

As Passed by the Senate

**127th General Assembly
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Sub. S. B. No. 229

Senator Gardner

**Cosponsors: Senators Mumper, Spada, Wagoner, Padgett, Coughlin, Harris,
Schaffer, Miller, R., Wilson**

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A B I L L

To amend sections 4731.051, 4731.07, 4731.22, 1
4731.224, 4731.24, and 4731.25 and to enact 2
sections 4774.01, 4774.02, 4774.03, 4774.031, 3
4774.04 to 4774.06, 4774.08 to 4774.11, 4774.13, 4
4774.131, 4774.132, 4774.14 to 4774.18, 4774.20, 5
4774.21, and 4774.99 of the Revised Code to 6
regulate the practice of radiologist assistants. 7

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

Section 1. That sections 4731.051, 4731.07, 4731.22, 8
4731.224, 4731.24, and 4731.25 be amended and sections 4774.01, 9
4774.02, 4774.03, 4774.031, 4774.04, 4774.05, 4774.06, 4774.08, 10
4774.09, 4774.10, 4774.11, 4774.13, 4774.131, 4774.132, 4774.14, 11
4774.15, 4774.16, 4774.17, 4774.18, 4774.20, 4774.21, and 4774.99 12
of the Revised Code be enacted to read as follows: 13

Sec. 4731.051. The state medical board shall adopt rules in 14
accordance with Chapter 119. of the Revised Code establishing 15
universal blood and body fluid precautions that shall be used by 16
each person who performs exposure prone invasive procedures and is 17
authorized to practice by this chapter or Chapter 4730., 4760., ~~or~~ 18

4762., or 4774. of the Revised Code. The rules shall define and 19
establish requirements for universal blood and body fluid 20
precautions that include the following: 21

(A) Appropriate use of hand washing; 22

(B) Disinfection and sterilization of equipment; 23

(C) Handling and disposal of needles and other sharp 24
instruments; 25

(D) Wearing and disposal of gloves and other protective 26
garments and devices. 27

Sec. 4731.07. The state medical board shall keep a record of 28
its proceedings. It shall also keep a register of applicants for 29
certificates of registration and certificates to practice issued 30
under this chapter and Chapters 4730., 4760., ~~and~~ 4762., and 4774. 31
of the Revised Code. The register shall show the name of the 32
applicant and whether the applicant was granted or refused a 33
certificate. With respect to applicants to practice medicine and 34
surgery or osteopathic medicine and surgery, the register shall 35
show the name of the institution that granted the applicant the 36
degree of doctor of medicine or osteopathic medicine. The books 37
and records of the board shall be prima-facie evidence of matters 38
therein contained. 39

Sec. 4731.22. (A) The state medical board, by an affirmative 40
vote of not fewer than six of its members, may revoke or may 41
refuse to grant a certificate to a person found by the board to 42
have committed fraud during the administration of the examination 43
for a certificate to practice or to have committed fraud, 44
misrepresentation, or deception in applying for or securing any 45
certificate to practice or certificate of registration issued by 46
the board. 47

(B) The board, by an affirmative vote of not fewer than six 48

members, shall, to the extent permitted by law, limit, revoke, or 49
suspend an individual's certificate to practice, refuse to 50
register an individual, refuse to reinstate a certificate, or 51
reprimand or place on probation the holder of a certificate for 52
one or more of the following reasons: 53

(1) Permitting one's name or one's certificate to practice or 54
certificate of registration to be used by a person, group, or 55
corporation when the individual concerned is not actually 56
directing the treatment given; 57

(2) Failure to maintain minimal standards applicable to the 58
selection or administration of drugs, or failure to employ 59
acceptable scientific methods in the selection of drugs or other 60
modalities for treatment of disease; 61

(3) Selling, giving away, personally furnishing, prescribing, 62
or administering drugs for other than legal and legitimate 63
therapeutic purposes or a plea of guilty to, a judicial finding of 64
guilt of, or a judicial finding of eligibility for intervention in 65
lieu of conviction of, a violation of any federal or state law 66
regulating the possession, distribution, or use of any drug; 67

(4) Willfully betraying a professional confidence. 68

For purposes of this division, "willfully betraying a 69
professional confidence" does not include providing any 70
information, documents, or reports to a child fatality review 71
board under sections 307.621 to 307.629 of the Revised Code and 72
does not include the making of a report of an employee's use of a 73
drug of abuse, or a report of a condition of an employee other 74
than one involving the use of a drug of abuse, to the employer of 75
the employee as described in division (B) of section 2305.33 of 76
the Revised Code. Nothing in this division affects the immunity 77
from civil liability conferred by that section upon a physician 78
who makes either type of report in accordance with division (B) of 79

that section. As used in this division, "employee," "employer," 80
and "physician" have the same meanings as in section 2305.33 of 81
the Revised Code. 82

(5) Making a false, fraudulent, deceptive, or misleading 83
statement in the solicitation of or advertising for patients; in 84
relation to the practice of medicine and surgery, osteopathic 85
medicine and surgery, podiatric medicine and surgery, or a limited 86
branch of medicine; or in securing or attempting to secure any 87
certificate to practice or certificate of registration issued by 88
the board. 89

As used in this division, "false, fraudulent, deceptive, or 90
misleading statement" means a statement that includes a 91
misrepresentation of fact, is likely to mislead or deceive because 92
of a failure to disclose material facts, is intended or is likely 93
to create false or unjustified expectations of favorable results, 94
or includes representations or implications that in reasonable 95
probability will cause an ordinarily prudent person to 96
misunderstand or be deceived. 97

(6) A departure from, or the failure to conform to, minimal 98
standards of care of similar practitioners under the same or 99
similar circumstances, whether or not actual injury to a patient 100
is established; 101

(7) Representing, with the purpose of obtaining compensation 102
or other advantage as personal gain or for any other person, that 103
an incurable disease or injury, or other incurable condition, can 104
be permanently cured; 105

(8) The obtaining of, or attempting to obtain, money or 106
anything of value by fraudulent misrepresentations in the course 107
of practice; 108

(9) A plea of guilty to, a judicial finding of guilt of, or a 109
judicial finding of eligibility for intervention in lieu of 110

conviction for, a felony;	111
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	112 113 114
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	115 116 117
(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	118 119 120
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	121 122 123
(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	124 125 126
(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;	127 128
(16) Failure to pay license renewal fees specified in this chapter;	129 130
(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;	131 132 133 134
(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies	135 136 137 138 139 140

of the codes of ethics of the various national professional 141
organizations. The individual whose certificate is being suspended 142
or revoked shall not be found to have violated any provision of a 143
code of ethics of an organization not appropriate to the 144
individual's profession. 145

For purposes of this division, a "provision of a code of 146
ethics of a national professional organization" does not include 147
any provision that would preclude the making of a report by a 148
physician of an employee's use of a drug of abuse, or of a 149
condition of an employee other than one involving the use of a 150
drug of abuse, to the employer of the employee as described in 151
division (B) of section 2305.33 of the Revised Code. Nothing in 152
this division affects the immunity from civil liability conferred 153
by that section upon a physician who makes either type of report 154
in accordance with division (B) of that section. As used in this 155
division, "employee," "employer," and "physician" have the same 156
meanings as in section 2305.33 of the Revised Code. 157

(19) Inability to practice according to acceptable and 158
prevailing standards of care by reason of mental illness or 159
physical illness, including, but not limited to, physical 160
deterioration that adversely affects cognitive, motor, or 161
perceptive skills. 162

In enforcing this division, the board, upon a showing of a 163
possible violation, may compel any individual authorized to 164
practice by this chapter or who has submitted an application 165
pursuant to this chapter to submit to a mental examination, 166
physical examination, including an HIV test, or both a mental and 167
a physical examination. The expense of the examination is the 168
responsibility of the individual compelled to be examined. Failure 169
to submit to a mental or physical examination or consent to an HIV 170
test ordered by the board constitutes an admission of the 171
allegations against the individual unless the failure is due to 172

circumstances beyond the individual's control, and a default and 173
final order may be entered without the taking of testimony or 174
presentation of evidence. If the board finds an individual unable 175
to practice because of the reasons set forth in this division, the 176
board shall require the individual to submit to care, counseling, 177
or treatment by physicians approved or designated by the board, as 178
a condition for initial, continued, reinstated, or renewed 179
authority to practice. An individual affected under this division 180
shall be afforded an opportunity to demonstrate to the board the 181
ability to resume practice in compliance with acceptable and 182
prevailing standards under the provisions of the individual's 183
certificate. For the purpose of this division, any individual who 184
applies for or receives a certificate to practice under this 185
chapter accepts the privilege of practicing in this state and, by 186
so doing, shall be deemed to have given consent to submit to a 187
mental or physical examination when directed to do so in writing 188
by the board, and to have waived all objections to the 189
admissibility of testimony or examination reports that constitute 190
a privileged communication. 191

(20) Except when civil penalties are imposed under section 192
4731.225 or 4731.281 of the Revised Code, and subject to section 193
4731.226 of the Revised Code, violating or attempting to violate, 194
directly or indirectly, or assisting in or abetting the violation 195
of, or conspiring to violate, any provisions of this chapter or 196
any rule promulgated by the board. 197

This division does not apply to a violation or attempted 198
violation of, assisting in or abetting the violation of, or a 199
conspiracy to violate, any provision of this chapter or any rule 200
adopted by the board that would preclude the making of a report by 201
a physician of an employee's use of a drug of abuse, or of a 202
condition of an employee other than one involving the use of a 203
drug of abuse, to the employer of the employee as described in 204

division (B) of section 2305.33 of the Revised Code. Nothing in 205
this division affects the immunity from civil liability conferred 206
by that section upon a physician who makes either type of report 207
in accordance with division (B) of that section. As used in this 208
division, "employee," "employer," and "physician" have the same 209
meanings as in section 2305.33 of the Revised Code. 210

(21) The violation of section 3701.79 of the Revised Code or 211
of any abortion rule adopted by the public health council pursuant 212
to section 3701.341 of the Revised Code; 213

(22) Any of the following actions taken by the agency 214
responsible for regulating the practice of medicine and surgery, 215
osteopathic medicine and surgery, podiatric medicine and surgery, 216
or the limited branches of medicine in another jurisdiction, for 217
any reason other than the nonpayment of fees: the limitation, 218
revocation, or suspension of an individual's license to practice; 219
acceptance of an individual's license surrender; denial of a 220
license; refusal to renew or reinstate a license; imposition of 221
probation; or issuance of an order of censure or other reprimand; 222

