial loss because of the certificate holder's, 10905
registrant's, or licensee's violations, that the complainant or 10906
other party may sue for recovery under section 4763.16 of the 10907
Revised Code. The notice provided under this division shall 10908
specify the conduct for which the certificate holder, registrant, 10909
or licensee was disciplined and the disciplinary action taken by 10910
the board and the result of that conduct. 10911

(I) A certificate holder, registrant, or licensee shall 10912
notify the board of the existence of a criminal conviction of the 10913
type described in division (G)(3) of this section within fifteen 10914
days of the conviction. 10915

(J) If the board determines that a certificate holder, 10916
registrant, or licensee has violated this chapter for which 10917
disciplinary action may be taken under division (G) of this 10918
section as a result of an investigation conducted by the 10919
superintendent upon the superintendent's own motion or upon the 10920
request of the board, the superintendent shall notify the 10921
certificate holder, registrant, or licensee of the certificate 10922
holder's, registrant's, or licensee's right to a hearing pursuant 10923

to Chapter 119. of the Revised Code and to an appeal of a final 10924
determination of such administrative proceedings to any court of 10925
common pleas. 10926

Sec. 4765.18. The state board of emergency medical services 10927
may suspend or revoke a certificate of accreditation or a 10928
certificate of approval issued under section 4765.17 of the 10929
Revised Code for any of the following reasons: 10930

(A) Violation of this chapter or any rule adopted under it; 10931

(B) Furnishing of false, misleading, or incomplete 10932
information to the board; 10933

(C) The signing of an application or the holding of a 10934
certificate of accreditation by a person who has pleaded guilty to 10935
or has been convicted of a ~~felony, or has pleaded guilty to or~~ 10936
~~been convicted of a crime involving moral turpitude~~ criminal 10937
offense substantially related to the person's fitness or ability 10938
to perform the duties and responsibilities of an operator of an 10939
emergency medical services training program or emergency medical 10940
services continuing education program; 10941

(D) The signing of an application or the holding of a 10942
certificate of accreditation by a person who is addicted to the 10943
use of any controlled substance or has been adjudicated 10944
incompetent for that purpose by a court, as provided in section 10945
5122.301 of the Revised Code; 10946

(E) Violation of any commitment made in an application for a 10947
certificate of accreditation or certificate of approval; 10948

(F) Presentation to prospective students of misleading, 10949
false, or fraudulent information relating to the emergency medical 10950
services training program or emergency medical services continuing 10951
education program, employment opportunities, or opportunities for 10952
enrollment in accredited institutions of higher education after 10953

entering or completing courses offered by the operator of a program; 10954
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(G) Failure to maintain in a safe and sanitary condition premises and equipment used in conducting courses of study; 10956
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(H) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study or to retain a sufficient number of certified instructors; 10958
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10960

(I) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin. 10961
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Sec. 4765.301. (A) An appointing authority may request the superintendent of BCII to conduct a criminal records check with respect to any person who is under consideration for appointment or employment as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic. 10963
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(B)(1) The appointing authority may request that the superintendent of BCII obtain information from the federal bureau of investigation as a part of the criminal records check requested pursuant to division (A) of this section. 10969
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(2) An appointing authority authorized by division (A) of this section to request a criminal records check shall provide to each person for whom the appointing authority intends to request a criminal records check a copy of the form prescribed pursuant to division (C)(1) of section 109.578 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.578 of the Revised Code, obtain the completed form and impression sheet from the person, and forward the completed form and impression sheet to the superintendent of BCII at the time the criminal records check is requested. 10973
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(3) Any person subject to a criminal records check who 10984
receives a copy of the form and a copy of the impression sheet 10985
pursuant to division (B)(2) of this section and who is requested 10986
to complete the form and provide a set of fingerprint impressions 10987
shall complete the form or provide all the information necessary 10988
to complete the form and shall provide the impression sheet with 10989
the impressions of the person's fingerprints. If a person fails to 10990
provide the information necessary to complete the form or fails to 10991
provide impressions of the person's fingerprints, the appointing 10992
authority shall not appoint or employ the person as an emergency 10993
medical technician-basic, an emergency medical 10994
technician-intermediate, or an emergency medical 10995
technician-paramedic. 10996

(C)(1) Except as otherwise provided in division (C)(2) of 10997
this section, an appointing authority shall not appoint or employ 10998
a person as an emergency medical technician-basic, an emergency 10999
medical technician-intermediate, or an emergency medical 11000
technician-paramedic if the appointing authority has requested a 11001
criminal records check pursuant to division (A) of this section 11002
and the criminal records check indicates that the person 11003
previously has been convicted of or pleaded guilty to any of the 11004
following: 11005

(a) A felony criminal offense substantially related to the 11006
person's fitness or ability to perform the duties and 11007
responsibilities of an EMT-basic, EMT-I, or paramedic; 11008

(b) A violation of section 2909.03 of the Revised Code; 11009

(c) A violation of an existing or former law of this state, 11010
any other state, or the United States that is substantially 11011
equivalent to any of the offenses described in division (C)(1)(a) 11012
or (b) of this section. 11013

(2) Notwithstanding division (C)(1) of this section, an 11014

appointing authority may appoint or employ a person as an 11015
emergency medical technician-basic, an emergency medical 11016
technician-intermediate, or an emergency medical 11017
technician-paramedic if all of the following apply: 11018

(a) The appointing authority has requested a criminal records 11019
check pursuant to division (A) of this section. 11020

(b) The criminal records check indicates that the person 11021
previously has been convicted of or pleaded guilty to any of the 11022
offenses described in division (C)(1) of this section. 11023

(c) The person meets rehabilitation standards established in 11024
rules adopted under division (E) of this section. 11025

(3) If an appointing authority requests a criminal records 11026
check pursuant to division (A) of this section, the appointing 11027
authority may appoint or employ a person as an emergency medical 11028
technician-basic, an emergency medical technician-intermediate, or 11029
an emergency medical technician-paramedic conditionally until the 11030
criminal records check is completed and the appointing authority 11031
receives the results. If the results of the criminal records check 11032
indicate that, pursuant to division (C)(1) of this section, the 11033
person subject to the criminal records check is disqualified from 11034
appointment or employment, the appointing authority shall release 11035
the person from appointment or employment. 11036

(D) The appointing authority shall pay to the bureau of 11037
criminal identification and investigation the fee prescribed 11038
pursuant to division (C)(3) of section 109.578 of the Revised Code 11039
for each criminal records check conducted in accordance with that 11040
section. The appointing authority may charge the applicant who is 11041
subject to the criminal records check a fee for the costs the 11042
appointing authority incurs in obtaining the criminal records 11043
check. A fee charged under this division shall not exceed the 11044
amount of fees the appointing authority pays for the criminal 11045

records check. If a fee is charged under this division, the 11046
appointing authority shall notify the applicant at the time of the 11047
applicant's initial application for appointment or employment of 11048
the amount of the fee and that, unless the fee is paid, the 11049
applicant will not be considered for appointment or employment. 11050

(E) The appointing authority shall adopt rules in accordance 11051
with Chapter 119. of the Revised Code to implement this section. 11052
The rules shall include rehabilitation standards a person who has 11053
been convicted of or pleaded guilty to an offense listed in 11054
division (C)(1) of this section must meet for the appointing 11055
authority to appoint or employ the person as an emergency medical 11056
technician-basic, an emergency medical technician-intermediate, or 11057
an emergency medical technician-paramedic. 11058

(F) An appointing authority that intends to request a 11059
criminal records check for an applicant shall inform each 11060
applicant, at the time of the person's initial application for 11061
appointment or employment, that the applicant is required to 11062
provide a set of impressions of the person's fingerprints and that 11063
the appointing authority requires a criminal records check to be 11064
conducted and satisfactorily completed in accordance with section 11065
109.578 of the Revised Code. 11066

(G) As used in this section: 11067

(1) "Appointing authority" means any person or body that has 11068
the authority to hire, appoint, or employ emergency medical 11069
technicians-basic, emergency medical technicians-intermediate, or 11070
emergency medical technicians-paramedic. 11071

(2) "Criminal records check" has the same meaning as in 11072
section 109.578 of the Revised Code. 11073

(3) "Superintendent of BCII" has the same meaning as in 11074
section 2151.86 of the Revised Code. 11075

Sec. 4771.18. (A) The Ohio athletic commission may refuse to 11076
grant or renew a registration, or may suspend or revoke a 11077
registration of an athlete agent upon proof satisfactory to the 11078
commission that the athlete agent or an employee or representative 11079
of the athlete agent has done any of the following: 11080

(1) Made false or misleading statements of a material nature 11081
in an application for registration as an athlete agent; 11082

(2) Been convicted of or pleaded guilty to ~~an~~ a criminal 11083
~~offense in connection with the person's service as~~ substantially 11084
related to the person's fitness or ability to perform the duties 11085
and responsibilities of an athlete agent in this or another state; 11086

(3) Been convicted of or pleaded guilty to an offense 11087
involving illegal gambling; 11088

(4) Engaged in conduct that has a significant adverse impact 11089
on the applicant's credibility, integrity, or competence to serve 11090
in a fiduciary capacity; 11091

(5) Misappropriated funds or engaged in other specific 11092
conduct that would render the applicant unfit to serve in a 11093
fiduciary capacity, including being convicted of or pleading 11094
guilty to offenses involving embezzlement, theft, or fraud; 11095

(6) Violated a provision of this chapter or a rule adopted 11096
under this chapter. 11097

(B) Upon receiving a complaint of a violation of this chapter 11098
or a rule adopted under it, the commission shall conduct an 11099
investigation of the complaint. If the commission finds reasonable 11100
cause to believe a violation occurred, the commission shall 11101
conduct a hearing in accordance with Chapter 119. of the Revised 11102
Code to determine if a violation occurred. If the commission finds 11103
a violation occurred, the commission may suspend or revoke, or 11104
refuse to issue or renew, the registration of an athlete agent for 11105

such period of time as the commission finds appropriate. 11106

Upon completion of an investigation, if the commission finds 11107
no reasonable grounds to believe a violation occurred, the 11108
commission shall certify without a hearing that no violation 11109
occurred. The commission shall serve the certification on all 11110
parties addressed in the complaint by certified mail, return 11111
receipt requested. The certification shall be considered a final 11112
resolution of the matter if no objection to the certification is 11113
filed. A party involved in the complaint may file an objection to 11114
the certification with the commission within ten days after the 11115
date the certification is mailed. If a party files an objection to 11116
the certification within the prescribed period, the commission, 11117
within its discretion, may conduct a hearing in accordance with 11118
Chapter 119. of the Revised Code to determine if a violation 11119
occurred. 11120

