

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 127

Representative Williams, S.

Cosponsors: Representatives Brown, Mallory, Letson, Hagan, Harris

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A B I L L

To amend sections 3923.233, 3923.301, 4701.16, 1
4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 2
4715.30, 4717.14, 4719.03, 4723.07, 4723.28, 3
4723.34, 4725.19, 4725.53, 4727.15, 4728.13, 4
4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 5
4731.224, 4731.225, 4731.226, 4731.25, 4732.17, 6
4733.20, 4734.31, 4734.39, 4735.07, 4735.09, 7
4735.13, 4735.18, 4735.27, 4735.28, 4738.04, 8
4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 9
4741.22, 4747.12, 4749.03, 4749.04, 4749.06, 10
4751.10, 4753.10, 4755.11, 4755.47, 4755.64, 11
4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 12
4762.13, 4763.11, 4765.18, 4765.301, 4774.13, 13
4779.28, and 4781.09 and to enact section 4743.06 14
of the Revised Code to revise the laws governing 15
issuance of certain professional licenses. 16

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

Section 1. That sections 3923.233, 3923.301, 4701.16, 17
4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 4717.14, 18
4719.03, 4723.07, 4723.28, 4723.34, 4725.19, 4725.53, 4727.15, 19
4728.13, 4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 4731.224, 20

4731.225, 4731.226, 4731.25, 4732.17, 4733.20, 4734.31, 4734.39, 21
4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 4738.04, 22
4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 4741.22, 4747.12, 23
4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 4755.11, 4755.47, 24
4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 4762.13, 25
4763.11, 4765.18, 4765.301, 4774.13, 4779.28, and 4781.09 be 26
amended and section 4743.06 of the Revised Code be enacted to read 27
as follows: 28

Sec. 3923.233. Notwithstanding any provision of any 29
certificate furnished by an insurer in connection with or pursuant 30
to any group sickness and accident insurance policy delivered, 31
issued, renewed, or used, in or outside this state, on or after 32
January 1, 1985, and notwithstanding any provision of any policy 33
of insurance delivered, issued for delivery, renewed, or used, in 34
or outside this state, on or after January 1, 1985, whenever the 35
policy or certificate is subject to the jurisdiction of this state 36
and provides for reimbursement for any service that may be legally 37
performed by a certified nurse-midwife who is authorized under 38
section 4723.42 of the Revised Code to practice nurse-midwifery, 39
reimbursement under the policy or certificate shall not be denied 40
to a certified nurse-midwife performing the service in 41
collaboration with a licensed physician. The collaborating 42
physician shall be identified on an insurance claim form. 43

The cost of collaboration with a certified nurse-midwife by a 44
licensed physician as required under section 4723.43 of the 45
Revised Code is a reimbursable expense. 46

The division of any reimbursement payment for services 47
performed by a certified nurse-midwife between the nurse-midwife 48
and the nurse-midwife's collaborating physician shall be 49
determined and mutually agreed upon by the certified nurse-midwife 50
and the physician. The division of fees shall not be considered a 51

violation of division (B)~~(17)~~(13) of section 4731.22 of the Revised Code. In no case shall the total fees charged exceed the fee the physician would have charged had the physician provided the entire service.

Sec. 3923.301. Every person, the state and any of its instrumentalities, any county, township, school district, or other political subdivision and any of its instrumentalities, and any municipal corporation and any of its instrumentalities that provides payment for health care benefits for any of its employees resident in this state, which benefits are not provided by contract with an insurer qualified to provide sickness and accident insurance or a health insuring corporation, and that includes reimbursement for any service that may be legally performed by a certified nurse-midwife who is authorized under section 4723.42 of the Revised Code to practice nurse-midwifery, shall not deny reimbursement to a certified nurse-midwife performing the service if the service is performed in collaboration with a licensed physician. The collaborating physician shall be identified on the claim form.

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

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

Sec. 4701.16. (A) After notice and hearing as provided in	83
Chapter 119. of the Revised Code, the accountancy board may	84
discipline as described in division (B) of this section a person	85
holding an Ohio permit, an Ohio registration, a firm registration,	86
a CPA certificate, or a PA registration or any other person whose	87
activities are regulated by the board for any one or any	88
combination of the following causes:	89
(1) Fraud or deceit in obtaining a firm registration or in	90
obtaining a CPA certificate, a PA registration, an Ohio permit, or	91
an Ohio registration;	92
(2) Dishonesty, fraud, or gross negligence in the practice of	93
public accounting;	94
(3) Violation of any of the provisions of section 4701.14 of	95
the Revised Code;	96
(4) Violation of a rule of professional conduct promulgated	97
by the board under the authority granted by this chapter;	98
(5) Conviction of <u>or plea of guilty to a felony criminal</u>	99
<u>offense that is substantially related to the practice of public</u>	100
<u>accounting</u> under the laws of any state or of the United States;	101
(6) Conviction of any crime, an element of which is	102
dishonesty or fraud, under the laws of any state or of the United	103
States;	104
(7) Cancellation, revocation, suspension, or refusal to renew	105
authority to practice as a certified public accountant, a public	106
accountant, or a public accounting firm by any other state, for	107
any cause other than failure to pay registration fees in that	108
other state;	109
(8) (7) Suspension or revocation of the right to practice	110
before any state or federal agency;	111
(9) (8) Failure of a holder of a CPA certificate or PA	112

registration to obtain an Ohio permit or an Ohio registration, or 113
the failure of a public accounting firm to obtain a firm 114
registration; 115

~~(10)~~(9) Conduct discreditable to the public accounting 116
profession or to the holder of an Ohio permit, Ohio registration, 117
or foreign certificate; 118

~~(11)~~(10) Failure of a public accounting firm to comply with 119
section 4701.04 of the Revised Code. 120

(B) For any of the reasons specified in division (A) of this 121
section, the board may do any of the following: 122

(1) Revoke, suspend, or refuse to renew any CPA certificate 123
or PA registration or any Ohio permit, Ohio registration, or firm 124
registration; 125

(2) Disqualify a person who is not a holder of an Ohio permit 126
or a foreign certificate from owning an equity interest in a 127
public accounting firm or qualified firm; 128

(3) Publicly censure a registered firm or a holder of a CPA 129
certificate, a PA registration, an Ohio permit, or an Ohio 130
registration; 131

(4) Levy against a registered firm or a holder of a CPA 132
certificate, a PA registration, an Ohio permit, or an Ohio 133
registration a penalty or fine not to exceed five thousand dollars 134
for each offense. Any fine shall be reasonable and in relation to 135
the severity of the offense. 136

(5) In the case of violations of division (A)(2) or (4) of 137
this section, require completion of remedial continuing education 138
programs prescribed by the board in addition to those required by 139
section 4701.11 of the Revised Code; 140

(6) In the case of violations of division (A)(2) or (4) of 141
this section, require the holder of a CPA certificate, PA 142

registration, or firm registration to submit to a peer review by a professional committee designated by the board, which committee shall report to the board concerning that holder's compliance with generally accepted accounting principles, generally accepted auditing standards, or other generally accepted technical standards;

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

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

(D) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

Sec. 4703.15. (A) The architects board may by three concurring votes deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, issued or renewed under sections 4703.10, 4703.13, and 4703.14 of the Revised Code, or any certificate of authorization, issued or renewed under sections 4703.13 and 4703.18 of the Revised Code, if proof satisfactory to the board is presented in any of the following cases:

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

(2) In case the holder of the certificate has been found guilty by the board or by a court of justice of any fraud or

deceit in the holder's professional practice, or has been 173
convicted ~~of a felony~~ by a court of justice of, or pleaded guilty 174
in a court of justice to, a criminal offense that is substantially 175
related to the practice of architecture; 176

(3) In case the holder has been found guilty by the board of 177
gross negligence, incompetency, or misconduct in the performance 178
of the holder's services as an architect or in the practice of 179
architecture; 180

(4) In case the holder of the certificate has been found 181
guilty by the board of signing plans for the construction of a 182
building as a "registered architect" where the holder is not the 183
actual architect of such building and where the holder is without 184
prior written consent of the architect originating the design or 185
other documents used in the plans; 186