(23) The violation of section 2919.12 of the Revised Code or 223
the performance or inducement of an abortion upon a pregnant woman 224
with actual knowledge that the conditions specified in division 225
(B) of section 2317.56 of the Revised Code have not been satisfied 226
or with a heedless indifference as to whether those conditions 227
have been satisfied, unless an affirmative defense as specified in 228
division (H)(2) of that section would apply in a civil action 229
authorized by division (H)(1) of that section; 230

(24) The revocation, suspension, restriction, reduction, or 231
termination of clinical privileges by the United States department 232
of defense or department of veterans affairs or the termination or 233
suspension of a certificate of registration to prescribe drugs by 234
the drug enforcement administration of the United States 235
department of justice; 236

(25) Termination or suspension from participation in the 237
medicare or medicaid programs by the department of health and 238
human services or other responsible agency for any act or acts 239
that also would constitute a violation of division (B)(2), (3), 240
(6), (8), or (19) of this section; 241

(26) Impairment of ability to practice according to 242
acceptable and prevailing standards of care because of habitual or 243
excessive use or abuse of drugs, alcohol, or other substances that 244
impair ability to practice. 245

For the purposes of this division, any individual authorized 246
to practice by this chapter accepts the privilege of practicing in 247
this state subject to supervision by the board. By filing an 248
application for or holding a certificate to practice under this 249
chapter, an individual shall be deemed to have given consent to 250
submit to a mental or physical examination when ordered to do so 251
by the board in writing, and to have waived all objections to the 252
admissibility of testimony or examination reports that constitute 253
privileged communications. 254

If it has reason to believe that any individual authorized to 255
practice by this chapter or any applicant for certification to 256
practice suffers such impairment, the board may compel the 257
individual to submit to a mental or physical examination, or both. 258
The expense of the examination is the responsibility of the 259
individual compelled to be examined. Any mental or physical 260
examination required under this division shall be undertaken by a 261
treatment provider or physician who is qualified to conduct the 262
examination and who is chosen by the board. 263

Failure to submit to a mental or physical examination ordered 264
by the board constitutes an admission of the allegations against 265
the individual unless the failure is due to circumstances beyond 266
the individual's control, and a default and final order may be 267
entered without the taking of testimony or presentation of 268

evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

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

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

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

(c) 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.

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

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

termination of the consent agreement, submission to the board for 300
at least two years of annual written progress reports made under 301
penalty of perjury stating whether the individual has maintained 302
sobriety. 303

(27) A second or subsequent violation of section 4731.66 or 304
4731.69 of the Revised Code; 305

(28) Except as provided in division (N) of this section: 306

(a) Waiving the payment of all or any part of a deductible or 307
copayment that a patient, pursuant to a health insurance or health 308
care policy, contract, or plan that covers the individual's 309
services, otherwise would be required to pay if the waiver is used 310
as an enticement to a patient or group of patients to receive 311
health care services from that individual; 312

(b) Advertising that the individual will waive the payment of 313
all or any part of a deductible or copayment that a patient, 314
pursuant to a health insurance or health care policy, contract, or 315
plan that covers the individual's services, otherwise would be 316
required to pay. 317

(29) Failure to use universal blood and body fluid 318
precautions established by rules adopted under section 4731.051 of 319
the Revised Code; 320

(30) Failure to provide notice to, and receive acknowledgment 321
of the notice from, a patient when required by section 4731.143 of 322
the Revised Code prior to providing nonemergency professional 323
services, or failure to maintain that notice in the patient's 324
file; 325

(31) Failure of a physician supervising a physician assistant 326
to maintain supervision in accordance with the requirements of 327
Chapter 4730. of the Revised Code and the rules adopted under that 328
chapter; 329

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

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

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, 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 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;

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

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

(37) Assisting suicide as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's

rules for supervision of radiologist assistants. 361

(C) Disciplinary actions taken by the board under divisions 362
(A) and (B) of this section shall be taken pursuant to an 363
adjudication under Chapter 119. of the Revised Code, except that 364
in lieu of an adjudication, the board may enter into a consent 365
agreement with an individual to resolve an allegation of a 366
violation of this chapter or any rule adopted under it. A consent 367
agreement, when ratified by an affirmative vote of not fewer than 368
six members of the board, shall constitute the findings and order 369
of the board with respect to the matter addressed in the 370
agreement. If the board refuses to ratify a consent agreement, the 371
admissions and findings contained in the consent agreement shall 372
be of no force or effect. 373

If the board takes disciplinary action against an individual 374
under division (B) of this section for a second or subsequent plea 375
of guilty to, or judicial finding of guilt of, a violation of 376
section 2919.123 of the Revised Code, the disciplinary action 377
shall consist of a suspension of the individual's certificate to 378
practice for a period of at least one year or, if determined 379
appropriate by the board, a more serious sanction involving the 380
individual's certificate to practice. Any consent agreement 381
entered into under this division with an individual that pertains 382
to a second or subsequent plea of guilty to, or judicial finding 383
of guilt of, a violation of that section shall provide for a 384
suspension of the individual's certificate to practice for a 385
period of at least one year or, if determined appropriate by the 386
board, a more serious sanction involving the individual's 387
certificate to practice. 388

(D) For purposes of divisions (B)(10), (12), and (14) of this 389
section, the commission of the act may be established by a finding 390
by the board, pursuant to an adjudication under Chapter 119. of 391
the Revised Code, that the individual committed the act. The board 392

does not have jurisdiction under those divisions if the trial 393
court renders a final judgment in the individual's favor and that 394
judgment is based upon an adjudication on the merits. The board 395
has jurisdiction under those divisions if the trial court issues 396
an order of dismissal upon technical or procedural grounds. 397

(E) The sealing of conviction records by any court shall have 398
no effect upon a prior board order entered under this section or 399
upon the board's jurisdiction to take action under this section 400
if, based upon a plea of guilty, a judicial finding of guilt, or a 401
judicial finding of eligibility for intervention in lieu of 402
conviction, the board issued a notice of opportunity for a hearing 403
prior to the court's order to seal the records. The board shall 404
not be required to seal, destroy, redact, or otherwise modify its 405
records to reflect the court's sealing of conviction records. 406

(F)(1) The board shall investigate evidence that appears to 407
show that a person has violated any provision of this chapter or 408
any rule adopted under it. Any person may report to the board in a 409
signed writing any information that the person may have that 410
appears to show a violation of any provision of this chapter or 411
any rule adopted under it. In the absence of bad faith, any person 412
who reports information of that nature or who testifies before the 413
board in any adjudication conducted under Chapter 119. of the 414
Revised Code shall not be liable in damages in a civil action as a 415
result of the report or testimony. Each complaint or allegation of 416
a violation received by the board shall be assigned a case number 417
and shall be recorded by the board. 418

(2) Investigations of alleged violations of this chapter or 419
any rule adopted under it shall be supervised by the supervising 420
member elected by the board in accordance with section 4731.02 of 421
the Revised Code and by the secretary as provided in section 422
4731.39 of the Revised Code. The president may designate another 423
member of the board to supervise the investigation in place of the 424

supervising member. No member of the board who supervises the 425
investigation of a case shall participate in further adjudication 426
of the case. 427

(3) In investigating a possible violation of this chapter or 428
any rule adopted under this chapter, the board may administer 429
oaths, order the taking of depositions, issue subpoenas, and 430
compel the attendance of witnesses and production of books, 431
accounts, papers, records, documents, and testimony, except that a 432
subpoena for patient record information shall not be issued 433
without consultation with the attorney general's office and 434
approval of the secretary and supervising member of the board. 435
Before issuance of a subpoena for patient record information, the 436
secretary and supervising member shall determine whether there is 437
probable cause to believe that the complaint filed alleges a 438
violation of this chapter or any rule adopted under it and that 439
the records sought are relevant to the alleged violation and 440
material to the investigation. The subpoena may apply only to 441
records that cover a reasonable period of time surrounding the 442
alleged violation. 443

On failure to comply with any subpoena issued by the board 444
and after reasonable notice to the person being subpoenaed, the 445
board may move for an order compelling the production of persons 446
or records pursuant to the Rules of Civil Procedure. 447

A subpoena issued by the board may be served by a sheriff, 448
the sheriff's deputy, or a board employee designated by the board. 449
Service of a subpoena issued by the board may be made by 450
delivering a copy of the subpoena to the person named therein, 451
reading it to the person, or leaving it at the person's usual 452
place of residence. When the person being served is a person whose 453
practice is authorized by this chapter, service of the subpoena 454
may be made by certified mail, restricted delivery, return receipt 455
requested, and the subpoena shall be deemed served on the date 456

delivery is made or the date the person refuses to accept 457
delivery. 458

A sheriff's deputy who serves a subpoena shall receive the 459
same fees as a sheriff. Each witness who appears before the board 460
in obedience to a subpoena shall receive the fees and mileage 461
provided for witnesses in civil cases in the courts of common 462
pleas. 463

(4) All hearings and investigations of the board shall be 464
considered civil actions for the purposes of section 2305.252 of 465
the Revised Code. 466

(5) Information received by the board pursuant to an 467
investigation is confidential and not subject to discovery in any 468
civil action. 469

The board shall conduct all investigations and proceedings in 470
a manner that protects the confidentiality of patients and persons 471
who file complaints with the board. The board shall not make 472
public the names or any other identifying information about 473
patients or complainants unless proper consent is given or, in the 474
case of a patient, a waiver of the patient privilege exists under 475
division (B) of section 2317.02 of the Revised Code, except that 476
consent or a waiver of that nature is not required if the board 477
possesses reliable and substantial evidence that no bona fide 478
physician-patient relationship exists. 479