Sec. 4779.28. (A) The board may, pursuant to an adjudication 11121
under Chapter 119. of the Revised Code and by a vote of not fewer 11122
than four of its members, limit, revoke, or suspend a license 11123
issued under this chapter, refuse to issue a license to an 11124
applicant, or reprimand or place on probation a license holder for 11125
any of the following reasons: 11126

(1) Conviction of, or a plea of guilty to, a ~~misdemeanor or~~ 11127
~~felony involving moral turpitude~~ criminal offense substantially 11128
related to the person's fitness or ability to perform the duties 11129
and responsibilities of a license holder under this chapter; 11130

(2) Any violation of this chapter; 11131

(3) Committing fraud, misrepresentation, or deception in 11132
applying for or securing a license issued under this chapter; 11133

(4) Habitual use of drugs or intoxicants to the extent that 11134
it renders the person unfit to practice; 11135

(5) Violation of any rule adopted by the board under section 4779.08 of the Revised Code;	11136 11137
(6) A departure from, or failure to conform to, minimal standards of care of similar orthotists, prosthetists, orthotists-prosthetists, or pedorthists under the same or similar circumstances, regardless of whether actual injury to a patient is established;	11138 11139 11140 11141 11142
(7) Obtaining or attempting to obtain money or anything of value by fraudulent misrepresentation in the course of practice;	11143 11144
(8) Publishing a false, fraudulent, deceptive, or misleading statement;	11145 11146
(9) Waiving the payment of all or part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan, 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 a person who holds a license issued under this chapter;	11147 11148 11149 11150 11151 11152
(10) Advertising that a person who holds a license issued under this chapter will waive the payment of all or part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan, that covers the person's services, would otherwise be required to pay.	11153 11154 11155 11156 11157
(B) For the purpose of investigating whether a person is engaging or has engaged in conduct described in division (A) of this section, the board may administer oaths, order the taking of depositions, issue subpoenas, examine witnesses, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.	11158 11159 11160 11161 11162 11163
Sec. 4781.09. (A) The manufactured homes commission may deny, suspend, revoke, or refuse to renew the license of any	11164 11165

manufactured home installer for any of the following reasons:	11166
(1) Failure to satisfy the requirements of section 4781.08 or 4781.10 of the Revised Code;	11167 11168
(2) Violation of this chapter or any rule adopted pursuant to it;	11169 11170
(3) Making a material misstatement in an application for a license;	11171 11172
(4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;	11173 11174 11175
(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;	11176 11177 11178
(6) Conviction of a felony or a crime involving moral turpitude <u>criminal offense substantially related to the person's fitness or ability to perform the duties and responsibilities of a manufactured home installer;</u>	11179 11180 11181 11182
(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;	11183 11184
(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;	11185 11186
(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.	11187 11188
(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.	11189 11190 11191
(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to division (C) of this section may	11192 11193 11194

request an adjudication hearing on the matter within thirty days 11195
after receipt of the notice of the action. The hearing shall be 11196
held in accordance with Chapter 119. of the Revised Code. 11197

(2) Any licensee or applicant may appeal an order made 11198
pursuant to an adjudication hearing in the manner provided in 11199
section 119.12 of the Revised Code. 11200

(C) As an alternative to suspending, revoking, or refusing to 11201
renew a manufactured housing ~~installer's~~ installer license, the 11202
commission may impose a civil penalty of not less than one hundred 11203
dollars or more than five hundred dollars per violation of this 11204
chapter or any rule adopted pursuant to it. The commission shall 11205
deposit penalties in the occupational licensing and regulatory 11206
fund pursuant to section 4743.05 of the Revised Code. 11207

(D) A person whose license is suspended, revoked, or not 11208
renewed may apply for a new license two years after the date on 11209
which the license was suspended, revoked, or not renewed. 11210

Sec. 5120.07. (A) There is hereby created the ex-offender 11211
reentry coalition consisting of the following fifteen members or 11212
their designees: 11213

(1) The director of rehabilitation and correction; 11214

(2) The director of aging; 11215

(3) The director of alcohol and drug addiction services; 11216

(4) The director of development; 11217

(5) The superintendent of public instruction; 11218

(6) The director of health; 11219

(7) The director of job and family services; 11220

(8) The director of mental health; 11221

(9) The director of mental retardation and developmental 11222

<u>disabilities;</u>	11223
<u>(10) The director of public safety;</u>	11224
<u>(11) The director of youth services;</u>	11225
<u>(12) The chancellor of the Ohio board of regents;</u>	11226
<u>(13) The director of the governor's office of external affairs and economic opportunity;</u>	11227 11228
<u>(14) The director of the governor's office of faith-based and community initiatives;</u>	11229 11230
<u>(15) The director of the rehabilitation services commission.</u>	11231
<u>(B) The members of the coalition shall serve without compensation. The director of rehabilitation and correction or the director's designee shall be the chairperson of the coalition.</u>	11232 11233 11234
<u>(C) In consultation with persons interested and involved in the reentry of ex-offenders into the community, including but not limited to, service providers, community-based organizations, and local governments, the coalition shall identify and examine social service barriers and other obstacles to the reentry of ex-offenders into the community. Not later than one year after the effective date of this act and on or before the same date of each year thereafter, the coalition shall submit to the speaker of the house of representatives and the president of the senate a report, including recommendations for legislative action, on the activities of the coalition and the barriers affecting the successful reentry of ex-offenders into the community. The report shall analyze the effects of those barriers on ex-offenders and on their children and other family members in various areas, including but not limited to, the following:</u>	11235 11236 11237 11238 11239 11240 11241 11242 11243 11244 11245 11246 11247 11248 11249
<u>(1) Admission to public and other housing;</u>	11250
<u>(2) Child support obligations and procedures;</u>	11251
<u>(3) Parental incarceration and family reunification;</u>	11252

<u>(4) Social security benefits, veterans' benefits, food stamps, and other forms of public assistance;</u>	11253 11254
<u>(5) Employment;</u>	11255
<u>(6) Education programs and financial assistance;</u>	11256
<u>(7) Substance abuse, mental health, and sex offender treatment programs and financial assistance;</u>	11257 11258
<u>(8) Civic and political participation;</u>	11259
<u>(9) Other collateral consequences under the Revised Code or the Ohio administrative code law that may result from a criminal conviction.</u>	11260 11261 11262
Sec. 5120.52. The department of rehabilitation and correction may enter into a contract with <u>any person or with</u> a political subdivision in which a state correctional institution is located under which the <u>an</u> institution will provide <u>water or</u> sewage treatment services for the <u>person or</u> political subdivision if the institution has a <u>water or</u> sewage treatment facility with sufficient excess capacity to provide the services.	11263 11264 11265 11266 11267 11268 11269
Any such contract shall include all of the following:	11270
(A) Limitations on the quantity of sewage that the facility will accept <u>or the quantity of potable water that the facility will provide</u> that are compatible with the needs of the state correctional institution;	11271 11272 11273 11274
(B) The bases for calculating reasonable rates to be charged the <u>person or</u> political subdivision for <u>potable water or for</u> sewage treatment services and for adjusting the rates;	11275 11276 11277
(C) All other provisions the department considers necessary or proper to protect the interests of the state in the facility and the purpose for which it was constructed.	11278 11279 11280
All amounts due the department under the contract shall be	11281

paid to the department by the person or political subdivision at 11282
the times specified in the contract. The department shall deposit 11283
all such amounts in the state treasury to the credit of the 11284
correctional institution water and sewage treatment facility 11285
services fund, which is hereby created. The fund shall be used by 11286
the department to pay costs associated with operating and 11287
maintaining the water or sewage treatment facility. 11288

Sec. 5120.53. (A) If a treaty between the United States and a 11289
foreign country provides for the transfer or exchange, from one of 11290
the signatory countries to the other signatory country, of 11291
convicted offenders who are citizens or nationals of the other 11292
signatory country, the governor, subject to and in accordance with 11293
the terms of the treaty, may authorize the director of 11294
rehabilitation and correction to allow the transfer or exchange of 11295
convicted offenders and to take any action necessary to initiate 11296
participation in the treaty. If the governor grants the director 11297
the authority described in this division, the director may take 11298
the necessary action to initiate participation in the treaty and, 11299
subject to and in accordance with division (B) of this section and 11300
the terms of the treaty, may allow the transfer or exchange to a 11301
foreign country that has signed the treaty of any convicted 11302
offender who is a citizen or national of that signatory country. 11303

(B)(1) No convicted offender who ~~is serving a term of~~ 11304
~~imprisonment in this state for aggravated murder, murder, or a~~ 11305
~~felony of the first or second degree, who is serving a mandatory~~ 11306
~~prison term imposed under section 2925.03 or 2925.11 of the~~ 11307
~~Revised Code in circumstances in which the court was required to~~ 11308
~~impose as the mandatory prison term the maximum prison term~~ 11309
~~authorized for the degree of offense committed, who is serving a~~ 11310
~~term of imprisonment in this state imposed for an offense~~ 11311
~~committed prior to the effective date of this amendment that was~~ 11312
~~an aggravated felony of the first or second degree or that was~~ 11313

~~aggravated trafficking in violation of division (A)(9) or (10) of~~ 11314
~~section 2925.03 of the Revised Code, or who~~ has been sentenced to 11315
death in this state shall be transferred or exchanged to another 11316
country pursuant to a treaty of the type described in division (A) 11317
of this section. 11318