(5) In case the holder of the certificate has been found 187
guilty by the board of aiding and abetting another person or 188
persons not properly registered as required by sections 4703.01 to 189
4703.19 of the Revised Code, in the performance of activities that 190
in any manner or extent constitute the practice of architecture. 191

At any time after the expiration of six months from the date 192
of the revocation or suspension of a certificate, the individual, 193
firm, partnership, association, or corporation may apply for 194
reinstatement of the certificate. Upon showing that all loss 195
caused by the individual, firm, partnership, association, or 196
corporation whose certificate has been revoked or suspended has 197
been fully satisfied and that all conditions imposed by the 198
revocation or suspension decision have been complied with, and 199
upon the payment of all costs incurred by the board as a result of 200
the case at issue, the board, at its discretion and upon evidence 201
that in its opinion would so warrant, may restore the certificate. 202

(B) In addition to disciplinary action the board may take 203

against a certificate holder under division (A) of this section or 204
section 4703.151 of the Revised Code, the board may impose a fine 205
against a certificate holder who obtained a certificate by fraud 206
or who is found guilty of any act specified in divisions (A)(2) to 207
(A)(5) of this section or who violates any rule governing the 208
standards of service, conduct, and practice adopted pursuant to 209
section 4703.02 of the Revised Code. The fine imposed shall be not 210
more than one thousand dollars for each offense but shall not 211
exceed five thousand dollars regardless of the number of offenses 212
the certificate holder has committed between the time the fine is 213
imposed and the time any previous fine was imposed. 214

(C) As used in this section, a "criminal offense that is 215
substantially related" has the same meaning as in section 4743.06 216
of the Revised Code. 217

Sec. 4707.02. (A) No person shall act as an auction firm, 218
auctioneer, apprentice auctioneer, or special auctioneer within 219
this state without a license issued by the department of 220
agriculture. No auction shall be conducted in this state except by 221
an auctioneer licensed by the department. 222

The department shall not issue or renew a license if the 223
applicant or licensee has been convicted of ~~a felony or crime~~ 224
involving fraud or theft or pleaded guilty to a criminal offense 225
that is substantially related to the profession of an auction 226
firm, auctioneer, apprentice auctioneer, or special auctioneer in 227
this or another state at any time during the ten years immediately 228
preceding application or renewal. 229

(B) Division (A) of this section does not apply to any of the 230
following: 231

(1) Sales at auction that either are required by law to be at 232
auction, other than sales pursuant to a judicial order or decree, 233
or are conducted by or under the direction of a public authority; 234

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(2) The owner of any real or personal property desiring to 236
sell the property at auction, provided that the property was not 237
acquired for the purpose of resale; 238

(3) An auction mediation company; 239

(4) An auction that is conducted in a course of study for 240
auctioneers that is approved by the state auctioneers commission 241
created under section 4707.03 of the Revised Code for purposes of 242
student training and is supervised by a licensed auctioneer; 243

(5)(a) An auction that is sponsored by a nonprofit or 244
charitable organization that is registered in this state under 245
Chapter 1702. or Chapter 1716. of the Revised Code, respectively, 246
if the auction only involves the property of the members of the 247
organization and the auction is part of a fair that is organized 248
by an agricultural society under Chapter 1711. of the Revised Code 249
or by the Ohio expositions commission under Chapter 991. of the 250
Revised Code at which an auctioneer who is licensed under this 251
chapter physically conducts the auction; or 252

(b) Sales at an auction sponsored by a charitable, religious, 253
or civic organization that is tax exempt under subsection 254
501(c)(3) of the Internal Revenue Code, or by a public school, 255
chartered nonpublic school, or community school, if no person in 256
the business of organizing, arranging, or conducting an auction 257
for compensation and no consignor of consigned items sold at the 258
auction, except such organization or school, receives compensation 259
from the proceeds of the auction. As used in division (B)(5)(b) of 260
this section, "compensation" means money, a thing of value other 261
than participation in a charitable event, or a financial benefit. 262

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(6) A person licensed as a livestock dealer under Chapter 264
943. of the Revised Code who exclusively sells livestock and uses 265

an auctioneer who is licensed under this chapter to conduct the 266
auction; 267

(7) A person licensed as a motor vehicle auction owner under 268
Chapter 4517. of the Revised Code who exclusively sells motor 269
vehicles to a person licensed under Chapter 4517. of the Revised 270
Code and who uses an auctioneer who is licensed under this chapter 271
to conduct the auction; 272

(8) A person who sells real or personal property by means of 273
the internet. 274

(C)(1) No person shall advertise or hold oneself out as an 275
auction firm, auctioneer, apprentice auctioneer, or special 276
auctioneer without a license issued by the department of 277
agriculture. 278

(2) Division (C)(1) of this section does not apply to an 279
individual who is the subject of an advertisement regarding an 280
auction conducted under division (B)(5)(b) of this section. 281

(D) As used in this section, a "criminal offense that is 282
substantially related" has the same meaning as in section 4743.06 283
of the Revised Code. 284

Sec. 4707.15. The As used in this section, a "criminal 285
offense that is substantially related" has the same meaning as in 286
section 4743.06 of the Revised Code. 287

The department of agriculture may deny, refuse to renew, 288
suspend, or revoke the license of any auction firm, auctioneer, 289
apprentice auctioneer, or special auctioneer for any of the 290
following causes: 291

(A) Obtaining a license through false or fraudulent 292
representation; 293

(B) Making any substantial misrepresentation in an 294
application for a license; 295

(C) A continued course of misrepresentation or for making false promises through agents, advertising, or otherwise;	296 297
(D) Specifying that an auction is a reserve auction, absolute auction, or estate auction, but not conducting the auction as specified;	298 299 300
(E) Failing to account for or remit, within a reasonable time, any money or property belonging to others that comes into the licensee's possession, and for commingling funds of others with the licensee's own, or failing to keep funds of others in an escrow or trust account, except that in the case of a transaction involving real estate, such funds shall be maintained in accordance with division (A)(26) of section 4735.18 of the Revised Code;	301 302 303 304 305 306 307 308
(F) Paying valuable consideration to any person who has violated this chapter;	309 310
(G) Conviction in <u>In</u> a court of competent jurisdiction of this state or any other state, <u>conviction of or plea of guilty to</u> a criminal offense involving fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud, or another similar offense or a felony <u>that is substantially related to the profession of auctioneer, apprentice auctioneer, or special auctioneer;</u>	311 312 313 314 315 316 317
(H) Violation of this chapter or rules adopted under it;	318
(I) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer or auction firm;	319 320 321
(J) Any conduct of a person that is licensed under this chapter that demonstrates bad faith, dishonesty, incompetency, or untruthfulness;	322 323 324
(K) Any other conduct that constitutes improper, fraudulent,	325

or dishonest dealings;	326
(L) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee received the property for auction;	327 328 329 330
(M) The use of any power of attorney to circumvent this chapter;	331 332
(N) Failure to display the sign required under section 4707.22 of the Revised Code and a notice conspicuously at the clerk's desk or on a bid card that clearly states the terms and conditions of the auction;	333 334 335 336
(O) Failure to notify the department of any conviction of a felony or crime involving fraud within fifteen days of conviction;	337 338
(P) Aiding an unlicensed person in the performance of services or acts that require a license under this chapter;	339 340
(Q) The suspension or revocation of a license to engage in auctioneering or other disciplinary action by the licensing authority of another state;	341 342 343
(R) The refusal or disapproval by the licensing authority of another state of an application for a license to engage in auctioneering;	344 345 346
(S) Failure of a licensee to notify the department of agriculture within fifteen days of a disciplinary action against the licensee by another state's applicable governing authority;	347 348 349
(T) Engaging in auctioneering or providing auction services without a license or during the suspension of a license;	350 351
(U) Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.	352 353
Sec. 4709.13. (A) The barber board may refuse to issue or	354

renew or may suspend or revoke or impose conditions upon any 355
license issued pursuant to this chapter for any one or more of the 356
following causes: 357

(1) Conviction of or plea of guilty to a felony criminal 358
offense that is substantially related to the practice of barbering 359
shown by a certified copy of the record of the court of 360
conviction; 361