The board may share any information it receives pursuant to 480
an investigation, including patient records and patient record 481
information, with law enforcement agencies, other licensing 482
boards, and other governmental agencies that are prosecuting, 483
adjudicating, or investigating alleged violations of statutes or 484
administrative rules. An agency or board that receives the 485
information shall comply with the same requirements regarding 486
confidentiality as those with which the state medical board must 487

comply, notwithstanding any conflicting provision of the Revised 488
Code or procedure of the agency or board that applies when it is 489
dealing with other information in its possession. In a judicial 490
proceeding, the information may be admitted into evidence only in 491
accordance with the Rules of Evidence, but the court shall require 492
that appropriate measures are taken to ensure that confidentiality 493
is maintained with respect to any part of the information that 494
contains names or other identifying information about patients or 495
complainants whose confidentiality was protected by the state 496
medical board when the information was in the board's possession. 497
Measures to ensure confidentiality that may be taken by the court 498
include sealing its records or deleting specific information from 499
its records. 500

(6) On a quarterly basis, the board shall prepare a report 501
that documents the disposition of all cases during the preceding 502
three months. The report shall contain the following information 503
for each case with which the board has completed its activities: 504

(a) The case number assigned to the complaint or alleged 505
violation; 506

(b) The type of certificate to practice, if any, held by the 507
individual against whom the complaint is directed; 508

(c) A description of the allegations contained in the 509
complaint; 510

(d) The disposition of the case. 511

The report shall state how many cases are still pending and 512
shall be prepared in a manner that protects the identity of each 513
person involved in each case. The report shall be a public record 514
under section 149.43 of the Revised Code. 515

(G) If the secretary and supervising member determine that 516
there is clear and convincing evidence that an individual has 517
violated division (B) of this section and that the individual's 518

continued practice presents a danger of immediate and serious harm 519
to the public, they may recommend that the board suspend the 520
individual's certificate to practice without a prior hearing. 521
Written allegations shall be prepared for consideration by the 522
board. 523

The board, upon review of those allegations and by an 524
affirmative vote of not fewer than six of its members, excluding 525
the secretary and supervising member, may suspend a certificate 526
without a prior hearing. A telephone conference call may be 527
utilized for reviewing the allegations and taking the vote on the 528
summary suspension. 529

The board shall issue a written order of suspension by 530
certified mail or in person in accordance with section 119.07 of 531
the Revised Code. The order shall not be subject to suspension by 532
the court during pendency of any appeal filed under section 119.12 533
of the Revised Code. If the individual subject to the summary 534
suspension requests an adjudicatory hearing by the board, the date 535
set for the hearing shall be within fifteen days, but not earlier 536
than seven days, after the individual requests the hearing, unless 537
otherwise agreed to by both the board and the individual. 538

Any summary suspension imposed under this division shall 539
remain in effect, unless reversed on appeal, until a final 540
adjudicative order issued by the board pursuant to this section 541
and Chapter 119. of the Revised Code becomes effective. The board 542
shall issue its final adjudicative order within seventy-five days 543
after completion of its hearing. A failure to issue the order 544
within seventy-five days shall result in dissolution of the 545
summary suspension order but shall not invalidate any subsequent, 546
final adjudicative order. 547

(H) If the board takes action under division (B)(9), (11), or 548
(13) of this section and the judicial finding of guilt, guilty 549
plea, or judicial finding of eligibility for intervention in lieu 550

of conviction is overturned on appeal, upon exhaustion of the 551
criminal appeal, a petition for reconsideration of the order may 552
be filed with the board along with appropriate court documents. 553
Upon receipt of a petition of that nature and supporting court 554
documents, the board shall reinstate the individual's certificate 555
to practice. The board may then hold an adjudication under Chapter 556
119. of the Revised Code to determine whether the individual 557
committed the act in question. Notice of an opportunity for a 558
hearing shall be given in accordance with Chapter 119. of the 559
Revised Code. If the board finds, pursuant to an adjudication held 560
under this division, that the individual committed the act or if 561
no hearing is requested, the board may order any of the sanctions 562
identified under division (B) of this section. 563

(I) The certificate to practice issued to an individual under 564
this chapter and the individual's practice in this state are 565
automatically suspended as of the date of the individual's second 566
or subsequent plea of guilty to, or judicial finding of guilt of, 567
a violation of section 2919.123 of the Revised Code, or the date 568
the individual pleads guilty to, is found by a judge or jury to be 569
guilty of, or is subject to a judicial finding of eligibility for 570
intervention in lieu of conviction in this state or treatment or 571
intervention in lieu of conviction in another jurisdiction for any 572
of the following criminal offenses in this state or a 573
substantially equivalent criminal offense in another jurisdiction: 574
aggravated murder, murder, voluntary manslaughter, felonious 575
assault, kidnapping, rape, sexual battery, gross sexual 576
imposition, aggravated arson, aggravated robbery, or aggravated 577
burglary. Continued practice after suspension shall be considered 578
practicing without a certificate. 579

The board shall notify the individual subject to the 580
suspension by certified mail or in person in accordance with 581
section 119.07 of the Revised Code. If an individual whose 582

certificate is automatically suspended under this division fails 583
to make a timely request for an adjudication under Chapter 119. of 584
the Revised Code, the board shall do whichever of the following is 585
applicable: 586

(1) If the automatic suspension under this division is for a 587
second or subsequent plea of guilty to, or judicial finding of 588
guilt of, a violation of section 2919.123 of the Revised Code, the 589
board shall enter an order suspending the individual's certificate 590
to practice for a period of at least one year or, if determined 591
appropriate by the board, imposing a more serious sanction 592
involving the individual's certificate to practice. 593

(2) In all circumstances in which division (I)(1) of this 594
section does not apply, enter a final order permanently revoking 595
the individual's certificate to practice. 596

(J) If the board is required by Chapter 119. of the Revised 597
Code to give notice of an opportunity for a hearing and if the 598
individual subject to the notice does not timely request a hearing 599
in accordance with section 119.07 of the Revised Code, the board 600
is not required to hold a hearing, but may adopt, by an 601
affirmative vote of not fewer than six of its members, a final 602
order that contains the board's findings. In that final order, the 603
board may order any of the sanctions identified under division (A) 604
or (B) of this section. 605

(K) Any action taken by the board under division (B) of this 606
section resulting in a suspension from practice shall be 607
accompanied by a written statement of the conditions under which 608
the individual's certificate to practice may be reinstated. The 609
board shall adopt rules governing conditions to be imposed for 610
reinstatement. Reinstatement of a certificate suspended pursuant 611
to division (B) of this section requires an affirmative vote of 612
not fewer than six members of the board. 613

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

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

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

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

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

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

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

(2) For professional services rendered to any other person

authorized to practice pursuant to this chapter, to the extent 645
allowed by this chapter and rules adopted by the board. 646

(0) Under the board's investigative duties described in this 647
section and subject to division (F) of this section, the board 648
shall develop and implement a quality intervention program 649
designed to improve through remedial education the clinical and 650
communication skills of individuals authorized under this chapter 651
to practice medicine and surgery, osteopathic medicine and 652
surgery, and podiatric medicine and surgery. In developing and 653
implementing the quality intervention program, the board may do 654
all of the following: 655

(1) Offer in appropriate cases as determined by the board an 656
educational and assessment program pursuant to an investigation 657
the board conducts under this section; 658

(2) Select providers of educational and assessment services, 659
including a quality intervention program panel of case reviewers; 660

(3) Make referrals to educational and assessment service 661
providers and approve individual educational programs recommended 662
by those providers. The board shall monitor the progress of each 663
individual undertaking a recommended individual educational 664
program. 665

(4) Determine what constitutes successful completion of an 666
individual educational program and require further monitoring of 667
the individual who completed the program or other action that the 668
board determines to be appropriate; 669

(5) Adopt rules in accordance with Chapter 119. of the 670
Revised Code to further implement the quality intervention 671
program. 672

An individual who participates in an individual educational 673
program pursuant to this division shall pay the financial 674
obligations arising from that educational program. 675

Sec. 4731.224. (A) Within sixty days after the imposition of 676
any formal disciplinary action taken by any health care facility, 677
including a hospital, health care facility operated by a health 678
insuring corporation, ambulatory surgical center, or similar 679
facility, against any individual holding a valid certificate to 680
practice issued pursuant to this chapter, the chief administrator 681
or executive officer of the facility shall report to the state 682
medical board the name of the individual, the action taken by the 683
facility, and a summary of the underlying facts leading to the 684
action taken. Upon request, the board shall be provided certified 685
copies of the patient records that were the basis for the 686
facility's action. Prior to release to the board, the summary 687
shall be approved by the peer review committee that reviewed the 688
case or by the governing board of the facility. As used in this 689
division, "formal disciplinary action" means any action resulting 690
in the revocation, restriction, reduction, or termination of 691
clinical privileges for violations of professional ethics, or for 692
reasons of medical incompetence, medical malpractice, or drug or 693
alcohol abuse. "Formal disciplinary action" includes a summary 694
action, an action that takes effect notwithstanding any appeal 695
rights that may exist, and an action that results in an individual 696
surrendering clinical privileges while under investigation and 697
during proceedings regarding the action being taken or in return 698
for not being investigated or having proceedings held. "Formal 699
disciplinary action" does not include any action taken for the 700
sole reason of failure to maintain records on a timely basis or 701
failure to attend staff or section meetings. 702

The filing or nonfiling of a report with the board, 703
investigation by the board, or any disciplinary action taken by 704
the board, shall not preclude any action by a health care facility 705
to suspend, restrict, or revoke the individual's clinical 706
privileges. 707

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of any provision of this chapter, Chapter 4730., 4760., ~~or 4762.~~, or 4774. of the Revised Code, or any rule of the board has occurred, the individual, association, or society shall report to the board the information upon which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an impaired practitioner participating in treatment or aftercare for substance abuse as long as the practitioner maintains participation in accordance with the requirements of section 4731.25 of the Revised Code, and as long as the treatment provider or employee, agent, or representative of the provider has no reason to believe that the practitioner has violated any provision of this chapter or any rule adopted under it, other than the provisions of division (B)(26) of section 4731.22 of the Revised Code. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of individuals authorized to practice under this chapter to provide peer assistance to practitioners with substance abuse problems with respect to a practitioner who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the practitioner cooperates with the referral for examination and with any determination that the practitioner should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the

practitioner has ceased to participate in the treatment program in 741
accordance with section 4731.25 of the Revised Code or has 742
violated any provision of this chapter or any rule adopted under 743
it, other than the provisions of division (B)(26) of section 744
4731.22 of the Revised Code. 745