(2) If a convicted offender is serving a term of imprisonment 11319
in this state and the offender is a citizen or national of a 11320
foreign country that has signed a treaty of the type described in 11321
division (A) of this section, if the governor has granted the 11322
director of rehabilitation and correction the authority described 11323
in that division, and if the transfer or exchange of the offender 11324
is not barred by division (B)(1) of this section, the director or 11325
the director's designee may approve the offender for transfer or 11326
exchange pursuant to the treaty if the director or the designee, 11327
after consideration of the factors set forth in the rules adopted 11328
by the department under division (D) of this section and all other 11329
relevant factors, determines that the transfer or exchange of the 11330
offender is appropriate. 11331

(C) Notwithstanding any provision of the Revised Code 11332
regarding the parole eligibility of, or the duration or 11333
calculation of a sentence of imprisonment imposed upon, an 11334
offender, if a convicted offender is serving a term of 11335
imprisonment in this state and the offender is a citizen or 11336
national of a foreign country that has signed a treaty of the type 11337
described in division (A) of this section, if the offender is 11338
serving an indefinite term of imprisonment, if the offender is 11339
barred from being transferred or exchanged pursuant to the treaty 11340
due to the indefinite nature of the offender's term of 11341
imprisonment, and if in accordance with division (B)(2) of this 11342
section the director of rehabilitation and correction or the 11343
director's designee approves the offender for transfer or exchange 11344
pursuant to the treaty, the parole board, pursuant to rules 11345

adopted by the director, shall set a date certain for the release 11346
of the offender. To the extent possible, the date certain that is 11347
set shall be reasonably proportionate to the indefinite term of 11348
imprisonment that the offender is serving. The date certain that 11349
is set for the release of the offender shall be considered only 11350
for purposes of facilitating the international transfer or 11351
exchange of the offender, shall not be viable or actionable for 11352
any other purpose, and shall not create any expectation or 11353
guarantee of release. If an offender for whom a date certain for 11354
release is set under this division is not transferred to or 11355
exchanged with the foreign country pursuant to the treaty, the 11356
date certain is null and void, and the offender's release shall be 11357
determined pursuant to the laws and rules of this state pertaining 11358
to parole eligibility and the duration and calculation of an 11359
indefinite sentence of imprisonment. 11360

(D) If the governor, pursuant to division (A) of this 11361
section, authorizes the director of rehabilitation and correction 11362
to allow any transfer or exchange of convicted offenders as 11363
described in that division, the director shall adopt rules under 11364
Chapter 119. of the Revised Code to implement the provisions of 11365
this section. The rules shall include a rule that requires the 11366
director or the director's designee, in determining whether to 11367
approve a convicted offender who is serving a term of imprisonment 11368
in this state for transfer or exchange pursuant to a treaty of the 11369
type described in division (A) of this section, to consider all of 11370
the following factors: 11371

(1) The nature of the offense for which the offender is 11372
serving the term of imprisonment in this state; 11373

(2) The likelihood that, if the offender is transferred or 11374
exchanged to a foreign country pursuant to the treaty, the 11375
offender will serve a shorter period of time in imprisonment in 11376
the foreign country than the offender would serve if the offender 11377

is not transferred or exchanged to the foreign country pursuant to 11378
the treaty; 11379

(3) The likelihood that, if the offender is transferred or 11380
exchanged to a foreign country pursuant to the treaty, the 11381
offender will return or attempt to return to this state after the 11382
offender has been released from imprisonment in the foreign 11383
country; 11384

(4) The degree of any shock to the conscience of justice and 11385
society that will be experienced in this state if the offender is 11386
transferred or exchanged to a foreign country pursuant to the 11387
treaty; 11388

(5) All other factors that the department determines are 11389
relevant to the determination. 11390

Sec. 5120.59. Before a prisoner is released from a state 11391
correctional institution, the department of rehabilitation and 11392
correction shall attempt to verify the prisoner's identification 11393
and social security number. If the department is not able to 11394
verify the prisoner's identification and social security number, 11395
and if the prisoner has no other documentary evidence required by 11396
the registrar of motor vehicles for the issuance of an 11397
identification card under section 4507.50 of the Revised Code, the 11398
department shall issue to the prisoner upon the prisoner's release 11399
an identification card that the prisoner may present to the 11400
registrar or a deputy registrar of motor vehicles to obtain an 11401
identification card under section 4507.50 of the Revised Code. The 11402
director of rehabilitation and correction may adopt rules for the 11403
implementation of this section. 11404

Sec. 5120.63. (A) As used in this section: 11405

(1) "Random drug testing" means a procedure in which blood or 11406
urine specimens are collected from individuals chosen by 11407

automatic, random selection and without prearrangement or 11408
planning, for the purpose of scientifically analyzing the 11409
specimens to determine whether the individual ingested or was 11410
injected with a drug of abuse. 11411

(2) "State correctional institution" has the same meaning as 11412
in section 2967.01 of the Revised Code. 11413

(3) "Stated prison term" has the same meaning as in section 11414
2929.01 of the Revised Code. 11415

(B) The department of rehabilitation and correction shall 11416
establish and administer a statewide random drug testing program 11417
in which all persons who were convicted of or pleaded guilty to a 11418
felony offense and are serving a stated prison term in a state 11419
correctional institution shall submit to random drug testing. The 11420
department may enter into contracts with laboratories or entities 11421
in the state that are accredited by the national institute on drug 11422
abuse to perform blood or urine specimen collection, 11423
documentation, maintenance, transportation, preservation, storage, 11424
and analyses and other duties required under this section in the 11425
performance of random drug testing of prisoners in those 11426
correctional institutions. The terms of any contract entered into 11427
under this division shall include a requirement that the 11428
laboratory or entity and its employees, the superintendents, 11429
managing officers, and employees of state correctional 11430
institutions, all employees of the department, and all other 11431
persons comply with the standards for the performance of random 11432
drug testing as specified in the policies and procedures 11433
established by the department under division (D) of this section. 11434
If no laboratory or entity has entered into a contract as 11435
specified in this division, the department shall cause a prisoner 11436
to submit to random drug testing performed by a reputable public 11437
laboratory to determine whether the prisoner ingested or was 11438
injected with a drug of abuse. 11439

(C) A prisoner who is subjected to random drug testing under 11440
this section and whose test indicates that the prisoner ingested 11441
or was injected with a drug of abuse shall pay the fee for that 11442
positive test and other subsequent test fees as a sanction 11443
specified by the department of rehabilitation and correction 11444
pursuant to division (D)(6) of this section. 11445

(D) The department of rehabilitation and correction shall 11446
establish policies and procedures to implement the random drug 11447
testing program established under this section. The policies and 11448
procedures shall include, but are not limited to, provisions that 11449
do the following: 11450

(1) Establish standards for the performance of random drug 11451
testing that include, but are not limited to, standards governing 11452
the following: 11453

(a) The collection by the laboratory or entity described in 11454
division (B) of this section of blood or urine specimens of 11455
individuals in a scientifically or medically approved manner and 11456
under reasonable and sanitary conditions; 11457

(b) The collection and testing by the laboratory or entity 11458
described in division (B) of this section of blood or urine 11459
specimens with due regard for the privacy of the individual being 11460
tested and in a manner reasonably calculated to prevent 11461
substitutions or interference with the collection and testing of 11462
the specimens; 11463

(c) The documentation of blood or urine specimens collected 11464
by the laboratory or entity described in division (B) of this 11465
section and documentation procedures that reasonably preclude the 11466
possibility of erroneous identification of test results and that 11467
provide the individual being tested an opportunity to furnish 11468
information identifying any prescription or nonprescription drugs 11469
used by the individual in connection with a medical condition; 11470

(d) The collection, maintenance, storage, and transportation 11471
by the laboratory or entity described in division (B) of this 11472
section of blood or urine specimens in a manner that reasonably 11473
precludes the possibility of contamination or adulteration of the 11474
specimens; 11475

(e) The testing by the laboratory or entity described in 11476
division (B) of this section of blood or urine specimen of an 11477
individual to determine whether the individual ingested or was 11478
injected with a drug of abuse, in a manner that conforms to 11479
scientifically accepted analytical methods and procedures and that 11480
may include verification or confirmation of any positive test 11481
result by a reliable analytical method; 11482

(f) The analysis of an individual's blood or urine specimen 11483
by an employee of the laboratory or entity described in division 11484
(B) of this section who is qualified by education, training, and 11485
experience to perform that analysis and whose regular duties 11486
include the analysis of blood or urine specimens to determine the 11487
presence of a drug of abuse and whether the individual who is the 11488
subject of the test ingested or was injected with a drug of abuse. 11489

(2) Specify the frequency of performing random drug testing 11490
of prisoners in a state correctional institution; 11491

(3) Prescribe procedures for the automatic, random selection 11492
of prisoners in a state correctional institution to submit to 11493
random drug testing under this section; 11494

(4) Provide for reasonable safeguards for the transmittal 11495
from the laboratory or entity described in division (B) of this 11496
section to the department of the results of the random drug 11497
testing of prisoners in state correctional institutions pursuant 11498
to division (F) of this section; 11499

(5) Establish a reasonable fee to cover the costs associated 11500
with random drug testing and analyses performed by a laboratory or 11501

entity under this section and establish procedures for the 11502
collection of those fees from the prisoners subjected to the drug 11503
test; 11504

(6) Establish guidelines for imposing sanctions upon a 11505
prisoner whose test results indicate that the prisoner ingested or 11506
was injected with a drug of abuse. 11507

(E) The warden of each correctional institution, pursuant to 11508
the contract entered into under division (B) of this section or, 11509
if no contract was entered into under that division, pursuant to 11510
the policies and procedures established by the department of 11511
rehabilitation and correction under division (D) of this section, 11512
shall facilitate the collection, documentation, maintenance, and 11513
transportation by the laboratory or entity described in division 11514
(B) of this section, of the blood or urine specimens of the 11515
prisoners in the state correctional institution who are subject to 11516
random drug testing. 11517