(2) Advertising by means of knowingly false or deceptive 362
statements; 363

(3) Habitual drunkenness or possession of or addiction to the 364
use of any controlled drug prohibited by state or federal law; 365

(4) Immoral or unprofessional conduct; 366

(5) Continuing to be employed in a barber shop wherein rules 367
of the board or department of health are violated; 368

(6) Employing any person who does not have a current Ohio 369
license to perform the practice of barbering; 370

(7) Owning, managing, operating, or controlling any barber 371
school or portion thereof, wherein the practice of barbering is 372
carried on, whether in the same building or not, without 373
displaying a sign at all entrances to the places where the 374
barbering is carried on, indicating that the work therein is done 375
by students exclusively; 376

(8) Owning, managing, operating, or controlling any barber 377
shop, unless it displays a recognizable sign or barber pole 378
indicating that it is a barber shop, and the sign or pole is 379
clearly visible at the main entrance to the shop; 380

(9) Violating any sanitary rules approved by the department 381
of health or the board; 382

(10) Employing another person to perform or ~~himself~~ 383
personally perform the practice of barbering in a licensed barber 384

shop unless that person is licensed as a barber under this 385
chapter; 386

(11) Gross incompetence. 387

(B) Prior to taking any action under division (A) of this 388
section, the board shall provide the person with a statement of 389
the charges against ~~him~~ the person and notice of the time and 390
place of a hearing on the charges. The board shall conduct the 391
hearing according to Chapter 119. of the Revised Code. Any person 392
dissatisfied with a decision of the board may appeal the board's 393
decision to the court of common pleas in Franklin county. 394

(C) The board may adopt rules in accordance with Chapter 119. 395
of the Revised Code, specifying additional grounds upon which the 396
board may take action under division (A) of this section. 397

(D) As used in this section, a "criminal offense that is 398
substantially related" has the same meaning as in section 4743.06 399
of the Revised Code. 400

Sec. 4712.03. After As used in this section, a "criminal 401
offense that is substantially related" has the same meaning as in 402
section 4743.06 of the Revised Code. 403

After notice and a hearing conducted in accordance with 404
Chapter 119. of the Revised Code, the superintendent of financial 405
institutions may suspend, revoke, or refuse to issue or renew a 406
certificate of registration if any of the following conditions 407
applies to the applicant for registration or registrant: 408

(A) The applicant or registrant obtained a certificate of 409
registration through any false or fraudulent representation or 410
made any substantial misrepresentation in any registration 411
application. 412

(B) The applicant or registrant made false promises through 413
advertising or other means or engaged in a continued course of 414

misrepresentations. 415

(C) The applicant or registrant violated any provision of 416
Chapter 1345. or sections 4712.01 to 4712.14 of the Revised Code 417
or the rules adopted thereunder. 418

(D) The applicant or registrant was convicted of, or pleaded 419
guilty to, in a court of competent jurisdiction of this state or 420
any other state, ~~of a felony or any criminal offense involving~~ 421
~~fraud~~ criminal offense that is substantially related to practice 422
as a credit services organization, or failed to notify the 423
division of financial institutions of any such conviction or 424
guilty plea. 425

(E) The applicant or registrant engaged in conduct that 426
constituted improper, fraudulent, or dishonest dealings. 427

Sec. 4715.30. (A) The holder of a certificate or license 428
issued under this chapter is subject to disciplinary action by the 429
state dental board for any of the following reasons: 430

(1) Employing or cooperating in fraud or material deception 431
in applying for or obtaining a license or certificate; 432

(2) Obtaining or attempting to obtain money or anything of 433
value by intentional misrepresentation or material deception in 434
the course of practice; 435

(3) Advertising services in a false or misleading manner or 436
violating the board's rules governing time, place, and manner of 437
advertising; 438

(4) Conviction of or plea of guilty to a misdemeanor 439
~~committed in the course of practice or of any felony~~ criminal 440
offense that is substantially related to the practice of 441
dentistry; 442

(5) Engaging in lewd or immoral conduct in connection with 443
the provision of dental services; 444

(6) Selling, prescribing, giving away, or administering drugs 445
for other than legal and legitimate therapeutic purposes, or 446
conviction of violating any law of this state or the federal 447
government regulating the possession, distribution, or use of any 448
drug; 449

(7) Providing or allowing dental hygienists, expanded 450
function dental auxiliaries, or other practitioners of auxiliary 451
dental occupations working under the certificate or license 452
holder's supervision, or a dentist holding a temporary limited 453
continuing education license under division (C) of section 4715.16 454
of the Revised Code working under the certificate or license 455
holder's direct supervision, to provide dental care that departs 456
from or fails to conform to accepted standards for the profession, 457
whether or not injury to a patient results; 458

(8) Inability to practice under accepted standards of the 459
profession because of physical or mental disability, dependence on 460
alcohol or other drugs, or excessive use of alcohol or other 461
drugs; 462

(9) Violation of any provision of this chapter or any rule 463
adopted thereunder; 464

(10) Failure to use universal blood and body fluid 465
precautions established by rules adopted under section 4715.03 of 466
the Revised Code; 467

(11) Waiving the payment of all or any part of a deductible 468
or copayment that a patient, pursuant to a health insurance or 469
health care policy, contract, or plan that covers dental services, 470
would otherwise be required to pay if the waiver is used as an 471
enticement to a patient or group of patients to receive health 472
care services from that provider. 473

(12) Advertising that the certificate or license holder will 474
waive the payment of all or any part of a deductible or copayment 475

that a patient, pursuant to a health insurance or health care 476
policy, contract, or plan that covers dental services, would 477
otherwise be required to pay. 478

(B) A manager, proprietor, operator, or conductor of a dental 479
facility shall be subject to disciplinary action if any dentist, 480
dental hygienist, expanded function dental auxiliary, or qualified 481
personnel providing services in the facility is found to have 482
committed a violation listed in division (A) of this section and 483
the manager, proprietor, operator, or conductor knew of the 484
violation and permitted it to occur on a recurring basis. 485

(C) Subject to Chapter 119. of the Revised Code, the board 486
may take one or more of the following disciplinary actions if one 487
or more of the grounds for discipline listed in divisions (A) and 488
(B) of this section exist: 489

(1) Censure the license or certificate holder; 490

(2) Place the license or certificate on probationary status 491
for such period of time the board determines necessary and require 492
the holder to: 493

(a) Report regularly to the board upon the matters which are 494
the basis of probation; 495

(b) Limit practice to those areas specified by the board; 496

(c) Continue or renew professional education until a 497
satisfactory degree of knowledge or clinical competency has been 498
attained in specified areas. 499

(3) Suspend the certificate or license; 500

(4) Revoke the certificate or license. 501

Where the board places a holder of a license or certificate 502
on probationary status pursuant to division (C)(2) of this 503
section, the board may subsequently suspend or revoke the license 504
or certificate if it determines that the holder has not met the 505

requirements of the probation or continues to engage in activities 506
that constitute grounds for discipline pursuant to division (A) or 507
(B) of this section. 508

Any order suspending a license or certificate shall state the 509
conditions under which the license or certificate will be 510
restored, which may include a conditional restoration during which 511
time the holder is in a probationary status pursuant to division 512
(C)(2) of this section. The board shall restore the license or 513
certificate unconditionally when such conditions are met. 514

(D) If the physical or mental condition of a license or 515
certificate holder is at issue in a disciplinary proceeding, the 516
board may order the license or certificate holder to submit to 517
reasonable examinations by an individual designated or approved by 518
the board and at the board's expense. The physical examination may 519
be conducted by any individual authorized by the Revised Code to 520
do so, including a physician assistant, a clinical nurse 521
specialist, a certified nurse practitioner, or a certified 522
nurse-midwife. Any written documentation of the physical 523
examination shall be completed by the individual who conducted the 524
examination. 525

Failure to comply with an order for an examination shall be 526
grounds for summary suspension of a license or certificate under 527
division (E) of this section. 528