(C) Any professional association or society composed 746
primarily of doctors of medicine and surgery, doctors of 747
osteopathic medicine and surgery, doctors of podiatric medicine 748
and surgery, or practitioners of limited branches of medicine that 749
suspends or revokes an individual's membership for violations of 750
professional ethics, or for reasons of professional incompetence 751
or professional malpractice, within sixty days after a final 752
decision shall report to the board, on forms prescribed and 753
provided by the board, the name of the individual, the action 754
taken by the professional organization, and a summary of the 755
underlying facts leading to the action taken. 756

The filing of a report with the board or decision not to file 757
a report, investigation by the board, or any disciplinary action 758
taken by the board, does not preclude a professional organization 759
from taking disciplinary action against an individual. 760

(D) Any insurer providing professional liability insurance to 761
an individual authorized to practice under this chapter, or any 762
other entity that seeks to indemnify the professional liability of 763
such an individual, shall notify the board within thirty days 764
after the final disposition of any written claim for damages where 765
such disposition results in a payment exceeding twenty-five 766
thousand dollars. The notice shall contain the following 767
information: 768

(1) The name and address of the person submitting the 769
notification; 770

(2) The name and address of the insured who is the subject of 771

the claim;	772
(3) The name of the person filing the written claim;	773
(4) The date of final disposition;	774
(5) If applicable, the identity of the court in which the final disposition of the claim took place.	775 776
(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for medical malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the practicing individual.	777 778 779 780 781 782 783 784 785 786
(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an individual whose practice is regulated under this chapter, or in any subsequent trial or appeal of a board action or order.	787 788 789 790 791 792 793 794 795 796
The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing the individual or in reviewing the individual's clinical privileges. The board shall indicate whether or not the information has been verified. Information transmitted by the	797 798 799 800 801 802

board shall be subject to the same confidentiality provisions as 803
when maintained by the board. 804

(G) Except for reports filed by an individual pursuant to 805
division (B) of this section, the board shall send a copy of any 806
reports or summaries it receives pursuant to this section to the 807
individual who is the subject of the reports or summaries. The 808
individual shall have the right to file a statement with the board 809
concerning the correctness or relevance of the information. The 810
statement shall at all times accompany that part of the record in 811
contention. 812

(H) An individual or entity that, pursuant to this section, 813
reports to the board or refers an impaired practitioner to a 814
treatment provider approved by the board under section 4731.25 of 815
the Revised Code shall not be subject to suit for civil damages as 816
a result of the report, referral, or provision of the information. 817

(I) In the absence of fraud or bad faith, no professional 818
association or society of individuals authorized to practice under 819
this chapter that sponsors a committee or program to provide peer 820
assistance to practitioners with substance abuse problems, no 821
representative or agent of such a committee or program, and no 822
member of the state medical board shall be held liable in damages 823
to any person by reason of actions taken to refer a practitioner 824
to a treatment provider approved under section 4731.25 of the 825
Revised Code for examination or treatment. 826

Sec. 4731.24. Except as provided in sections 4731.281 and 827
4731.40 of the Revised Code, all receipts of the state medical 828
board, from any source, shall be deposited in the state treasury. 829
Until July 1, 1998, the funds shall be deposited to the credit of 830
the occupational licensing and regulatory fund. On and after July 831
1, 1998, the funds shall be deposited to the credit of the state 832
medical board operating fund, which is hereby created on July 1, 833

1998. All funds deposited into the state treasury under this 834
section shall be used solely for the administration and 835
enforcement of this chapter and Chapters 4730., 4760., ~~and 4762.~~ 836
and 4774. of the Revised Code by the board. 837

Sec. 4731.25. The state medical board, in accordance with 838
Chapter 119. of the Revised Code, shall adopt and may amend and 839
rescind rules establishing standards for approval of physicians 840
and facilities as treatment providers for impaired practitioners 841
who are regulated under this chapter or Chapter 4730., 4760., ~~or~~ 842
4762., or 4774. of the Revised Code. The rules shall include 843
standards for both inpatient and outpatient treatment. The rules 844
shall provide that in order to be approved, a treatment provider 845
must have the capability of making an initial examination to 846
determine what type of treatment an impaired practitioner 847
requires. Subject to the rules, the board shall review and approve 848
treatment providers on a regular basis. The board, at its 849
discretion, may withdraw or deny approval subject to the rules. 850

An approved impaired practitioner treatment provider shall: 851

(A) Report to the board the name of any practitioner 852
suffering or showing evidence of suffering impairment as described 853
in division (B)(5) of section 4730.25 of the Revised Code, 854
division (B)(26) of section 4731.22 of the Revised Code, division 855
(B)(6) of section 4760.13 of the Revised Code, ~~or~~ division (B)(6) 856
of section 4762.13 of the Revised Code, or division (B)(6) of 857
section 4774.13 of the Revised Code who fails to comply within one 858
week with a referral for examination; 859

(B) Report to the board the name of any impaired practitioner 860
who fails to enter treatment within forty-eight hours following 861
the provider's determination that the practitioner needs 862
treatment; 863

(C) Require every practitioner who enters treatment to agree 864

to a treatment contract establishing the terms of treatment and 865
aftercare, including any required supervision or restrictions of 866
practice during treatment or aftercare; 867

(D) Require a practitioner to suspend practice upon entry 868
into any required inpatient treatment; 869

(E) Report to the board any failure by an impaired 870
practitioner to comply with the terms of the treatment contract 871
during inpatient or outpatient treatment or aftercare; 872

(F) Report to the board the resumption of practice of any 873
impaired practitioner before the treatment provider has made a 874
clear determination that the practitioner is capable of practicing 875
according to acceptable and prevailing standards of care; 876

(G) Require a practitioner who resumes practice after 877
completion of treatment to comply with an aftercare contract that 878
meets the requirements of rules adopted by the board for approval 879
of treatment providers; 880

(H) Report the identity of any practitioner practicing under 881
the terms of an aftercare contract to hospital administrators, 882
medical chiefs of staff, and chairpersons of impaired practitioner 883
committees of all health care institutions at which the 884
practitioner holds clinical privileges or otherwise practices. If 885
the practitioner does not hold clinical privileges at any health 886
care institution, the treatment provider shall report the 887
practitioner's identity to the impaired practitioner committee of 888
the county medical society, osteopathic academy, or podiatric 889
medical association in every county in which the practitioner 890
practices. If there are no impaired practitioner committees in the 891
county, the treatment provider shall report the practitioner's 892
identity to the president or other designated member of the county 893
medical society, osteopathic academy, or podiatric medical 894
association. 895

(I) Report to the board the identity of any practitioner who 896
suffers a relapse at any time during or following aftercare. 897

Any individual authorized to practice under this chapter who 898
enters into treatment by an approved treatment provider shall be 899
deemed to have waived any confidentiality requirements that would 900
otherwise prevent the treatment provider from making reports 901
required under this section. 902

In the absence of fraud or bad faith, no person or 903
organization that conducts an approved impaired practitioner 904
treatment program, no member of such an organization, and no 905
employee, representative, or agent of the treatment provider shall 906
be held liable in damages to any person by reason of actions taken 907
or recommendations made by the treatment provider or its 908
employees, representatives, or agents. 909

Sec. 4774.01. As used in this chapter: 910

(A) "Radiologist assistant" means an individual who assists a 911
radiologist in the care of radiology patients by engaging in any 912
of the activities authorized under section 4774.08 of the Revised 913
Code. 914

(B) "Radiologist" means a physician who has successfully 915
completed an approved radiology training program, as specified in 916
the accreditation requirements that must be met to qualify as 917
graduate medical education under section 4731.091 of the Revised 918
Code. 919

(C) "Radiology" means the branch of medicine that deals with 920
the use of radiation in diagnosis and treatment of disease or 921
conditions. 922

(D) "Physician" means an individual authorized under Chapter 923
4731. of the Revised Code to practice medicine and surgery or 924
osteopathic medicine and surgery. 925

(E) "General anesthesia," "deep sedation," "deep analgesia," 926
"moderate sedation," "moderate analgesia," and "minimal sedation" 927
have the meanings specified by the state medical board in rules 928
adopted under section 4774.11 of the Revised Code. 929

Sec. 4774.02. (A)(1) Except as provided in division (B) of 930
this section, no person shall practice as a radiologist assistant 931
unless the person holds a current, valid certificate to practice 932
as a radiologist assistant issued under this chapter. 933

(2) No person shall use the title "radiologist assistant" or 934
otherwise hold the person out as a radiologist assistant, unless 935
the person holds a current, valid certificate to practice as a 936
radiologist assistant issued under this chapter. 937

(B) Division (A)(1) of this section does not apply to either 938
of the following: 939

(1) A student participating in an advanced academic program 940
that must be completed to receive a certificate to practice as a 941
radiologist assistant, as those programs are described in division 942
(B)(3) of section 4774.03 of the Revised Code; 943

(2) A person who is otherwise authorized to perform any of 944
the activities that a radiologist assistant is authorized to 945
perform, either pursuant to another provision of the Revised Code 946
or pursuant to the rules adopted by the state medical board under 947
section 4731.053 of the Revised Code governing physician 948
delegation of medical tasks. 949

Sec. 4774.03. (A) An individual seeking a certificate to 950
practice as a radiologist assistant shall file with the state 951
medical board a written application on a form prescribed and 952
supplied by the board. The application shall include all the 953
information the board considers necessary to process the 954
application, including evidence satisfactory to the board that the 955

applicant meets the requirements specified in division (B) of this section. 956
957

At the time an application is submitted, the applicant shall pay the board the application fee specified by the board in rules adopted under section 4774.11 of the Revised Code. No part of the fee shall be returned. 958
959
960
961

(B) To be eligible to receive a certificate to practice as a radiologist assistant, an applicant shall meet all of the following requirements: 962
963
964

(1) Be at least eighteen years of age and of good moral character; 965
966

(2) Hold a current, valid license as a radiographer under Chapter 4773. of the Revised Code; 967
968

(3) Have attained a baccalaureate degree or postbaccalaureate certificate from an advanced academic program encompassing a nationally recognized radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship; 969
970
971
972
973

(4) Hold current designation as a registered radiologist assistant from the American registry of radiologic technologists by meeting the registry's requirements for initial certification, including passage of an examination to determine competency to practice as a radiologist assistant and, if applicable in the applicant's case, by meeting the registry's requirements for annual registration of the certification; 974
975
976
977
978
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980