(F) A laboratory or entity that performs random drug testing 11518
of prisoners and analyses of blood or urine specimens under this 11519
section shall transmit the results of each drug test to the 11520
department of rehabilitation and correction. The department shall 11521
file for record the results of the drug tests that indicate 11522
whether or not each prisoner in the state correctional institution 11523
who was subjected to the drug test ingested or was injected with a 11524
drug of abuse. The department shall send a copy of the results of 11525
the drug tests to the warden of the state correctional institution 11526
in which the prisoner who was subjected to the drug test is 11527
confined. The warden shall give appropriate notice of the drug 11528
test results to each prisoner who was subjected to the drug test 11529
and whose drug test results indicate that the prisoner ingested or 11530
was injected with a drug of abuse. In accordance with 11531
institutional disciplinary procedures, the warden shall afford 11532
that prisoner an opportunity to be heard regarding the results of 11533

the drug test and to present contrary evidence at a hearing held 11534
before the warden within thirty days after notification to the 11535
prisoner under this division. After the hearing, if a hearing is 11536
held, the warden shall make a determination regarding any evidence 11537
presented by the prisoner. If the warden rejects the evidence 11538
presented by the prisoner at the hearing or if no hearing is held 11539
under this division, the warden may subject the prisoner to 11540
sanctions that include payment of the fee for the test. 11541

~~(G) If a prisoner has been subjected to two or more drug 11542
tests pursuant to this section and if the results of two of those 11543
tests indicate that the prisoner ingested or was injected with a 11544
drug of abuse, the parole board may extend the stated prison term 11545
of the prisoner pursuant to the bad time provisions in section 11546
2967.11 of the Revised Code if by ingesting or being injected with 11547
the drug of abuse the prisoner committed a violation as defined in 11548
that section. 11549~~

~~(H) All fees for random drug tests collected from prisoners 11550
under this section or collected by the adult parole authority 11551
under section 2929.15, 2951.05, or 2967.131 of the Revised Code 11552
shall be forwarded to the treasurer of state for deposit in the 11553
offender financial responsibility fund created in division (I) of 11554
section 5120.56 of the Revised Code. 11555~~

Sec. 5120.70. There is hereby created in the state treasury 11556
the federal equitable sharing fund. The director of rehabilitation 11557
and correction shall deposit in the fund all money received by the 11558
department from the federal government as equitable sharing 11559
payments under 28 U.S.C. 524. The director shall establish rules 11560
pursuant to Chapter 119. of the Revised Code for the operation of 11561
the fund. 11562

Sec. 5139.02. (A)(1) As used in this section, "managing 11563

officer" means ~~the assistant director~~, a deputy director, an 11564
assistant deputy director, a superintendent, a regional 11565
administrator, a deputy superintendent, or the superintendent of 11566
schools of the department of youth services, a member of the 11567
release authority, the chief of staff to the release authority, 11568
and the victims administrator of the office of victim services. 11569

(2) Each division established by the director of youth 11570
services shall consist of managing officers and other employees, 11571
including those employed in institutions and regions as necessary 11572
to perform the functions assigned to them. The director, ~~assistant~~ 11573
~~director~~, or appropriate deputy director or managing officer of 11574
the department shall supervise the work of each division and 11575
determine general policies governing the exercise of powers vested 11576
in the department and assigned to each division. The appropriate 11577
managing officer or deputy director is responsible to the director 11578
~~or assistant director~~ for the organization, direction, and 11579
supervision of the work of the division or unit and for the 11580
exercise of the powers and the performance of the duties of the 11581
department assigned to it and, with the director's approval, may 11582
establish bureaus or other administrative units within the 11583
department. 11584

(B) The director shall appoint all managing officers, who 11585
shall be in the unclassified civil service. The director may 11586
appoint a person who holds a certified position in the classified 11587
service within the department to a position as a managing officer 11588
within the department. A person appointed pursuant to this 11589
division to a position as a managing officer shall retain the 11590
right to resume the position and status held by the person in the 11591
classified service immediately prior to the person's appointment 11592
as managing officer, regardless of the number of positions the 11593
person held in the unclassified service. A managing officer's 11594
right to resume a position in the classified service may only be 11595

exercised when the director demotes the managing officer to a pay 11596
range lower than the managing officer's current pay range or 11597
revokes the managing officer's appointment to the position of 11598
managing officer. A managing officer forfeits the right to resume 11599
a position in the classified service when the managing officer is 11600
removed from the position of managing officer due to incompetence, 11601
inefficiency, dishonesty, drunkenness, immoral conduct, 11602
insubordination, discourteous treatment of the public, neglect of 11603
duty, violation of this chapter or Chapter 124. of the Revised 11604
Code, the rules of the director of youth services or the director 11605
of administrative services, any other failure of good behavior, 11606
any other acts of misfeasance, malfeasance, or nonfeasance in 11607
office, or conviction of a felony. A managing officer also 11608
forfeits the right to resume a position in the classified service 11609
upon transfer to a different agency. 11610

Reinstatement to a position in the classified service shall 11611
be to the position held in the classified service immediately 11612
prior to appointment as managing officer, or to another position 11613
certified by the director of administrative services as being 11614
substantially equal to that position. If the position the person 11615
previously held in the classified service immediately prior to 11616
appointment as a managing officer has been placed in the 11617
unclassified service or is otherwise unavailable, the person shall 11618
be appointed to a position in the classified service within the 11619
department that the director of administrative services certifies 11620
is comparable in compensation to the position the person 11621
previously held in the classified service. Service as a managing 11622
officer shall be counted as service in the position in the 11623
classified service held by the person immediately prior to the 11624
person's appointment as a managing officer. If a person is 11625
reinstated to a position in the classified service under this 11626
division, the person shall be returned to the pay range and step 11627
to which the person had been assigned at the time of the 11628

appointment as managing officer. Longevity, where applicable, 11629
shall be calculated pursuant to the provisions of section 124.181 11630
of the Revised Code. 11631

(C) Each person appointed as a managing officer shall have 11632
received special training and shall have experience in the type of 11633
work that the person's division is required to perform. Each 11634
managing officer, under the supervision of the director, has 11635
entire charge of the division, institution, unit, or region for 11636
which the managing officer is appointed and, with the director's 11637
approval, shall appoint necessary employees and may remove them 11638
for cause. 11639

(D) The director may designate one or more deputy directors 11640
to sign any personnel actions on the director's behalf. The 11641
director shall make a designation in a writing signed by the 11642
director, and the designation shall remain in effect until the 11643
director revokes or supersedes it with a new designation. 11644

Sec. 5139.18. (A) Except with respect to children who are 11645
granted a judicial release to court supervision pursuant to 11646
division (B) of section 2152.22 of the Revised Code, the 11647
department of youth services is responsible for locating homes or 11648
jobs for children released from its institutions, for supervision 11649
of children released from its institutions, and for providing or 11650
arranging for the provision to those children of appropriate 11651
services that are required to facilitate their satisfactory 11652
community adjustment. Regional administrators through their staff 11653
of parole officers shall supervise children paroled or released to 11654
community supervision in a manner that insures as nearly as 11655
possible the children's rehabilitation and that provides maximum 11656
protection to the general public. All state and local officials 11657
shall furnish any information to juvenile parole officers that 11658
they may request in the performance of their duties. 11659

(B) The department of youth services shall exercise general supervision over all children who have been released on placement from any of its institutions other than children who are granted a judicial release to court supervision pursuant to division (B) of section 2152.22 of the Revised Code. The director of youth services, with the consent and approval of the board of county commissioners of any county, may contract with the public children services agency of that county, the department of probation of that county established pursuant to section 2301.27 of the Revised Code, or the probation department or service established pursuant to sections 2151.01 to 2151.54 of the Revised Code for the provision of direct supervision and control over and the provision of supportive assistance to all children who have been released on placement into that county from any of its institutions, or, with the consent of the juvenile judge or the administrative judge of the juvenile court of any county, contract with any other public agency, institution, or organization that is qualified to provide the care and supervision that is required under the terms and conditions of the child's treatment plan for the provision of direct supervision and control over and the provision of supportive assistance to all children who have been released on placement into that county from any of its institutions.

(C) A juvenile parole officer shall furnish to a child placed on community control under the parole officer's supervision a statement of the conditions of parole and shall instruct the child regarding them. The parole officer shall keep informed concerning the conduct and condition of a child under the parole officer's supervision and shall report on the child's conduct to the judge as the judge directs. A parole officer shall use all suitable methods to aid a child on community control and to improve the child's conduct and condition. A parole officer shall keep full and accurate records of work done for children under the parole officer's supervision.

(D) In accordance with division (D) of section 2151.14 of the Revised Code, a court may issue an order requiring boards of education, governing bodies of chartered nonpublic schools, public children services agencies, private child placing agencies, probation departments, law enforcement agencies, and prosecuting attorneys that have records related to the child in question to provide copies of one or more specified records, or specified information in one or more specified records, that the individual or entity has with respect to the child to the department of youth services when the department has custody of the child or is performing any services for the child that are required by the juvenile court or by statute, and the department requests the records in accordance with division (D)(3)(a) of section 2151.14 of the Revised Code.

(E) Whenever any placement official has reasonable cause to believe that any child released by a court pursuant to section 2152.22 of the Revised Code has violated the conditions of the child's placement, the official may request, in writing, from the committing court or transferee court a custodial order, and, upon reasonable and probable cause, the court may order any sheriff, deputy sheriff, constable, or police officer to apprehend the child. A child so apprehended may be confined in the detention facility of the county in which the child is apprehended until further order of the court. If a child who was released on supervised release by the release authority of the department of youth services or a child who was granted a judicial release to department of youth services supervision violates the conditions of the supervised release or judicial release, section 5139.52 of the Revised Code applies with respect to that child.