(E) If the board has reason to believe that the holder 529
represents a clear and immediate danger to the public health and 530
safety if the holder is allowed to continue to practice, or if the 531
holder has failed to comply with an order under division (D) of 532
this section, the board may apply to the court of common pleas of 533
the county in which the holder resides for an order temporarily 534
suspending the holder's license or certificate, without a prior 535
hearing being afforded by the board, until the board conducts an 536
adjudication hearing pursuant to Chapter 119. of the Revised Code. 537

If the court temporarily suspends a holder's license or 538
certificate, the board shall give written notice of the suspension 539
personally or by certified mail to the license or certificate 540
holder. Such notice shall include specific facts and reasons for 541
finding a clear and immediate danger to the public health and 542
safety and shall inform the license or certificate holder of the 543
right to a hearing pursuant to Chapter 119. of the Revised Code. 544

(F) Any holder of a certificate or license issued under this 545
chapter who has pleaded guilty to, has been convicted of, or has 546
had a judicial finding of eligibility for intervention in lieu of 547
conviction entered against the holder in this state for aggravated 548
murder, murder, voluntary manslaughter, felonious assault, 549
kidnapping, rape, sexual battery, gross sexual imposition, 550
aggravated arson, aggravated robbery, or aggravated burglary, or 551
who has pleaded guilty to, has been convicted of, or has had a 552
judicial finding of eligibility for treatment or intervention in 553
lieu of conviction entered against the holder in another 554
jurisdiction for any substantially equivalent criminal offense, is 555
automatically suspended from practice under this chapter in this 556
state and any certificate or license issued to the holder under 557
this chapter is automatically suspended, as of the date of the 558
guilty plea, conviction, or judicial finding, whether the 559
proceedings are brought in this state or another jurisdiction. 560
Continued practice by an individual after the suspension of the 561
individual's certificate or license under this division shall be 562
considered practicing without a certificate or license. The board 563
shall notify the suspended individual of the suspension of the 564
individual's certificate or license under this division by 565
certified mail or in person in accordance with section 119.07 of 566
the Revised Code. If an individual whose certificate or license is 567
suspended under this division fails to make a timely request for 568
an adjudicatory hearing, the board shall enter a final order 569
revoking the individual's certificate or license. 570

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

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

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

(H) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

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

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

(2) The applicant or licensee has been convicted of or has pleaded guilty to a ~~felony or of any crime involving moral turpitude~~ criminal offense that is substantially related to the profession of embalming or funeral directing.

(3) The applicant or licensee has purposely violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the

Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The applicant or licensee has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant or licensee has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.

(7) The applicant or licensee has refused to promptly submit the custody of a dead human body upon the express order of the person legally entitled to the body.

(8) The licensee loaned the licensee's own license, or the applicant or licensee borrowed or used the license of another person, or knowingly aided or abetted the granting of an improper license.

(9) The applicant or licensee transferred a license to operate a funeral home, embalming facility, or crematory from one owner or operator to another, or from one location to another, without notifying the board.

(10) The applicant or licensee misled the public by using false or deceptive advertising.

(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke, an embalmer's, funeral director's, funeral home, or embalming facility license only in accordance with Chapter 119. of the

Revised Code. 631

(2) The board shall send to the crematory review board 632
written notice that it proposes to refuse to issue or renew, or 633
proposes to suspend or revoke, a license to operate a crematory 634
facility. If, after the conclusion of the adjudicatory hearing on 635
the matter conducted under division (E) of section 4717.03 of the 636
Revised Code, the board of embalmers and funeral directors finds 637
that any of the circumstances described in divisions (A)(1) to 638
(10) of this section apply to the person named in its proposed 639
action, the board may issue a final order under division (E) of 640
section 4717.03 of the Revised Code refusing to issue or renew, or 641
suspending or revoking, the person's license to operate a 642
crematory facility. 643

(C) If the board of embalmers and funeral directors 644
determines that there is clear and convincing evidence that any of 645
the circumstances described in divisions (A)(1) to (10) of this 646
section apply to the holder of a license issued under this chapter 647
and that the licensee's continued practice presents a danger of 648
immediate and serious harm to the public, the board may suspend 649
the licensee's license without a prior adjudicatory hearing. The 650
executive director of the board shall prepare written allegations 651
for consideration by the board. 652

The board, after reviewing the written allegations, may 653
suspend a license without a prior hearing. 654

The board shall issue a written order of suspension by 655
certified mail or in person in accordance with section 119.07 of 656
the Revised Code. Such an order is not subject to suspension by 657
the court during the pendency of any appeal filed under section 658
119.12 of the Revised Code. If the holder of an embalmer's, 659
funeral director's, funeral home, or embalming facility license 660
requests an adjudicatory hearing by the board, the date set for 661
the hearing shall be within fifteen days, but not earlier than 662

seven days, after the licensee has requested a hearing, unless the board and the licensee agree to a different time for holding the hearing.

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

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

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

imposition, aggravated arson, aggravated robbery, or aggravated 695
burglary, or who has pleaded guilty to, has been found by a judge 696
or jury to be guilty of, or has had a judicial finding of 697
eligibility for treatment in lieu of conviction entered against 698
the individual in another jurisdiction for any substantially 699
equivalent criminal offense, is hereby suspended from practice 700
under this chapter by operation of law, and any license issued to 701
the individual under this chapter is hereby suspended by operation 702
of law as of the date of the guilty plea, verdict or finding of 703
guilt, or judicial finding of eligibility for treatment in lieu of 704
conviction, regardless of whether the proceedings are brought in 705
this state or another jurisdiction. The board shall notify the 706
suspended individual of the suspension of the individual's license 707
by the operation of this division by certified mail or in person 708
in accordance with section 119.07 of the Revised Code. If an 709
individual whose license is suspended under this division fails to 710
make a timely request for an adjudicatory hearing, the board shall 711
enter a final order revoking the license. 712

(E) No person whose license has been suspended or revoked 713
under or by the operation of this section shall practice embalming 714
or funeral directing or operate a funeral home, embalming 715
facility, or crematory facility until the board has reinstated the 716
person's license. 717

(F) As used in this section, a "criminal offense that is 718
substantially related" has the same meaning as in section 4743.06 719
of the Revised Code. 720

Sec. 4719.03. (A) Except as otherwise provided in division 721
(B) of this section, the attorney general shall issue a 722
certificate of registration or registration renewal as a telephone 723
solicitor to any applicant or registrant that submits a completed 724
application for the certificate, as specified under section 725

4719.02 of the Revised Code, and pays, as applicable, the 726
registration fee or renewal fee prescribed pursuant to rule of the 727
attorney general adopted under section 4719.10 of the Revised 728
Code. All fees collected under this division shall be deposited 729
into the state treasury to the credit of the telemarketing fraud 730
enforcement fund created in section 4719.17 of the Revised Code. 731
The certificate of registration or registration renewal shall 732
expire one year after the date on which it is issued. 733

(B) After an adjudication conducted in accordance with 734
Chapter 119. of the Revised Code, the attorney general may deny a 735
certificate of registration or registration renewal or may suspend 736
or revoke a certificate if the attorney general finds, by a 737
preponderance of the evidence, that any of the following 738
conditions apply: 739

(1) The applicant or registrant obtained a certificate of 740
registration or registration renewal through any false or 741
fraudulent representation or made any material misrepresentation 742
in any registration application. 743

(2) The applicant or registrant made false promises through 744
advertising or other means or engaged in a continued course of 745
misrepresentations. 746

(3) The applicant or registrant violated any provision of 747
Chapter 1345. or sections 4719.01 to 4719.18 of the Revised Code 748
or a rule adopted under that chapter or those sections. 749

(4) In a court of competent jurisdiction of this state or any 750
other state or of the United States, the applicant or registrant 751
was convicted of, pleaded guilty to, or entered a plea of no 752
contest for a ~~felony, engaging in a pattern of corrupt activity,~~ 753
~~racketeering, a violation of federal or state securities law, or a~~ 754
~~theft offense as defined in section 2913.01 of the Revised Code~~ 755
criminal offense that is substantially related to the profession 756

of telephone solicitor or in a similar law of any other state or 757
of the United States, or failed to notify the attorney general of 758
any conviction or plea of that type as required under division (H) 759
of section 4719.08 of the Revised Code. 760

(5) The applicant or registrant engaged in conduct that 761
constituted improper, fraudulent, or dishonest dealings. 762