(5) Hold current certification in advanced cardiac life support. 981
982

(C) The board shall review all applications received under this section. Not later than sixty days after receiving an application the board considers to be complete, the board shall 983
984
985

determine whether the applicant meets the requirements to receive 986
a certificate to practice as a radiologist assistant. The 987
affirmative vote of not fewer than six members of the board is 988
required to determine that the applicant meets the requirements 989
for a certificate to practice as a radiologist assistant. 990

Sec. 4774.031. In addition to any other eligibility 991
requirement set forth in this chapter, each applicant for a 992
certificate to practice as a radiologist assistant shall comply 993
with sections 4776.01 to 4776.04 of the Revised Code. The state 994
medical board shall not grant to an applicant a certificate to 995
practice as a radiologist assistant unless the board, in its 996
discretion, decides that the results of the criminal records check 997
do not make the applicant ineligible for a certificate issued 998
pursuant to section 4774.04 of the Revised Code. 999

Sec. 4774.04. If the state medical board determines under 1000
section 4774.03 of the Revised Code that an applicant meets the 1001
requirements for a certificate to practice as a radiologist 1002
assistant, the secretary of the board shall register the applicant 1003
as a radiologist assistant and issue to the applicant a 1004
certificate to practice as a radiologist assistant. The 1005
certificate shall expire biennially and may be renewed in 1006
accordance with section 4774.06 of the Revised Code. 1007

Sec. 4774.05. On application by the holder of a certificate 1008
to practice as a radiologist assistant, the state medical board 1009
shall issue a duplicate certificate to replace one that is missing 1010
or damaged, to reflect a name change, or for any other reasonable 1011
cause. The fee for a duplicate certificate is thirty-five dollars. 1012
1013

Sec. 4774.06. (A) An individual seeking to renew a 1014

certificate to practice as a radiologist assistant shall, on or 1015
before the thirty-first day of January of each even-numbered year, 1016
apply for renewal of the certificate. The state medical board 1017
shall send renewal notices at least one month prior to the 1018
expiration date. 1019

Renewal applications shall be submitted to the board in a 1020
manner prescribed by the board. Each application shall be 1021
accompanied by a biennial renewal fee specified by the board in 1022
rules adopted under section 4774.11 of the Revised Code. 1023

The applicant shall report any criminal offense that 1024
constitutes grounds for refusing to issue a certificate under 1025
section 4774.13 of the Revised Code to which the applicant has 1026
pleaded guilty, of which the applicant has been found guilty, or 1027
for which the applicant has been found eligible for intervention 1028
in lieu of conviction, since last signing an application for a 1029
certificate to practice as a radiologist assistant. 1030

(B) To be eligible for renewal, a radiologist assistant shall 1031
certify to the board that the assistant has maintained the 1032
assistant's designation as a registered radiologist assistant from 1033
the American registry of radiologic technologists by meeting the 1034
registry's requirements for annual registration of the initial 1035
certification received from the registry, including completion of 1036
the continuing education requirements established by the registry. 1037

(C) If an applicant submits a renewal application that the 1038
board considers to be complete and qualifies for renewal pursuant 1039
to division (B) of this section, the board shall issue to the 1040
applicant a renewed certificate to practice as a radiologist 1041
assistant. 1042

(D) A certificate to practice that is not renewed on or 1043
before its expiration date is automatically suspended on its 1044
expiration date, subject to the provisions of section 119.06 of 1045

the Revised Code specifying that an applicant who appropriately 1046
files a renewal application is not required to discontinue 1047
practicing merely because the board has failed to act on the 1048
application. If a certificate has been suspended pursuant to this 1049
division for two years or less, the board shall reinstate the 1050
certificate upon an applicant's submission of a renewal 1051
application, the biennial renewal fee, and the applicable monetary 1052
penalty. The penalty for reinstatement is twenty-five dollars. If 1053
a certificate has been suspended pursuant to this division for 1054
more than two years, it may be restored upon an applicant's 1055
submission of a restoration application, the biennial renewal fee, 1056
and the applicable monetary penalty and compliance with sections 1057
4776.01 to 4776.04 of the Revised Code. The board shall not 1058
restore a certificate unless the board, in its discretion, decides 1059
that the results of the criminal records check do not make the 1060
applicant ineligible for a certificate issued pursuant to section 1061
4774.04 of the Revised Code. The penalty for restoration is fifty 1062
dollars. 1063

Sec. 4774.08. (A) A radiologist assistant shall practice only 1064
under the supervision of a radiologist acting in accordance with 1065
section 4774.10 of the Revised Code. Under this supervision and 1066
subject to division (B) of this section, a radiologist assistant 1067
may do all of the following: 1068

(1) Perform fluoroscopic procedures; 1069

(2) Assess and evaluate the physiologic and psychological 1070
responsiveness of patients undergoing radiologic procedures; 1071

(3) Evaluate image quality, make initial image observations, 1072
and communicate observations to the supervising radiologist; 1073

(4) Administer contrast media, radio-isotopes, and other 1074
drugs prescribed by the supervising radiologist that are directly 1075
related to the radiologic procedures being performed; 1076

(5) Perform any other radiologic procedures specified by the 1077
state medical board in rules adopted under section 4774.11 of the 1078
Revised Code. 1079

(B) A radiologist assistant shall not do any of the 1080
following: 1081

(1) Interpret radiologic images; 1082

(2) Make diagnoses; 1083

(3) Prescribe therapies; 1084

(4) Administer or participate in the administration of 1085
general anesthesia, deep sedation, deep analgesia, moderate 1086
sedation, moderate analgesia, or minimal sedation. 1087

Sec. 4774.09. At all times when an individual who is a 1088
radiologist assistant is providing direct patient care, the 1089
individual shall display in an appropriate manner the title 1090
"radiologist assistant" as a means of identifying the individual's 1091
authority to practice under this chapter. 1092

In the case of an individual who is a student participating 1093
in an advanced academic program that must be completed to receive 1094
a certificate to practice as a radiologist assistant, as those 1095
programs are described in division (B)(3) of section 4774.03 of 1096
the Revised Code, when the individual is providing direct patient 1097
care or is otherwise involved with direct patient care under the 1098
program, the individual shall display in an appropriate manner the 1099
title "student radiologist assistant" or another appropriate 1100
designation as a means of identifying the individual as a student 1101
participating in the program. 1102

Sec. 4774.10. (A) To be eligible to supervise a radiologist 1103
assistant, a physician shall be actively and directly engaged in 1104
the clinical practice of medicine and surgery as a radiologist or 1105

actively and directly engaged in the clinical practice of 1106
osteopathic medicine and surgery as a radiologist. 1107

(B) In providing supervision of a radiologist assistant, a 1108
supervising radiologist is subject to all of the following: 1109

(1) Except as provided in divisions (B)(2) and (3) of this 1110
section, the supervising radiologist shall provide on-site 1111
supervision of the radiologist assistant. The supervision shall be 1112
provided by being physically present in the same location as the 1113
radiologist assistant. The provision of on-site supervision does 1114
not necessarily require that the supervising radiologist be in the 1115
same room as the radiologist assistant. On-site supervision shall 1116
be provided when the radiologist assistant performs a radiologic 1117
procedure on a patient who is under minimal sedation. 1118

(2) When the radiologist assistant performs a radiologic 1119
procedure on a patient who is under general anesthesia, deep 1120
sedation, deep analgesia, moderate sedation, or moderate 1121
analgesia, the supervising radiologist shall provide direct 1122
supervision. The supervision shall be provided by being physically 1123
present in the same room as the radiologist assistant, with the 1124
radiologist assistant in the actual sight of the supervising 1125
radiologist when the radiologist assistant is performing the 1126
radiologic procedure. 1127

(3) In the case of any radiologic procedure that a 1128
radiologist assistant is authorized to perform pursuant to 1129
division (A)(5) of section 4774.08 of the Revised Code, the 1130
supervising radiologist shall provide the level of supervision 1131
specified by the state medical board in the rules adopted under 1132
section 4774.11 of the Revised Code authorizing the performance of 1133
the procedure. 1134

(C) The supervising radiologist of a radiologist assistant 1135
assumes legal liability for the services provided by the 1136

radiologist assistant. 1137

Sec. 4774.11. (A) The state medical board shall adopt rules 1138
in accordance with Chapter 119. of the Revised Code to implement 1139
and administer this chapter. In adopting the rules, the board 1140
shall take into consideration the guidelines adopted by the 1141
American college of radiology, the American society of radiologic 1142
technologists, and the American registry of radiologic 1143
technologists. 1144

(B) The rules adopted under this section shall include all of 1145
the following: 1146

(1) Standards and procedures for issuing and renewing 1147
certificates to practice as a radiologist assistant; 1148

(2) Application fees for an initial or renewed certificate to 1149
practice; 1150

(3) Any additional radiologic procedures that radiologist 1151
assistants may perform pursuant to division (A)(5) of section 1152
4774.08 of the Revised Code and the level of supervision that the 1153
supervising radiologist is required to provide pursuant to section 1154
4774.10 of the Revised Code; 1155

(4) Definitions of "general anesthesia," "deep sedation," 1156
"deep analgesia," "moderate sedation," "moderate analgesia," and 1157
"minimal sedation"; 1158

(5) Any other standards and procedures the board considers 1159
necessary to govern the practice of radiologist assistants, the 1160
supervisory relationship between radiologist assistants and 1161
supervising radiologists, and the administration and enforcement 1162
of this chapter. 1163

Sec. 4774.13. (A) The state medical board, by an affirmative 1164
vote of not fewer than six members, may revoke or may refuse to 1165

grant a certificate to practice as a radiologist assistant to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice as a radiologist assistant, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

(1) Permitting the holder's name or certificate to be used by another person;

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;

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

(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;

<u>(7) Willfully betraying a professional confidence;</u>	1197
<u>(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant.</u>	1198
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<u>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.</u>	1201
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<u>(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;</u>	1209
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<u>(10) 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;</u>	1212
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<u>(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;</u>	1215
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<u>(12) 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;</u>	1218
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<u>(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;</u>	1221
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<u>(14) 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;</u>	1224
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(15) Commission of an act involving moral turpitude that 1227
constitutes a misdemeanor in this state, regardless of the 1228
jurisdiction in which the act was committed; 1229