Sec. 5139.281. The department of youth services shall adopt rules prescribing the manner of application for financial assistance under this section for the operation and maintenance of

a detention facility provided, or district detention facility 11725
established, under section 2151.41 of the Revised Code and 11726
prescribing minimum standards of operation, including criteria for 11727
programs of education, training, counseling, recreation, health, 11728
and safety, and qualifications of personnel with which a facility 11729
shall comply as a condition of eligibility for assistance under 11730
this section. If the board of county commissioners providing a 11731
detention facility or the board of trustees of a district 11732
detention facility applies to the department for assistance and if 11733
the department finds that the application is in accordance with 11734
the rules adopted under this section and that the facility meets 11735
the minimum standards adopted under this section, the department 11736
may grant assistance to the applicant board for the operation and 11737
maintenance of each facility in an amount not to exceed fifty per 11738
cent of the approved annual operating cost. The board shall make a 11739
separate application for each year for which assistance is 11740
requested. 11741

The department shall adopt any necessary rules for the care, 11742
treatment, and training in a district detention facility of 11743
children found to be delinquent children and committed to the 11744
facility by the juvenile court under section 2151.19 of the 11745
Revised Code and may approve for this purpose any facility that is 11746
found to be in compliance with the rules it adopts. 11747

The department shall ~~provide fund~~, at least once every six 11748
months, in-service training programs approved by the department 11749
for staff members of detention facilities or district detention 11750
facilities ~~and shall pay all travel and other necessary expenses~~ 11751
~~incurred by participating staff members.~~ 11752

Sec. 5139.31. The department of youth services may inspect 11753
any school, forestry camp, district detention facility, or other 11754
facility for which an application for financial assistance has 11755

been made to the department under section 2152.43 or 2151.651 of 11756
the Revised Code or for which financial assistance has been 11757
granted by the department under section 5139.27, 5139.271, or 11758
5139.281 of the Revised Code. The inspection may include, but need 11759
not be limited to, examination and evaluation of the physical 11760
condition of the school, forestry camp, district detention 11761
facility, or other facility, including any equipment used in 11762
connection with it; observation and evaluation of the ~~training~~ 11763
programming and treatment of children admitted to it; examination 11764
and analysis and copying of any papers, records, or other 11765
documents relating to the qualifications of personnel, the 11766
commitment of children to it, and its administration. 11767

Sec. 5139.36. (A) In accordance with this section and the 11768
rules adopted under it and from funds appropriated to the 11769
department of youth services for the purposes of this section, the 11770
department shall make grants that provide financial resources to 11771
operate community corrections facilities for felony delinquents. 11772

(B)(1) Each community corrections facility that intends to 11773
seek a grant under this section shall file an application with the 11774
department of youth services at the time and in accordance with 11775
the procedures that the department shall establish by rules 11776
adopted in accordance with Chapter 119. of the Revised Code. In 11777
addition to other items required to be included in the 11778
application, a plan that satisfies both of the following shall be 11779
included: 11780

(a) It reduces the number of felony delinquents committed to 11781
the department from the county or counties associated with the 11782
community corrections facility. 11783

(b) It ensures equal access for minority felony delinquents 11784
to the programs and services for which a potential grant would be 11785
used. 11786

(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it.

(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements:

(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility;

(2) Have written standardized criteria governing the types of felony delinquents that are eligible for the programs and services provided by the facility;

(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks:

(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department;

(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility.

(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the Revised Code and demonstrate that felony delinquents served by the facility have been or will be diverted from a commitment to the department.

(D) The department of youth services shall determine the 11818
method of distribution of the funds appropriated for grants under 11819
this section to community corrections facilities. 11820

(E)(1) The department of youth services shall adopt rules in 11821
accordance with Chapter 119. of the Revised Code to establish the 11822
minimum occupancy threshold of community corrections facilities. 11823

(2) The department may make referrals for the placement of 11824
children in its custody to a community corrections facility. At 11825
least forty-five days prior to the referral of a child or within 11826
any shorter period prior to the referral of the child that the 11827
committing court may allow, the department shall notify the 11828
committing court of its intent to place the child in a community 11829
corrections facility. The court shall have thirty days after the 11830
receipt of the notice to approve or disapprove the placement. If 11831
the court does not respond to the notice of the placement within 11832
that thirty-day period, the department shall proceed with the 11833
placement and debit the county in accordance with sections 5139.41 11834
to 5139.43 of the Revised Code. A child placed in a community 11835
corrections facility pursuant to this division shall remain in the 11836
legal custody of the department of youth services during the 11837
period in which the child is in the community corrections 11838
facility. 11839

(3) Counties that are not associated with a community 11840
corrections facility may refer children to a community corrections 11841
facility with the consent of the facility. The department of youth 11842
services shall debit the county that makes the referral in 11843
accordance with sections 5139.41 to 5139.43 of the Revised Code. 11844

(F) ~~If the~~ The board or other governing body of a community 11845
corrections facility ~~establishes an advisory board, the board or~~ 11846
~~other governing authority of the~~ shall meet not less often than 11847
once per quarter. A community corrections facility ~~shall~~ may 11848
reimburse the members of the board or other governing body of the 11849

facility and the members of an advisory board created by the board 11850
or other governing body of the facility for their actual and 11851
necessary expenses incurred in the performance of their official 11852
duties ~~on the advisory board~~. The members of the board or other 11853
governing body of the facility and the members of an advisory 11854
~~boards~~ board created by the board or other governing body of the 11855
facility shall serve without compensation. 11856

Sec. 5139.38. Within ninety days prior to the expiration of 11857
the prescribed minimum period of institutionalization of a felony 11858
delinquent committed to the department of youth services and with 11859
prior ~~notification to approval of~~ the committing court, the 11860
department may transfer the felony delinquent to a community 11861
facility ~~for a period of supervised treatment prior to ordering a~~ 11862
~~release of the felony delinquent~~ on supervised release ~~or prior to~~ 11863
~~the release and placement of the felony delinquent~~ as described in 11864
section 5139.18 of the Revised Code. For purposes of transfers 11865
under this section, both of the following apply: 11866

(A) The community facility may be a community corrections 11867
facility that has received a grant pursuant to section 5139.36 of 11868
the Revised Code, a community residential program with which the 11869
department has contracted for purposes of this section, or another 11870
private entity with which the department has contracted for 11871
purposes of this section. Division (E) of section 5139.36 of the 11872
Revised Code does not apply in connection with a transfer of a 11873
felony delinquent that is made to a community corrections facility 11874
pursuant to this section. 11875

(B) During the period in which the felony delinquent is in 11876
the community facility, the felony delinquent shall remain in the 11877
custody of the department. 11878

Sec. 5139.41. The appropriation made to the department of 11879

youth services for care and custody of felony delinquents shall be 11880
expended in accordance with the following procedure that the 11881
department shall use for each year of a biennium. The procedure 11882
shall be consistent with sections 5139.41 to 5139.43 of the 11883
Revised Code and shall be developed in accordance with the 11884
following guidelines: 11885

(A) The line item appropriation for the care and custody of 11886
felony delinquents shall provide funding for operational costs for 11887
the following: 11888

(1) Institutions and the diagnosis, care, or treatment of 11889
felony delinquents at facilities pursuant to contracts entered 11890
into under section 5139.08 of the Revised Code; 11891

(2) Community corrections facilities constructed, 11892
reconstructed, improved, or financed as described in section 11893
5139.36 of the Revised Code for the purpose of providing 11894
alternative placement and services for felony delinquents who have 11895
been diverted from care and custody in institutions; 11896

(3) County juvenile courts that administer programs and 11897
services for prevention, early intervention, diversion, treatment, 11898
and rehabilitation services and programs that are provided for 11899
alleged or adjudicated unruly or delinquent children or for 11900
children who are at risk of becoming unruly or delinquent 11901
children; 11902

(4) Administrative expenses the department incurs in 11903
connection with the felony delinquent care and custody programs 11904
described in section 5139.43 of the Revised Code. 11905

(B) From the appropriated line item for the care and custody 11906
of felony delinquents, the department, with the advice of the 11907
RECLAIM advisory committee established under section 5139.44 of 11908
the Revised Code, shall allocate annual operational funds for 11909

county juvenile programs, institutional care and custody, 11910
community corrections facilities care and custody, and 11911
administrative expenses incurred by the department associated with 11912
felony delinquent care and custody programs. The department, with 11913
the advice of the RECLAIM advisory committee, shall adjust these 11914
allocations, when modifications to this line item are made by 11915
legislative or executive action. 11916

(C) The department shall divide county juvenile program 11917
allocations among county juvenile courts that administer programs 11918
and services for prevention, early intervention, diversion, 11919
treatment, and rehabilitation that are provided for alleged or 11920
adjudicated unruly or delinquent children or for children who are 11921
at risk of becoming unruly or delinquent children. The department 11922
shall base funding on the county's previous year's ratio of the 11923
department's institutional and community correctional facilities 11924
commitments to that county's four year average of felony 11925
adjudications, ~~divided by statewide ratios of commitments to~~ 11926
~~felony adjudications,~~ as specified in the following formula: 11927

(1) The department shall give to each county a proportional 11928
allocation of commitment credits. The proportional allocation of 11929
commitment credits shall be calculated by the following 11930
procedures: 11931

(a) The department shall determine for each county and for 11932
the state a four year average of felony adjudications. 11933

(b) The department shall determine for each county and for 11934
the state the number of charged bed days, for both the department 11935
and community correctional facilities, from the previous year. 11936

(c) The department shall divide the statewide total number of 11937
charged bed days by the statewide total number of felony 11938
adjudications, which quotient shall then be multiplied by a factor 11939
determined by the department. 11940

(d) The department shall calculate the county's allocation of credits by multiplying the number of adjudications for each court by the result determined pursuant to division (C)(1)(c) of this section.

(2) The department shall subtract from the allocation determined pursuant to division (C)(1) of this section a credit for every chargeable bed day a youth stays in a department institution and two-thirds of credit for every chargeable bed day a youth stays in a community correctional facility, except for public safety beds. At the end of the year, the department shall divide the amount of remaining credits of that county's allocation by the total number of remaining credits to all counties, to determine the county's percentage, which shall then be applied to the total county allocation to determine the county's payment for the fiscal year.

(3) The department shall pay counties three times during the fiscal year to allow for credit reporting and audit adjustments, and modifications to the appropriated line item for the care and custody of felony delinquents, as described in this section. The department shall pay fifty per cent of the payment by the fifteenth of July of each fiscal year, twenty-five per cent by the fifteenth of January of that fiscal year, and twenty-five per cent of the payment by the fifteenth of June of that fiscal year.