(C) As used in this section, a "criminal offense that is 763
substantially related" has the same meaning as in section 4743.06 764
of the Revised Code. 765

Sec. 4723.07. In accordance with Chapter 119. of the Revised 766
Code, the board of nursing shall adopt and may amend and rescind 767
rules that establish all of the following: 768

(A) Provisions for the board's government and control of its 769
actions and business affairs; 770

(B) Minimum curricula and standards for nursing education 771
programs that prepare graduates to be licensed under this chapter 772
and procedures for granting, renewing, and withdrawing approval of 773
those programs; 774

(C) Criteria that applicants for licensure must meet to be 775
eligible to take examinations for licensure; 776

(D) Standards and procedures for renewal of the licenses and 777
certificates issued by the board; 778

(E) Standards for approval of continuing nursing education 779
programs and courses for registered nurses, licensed practical 780
nurses, certified registered nurse anesthetists, clinical nurse 781
specialists, certified nurse-midwives, and certified nurse 782
practitioners. The standards may provide for approval of 783
continuing nursing education programs and courses that have been 784
approved by other state boards of nursing or by national 785
accreditation systems for nursing, including, but not limited to, 786

the American nurses' credentialing center and the national 787
association for practical nurse education and service. 788

(F) Standards that persons must meet to be authorized by the 789
board to approve continuing nursing education programs and courses 790
and a schedule by which that authorization expires and may be 791
renewed; 792

(G) Requirements, including continuing education 793
requirements, for restoring inactive nursing licenses, dialysis 794
technician certificates, and community health worker certificates, 795
and for restoring nursing licenses, dialysis technician 796
certificates, and community health worker certificates that have 797
lapsed through failure to renew; 798

(H) Conditions that may be imposed for reinstatement of a 799
nursing license, dialysis technician certificate, or community 800
health worker certificate following action taken under section 801
3123.47, 4723.28, 4723.281, or 4723.86 of the Revised Code 802
resulting in a license or certificate suspension; 803

(I) Standards for approval of peer support programs for 804
persons who hold a nursing license, dialysis technician 805
certificate, or community health worker certificate; 806

(J) Requirements for board approval of courses in medication 807
administration by licensed practical nurses; 808

(K) Criteria for evaluating the qualifications of an 809
applicant for a license to practice nursing as a registered nurse 810
or licensed practical nurse, a certificate of authority issued 811
under division (E) of section 4723.41 of the Revised Code, a 812
dialysis technician certificate, or a community health worker 813
certificate by the board's endorsement of the applicant's 814
authority to practice issued by the licensing agency of another 815
state; 816

(L) Universal blood and body fluid precautions that shall be 817

used by each person holding a nursing license or dialysis technician certificate issued under this chapter who performs exposure-prone invasive procedures. The rules shall define and establish requirements for universal blood and body fluid precautions that include the following:

- (1) Appropriate use of hand washing;
- (2) Disinfection and sterilization of equipment;
- (3) Handling and disposal of needles and other sharp instruments;
- (4) Wearing and disposal of gloves and other protective garments and devices.

(M) Standards and procedures for approving certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, and for renewal of those certificates;

(N) Quality assurance standards for certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(O) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

(P) Continuing education standards for clinical nurse specialists who are exempt under division (C) of section 4723.41 of the Revised Code from the requirement of having passed a certification examination;

(Q) For purposes of division (B) ~~(31)~~ (29) of section 4723.28 of the Revised Code, the actions, omissions, or other

circumstances that constitute failure to establish and maintain 848
professional boundaries with a patient. 849

The board may adopt other rules necessary to carry out the 850
provisions of this chapter. The rules shall be adopted in 851
accordance with Chapter 119. of the Revised Code. 852

Sec. 4723.28. (A) The board of nursing, by a vote of a 853
quorum, may revoke or may refuse to grant a nursing license, 854
certificate of authority, or dialysis technician certificate to a 855
person found by the board to have committed fraud in passing an 856
examination required to obtain the license, certificate of 857
authority, or dialysis technician certificate or to have committed 858
fraud, misrepresentation, or deception in applying for or securing 859
any nursing license, certificate of authority, or dialysis 860
technician certificate issued by the board. 861

(B) Subject to division (N) of this section, the board of 862
nursing, by a vote of a quorum, may impose one or more of the 863
following sanctions: deny, revoke, suspend, or place restrictions 864
on any nursing license, certificate of authority, or dialysis 865
technician certificate issued by the board; reprimand or otherwise 866
discipline a holder of a nursing license, certificate of 867
authority, or dialysis technician certificate; or impose a fine of 868
not more than five hundred dollars per violation. The sanctions 869
may be imposed for any of the following: 870

(1) Denial, revocation, suspension, or restriction of 871
authority to practice a health care occupation, including nursing 872
or practice as a dialysis technician, for any reason other than a 873
failure to renew, in Ohio or another state or jurisdiction; 874

(2) Engaging in the practice of nursing or engaging in 875
practice as a dialysis technician, having failed to renew a 876
nursing license or dialysis technician certificate issued under 877
this chapter, or while a nursing license or dialysis technician 878

certificate is under suspension; 879

~~(3) Conviction of, a plea of guilty to, a judicial finding of 880
guilt of, a judicial finding of guilt resulting from a plea of no 881
contest to, or a judicial finding of eligibility for intervention 882
in lieu of conviction for, a misdemeanor committed in the course 883
of practice;~~ 884

~~(4) Conviction of, a plea of guilty to, a judicial finding of 885
guilt of, a judicial finding of guilt resulting from a plea of no 886
contest to, or a judicial finding of eligibility for intervention 887
in lieu of conviction for, any felony or of any crime involving 888
gross immorality or moral turpitude~~ a criminal offense that is 889
substantially related to the practice of nursing or practice as a 890
dialysis technician; 891

~~(5)~~ (4) Selling, giving away, or administering drugs or 892
therapeutic devices for other than legal and legitimate 893
therapeutic purposes; or conviction of, a plea of guilty to, a 894
judicial finding of guilt of, a judicial finding of guilt 895
resulting from a plea of no contest to, or a judicial finding of 896
eligibility for intervention in lieu of conviction for, violating 897
any municipal, state, county, or federal drug law; 898

~~(6)~~ (5) Conviction of, a plea of guilty to, a judicial finding 899
of guilt of, a judicial finding of guilt resulting from a plea of 900
no contest to, or a judicial finding of eligibility for 901
intervention in lieu of conviction for, an act in another 902
jurisdiction that would constitute a ~~felony or a crime of moral 903
turpitude in Ohio~~ criminal offense that is substantially related 904
to the practice of nursing or practice as a dialysis technician; 905

~~(7) Conviction of, a plea of guilty to, a judicial finding of 906
guilt of, a judicial finding of guilt resulting from a plea of no 907
contest to, or a judicial finding of eligibility for intervention 908
in lieu of conviction for, an act in the course of practice in 909~~

another jurisdiction that would constitute a misdemeanor in Ohio;	910
(8)(6) Self-administering or otherwise taking into the body	911
any dangerous drug, as defined in section 4729.01 of the Revised	912
Code, in any way not in accordance with a legal, valid	913
prescription issued for that individual;	914
(9)(7) Habitual indulgence in the use of controlled	915
substances, other habit-forming drugs, or alcohol or other	916
chemical substances to an extent that impairs ability to practice;	917
(10)(8) Impairment of the ability to practice according to	918
acceptable and prevailing standards of safe nursing care because	919
of habitual or excessive use of drugs, alcohol, or other chemical	920
substances that impair the ability to practice;	921
(11)(9) Impairment of the ability to practice according to	922
acceptable and prevailing standards of safe nursing care because	923
of a physical or mental disability;	924
(12)(10) Assaulting or causing harm to a patient or depriving	925
a patient of the means to summon assistance;	926
(13)(11) Obtaining or attempting to obtain money or anything	927
of value by intentional misrepresentation or material deception in	928
the course of practice;	929
(14)(12) Adjudication by a probate court of being mentally	930
ill or mentally incompetent. The board may restore the person's	931
nursing license or dialysis technician certificate upon	932
adjudication by a probate court of the person's restoration to	933
competency or upon submission to the board of other proof of	934
competency.	935
(15)(13) The suspension or termination of employment by the	936
department of defense or the veterans administration of the United	937
States for any act that violates or would violate this chapter;	938
(16)(14) Violation of this chapter or any rules adopted under	939