(16) A plea of guilty to, a judicial finding of guilt of, or 1230
a judicial finding of eligibility for intervention in lieu of 1231
conviction for violating any state or federal law regulating the 1232
possession, distribution, or use of any drug, including 1233
trafficking in drugs; 1234

(17) Any of the following actions taken by the state agency 1235
responsible for regulating the practice of radiologist assistants 1236
in another jurisdiction, for any reason other than the nonpayment 1237
of fees: the limitation, revocation, or suspension of an 1238
individual's license to practice; acceptance of an individual's 1239
license surrender; denial of a license; refusal to renew or 1240
reinstate a license; imposition of probation; or issuance of an 1241
order of censure or other reprimand; 1242

(18) Violation of the conditions placed by the board on a 1243
certificate to practice as a radiologist assistant; 1244

(19) Failure to use universal blood and body fluid 1245
precautions established by rules adopted under section 4731.051 of 1246
the Revised Code; 1247

(20) Failure to cooperate in an investigation conducted by 1248
the board under section 4774.14 of the Revised Code, including 1249
failure to comply with a subpoena or order issued by the board or 1250
failure to answer truthfully a question presented by the board at 1251
a deposition or in written interrogatories, except that failure to 1252
cooperate with an investigation shall not constitute grounds for 1253
discipline under this section if a court of competent jurisdiction 1254
has issued an order that either quashes a subpoena or permits the 1255
individual to withhold the testimony or evidence in issue; 1256

(21) Failure to maintain a license as a radiographer under 1257

Chapter 4773. of the Revised Code; 1258

(22) Failure to maintain designation as a registered radiologist assistant from the American registry of radiologic technologists, including revocation by the registry of the assistant's initial certification or failure by the assistant to meet the registry's requirements for annual registration of the certification, or failure to notify the board that the designation as a registered radiologist assistant has not been maintained; 1259
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(23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American registry of radiologic technologists, as those rules apply to an individual who holds the registry's designation as a registered radiologist assistant. 1266
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(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a radiologist assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect. 1271
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(D) For purposes of divisions (B)(11), (14), and (15) 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 applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and 1283
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that judgment is based upon an adjudication on the merits. The 1290
board shall have jurisdiction under these divisions in cases where 1291
the trial court issues an order of dismissal on technical or 1292
procedural grounds. 1293

(E) The sealing of conviction records by any court shall have 1294
no effect on a prior board order entered under the provisions of 1295
this section or on the board's jurisdiction to take action under 1296
the provisions of this section if, based upon a plea of guilty, a 1297
judicial finding of guilt, or a judicial finding of eligibility 1298
for intervention in lieu of conviction, the board issued a notice 1299
of opportunity for a hearing prior to the court's order to seal 1300
the records. The board shall not be required to seal, destroy, 1301
redact, or otherwise modify its records to reflect the court's 1302
sealing of conviction records. 1303

(F) For purposes of this division, any individual who holds a 1304
certificate to practice as a radiologist assistant issued under 1305
this chapter, or applies for a certificate to practice, shall be 1306
deemed to have given consent to submit to a mental or physical 1307
examination when directed to do so in writing by the board and to 1308
have waived all objections to the admissibility of testimony or 1309
examination reports that constitute a privileged communication. 1310

(1) In enforcing division (B)(5) of this section, the board, 1311
on a showing of a possible violation, may compel any individual 1312
who holds a certificate to practice as a radiologist assistant 1313
issued under this chapter or who has applied for a certificate to 1314
practice to submit to a mental or physical examination, or both. A 1315
physical examination may include an HIV test. The expense of the 1316
examination is the responsibility of the individual compelled to 1317
be examined. Failure to submit to a mental or physical examination 1318
or consent to an HIV test ordered by the board constitutes an 1319
admission of the allegations against the individual unless the 1320
failure is due to circumstances beyond the individual's control. 1321

and a default and final order may be entered without the taking of 1322
testimony or presentation of evidence. If the board finds a 1323
radiologist assistant unable to practice because of the reasons 1324
set forth in division (B)(5) of this section, the board shall 1325
require the radiologist assistant to submit to care, counseling, 1326
or treatment by physicians approved or designated by the board, as 1327
a condition for an initial, continued, reinstated, or renewed 1328
certificate to practice. An individual affected by this division 1329
shall be afforded an opportunity to demonstrate to the board the 1330
ability to resume practicing in compliance with acceptable and 1331
prevailing standards of care. 1332

(2) For purposes of division (B)(6) of this section, if the 1333
board has reason to believe that any individual who holds a 1334
certificate to practice as a radiologist assistant issued under 1335
this chapter or any applicant for a certificate to practice 1336
suffers such impairment, the board may compel the individual to 1337
submit to a mental or physical examination, or both. The expense 1338
of the examination is the responsibility of the individual 1339
compelled to be examined. Any mental or physical examination 1340
required under this division shall be undertaken by a treatment 1341
provider or physician qualified to conduct such examination and 1342
chosen by the board. 1343

Failure to submit to a mental or physical examination ordered 1344
by the board constitutes an admission of the allegations against 1345
the individual unless the failure is due to circumstances beyond 1346
the individual's control, and a default and final order may be 1347
entered without the taking of testimony or presentation of 1348
evidence. If the board determines that the individual's ability to 1349
practice is impaired, the board shall suspend the individual's 1350
certificate or deny the individual's application and shall require 1351
the individual, as a condition for an initial, continued, 1352
reinstated, or renewed certificate to practice, to submit to 1353

treatment. 1354

Before being eligible to apply for reinstatement of a 1355
certificate suspended under this division, the radiologist 1356
assistant shall demonstrate to the board the ability to resume 1357
practice in compliance with acceptable and prevailing standards of 1358
care. The demonstration shall include the following: 1359

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

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

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

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

When the impaired radiologist assistant resumes practice, the 1374
board shall require continued monitoring of the radiologist 1375
assistant. The monitoring shall include monitoring of compliance 1376
with the written consent agreement entered into before 1377
reinstatement or with conditions imposed by board order after a 1378
hearing, and, on termination of the consent agreement, submission 1379
to the board for at least two years of annual written progress 1380
reports made under penalty of falsification stating whether the 1381
radiologist assistant has maintained sobriety. 1382

(G) If the secretary and supervising member determine that 1383
there is clear and convincing evidence that a radiologist 1384

assistant has violated division (B) of this section and that the 1385
individual's continued practice presents a danger of immediate and 1386
serious harm to the public, they may recommend that the board 1387
suspend the individual's certificate to practice without a prior 1388
hearing. Written allegations shall be prepared for consideration 1389
by the board. 1390

The board, on review of the allegations and by an affirmative 1391
vote of not fewer than six of its members, excluding the secretary 1392
and supervising member, may suspend a certificate without a prior 1393
hearing. A telephone conference call may be utilized for reviewing 1394
the allegations and taking the vote on the summary suspension. 1395

The board shall issue a written order of suspension by 1396
certified mail or in person in accordance with section 119.07 of 1397
the Revised Code. The order shall not be subject to suspension by 1398
the court during pendency of any appeal filed under section 119.12 1399
of the Revised Code. If the radiologist assistant requests an 1400
adjudicatory hearing by the board, the date set for the hearing 1401
shall be within fifteen days, but not earlier than seven days, 1402
after the radiologist assistant requests the hearing, unless 1403
otherwise agreed to by both the board and the certificate holder. 1404

A summary suspension imposed under this division shall remain 1405
in effect, unless reversed on appeal, until a final adjudicative 1406
order issued by the board pursuant to this section and Chapter 1407
119. of the Revised Code becomes effective. The board shall issue 1408
its final adjudicative order within sixty days after completion of 1409
its hearing. Failure to issue the order within sixty days shall 1410
result in dissolution of the summary suspension order, but shall 1411
not invalidate any subsequent, final adjudicative order. 1412

(H) If the board takes action under division (B)(11), (13), 1413
or (14) of this section, and the judicial finding of guilt, guilty 1414
plea, or judicial finding of eligibility for intervention in lieu 1415
of conviction is overturned on appeal, on exhaustion of the 1416

criminal appeal, a petition for reconsideration of the order may 1417
be filed with the board along with appropriate court documents. On 1418
receipt of a petition and supporting court documents, the board 1419
shall reinstate the certificate to practice as a radiologist 1420
assistant. The board may then hold an adjudication under Chapter 1421
119. of the Revised Code to determine whether the individual 1422
committed the act in question. Notice of opportunity for hearing 1423
shall be given in accordance with Chapter 119. of the Revised 1424
Code. If the board finds, pursuant to an adjudication held under 1425
this division, that the individual committed the act, or if no 1426
hearing is requested, it may order any of the sanctions specified 1427
in division (B) of this section. 1428

(I) The certificate to practice of a radiologist assistant 1429
and the assistant's practice in this state are automatically 1430
suspended as of the date the radiologist assistant pleads guilty 1431
to, is found by a judge or jury to be guilty of, or is subject to 1432
a judicial finding of eligibility for intervention in lieu of 1433
conviction in this state or treatment of intervention in lieu of 1434
conviction in another jurisdiction for any of the following 1435
criminal offenses in this state or a substantially equivalent 1436
criminal offense in another jurisdiction: aggravated murder, 1437
murder, voluntary manslaughter, felonious assault, kidnapping, 1438
rape, sexual battery, gross sexual imposition, aggravated arson, 1439
aggravated robbery, or aggravated burglary. Continued practice 1440
after the suspension shall be considered practicing without a 1441
certificate. 1442

The board shall notify the individual subject to the 1443
suspension by certified mail or in person in accordance with 1444
section 119.07 of the Revised Code. If an individual whose 1445
certificate is suspended under this division fails to make a 1446
timely request for an adjudication under Chapter 119. of the 1447
Revised Code, the board shall enter a final order permanently 1448

revoking the individual's certificate to practice. 1449

(J) In any instance in which the board is required by Chapter 1450
119. of the Revised Code to give notice of opportunity for hearing 1451
and the individual subject to the notice does not timely request a 1452
hearing in accordance with section 119.07 of the Revised Code, the 1453
board is not required to hold a hearing, but may adopt, by an 1454
affirmative vote of not fewer than six of its members, a final 1455
order that contains the board's findings. In the final order, the 1456
board may order any of the sanctions identified under division (A) 1457
or (B) of this section. 1458