(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure:

(1) The department shall divide the funding earned by each court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage.

(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's

total payment. 11972

(3) The department shall make payments in accordance with the 11973
schedule established in division (C)(3) of this section. 11974

Sec. 5139.43. (A) The department of youth services shall 11975
operate a felony delinquent care and custody program that shall be 11976
operated in accordance with the formula developed pursuant to 11977
section 5139.41 of the Revised Code, subject to the conditions 11978
specified in this section. 11979

(B)(1) Each juvenile court shall use the moneys disbursed to 11980
it by the department of youth services pursuant to division (B) of 11981
section 5139.41 of the Revised Code in accordance with the 11982
applicable provisions of division (B)(2) of this section and shall 11983
transmit the moneys to the county treasurer for deposit in 11984
accordance with this division. The county treasurer shall create 11985
in the county treasury a fund that shall be known as the felony 11986
delinquent care and custody fund and shall deposit in that fund 11987
the moneys disbursed to the juvenile court pursuant to division 11988
(B) of section 5139.41 of the Revised Code. The county treasurer 11989
also shall deposit into that fund the state subsidy funds granted 11990
to the county pursuant to section 5139.34 of the Revised Code. The 11991
moneys disbursed to the juvenile court pursuant to division (B) of 11992
section 5139.41 of the Revised Code and deposited pursuant to this 11993
division in the felony delinquent care and custody fund shall not 11994
be commingled with any other county funds except state subsidy 11995
funds granted to the county pursuant to section 5139.34 of the 11996
Revised Code; shall not be used for any capital construction 11997
projects; upon an order of the juvenile court and subject to 11998
appropriation by the board of county commissioners, shall be 11999
disbursed to the juvenile court for use in accordance with the 12000
applicable provisions of division (B)(2) of this section; shall 12001
not revert to the county general fund at the end of any fiscal 12002

year; and shall carry over in the felony delinquent care and 12003
custody fund from the end of any fiscal year to the next fiscal 12004
year. The moneys disbursed to the juvenile court pursuant to 12005
division (B) of section 5139.41 of the Revised Code and deposited 12006
pursuant to this division in the felony delinquent care and 12007
custody fund shall be in addition to, and shall not be used to 12008
reduce, any usual annual increase in county funding that the 12009
juvenile court is eligible to receive or the current level of 12010
county funding of the juvenile court and of any programs or 12011
services for delinquent children, unruly children, or juvenile 12012
traffic offenders. 12013

(2)(a) A county and the juvenile court that serves the county 12014
shall use the moneys in its felony delinquent care and custody 12015
fund in accordance with rules that the department of youth 12016
services adopts pursuant to division (D) of section 5139.04 of the 12017
Revised Code and as follows: 12018

(i) The moneys in the fund that represent state subsidy funds 12019
granted to the county pursuant to section 5139.34 of the Revised 12020
Code shall be used to aid in the support of prevention, early 12021
intervention, diversion, treatment, and rehabilitation programs 12022
that are provided for alleged or adjudicated unruly children or 12023
delinquent children or for children who are at risk of becoming 12024
unruly children or delinquent children. The county shall not use 12025
for capital improvements more than fifteen per cent of the moneys 12026
in the fund that represent the applicable annual grant of those 12027
state subsidy funds. 12028

(ii) The moneys in the fund that were disbursed to the 12029
juvenile court pursuant to division (B) of section 5139.41 of the 12030
Revised Code and deposited pursuant to division (B)(1) of this 12031
section in the fund shall be used to provide programs and services 12032
for the training, treatment, or rehabilitation of felony 12033
delinquents that are alternatives to their commitment to the 12034

department, including, but not limited to, community residential 12035
programs, day treatment centers, services within the home, and 12036
electronic monitoring, and shall be used in connection with 12037
training, treatment, rehabilitation, early intervention, or other 12038
programs or services for any delinquent child, unruly child, or 12039
juvenile traffic offender who is under the jurisdiction of the 12040
juvenile court. 12041

The fund also may be used for prevention, early intervention, 12042
diversion, treatment, and rehabilitation programs that are 12043
provided for alleged or adjudicated unruly children, delinquent 12044
children, or juvenile traffic offenders or for children who are at 12045
risk of becoming unruly children, delinquent children, or juvenile 12046
traffic offenders. Consistent with division (B)(1) of this 12047
section, a county and the juvenile court of a county shall not use 12048
any of those moneys for capital construction projects. 12049

(iii) Moneys in the fund shall not be used to support 12050
programs or services that do not comply with federal juvenile 12051
justice and delinquency prevention core requirements or to support 12052
programs or services that research has shown to be ineffective. 12053

(iv) ~~The county and the juvenile court that serves the county 12054~~
~~may not use moneys in the fund for the provision of care and 12055~~
~~services for children, including, but not limited to, care and 12056~~
~~services in a detention facility, in another facility, or in to 12057~~
~~provide out-of-home placement, unless the minimum standards that 12058~~
~~apply to the care and services and that the department prescribes 12059~~
~~in rules adopted pursuant to division (D) of section 5139.04 of 12060~~
~~the Revised Code have been satisfied of children only in detention 12061~~
~~centers, community rehabilitation centers, or community 12062~~
~~corrections facilities approved by the department pursuant to 12063~~
~~standards adopted by the department, licensed by an authorized 12064~~
~~state agency, or accredited by the American correctional 12065~~
~~association or another national organization recognized by the 12066~~

department. 12067

(b) Each juvenile court shall comply with division (B)(3)(d) 12068
of this section as implemented by the department. If a juvenile 12069
court fails to comply with division (B)(3)(d) of this section, the 12070
department shall not be required to make any disbursements in 12071
accordance with division (C) or (D) of section 5139.41 or division 12072
(C)(2) of section 5139.34 of the Revised Code. 12073

(3) In accordance with rules adopted by the department 12074
pursuant to division (D) of section 5139.04 of the Revised Code, 12075
each juvenile court and the county served by that juvenile court 12076
shall do all of the following that apply: 12077

(a) The juvenile court shall prepare an annual grant 12078
agreement and application for funding that satisfies the 12079
requirements of this section and section 5139.34 of the Revised 12080
Code and that pertains to the use, upon an order of the juvenile 12081
court and subject to appropriation by the board of county 12082
commissioners, of the moneys in its felony delinquent care and 12083
custody fund for specified programs, care, and services as 12084
described in division (B)(2)(a) of this section, shall submit that 12085
agreement and application to the county family and children first 12086
council, the regional family and children first council, or the 12087
local intersystem services to children cluster as described in 12088
sections 121.37 and 121.38 of the Revised Code, whichever is 12089
applicable, and shall file that agreement and application with the 12090
department for its approval. The annual grant agreement and 12091
application for funding shall include a method of ensuring equal 12092
access for minority youth to the programs, care, and services 12093
specified in it. 12094

The department may approve an annual grant agreement and 12095
application for funding only if the juvenile court involved has 12096
complied with the preparation, submission, and filing requirements 12097
described in division (B)(3)(a) of this section. If the juvenile 12098

court complies with those requirements and the department approves 12099
that agreement and application, the juvenile court and the county 12100
served by the juvenile court may expend the state subsidy funds 12101
granted to the county pursuant to section 5139.34 of the Revised 12102
Code only in accordance with division (B)(2)(a) of this section, 12103
the rules pertaining to state subsidy funds that the department 12104
adopts pursuant to division (D) of section 5139.04 of the Revised 12105
Code, and the approved agreement and application. 12106

(b) By the thirty-first day of August of each year, the 12107
juvenile court shall file with the department a report that 12108
contains all of the statistical and other information for each 12109
month of the prior state fiscal year. If the juvenile court fails 12110
to file the report required by division (B)(3)(b) of this section 12111
by the thirty-first day of August of any year, the department 12112
shall not disburse any payment of state subsidy funds to which the 12113
county otherwise is entitled pursuant to section 5139.34 of the 12114
Revised Code and shall not disburse pursuant to division (B) of 12115
section 5139.41 of the Revised Code the applicable allocation 12116
until the juvenile court fully complies with division (B)(3)(b) of 12117
this section. 12118

(c) If the department requires the juvenile court to prepare 12119
monthly statistical reports and to submit the reports on forms 12120
provided by the department, the juvenile court shall file those 12121
reports with the department on the forms so provided. If the 12122
juvenile court fails to prepare and submit those monthly 12123
statistical reports within the department's timelines, the 12124
department shall not disburse any payment of state subsidy funds 12125
to which the county otherwise is entitled pursuant to section 12126
5139.34 of the Revised Code and shall not disburse pursuant to 12127
division (B) of section 5139.41 of the Revised Code the applicable 12128
allocation until the juvenile court fully complies with division 12129
(B)(3)(c) of this section. If the juvenile court fails to prepare 12130

and submit those monthly statistical reports within one hundred 12131
eighty days of the date the department establishes for their 12132
submission, the department shall not disburse any payment of state 12133
subsidy funds to which the county otherwise is entitled pursuant 12134
to section 5139.34 of the Revised Code and shall not disburse 12135
pursuant to division (B) of section 5139.41 of the Revised Code 12136
the applicable allocation, and the state subsidy funds and the 12137
remainder of the applicable allocation shall revert to the 12138
department. If a juvenile court states in a monthly statistical 12139
report that the juvenile court adjudicated within a state fiscal 12140
year five hundred or more children to be delinquent children for 12141
committing acts that would be felonies if committed by adults and 12142
if the department determines that the data in the report may be 12143
inaccurate, the juvenile court shall have an independent auditor 12144
or other qualified entity certify the accuracy of the data on a 12145
date determined by the department. 12146