it;	940
(17) <u>(15)</u> Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	941 942
(18) <u>(16)</u> Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	943 944 945
(19) <u>(17)</u> Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	946 947 948
(20) <u>(18)</u> In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	949 950 951
(21) <u>(19)</u> In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	952 953 954
(22) <u>(20)</u> In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	955 956 957
(23) <u>(21)</u> Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	958 959 960
(24) <u>(22)</u> In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, except as provided in division (M) of this section, either of the following:	961 962 963 964
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health	965 966 967 968 969

care services from that provider;	970
(b) Advertising that the nurse will waive the payment of all	971
or any part of a deductible or copayment that a patient, pursuant	972
to a health insurance or health care policy, contract, or plan	973
that covers such nursing services, would otherwise be required to	974
pay.	975
(25) <u>(23)</u> Failure to comply with the terms and conditions of	976
participation in the chemical dependency monitoring program	977
established under section 4723.35 of the Revised Code;	978
(26) <u>(24)</u> Failure to comply with the terms and conditions	979
required under the practice intervention and improvement program	980
established under section 4723.282 of the Revised Code;	981
(27) <u>(25)</u> In the case of a certified registered nurse	982
anesthetist, clinical nurse specialist, certified nurse-midwife,	983
or certified nurse practitioner:	984
(a) Engaging in activities that exceed those permitted for	985
the nurse's nursing specialty under section 4723.43 of the Revised	986
Code;	987
(b) Failure to meet the quality assurance standards	988
established under section 4723.07 of the Revised Code.	989
(28) <u>(26)</u> In the case of a clinical nurse specialist,	990
certified nurse-midwife, or certified nurse practitioner, failure	991
to maintain a standard care arrangement in accordance with section	992
4723.431 of the Revised Code or to practice in accordance with the	993
standard care arrangement;	994
(29) <u>(27)</u> In the case of a clinical nurse specialist,	995
certified nurse-midwife, or certified nurse practitioner who holds	996
a certificate to prescribe issued under section 4723.48 of the	997
Revised Code, failure to prescribe drugs and therapeutic devices	998
in accordance with section 4723.481 of the Revised Code;	999

(30) (28) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	1000 1001
(31) (29) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	1002 1003 1004
(32) (30) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	1005 1006 1007 1008
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	1009 1010
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	1011 1012 1013
(33) (31) Assisting suicide as defined in section 3795.01 of the Revised Code.	1014 1015
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, 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 agreement shall be of no effect.	1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026
(D) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code, the board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to	1027 1028 1029 1030

hold under Chapter 119. of the Revised Code. 1031

In any instance in which the board is required under Chapter 1032
119. of the Revised Code to give notice of an opportunity for a 1033
hearing and the applicant or license holder does not make a timely 1034
request for a hearing in accordance with section 119.07 of the 1035
Revised Code, the board is not required to hold a hearing, but may 1036
adopt, by a vote of a quorum, a final order that contains the 1037
board's findings. In the final order, the board may order any of 1038
the sanctions listed in division (A) or (B) of this section. 1039

(E) If a criminal action is brought against a registered 1040
nurse, licensed practical nurse, or dialysis technician for an act 1041
or crime described in divisions (B)(3) to ~~(7)~~(5) of this section 1042
and the action is dismissed by the trial court other than on the 1043
merits, the board shall conduct an adjudication to determine 1044
whether the registered nurse, licensed practical nurse, or 1045
dialysis technician committed the act on which the action was 1046
based. If the board determines on the basis of the adjudication 1047
that the registered nurse, licensed practical nurse, or dialysis 1048
technician committed the act, or if the registered nurse, licensed 1049
practical nurse, or dialysis technician fails to participate in 1050
the adjudication, the board may take action as though the 1051
registered nurse, licensed practical nurse, or dialysis technician 1052
had been convicted of the act. 1053

If the board takes action on the basis of a conviction, plea, 1054
or a judicial finding as described in divisions (B)(3) to ~~(7)~~(5) 1055
of this section that is overturned on appeal, the registered 1056
nurse, licensed practical nurse, or dialysis technician may, on 1057
exhaustion of the appeal process, petition the board for 1058
reconsideration of its action. On receipt of the petition and 1059
supporting court documents, the board shall temporarily rescind 1060
its action. If the board determines that the decision on appeal 1061
was a decision on the merits, it shall permanently rescind its 1062

action. If the board determines that the decision on appeal was 1063
not a decision on the merits, it shall conduct an adjudication to 1064
determine whether the registered nurse, licensed practical nurse, 1065
or dialysis technician committed the act on which the original 1066
conviction, plea, or judicial finding was based. If the board 1067
determines on the basis of the adjudication that the registered 1068
nurse, licensed practical nurse, or dialysis technician committed 1069
such act, or if the registered nurse, licensed practical nurse, or 1070
dialysis technician does not request an adjudication, the board 1071
shall reinstate its action; otherwise, the board shall permanently 1072
rescind its action. 1073

Notwithstanding the provision of division (C)(2) of section 1074
2953.32 of the Revised Code specifying that if records pertaining 1075
to a criminal case are sealed under that section the proceedings 1076
in the case shall be deemed not to have occurred, sealing of the 1077
records of a conviction on which the board has based an action 1078
under this section shall have no effect on the board's action or 1079
any sanction imposed by the board under this section. 1080

The board shall not be required to seal, destroy, redact, or 1081
otherwise modify its records to reflect the court's sealing of 1082
conviction records. 1083

(F) The board may investigate an individual's criminal 1084
background in performing its duties under this section. 1085

(G) During the course of an investigation conducted under 1086
this section, the board may compel any registered nurse, licensed 1087
practical nurse, or dialysis technician or applicant under this 1088
chapter to submit to a mental or physical examination, or both, as 1089
required by the board and at the expense of the individual, if the 1090
board finds reason to believe that the individual under 1091
investigation may have a physical or mental impairment that may 1092
affect the individual's ability to provide safe nursing care. 1093
Failure of any individual to submit to a mental or physical 1094

examination when directed constitutes an admission of the 1095
allegations, unless the failure is due to circumstances beyond the 1096
individual's control, and a default and final order may be entered 1097
without the taking of testimony or presentation of evidence. 1098

If the board finds that an individual is impaired, the board 1099
shall require the individual to submit to care, counseling, or 1100
treatment approved or designated by the board, as a condition for 1101
initial, continued, reinstated, or renewed authority to practice. 1102
The individual shall be afforded an opportunity to demonstrate to 1103
the board that the individual can begin or resume the individual's 1104
occupation in compliance with acceptable and prevailing standards 1105
of care under the provisions of the individual's authority to 1106
practice. 1107

For purposes of this division, any registered nurse, licensed 1108
practical nurse, or dialysis technician or applicant under this 1109
chapter shall be deemed to have given consent to submit to a 1110
mental or physical examination when directed to do so in writing 1111
by the board, and to have waived all objections to the 1112
admissibility of testimony or examination reports that constitute 1113
a privileged communication. 1114

(H) The board shall investigate evidence that appears to show 1115
that any person has violated any provision of this chapter or any 1116
rule of the board. Any person may report to the board any 1117
information the person may have that appears to show a violation 1118
of any provision of this chapter or rule of the board. In the 1119
absence of bad faith, any person who reports such information or 1120
who testifies before the board in any adjudication conducted under 1121
Chapter 119. of the Revised Code shall not be liable for civil 1122
damages as a result of the report or testimony. 1123

(I) All of the following apply under this chapter with 1124
respect to the confidentiality of information: 1125

(1) Information received by the board pursuant to an 1126
investigation is confidential and not subject to discovery in any 1127
civil action, except that the board may disclose information to 1128
law enforcement officers and government entities investigating a 1129
registered nurse, licensed practical nurse, or dialysis technician 1130
or a person who may have engaged in the unauthorized practice of 1131
nursing. No law enforcement officer or government entity with 1132
knowledge of any information disclosed by the board pursuant to 1133
this division shall divulge the information to any other person or 1134
government entity except for the purpose of an adjudication by a 1135
court or licensing or registration board or officer to which the 1136
person to whom the information relates is a party. 1137