(K) Any action taken by the board under division (B) of this 1459
section resulting in a suspension shall be accompanied by a 1460
written statement of the conditions under which the radiologist 1461
assistant's certificate may be reinstated. The board shall adopt 1462
rules in accordance with Chapter 119. of the Revised Code 1463
governing conditions to be imposed for reinstatement. 1464
Reinstatement of a certificate suspended pursuant to division (B) 1465
of this section requires an affirmative vote of not fewer than six 1466
members of the board. 1467

(L) When the board refuses to grant a certificate to practice 1468
as a radiologist assistant to an applicant, revokes an 1469
individual's certificate, refuses to renew a certificate, or 1470
refuses to reinstate an individual's certificate, the board may 1471
specify that its action is permanent. An individual subject to a 1472
permanent action taken by the board is forever thereafter 1473
ineligible to hold a certificate to practice as a radiologist 1474
assistant and the board shall not accept an application for 1475
reinstatement of the certificate or for issuance of a new 1476
certificate. 1477

(M) Notwithstanding any other provision of the Revised Code, 1478
all of the following apply: 1479

(1) The surrender of a certificate to practice as a radiologist assistant issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board. 1480
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(2) An application made under this chapter for a certificate to practice may not be withdrawn without approval of the board. 1485
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(3) Failure by an individual to renew a certificate to practice in accordance with section 4774.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual. 1487
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Sec. 4774.131. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state medical board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate to practice as a radiologist assistant issued under this chapter. 1491
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Sec. 4774.132. If the state medical board has reason to believe that any person who has been granted a certificate to practice as a radiologist assistant under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which the person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of the board secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section. 1497
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If any person who has been granted a certificate to practice is adjudged by a probate court to be mentally ill or mentally 1508
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incompetent, the person's certificate shall be automatically 1510
suspended until the person has filed with the state medical board 1511
a certified copy of an adjudication by a probate court of the 1512
person's subsequent restoration to competency or has submitted to 1513
the board proof, satisfactory to the board, that the person has 1514
been discharged as having a restoration to competency in the 1515
manner and form provided in section 5122.38 of the Revised Code. 1516
The judge of the probate court shall forthwith notify the state 1517
medical board of an adjudication of mental illness or mental 1518
incompetence, and shall note any suspension of a certificate in 1519
the margin of the court's record of such certificate. 1520

Sec. 4774.14. (A) The state medical board shall investigate 1521
evidence that appears to show that any person has violated this 1522
chapter or the rules adopted under it. Any person may report to 1523
the board in a signed writing any information the person has that 1524
appears to show a violation of any provision of this chapter or 1525
the rules adopted under it. In the absence of bad faith, a person 1526
who reports such information or testifies before the board in an 1527
adjudication conducted under Chapter 119. of the Revised Code 1528
shall not be liable for civil damages as a result of reporting the 1529
information or providing testimony. Each complaint or allegation 1530
of a violation received by the board shall be assigned a case 1531
number and be recorded by the board. 1532

(B) Investigations of alleged violations of this chapter or 1533
rules adopted under it shall be supervised by the supervising 1534
member elected by the board in accordance with section 4731.02 of 1535
the Revised Code and by the secretary as provided in section 1536
4774.17 of the Revised Code. The board's president may designate 1537
another member of the board to supervise the investigation in 1538
place of the supervising member. A member of the board who 1539
supervises the investigation of a case shall not participate in 1540
further adjudication of the case. 1541

(C) In investigating a possible violation of this chapter or 1542
the rules adopted under it, the board may administer oaths, order 1543
the taking of depositions, issue subpoenas, and compel the 1544
attendance of witnesses and production of books, accounts, papers, 1545
records, documents, and testimony, except that a subpoena for 1546
patient record information shall not be issued without 1547
consultation with the attorney general's office and approval of 1548
the secretary and supervising member of the board. Before issuance 1549
of a subpoena for patient record information, the secretary and 1550
supervising member shall determine whether there is probable cause 1551
to believe that the complaint filed alleges a violation of this 1552
chapter or the rules adopted under it and that the records sought 1553
are relevant to the alleged violation and material to the 1554
investigation. The subpoena may apply only to records that cover a 1555
reasonable period of time surrounding the alleged violation. 1556

On failure to comply with any subpoena issued by the board 1557
and after reasonable notice to the person being subpoenaed, the 1558
board may move for an order compelling the production of persons 1559
or records pursuant to the Rules of Civil Procedure. 1560

A subpoena issued by the board may be served by a sheriff, 1561
the sheriff's deputy, or a board employee designated by the board. 1562
Service of a subpoena issued by the board may be made by 1563
delivering a copy of the subpoena to the person named therein, 1564
reading it to the person, or leaving it at the person's usual 1565
place of residence. When the person being served is a radiologist 1566
assistant, service of the subpoena may be made by certified mail, 1567
restricted delivery, return receipt requested, and the subpoena 1568
shall be deemed served on the date delivery is made or the date 1569
the person refuses to accept delivery. 1570

A sheriff's deputy who serves a subpoena shall receive the 1571
same fees as a sheriff. Each witness who appears before the board 1572
in obedience to a subpoena shall receive the fees and mileage 1573

provided for witnesses in civil cases in the courts of common 1574
pleas. 1575

(D) All hearings and investigations of the board shall be 1576
considered civil actions for the purposes of section 2305.252 of 1577
the Revised Code. 1578

(E) Information received by the board pursuant to an 1579
investigation is confidential and not subject to discovery in any 1580
civil action. 1581

The board shall conduct all investigations and proceedings in 1582
a manner that protects the confidentiality of patients and persons 1583
who file complaints with the board. The board shall not make 1584
public the names or any other identifying information about 1585
patients or complainants unless proper consent is given. 1586

The board may share any information it receives pursuant to 1587
an investigation, including patient records and patient record 1588
information, with law enforcement agencies, other licensing 1589
boards, and other governmental agencies that are prosecuting, 1590
adjudicating, or investigating alleged violations of statutes or 1591
administrative rules. An agency or board that receives the 1592
information shall comply with the same requirements regarding 1593
confidentiality as those with which the state medical board must 1594
comply, notwithstanding any conflicting provision of the Revised 1595
Code or procedure of the agency or board that applies when it is 1596
dealing with other information in its possession. In a judicial 1597
proceeding, the information may be admitted into evidence only in 1598
accordance with the Rules of Evidence, but the court shall require 1599
that appropriate measures are taken to ensure that confidentiality 1600
is maintained with respect to any part of the information that 1601
contains names or other identifying information about patients or 1602
complainants whose confidentiality was protected by the state 1603
medical board when the information was in the board's possession. 1604
Measures to ensure confidentiality that may be taken by the court 1605

include sealing its records or deleting specific information from 1606
its records. 1607

(F) The state medical board shall develop requirements for 1608
and provide appropriate initial training and continuing education 1609
for investigators employed by the board to carry out its duties 1610
under this chapter. The training and continuing education may 1611
include enrollment in courses operated or approved by the Ohio 1612
peace officer training council that the board considers 1613
appropriate under conditions set forth in section 109.79 of the 1614
Revised Code. 1615

(G) On a quarterly basis, the board shall prepare a report 1616
that documents the disposition of all cases during the preceding 1617
three months. The report shall contain the following information 1618
for each case with which the board has completed its activities: 1619

(1) The case number assigned to the complaint or alleged 1620
violation; 1621

(2) The type of certificate, if any, held by the individual 1622
against whom the complaint is directed; 1623

(3) A description of the allegations contained in the 1624
complaint; 1625

(4) The disposition of the case. 1626

The report shall state how many cases are still pending, and 1627
shall be prepared in a manner that protects the identity of each 1628
person involved in each case. The report is a public record for 1629
purposes of section 149.43 of the Revised Code. 1630

Sec. 4774.15. (A) As used in this section, "prosecutor" has 1631
the same meaning as in section 2935.01 of the Revised Code. 1632

(B) Whenever any person holding a valid certificate to 1633
practice as a radiologist assistant issued under this chapter 1634
pleads guilty to, is subject to a judicial finding of guilt of, or 1635

is subject to a judicial finding of eligibility for intervention 1636
in lieu of conviction for a violation of Chapter 2907., 2925., or 1637
3719. of the Revised Code or of any substantively comparable 1638
ordinance of a municipal corporation in connection with the 1639
person's practice, the prosecutor in the case, on forms prescribed 1640
and provided by the state medical board, shall promptly notify the 1641
board of the conviction. Within thirty days of receipt of that 1642
information, the board shall initiate action in accordance with 1643
Chapter 119. of the Revised Code to determine whether to suspend 1644
or revoke the certificate under section 4774.13 of the Revised 1645
Code. 1646

(C) The prosecutor in any case against any person holding a 1647
valid certificate to practice issued under this chapter, on forms 1648
prescribed and provided by the state medical board, shall notify 1649
the board of any of the following: 1650

(1) A plea of guilty to, a finding of guilt by a jury or 1651
court of, or judicial finding of eligibility for intervention in 1652
lieu of conviction for a felony, or a case in which the trial 1653
court issues an order of dismissal upon technical or procedural 1654
grounds of a felony charge; 1655

(2) A plea of guilty to, a finding of guilt by a jury or 1656
court of, or judicial finding of eligibility for intervention in 1657
lieu of conviction for a misdemeanor committed in the course of 1658
practice, or a case in which the trial court issues an order of 1659
dismissal upon technical or procedural grounds of a charge of a 1660
misdemeanor, if the alleged act was committed in the course of 1661
practice; 1662

(3) A plea of guilty to, a finding of guilt by a jury or 1663
court of, or judicial finding of eligibility for intervention in 1664
lieu of conviction for a misdemeanor involving moral turpitude, or 1665
a case in which the trial court issues an order of dismissal upon 1666
technical or procedural grounds of a charge of a misdemeanor 1667

involving moral turpitude. 1668

The report shall include the name and address of the 1669
certificate holder, the nature of the offense for which the action 1670
was taken, and the certified court documents recording the action. 1671