(d) If the department requires the juvenile court and the 12147
county to participate in a fiscal monitoring program or another 12148
monitoring program that is conducted by the department to ensure 12149
compliance by the juvenile court and the county with division (B) 12150
of this section, the juvenile court and the county shall 12151
participate in the program and fully comply with any guidelines 12152
for the performance of audits adopted by the department pursuant 12153
to that program and all requests made by the department pursuant 12154
to that program for information necessary to reconcile fiscal 12155
accounting. If an audit that is performed pursuant to a fiscal 12156
monitoring program or another monitoring program described in this 12157
division determines that the juvenile court or the county used 12158
moneys in the county's felony delinquent care and custody fund for 12159
expenses that are not authorized under division (B) of this 12160
section, within forty-five days after the department notifies the 12161
county of the unauthorized expenditures, the county either shall 12162
repay the amount of the unauthorized expenditures from the county 12163

general revenue fund to the state's general revenue fund or shall 12164
file a written appeal with the department. If an appeal is timely 12165
filed, the director of the department shall render a decision on 12166
the appeal and shall notify the appellant county or its juvenile 12167
court of that decision within forty-five days after the date that 12168
the appeal is filed. If the director denies an appeal, the 12169
county's fiscal agent shall repay the amount of the unauthorized 12170
expenditures from the county general revenue fund to the state's 12171
general revenue fund within thirty days after receiving the 12172
director's notification of the appeal decision. ~~If the county 12173
fails to make the repayment within that thirty day period and if 12174
the unauthorized expenditures pertain to moneys allocated under 12175
sections 5139.41 to 5139.43 of the Revised Code, the department 12176
shall deduct the amount of the unauthorized expenditures from the 12177
next allocation of those moneys to the county in accordance with 12178
this section or from the allocations that otherwise would be made 12179
under those sections to the county during the next state fiscal 12180
year in accordance with this section and shall return that 12181
deducted amount to the state's general revenue fund. If the county 12182
fails to make the repayment within that thirty day period and if 12183
the unauthorized expenditures pertain to moneys granted pursuant 12184
to section 5139.34 of the Revised Code, the department shall 12185
deduct the amount of the unauthorized expenditures from the next 12186
annual grant to the county pursuant to that section and shall 12187
return that deducted amount to the state's general revenue fund.~~ 12188

(C) The determination of which county a reduction of the care 12189
and custody allocation will be charged against for a particular 12190
youth shall be made as outlined below for all youths who do not 12191
qualify as public safety beds. The determination of which county a 12192
reduction of the care and custody allocation will be charged 12193
against shall be made as follows until each youth is released: 12194
12195

(1) In the event of a commitment, the reduction shall be 12196
charged against the committing county. 12197

(2) In the event of a recommitment, the reduction shall be 12198
charged against the original committing county until the 12199
expiration of the minimum period of institutionalization under the 12200
original order of commitment or until the date on which the youth 12201
is admitted to the department of youth services pursuant to the 12202
order of recommitment, whichever is later. Reductions of the 12203
allocation shall be charged against the county that recommitted 12204
the youth after the minimum expiration date of the original 12205
commitment. 12206

(3) In the event of a revocation of a release on parole, the 12207
reduction shall be charged against the county that revokes the 12208
youth's parole. 12209

(D) A juvenile court is not precluded by its allocation 12210
amount for the care and custody of felony delinquents from 12211
committing a felony delinquent to the department of youth services 12212
for care and custody in an institution or a community corrections 12213
facility when the juvenile court determines that the commitment is 12214
appropriate. 12215

Sec. 5139.50. (A) The release authority of the department of 12216
youth services is hereby created as a bureau in the department. 12217
The release authority shall consist of five members who are 12218
appointed by the director of youth services and who have the 12219
qualifications specified in division (B) of this section. The 12220
members of the release authority shall devote their full time to 12221
the duties of the release authority and shall neither seek nor 12222
hold other public office. The members shall be in the unclassified 12223
civil service. 12224

(B) A person appointed as a member of the release authority 12225
shall have a bachelor's degree from an accredited college or 12226

university or equivalent relevant experience and shall have the 12227
skills, training, or experience necessary to analyze issues of 12228
law, administration, and public policy. The membership of the 12229
release authority shall represent, insofar as practicable, the 12230
diversity found in the children in the legal custody of the 12231
department of youth services. 12232

In appointing the five members, the director shall ensure 12233
that the appointments include all of the following: 12234

(1) At least four members who have five or more years of 12235
experience in criminal justice, juvenile justice, or an equivalent 12236
relevant profession; 12237

(2) At least one member who has experience in victim services 12238
or advocacy or who has been a victim of a crime or is a family 12239
member of a victim; 12240

(3) At least one member who has experience in direct care 12241
services to delinquent children. 12242

(C) The initial appointments of members of the release 12243
authority shall be for a term of six years for the chairperson and 12244
one member, a term of four years for two members, and a term of 12245
two years for one member. Thereafter, members shall be appointed 12246
for six-year terms until the effective date of this amendment, 12247
after which members shall be appointed for four-year terms. At the 12248
conclusion of a term, a member shall hold office until the 12249
appointment and qualification of the member's successor. The 12250
director shall fill a vacancy occurring before the expiration of a 12251
term for the remainder of that term and, if a member is on 12252
extended leave or disability status for more than thirty work 12253
days, may appoint an interim member to fulfill the duties of that 12254
member. A member may be reappointed, ~~but a member may serve no~~ 12255
~~more than two consecutive terms regardless of the length of the~~ 12256
~~member's initial term.~~ A member may be removed for good cause by 12257

the director. 12258

(D) The director of youth services shall designate as 12259
chairperson of the release authority one of the members who has 12260
experience in criminal justice, juvenile justice, or an equivalent 12261
relevant profession. The chairperson shall be a managing officer 12262
of the department, shall supervise the members of the board and 12263
the other staff in the bureau, and shall perform all duties and 12264
functions necessary to ensure that the release authority 12265
discharges its responsibilities. The chairperson shall serve as 12266
the official spokesperson for the release authority. 12267

(E) The release authority shall do all of the following: 12268

(1) Serve as the final and sole authority for making 12269
decisions, in the interests of public safety and the children 12270
involved, regarding the release and discharge of all children 12271
committed to the legal custody of the department of youth 12272
services, except children placed by a juvenile court on judicial 12273
release to court supervision or on judicial release to department 12274
of youth services supervision, children who have not completed a 12275
prescribed minimum period of time or prescribed period of time in 12276
a secure facility, or children who are required to remain in a 12277
secure facility until they attain twenty-one years of age; 12278

(2) Establish written policies and procedures for conducting 12279
reviews of the status for all youth in the custody of the 12280
department, setting or modifying dates of release and discharge, 12281
specifying the duration, terms, and conditions of release to be 12282
carried out in supervised release subject to the addition of 12283
additional consistent terms and conditions by a court in 12284
accordance with section 5139.51 of the Revised Code, and giving a 12285
child notice of all reviews; 12286

(3) Maintain records of its official actions, decisions, 12287
orders, and hearing summaries and make the records accessible in 12288

accordance with division (D) of section 5139.05 of the Revised Code;	12289 12290
(4) Cooperate with public and private agencies, communities, private groups, and individuals for the development and improvement of its services;	12291 12292 12293
(5) Collect, develop, and maintain statistical information regarding its services and decisions;	12294 12295
(6) Submit to the director an annual report that includes a description of the operations of the release authority, an evaluation of its effectiveness, recommendations for statutory, budgetary, or other changes necessary to improve its effectiveness, and any other information required by the director.	12296 12297 12298 12299 12300
(F) The release authority may do any of the following:	12301
(1) Conduct inquiries, investigations, and reviews and hold hearings and other proceedings necessary to properly discharge its responsibilities;	12302 12303 12304
(2) Issue subpoenas, enforceable in a court of law, to compel a person to appear, give testimony, or produce documentary information or other tangible items relating to a matter under inquiry, investigation, review, or hearing;	12305 12306 12307 12308
(3) Administer oaths and receive testimony of persons under oath;	12309 12310
(4) Request assistance, services, and information from a public agency to enable the authority to discharge its responsibilities and receive the assistance, services, and information from the public agency in a reasonable period of time;	12311 12312 12313 12314
(5) Request from a public agency or any other entity that provides or has provided services to a child committed to the department's legal custody information to enable the release authority to properly discharge its responsibilities with respect	12315 12316 12317 12318

to that child and receive the information from the public agency 12319
or other entity in a reasonable period of time. 12320

(G) The release authority may delegate responsibilities to 12321
hearing officers or other designated staff under the release 12322
authority's auspices. However, the release authority shall not 12323
delegate its authority to make final decisions regarding policy or 12324
the release of a child. 12325

The release authority shall adopt a written policy and 12326
procedures governing appeals of its release and discharge 12327
decisions. 12328

(H) The legal staff of the department of youth services shall 12329
provide assistance to the release authority in the formulation of 12330
policy and in its handling of individual cases. 12331

Sec. 5145.01. Courts shall impose sentences to a state 12332
correctional institution for felonies pursuant to sections 2929.13 12333
and 2929.14 of the Revised Code. All prison terms may be ended in 12334
the manner provided by law, but no prison term shall exceed the 12335
maximum term provided for the felony of which the prisoner was 12336
convicted as extended pursuant to section 2929.141, ~~2967.11~~, or 12337
2967.28 of the Revised Code. 12338

If a prisoner is sentenced for two or more separate felonies, 12339
the prisoner's term of imprisonment shall run as a concurrent 12340
sentence, except if the consecutive sentence provisions of 12341
sections 2929.14 and 2929.41 of the Revised Code apply. If 12342
sentenced consecutively, for the purposes of sections 5145.01 to 12343
5145.27 of the Revised Code, the prisoner shall be held to be 12344
serving one continuous term of imprisonment. 12345

If a court imposes a sentence to a state correctional 12346
institution for a felony of the fourth or fifth degree, the 12347
department of rehabilitation and correction, notwithstanding the 12348

court's designation of a state correctional institution as the 12349
place of service of the sentence, may designate that the person 12350
sentenced is to be housed in a county, multicounty, municipal, 12351
municipal-county, or multicounty-municipal jail or workhouse if 12352
authorized pursuant to section 5120.161 of the Revised Code. 12353