(2) If an investigation requires a review of patient records, 1138
the investigation and proceeding shall be conducted in such a 1139
manner as to protect patient confidentiality. 1140

(3) All adjudications and investigations of the board shall 1141
be considered civil actions for the purposes of section 2305.252 1142
of the Revised Code. 1143

(4) Any board activity that involves continued monitoring of 1144
an individual as part of or following any disciplinary action 1145
taken under this section shall be conducted in a manner that 1146
maintains the individual's confidentiality. Information received 1147
or maintained by the board with respect to the board's monitoring 1148
activities is confidential and not subject to discovery in any 1149
civil action. 1150

(J) Any action taken by the board under this section 1151
resulting in a suspension from practice shall be accompanied by a 1152
written statement of the conditions under which the person may be 1153
reinstated to practice. 1154

(K) When the board refuses to grant a license or certificate 1155
to an applicant, revokes a license or certificate, or refuses to 1156

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

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

(M) Sanctions shall not be imposed under division (B)~~(24)~~(22)
of this section against any licensee who waives deductibles and
copayments as follows:

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

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

(N)(1) Any person who enters a prelicensure nursing education
program on or after June 1, 2003, and who subsequently applies
under division (A) of section 4723.09 of the Revised Code for

licensure to practice as a registered nurse or as a licensed 1188
practical nurse and any person who applies under division (B) of 1189
that section for license by endorsement to practice nursing as a 1190
registered nurse or as a licensed practical nurse shall submit a 1191
request to the bureau of criminal identification and investigation 1192
for the bureau to conduct a criminal records check of the 1193
applicant and to send the results to the board, in accordance with 1194
section 4723.09 of the Revised Code. 1195

The board shall refuse to grant a license to practice nursing 1196
as a registered nurse or as a licensed practical nurse under 1197
section 4723.09 of the Revised Code to a person who entered a 1198
prelicensure nursing education program on or after June 1, 2003, 1199
and applied under division (A) of section 4723.09 of the Revised 1200
Code for the license or a person who applied under division (B) of 1201
that section for the license, if the criminal records check 1202
performed in accordance with division (C) of that section 1203
indicates that the person has pleaded guilty to, been convicted 1204
of, or has had a judicial finding of guilt for violating section 1205
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 1206
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 1207
substantially similar law of another state, the United States, or 1208
another country. 1209

(2) Any person who enters a dialysis training program on or 1210
after June 1, 2003, and who subsequently applies for a certificate 1211
to practice as a dialysis technician shall submit a request to the 1212
bureau of criminal identification and investigation for the bureau 1213
to conduct a criminal records check of the applicant and to send 1214
the results to the board, in accordance with section 4723.75 of 1215
the Revised Code. 1216

The board shall refuse to issue a certificate to practice as 1217
a dialysis technician under section 4723.75 of the Revised Code to 1218
a person who entered a dialysis training program on or after June 1219

1, 2003, and whose criminal records check performed in accordance 1220
with division (C) of that section indicates that the person has 1221
pleaded guilty to, been convicted of, or has had a judicial 1222
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 1223
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 1224
2911.11 of the Revised Code or a substantially similar law of 1225
another state, the United States, or another country. 1226

(O) As used in this section, a "criminal offense that is 1227
substantially related" has the same meaning as in section 4743.06 1228
of the Revised Code. 1229

Sec. 4723.34. (A) Reports to the board of nursing shall be 1230
made as follows: 1231

(1) Every employer of registered nurses, licensed practical 1232
nurses, or dialysis technicians shall report to the board of 1233
nursing the name of any current or former employee who holds a 1234
nursing license or dialysis technician certificate issued under 1235
this chapter who has engaged in conduct that would be grounds for 1236
disciplinary action by the board under section 4723.28 of the 1237
Revised Code. 1238

Every employer of certified community health workers shall 1239
report to the board the name of any current or former employee who 1240
holds a community health worker certificate issued under this 1241
chapter who has engaged in conduct that would be grounds for 1242
disciplinary action by the board under section 4723.86 of the 1243
Revised Code. 1244

Every employer of medication aides shall report to the board 1245
the name of any current or former employee who holds a medication 1246
aide certificate issued under this chapter who has engaged in 1247
conduct that would be grounds for disciplinary action by the board 1248
under section 4723.652 of the Revised Code. 1249

(2) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse and dialysis technician associations shall report to the board the name of any dialysis technician who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.

Community health worker associations shall report to the board the name of any certified community health worker who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.

Medication aide associations shall report to the board the name of any medication aide who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.69 of the Revised Code.

(3) If the prosecutor in a case described in divisions (B)(3) ~~to (5)~~ and (4) of section 4723.28 of the Revised Code, or in a

case where the trial court issued an order of dismissal upon 1282
technical or procedural grounds of a charge of a misdemeanor 1283
committed in the course of practice, a felony charge, or a charge 1284
of gross immorality or moral turpitude, knows or has reason to 1285
believe that the person charged is licensed under this chapter to 1286
practice nursing as a registered nurse or as a licensed practical 1287
nurse or holds a certificate issued under this chapter to practice 1288
as a dialysis technician, the prosecutor shall notify the board of 1289
nursing. With regard to certified community health workers and 1290
medication aides, if the prosecutor in a case involving a charge 1291
of a misdemeanor committed in the course of employment, a felony 1292
charge, or a charge of gross immorality or moral turpitude, 1293
including a case dismissed on technical or procedural grounds, 1294
knows or has reason to believe that the person charged holds a 1295
community health worker or medication aide certificate issued 1296
under this chapter, the prosecutor shall notify the board. 1297

Each notification required by this division shall be made on 1298
forms prescribed and provided by the board. The report shall 1299
include the name and address of the license or certificate holder, 1300
the charge, and the certified court documents recording the 1301
action. 1302

(B) If any person fails to provide a report required by this 1303
section, the board may seek an order from a court of competent 1304
jurisdiction compelling submission of the report. 1305

Sec. 4725.19. (A) In accordance with Chapter 119. of the 1306
Revised Code and by an affirmative vote of a majority of its 1307
members, the state board of optometry, for any of the reasons 1308
specified in division (B) of this section, shall refuse to grant a 1309
certificate of licensure to an applicant and may, with respect to 1310
a licensed optometrist, do one or more of the following: 1311

(1) Suspend the operation of any certificate of licensure, 1312

topical ocular pharmaceutical agents certificate, or therapeutic	1313
pharmaceutical agents certificate, or all certificates granted by	1314
it to the optometrist;	1315
(2) Permanently revoke any or all of the certificates;	1316
(3) Limit or otherwise place restrictions on any or all of	1317
the certificates;	1318
(4) Reprimand the optometrist;	1319
(5) Impose a monetary penalty. If the reason for which the	1320
board is imposing the penalty involves a criminal offense that	1321
carries a fine under the Revised Code, the penalty shall not	1322
exceed the maximum fine that may be imposed for the criminal	1323
offense. In any other case, the penalty imposed by the board shall	1324
not exceed five hundred dollars.	1325
(B) The sanctions specified in division (A) of this section	1326
may be taken by the board for any of the following reasons:	1327
(1) Committing fraud in passing the licensing examination or	1328
making false or purposely misleading statements in an application	1329
for a certificate of licensure;	1330
(2) Being at any time guilty of immorality, regardless of the	1331
jurisdiction in which the act was committed;	1332
(3) Being guilty of dishonesty or unprofessional conduct in	1333
the practice of optometry;	1334
(4) Being at any time guilty of <u>Commission of a felony</u>	1335
<u>criminal offense that is substantially related to the practice of</u>	1336
<u>optometry</u> , regardless of the jurisdiction in which the act	1337
<u>criminal offense</u> was committed;	1338
(5) Being at any time guilty of a misdemeanor committed in	1339
the course of practice, regardless of the jurisdiction in which	1340
the act was committed;	1341
(6) Violating the conditions of any limitation or other	1342

restriction placed by the board on any certificate issued by the board; 1343
1344