Sec. 4774.16. (A) Within sixty days after the imposition of 1672
any formal disciplinary action taken by any health care facility, 1673
including a hospital, health care facility operated by a health 1674
insuring corporation, ambulatory surgical facility, or similar 1675
facility, against any individual holding a valid certificate to 1676
practice as a radiologist assistant, the chief administrator or 1677
executive officer of the facility shall report to the state 1678
medical board the name of the individual, the action taken by the 1679
facility, and a summary of the underlying facts leading to the 1680
action taken. On request, the board shall be provided certified 1681
copies of the patient records that were the basis for the 1682
facility's action. Prior to release to the board, the summary 1683
shall be approved by the peer review committee that reviewed the 1684
case or by the governing board of the facility. 1685

The filing of a report with the board or decision not to file 1686
a report, investigation by the board, or any disciplinary action 1687
taken by the board, does not preclude a health care facility from 1688
taking disciplinary action against a radiologist assistant. 1689

In the absence of fraud or bad faith, no individual or entity 1690
that provides patient records to the board shall be liable in 1691
damages to any person as a result of providing the records. 1692

(B) A radiologist assistant, professional association or 1693
society of radiologist assistants, physician, or professional 1694
association or society of physicians that believes a violation of 1695
any provision of this chapter, Chapter 4731. of the Revised Code, 1696
or rule of the board has occurred shall report to the board the 1697
information on which the belief is based. This division does not 1698

require any treatment provider approved by the board under section 1699
4731.25 of the Revised Code or any employee, agent, or 1700
representative of such a provider to make reports with respect to 1701
a radiologist assistant participating in treatment or aftercare 1702
for substance abuse as long as the radiologist assistant maintains 1703
participation in accordance with the requirements of section 1704
4731.25 of the Revised Code and the treatment provider or 1705
employee, agent, or representative of the provider has no reason 1706
to believe that the radiologist assistant has violated any 1707
provision of this chapter or rule adopted under it, other than 1708
being impaired by alcohol, drugs, or other substances. This 1709
division does not require reporting by any member of an impaired 1710
practitioner committee established by a health care facility or by 1711
any representative or agent of a committee or program sponsored by 1712
a professional association or society of radiologist assistants to 1713
provide peer assistance to radiologist assistants with substance 1714
abuse problems with respect to a radiologist assistant who has 1715
been referred for examination to a treatment program approved by 1716
the board under section 4731.25 of the Revised Code if the 1717
radiologist assistant cooperates with the referral for examination 1718
and with any determination that the radiologist assistant should 1719
enter treatment and as long as the committee member, 1720
representative, or agent has no reason to believe that the 1721
radiologist assistant has ceased to participate in the treatment 1722
program in accordance with section 4731.25 of the Revised Code or 1723
has violated any provision of this chapter or rule adopted under 1724
it, other than being impaired by alcohol, drugs, or other 1725
substances. 1726

(C) Any professional association or society composed 1727
primarily of radiologist assistants that suspends or revokes an 1728
individual's membership for violations of professional ethics, or 1729
for reasons of professional incompetence or professional 1730
malpractice, within sixty days after a final decision, shall 1731

report to the board, on forms prescribed and provided by the 1732
board, the name of the individual, the action taken by the 1733
professional organization, and a summary of the underlying facts 1734
leading to the action taken. 1735

The filing of a report with the board or decision not to file 1736
a report, investigation by the board, or any disciplinary action 1737
taken by the board, does not preclude a professional organization 1738
from taking disciplinary action against a radiologist assistant. 1739

(D) Any insurer providing professional liability insurance to 1740
any person holding a valid certificate to practice as a 1741
radiologist assistant or any other entity that seeks to indemnify 1742
the professional liability of a radiologist assistant shall notify 1743
the board within thirty days after the final disposition of any 1744
written claim for damages where such disposition results in a 1745
payment exceeding twenty-five thousand dollars. The notice shall 1746
contain the following information: 1747

(1) The name and address of the person submitting the 1748
notification; 1749

(2) The name and address of the insured who is the subject of 1750
the claim; 1751

(3) The name of the person filing the written claim; 1752

(4) The date of final disposition; 1753

(5) If applicable, the identity of the court in which the 1754
final disposition of the claim took place. 1755

(E) The board may investigate possible violations of this 1756
chapter or the rules adopted under it that are brought to its 1757
attention as a result of the reporting requirements of this 1758
section, except that the board shall conduct an investigation if a 1759
possible violation involves repeated malpractice. As used in this 1760
division, "repeated malpractice" means three or more claims for 1761

malpractice within the previous five-year period, each resulting 1762
in a judgment or settlement in excess of twenty-five thousand 1763
dollars in favor of the claimant, and each involving negligent 1764
conduct by the radiologist assistant. 1765

(F) All summaries, reports, and records received and 1766
maintained by the board pursuant to this section shall be held in 1767
confidence and shall not be subject to discovery or introduction 1768
in evidence in any federal or state civil action involving a 1769
radiologist assistant, supervising physician, or health care 1770
facility arising out of matters that are the subject of the 1771
reporting required by this section. The board may use the 1772
information obtained only as the basis for an investigation, as 1773
evidence in a disciplinary hearing against a radiologist assistant 1774
or supervising radiologist, or in any subsequent trial or appeal 1775
of a board action or order. 1776

The board may disclose the summaries and reports it receives 1777
under this section only to health care facility committees within 1778
or outside this state that are involved in credentialing or 1779
recredentialing a radiologist assistant or supervising radiologist 1780
or reviewing their privilege to practice within a particular 1781
facility. The board shall indicate whether or not the information 1782
has been verified. Information transmitted by the board shall be 1783
subject to the same confidentiality provisions as when maintained 1784
by the board. 1785

(G) Except for reports filed by an individual pursuant to 1786
division (B) of this section, the board shall send a copy of any 1787
reports or summaries it receives pursuant to this section to the 1788
radiologist assistant. The radiologist assistant shall have the 1789
right to file a statement with the board concerning the 1790
correctness or relevance of the information. The statement shall 1791
at all times accompany that part of the record in contention. 1792

(H) An individual or entity that reports to the board or 1793

refers an impaired radiologist assistant to a treatment provider 1794
approved by the board under section 4731.25 of the Revised Code 1795
shall not be subject to suit for civil damages as a result of the 1796
report, referral, or provision of the information. 1797

(I) In the absence of fraud or bad faith, a professional 1798
association or society of radiologist assistants that sponsors a 1799
committee or program to provide peer assistance to a radiologist 1800
assistant with substance abuse problems, a representative or agent 1801
of such a committee or program, and a member of the state medical 1802
board shall not be held liable in damages to any person by reason 1803
of actions taken to refer a radiologist assistant to a treatment 1804
provider approved under section 4731.25 of the Revised Code for 1805
examination or treatment. 1806

Sec. 4774.17. The secretary of the state medical board shall 1807
enforce the laws relating to the practice of radiologist 1808
assistants. If the secretary has knowledge or notice of a 1809
violation of this chapter or the rules adopted under it, the 1810
secretary shall investigate the matter, and, upon probable cause 1811
appearing, file a complaint and prosecute the offender. When 1812
requested by the secretary, the prosecuting attorney of the proper 1813
county shall take charge of and conduct the prosecution. 1814

Sec. 4774.18. The attorney general, the prosecuting attorney 1815
of any county in which the offense was committed or the offender 1816
resides, the state medical board, or any other person having 1817
knowledge of a person engaged either directly or by complicity in 1818
practicing as a radiologist assistant without having first 1819
obtained under this chapter a certificate to practice as a 1820
radiologist assistant, may, in accordance with provisions of the 1821
Revised Code governing injunctions, maintain an action in the name 1822
of the state to enjoin any person from engaging either directly or 1823
by complicity in unlawfully practicing as a radiologist assistant 1824

by applying for an injunction in any court of competent jurisdiction. 1825
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Prior to application for an injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice by registered mail that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section. 1827
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Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court. 1840
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Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. 1845
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Sec. 4774.20. The state medical board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in this chapter, except that the fees may not exceed the specified amounts by more than fifty per cent. 1848
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All fees, penalties, and other funds received by the board under this chapter shall be deposited in accordance with section 4731.24 of the Revised Code. 1852
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Sec. 4774.21. In the absence of fraud or bad faith, the state 1855
medical board, a current or former board member, an agent of the 1856
board, a person formally requested by the board to be the board's 1857
representative, or an employee of the board shall not be held 1858
liable in damages to any person as the result of any act, 1859
omission, proceeding, conduct, or decision related to official 1860
duties undertaken or performed pursuant to this chapter. If any 1861
such person asks to be defended by the state against any claim or 1862
action arising out of any act, omission, proceeding, conduct, or 1863
decision related to the person's official duties, and if the 1864
request is made in writing at a reasonable time before trial and 1865
the person requesting defense cooperates in good faith in the 1866
defense of the claim or action, the state shall provide and pay 1867
for the person's defense and shall pay any resulting judgment, 1868
compromise, or settlement. At no time shall the state pay any part 1869
of a claim or judgment that is for punitive or exemplary damages. 1870

Sec. 4774.99. (A) Whoever violates division (A)(1) or (2) of 1871
section 4774.02 of the Revised Code is guilty of a misdemeanor of 1872
the first degree on a first offense; on each subsequent offense, 1873
the person is guilty of a felony of the fourth degree. 1874

(B) Whoever violates division (A), (B), (C), or (D) of 1875
section 4774.16 of the Revised Code is guilty of a minor 1876
misdemeanor on a first offense; on each subsequent offense the 1877
person is guilty of a misdemeanor of the fourth degree, except 1878
that an individual guilty of a subsequent offense shall not be 1879
subject to imprisonment, but to a fine alone of up to one thousand 1880
dollars for each offense. 1881

Section 2. That existing sections 4731.051, 4731.07, 4731.22, 1882
4731.224, 4731.24, and 4731.25 of the Revised Code are hereby 1883
repealed. 1884

Section 3. Section 4774.02 of the Revised Code, as enacted by 1885
this act, shall take effect nine months after the effective date 1886
of this act. 1887

Section 4. Not later than six months after the effective date 1888
of this act, the State Medical Board shall do both of the 1889
following: 1890

(A) Adopt all rules necessary to implement Chapter 4774. of 1891
the Revised Code, as enacted by this act; 1892

(B) Implement all procedures necessary to accept applications 1893
from individuals seeking to obtain certificates to practice as 1894
radiologist assistants, process the applications, and issue the 1895
certificates. 1896