If, through oversight or otherwise, a person is sentenced to 12354
a state correctional institution under a definite term for an 12355
offense for which a definite term of imprisonment is not provided 12356
by statute, the sentence shall not thereby become void, but the 12357
person shall be subject to the liabilities of such sections and 12358
receive the benefits thereof, as if the person had been sentenced 12359
in the manner required by this section. 12360

As used in this section, "prison term" has the same meaning 12361
as in section 2929.01 of the Revised Code. 12362

Sec. 5145.163. (A) As used in this section: 12363

(1) "Customer model enterprise" means an enterprise conducted 12364
under a federal prison industries enhancement certification 12365
program in which a private party participates in the enterprise 12366
only as a purchaser of goods and services. 12367

(2) "Employer model enterprise" means an enterprise conducted 12368
under a federal prison industries enhancement certification 12369
program in which a private party participates in the enterprise as 12370
an operator of the enterprise. 12371

(3) "Injury" means a diagnosable injury to an inmate 12372
supported by medical findings that it was sustained in the course 12373
of and arose out of authorized work activity that was an integral 12374
part of the inmate's participation in the Ohio penal industries 12375
program. 12376

(4) "Inmate" ~~includes~~ means any person who is committed to a 12377
detention facility, who is in the custody of the department of 12378

rehabilitation and correction, and who is participating in an 12379
~~approved assignment~~ Ohio penal industries program that is under 12380
the federal prison industries enhancement certification program. 12381
~~"Inmate" does not include a prisoner confined within a detention~~ 12382
~~facility operated by or for a political subdivision.~~ 12383

~~(2)(5)~~ "Federal prison industries enhancement certification 12384
program" means the program authorized pursuant to 18 U.S.C. 1761. 12385

(6) "Loss of earning capacity" means an impairment of the 12386
body of an inmate to a degree that makes the inmate unable to 12387
return to work activity under the Ohio penal industries program 12388
and results in a reduction of compensation earned by the inmate at 12389
the time the injury occurred. 12390

~~(B) Private employers who purchase goods made by inmates or~~ 12391
~~utilize inmate labor in the production of goods under the federal~~ 12392
~~prison industries enhancement certification program~~ Every inmate 12393
~~shall purchase and be solely responsible to provide~~ covered by a 12394
~~policy of disability insurance for inmates participating in the~~ 12395
~~program to provide benefits for loss of earning capacity due to an~~ 12396
~~injury and for medical treatment of the injury following the~~ 12397
~~inmate's release from prison. If the enterprise for which the~~ 12398
~~inmate works is a customer model enterprise, Ohio penal industries~~ 12399
~~shall purchase the policy. If the enterprise for which the inmate~~ 12400
~~works is an employer model enterprise, the private participant~~ 12401
~~shall purchase the policy. The person required to purchase the~~ 12402
~~policy shall submit proof of coverage to the prison labor advisory~~ 12403
~~board before the enterprise begins operation.~~ 12404

~~(C) The policy of insurance required by this section shall~~ 12405
~~provide benefit payments for any inmate who sustains a compensable~~ 12406
~~injury while participating in the program. The benefit payments~~ 12407
~~shall compensate the inmate for any temporary or permanent loss of~~ 12408
~~earning capacity that results from a compensable injury and is~~ 12409
~~present at the time of the inmate's release~~ Within ninety days 12410

~~after an inmate sustains an injury, the inmate may file a~~ 12411
~~disability claim with the person required to purchase the policy~~ 12412
~~of disability insurance. Upon the request of the insurer, the~~ 12413
~~inmate shall be medically examined, and the insurer shall~~ 12414
~~determine the inmate's entitlement to disability benefits based on~~ 12415
~~the medical examination. The inmate shall accept or reject an~~ 12416
~~award within thirty days after a determination of the inmate's~~ 12417
~~entitlement to the award. The If the inmate accepts the award, the~~ 12418
~~benefits shall be awarded paid upon the inmate's release from~~ 12419
~~prison by parole or final discharge. The policy of insurance shall~~ 12420
~~provide coverage for injuries occurring during activities that are~~ 12421
~~an integral part of the inmate's participation in the program~~ 12422
~~production. The policy of insurance The amount of disability~~ 12423
~~benefits payable to the inmate shall be reduced by sick leave~~ 12424
~~benefits or other compensation for lost pay made by Ohio penal~~ 12425
~~industries to the inmate due to an injury that rendered the inmate~~ 12426
~~unable to work. An inmate shall not pay receive disability~~ 12427
~~benefits for injuries occurring as the result of a fight, assault,~~ 12428
~~horseplay, purposely self-inflicted injury, use of alcohol or~~ 12429
~~controlled substances, misuse of prescription drugs, or other~~ 12430
~~activity that is prohibited by the department's or institution's~~ 12431
~~inmate conduct rules or the work rules of the private participant~~ 12432
~~in the enterprise.~~ 12433

~~(D) Private employers shall submit to the prison labor~~ 12434
~~advisory board as a requirement for participation in the federal~~ 12435
~~prison industries enhancement certification program proof of~~ 12436
~~liability coverage that meets or exceeds the requirements set~~ 12437
~~forth in 18 U.S.C. 1761(c)(3).~~ 12438

~~(E) Inmates covered under this section are not employees of~~ 12439
~~the department of rehabilitation and correction or the private~~ 12440
~~employer. Nothing in this section shall be construed as creating a~~ 12441
~~contract for hire between the inmate and any other entity~~ 12442

participant in an enterprise. 12443

~~(F) Any (E) An inmate participating in the federal prison~~ 12444
~~industries enhancement certification program~~ is ineligible to 12445
receive compensation or benefits under Chapter 4121., 4123., 12446
4127., or 4131. of the Revised Code for any injury, death, or 12447
occupational disease received in the course of, and arising out 12448
of, participation in ~~that~~ the Ohio penal industries program. Any 12449
claim for an injury arising from an inmate's participation in the 12450
program is specifically excluded from the jurisdiction of the Ohio 12451
bureau of workers' compensation and the industrial commission of 12452
Ohio. 12453

~~(G)(F) Any liability disability benefit awarded for any~~ 12454
~~injury award accepted by an inmate~~ under this ~~provision~~ section 12455
shall be the inmate's exclusive remedy against the insurer, the 12456
private employer participant in an enterprise, and the state. If 12457
an inmate rejects an award or a disability claim is denied, the 12458
inmate may bring an action in the court of claims within the 12459
appropriate period of limitations. 12460

~~(H)(G) If any inmate awarded liability who is paid disability~~ 12461
~~benefits under this provision section~~ is ~~recommitted to the~~ 12462
~~eustody of the department of rehabilitation and correction~~ 12463
reincarcerated, the benefits shall immediately cease but shall 12464
resume upon the inmate's subsequent parole or discharge release 12465
from incarceration. 12466

Sec. 5149.06. ~~(A)~~ One of the primary duties of the field 12467
services section is to assist the counties in developing their own 12468
probation services on either a single-county or multiple-county 12469
basis. The section, within limits of available personnel and 12470
funds, may supervise selected probationers from local courts. 12471

~~(B) The adult parole authority probation services fund shall~~ 12472
~~be created in the state treasury. The fund shall consist of all~~ 12473

~~moneys that are paid to the treasurer of any county under section 12474
2951.021 of the Revised Code for deposit into the county's 12475
probation services fund established under division (A)(1) of 12476
section 321.44 of the Revised Code and that subsequently are 12477
appropriated and transferred to the adult parole authority 12478
probation services fund under division (A)(2) of that section. The 12479
chief of the adult parole authority, with the approval of the 12480
director of the department of rehabilitation and correction, shall 12481
use the money contained in the adult parole authority probation 12482
services fund for probation related expenses in the counties for 12483
which the authority provides probation services. Probation related 12484
expenses may include specialized staff, purchase of equipment, 12485
purchase of services, reconciliation programs for victims and 12486
offenders, other treatment programs, including alcohol and drug 12487
addiction programs certified under section 3793.06 of the Revised 12488
Code, determined to be appropriate by the chief of the authority, 12489
and other similar probation related expenses. 12490~~

Section 2. That existing sections 9.06, 121.05, 321.44, 12491
341.192, 1713.34, 2921.36, 2929.01, 2929.12, 2929.13, 2929.14, 12492
2929.141, 2929.15, 2929.17, 2929.19, 2929.20, 2935.36, 2943.032, 12493
2949.12, 2951.021, 2951.041, 2953.08, 2953.13, 2967.03, 2967.05, 12494
2967.141, 2967.28, 3923.233, 3923.301, 4507.50, 4507.51, 4701.16, 12495
4703.15, 4707.02, 4709.13, 4712.03, 4715.30, 4717.14, 4719.03, 12496
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4731.25, 4732.02, 4732.17, 4733.20, 4734.31, 4734.39, 4735.07, 12499
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4740.06, 4740.10, 4741.22, 4747.12, 4749.03, 4749.04, 4749.06, 12501
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4759.07, 4760.13, 4760.15, 4761.09, 4762.13, 4762.15, 4763.11, 12503
4765.18, 4765.301, 4771.18, 4779.28, 4781.09, 5120.52, 5120.53, 12504
5120.63, 5139.02, 5139.18, 5139.281, 5139.31, 5139.36, 5139.38, 12505

5139.41, 5139.43, 5139.50, 5145.01, 5145.163, and 5149.06 and 12506
section 2967.11 of the Revised Code is hereby repealed. 12507

Section 3. Sections 2929.01 and 2929.19 of the Revised Code 12508
are presented in this act as composites of the sections as amended 12509
by both Am. Sub. H.B. 461 and Am. Sub. S.B. 260 of the 126th 12510
General Assembly. Sections 2929.13 and 2929.14 of the Revised Code 12511
are presented in this act as composites of the sections as amended 12512
by Am. Sub. H.B. 461, Am. Sub. S.B. 260, and Sub. S.B. 281 all of 12513
the 126th General Assembly. The General Assembly, applying the 12514
principle stated in division (B) of section 1.52 of the Revised 12515
Code that amendments are to be harmonized if reasonably capable of 12516
simultaneous operation, finds that the composites are the 12517
resulting versions of the sections in effect prior to the 12518
effective date of the sections as presented in this act. 12519