~~(7)~~(6) Engaging in the practice of optometry as provided in 1345
division (A)(1), (2), or (3) of section 4725.01 of the Revised 1346
Code when the certificate authorizing that practice is under 1347
suspension, in which case the board shall permanently revoke the 1348
certificate; 1349

~~(8)~~(7) Being denied a license to practice optometry in 1350
another state or country or being subject to any other sanction by 1351
the optometric licensing authority of another state or country, 1352
other than sanctions imposed for the nonpayment of fees; 1353

~~(9)~~(8) Departing from or failing to conform to acceptable and 1354
prevailing standards of care in the practice of optometry as 1355
followed by similar practitioners under the same or similar 1356
circumstances, regardless of whether actual injury to a patient is 1357
established; 1358

~~(10)~~(9) Failing to maintain comprehensive patient records; 1359

~~(11)~~(10) Advertising a price of optical accessories, eye 1360
examinations, or other products or services by any means that 1361
would deceive or mislead the public; 1362

~~(12)~~(11) Being addicted to the use of alcohol, stimulants, 1363
narcotics, or any other substance which impairs the intellect and 1364
judgment to such an extent as to hinder or diminish the 1365
performance of the duties included in the person's practice of 1366
optometry; 1367

~~(13)~~(12) Engaging in the practice of optometry as provided in 1368
division (A)(2) or (3) of section 4725.01 of the Revised Code 1369
without authority to do so or, if authorized, in a manner 1370
inconsistent with the authority granted; 1371

~~(14)~~(13) Failing to make a report to the board as required by 1372

division (A) of section 4725.21 or section 4725.31 of the Revised Code; 1373
1374

~~(15)~~(14) Soliciting patients from door to door or 1375
establishing temporary offices, in which case the board shall 1376
suspend all certificates held by the optometrist; 1377

~~(16)~~(15) Except as provided in division (D) of this section: 1378

(a) Waiving the payment of all or any part of a deductible or 1379
copayment that a patient, pursuant to a health insurance or health 1380
care policy, contract, or plan that covers optometric services, 1381
would otherwise be required to pay if the waiver is used as an 1382
enticement to a patient or group of patients to receive health 1383
care services from that optometrist. 1384

(b) Advertising that the optometrist will waive the payment 1385
of all or any part of a deductible or copayment that a patient, 1386
pursuant to a health insurance or health care policy, contract, or 1387
plan that covers optometric services, would otherwise be required 1388
to pay. 1389

(C) Any person who is the holder of a certificate of 1390
licensure, or who is an applicant for a certificate of licensure 1391
against whom is preferred any charges, shall be furnished by the 1392
board with a copy of the complaint and shall have a hearing before 1393
the board in accordance with Chapter 119. of the Revised Code. 1394

(D) Sanctions shall not be imposed under division (B)~~(16)~~(15) 1395
of this section against any optometrist who waives deductibles and 1396
copayments: 1397

(1) In compliance with the health benefit plan that expressly 1398
allows such a practice. Waiver of the deductibles or copayments 1399
shall be made only with the full knowledge and consent of the plan 1400
purchaser, payer, and third-party administrator. Documentation of 1401
the consent shall be made available to the board upon request. 1402

(2) For professional services rendered to any other optometrist licensed by the board, to the extent allowed by sections 4725.01 to 4725.34 of the Revised Code and the rules of the board.

(E) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

Sec. 4725.53. (A) The Ohio optical dispensers board, by a majority vote of its members, may refuse to grant a license and, in accordance with Chapter 119. of the Revised Code, may suspend or revoke the license of a licensed dispensing optician or impose a fine or order restitution pursuant to division (B) of this section on any of the following grounds:

(1) Conviction of ~~a felony or a crime involving moral turpitude~~ or plea of guilty to a criminal offense that is substantially related to the practice of optical dispensing;

(2) Obtaining or attempting to obtain a license by fraud or deception;

(3) Obtaining any fee or making any sale of an optical aid by means of fraud or misrepresentation;

(4) Habitual indulgence in the use of controlled substances or other habit-forming drugs, or in the use of alcoholic liquors to an extent that affects professional competency;

(5) Finding by a court of competent jurisdiction that the applicant or licensee is incompetent by reason of mental illness and no subsequent finding by the court of competency;

(6) Finding by a court of law that the licensee is guilty of incompetence or negligence in the dispensing of optical aids;

(7) Knowingly permitting or employing a person whose license has been suspended or revoked or an unlicensed person to engage in

optical dispensing;	1433
(8) Permitting another person to use his <u>the licensee's</u>	1434
license;	1435
(9) Engaging in optical dispensing not pursuant to the	1436
prescription of a licensed physician or licensed optometrist, but	1437
nothing in this section shall prohibit the duplication or	1438
replacement of previously prepared optical aids, except contact	1439
lenses shall not be duplicated or replaced without a written	1440
prescription;	1441
(10) Violation of sections 4725.40 to 4725.59 of the Revised	1442
Code;	1443
(11) Waiving the payment of all or any part of a deductible	1444
or copayment that a patient, pursuant to a health insurance or	1445
health care policy, contract, or plan that covers optical	1446
dispensing services, would otherwise be required to pay if the	1447
waiver is used as an enticement to a patient or group of patients	1448
to receive health care services from that provider.	1449
(12) Advertising that he <u>the licensee</u> will waive the payment	1450
of all or any part of a deductible or copayment that a patient,	1451
pursuant to a health insurance or health care policy, contract, or	1452
plan that covers optical dispensing services, would otherwise be	1453
required to pay.	1454
(B) The board may impose a fine of not more than five hundred	1455
dollars for a first occurrence of an action that is grounds for	1456
discipline under this section and of not less than five hundred	1457
nor more than one thousand dollars for a subsequent occurrence, or	1458
may order the licensee to make restitution to a person who has	1459
suffered a financial loss as a result of the licensee's failure to	1460
comply with sections 4725.40 to 4725.59 of the Revised Code.	1461
(C) Notwithstanding divisions (A)(11) and (12) of this	1462
section, sanctions shall not be imposed against any licensee who	1463

waives deductibles and copayments: 1464

(1) In compliance with the health benefit plan that expressly 1465
allows such a practice. Waiver of the deductibles or copays shall 1466
be made only with the full knowlege and consent of the plan 1467
purchaser, payer, and third-party administrator. Such consent 1468
shall be made available to the board upon request. 1469

(2) For professional services rendered to any other person 1470
licensed pursuant to this chapter to the extent allowed by this 1471
chapter and the rules of the board. 1472

(D) As used in this section, a "criminal offense that is 1473
substantially related" has the same meaning as in section 4743.06 1474
of the Revised Code. 1475

Sec. 4727.15. (A) No person licensed as a pawnbroker under 1476
this chapter, and no agent, officer, or employee thereof, shall 1477
violate this chapter. 1478

(B) Upon the criminal conviction of a licensee or any 1479
employee, manager, officer, director, shareholder, member, or 1480
partner of a licensee for a violation of this chapter, the 1481
superintendent of financial institutions may suspend the license 1482
of the licensee without a prior hearing to protect the public 1483
interest and subsequently may act to revoke the license of the 1484
licensee pursuant to ~~chapter~~ Chapter 119. of the Revised Code. 1485

(C) Upon the criminal conviction of a licensee or any 1486
employee, manager, officer, director, shareholder, member, or 1487
partner of a licensee under any section in Title XXIX of the 1488
Revised Code or under federal law for theft, receiving stolen 1489
property, or money laundering, the superintendent may suspend the 1490
license of the licensee without a prior hearing to protect the 1491
public interest and subsequently may act to revoke the license of 1492
the licensee pursuant to ~~chapter~~ Chapter 119. of the Revised Code. 1493

(D) Upon the criminal conviction of or a plea of guilty by a 1494
licensee under any section of Title XXIX of the Revised Code or 1495
under federal law for a ~~crime~~ criminal offense substantially 1496
related to the profession of pawnbroker other than theft, 1497
receiving stolen property, or money laundering, the superintendent 1498
may assess a penalty against the licensee or act to revoke or 1499
suspend the license of the licensee pursuant to ~~chapter~~ Chapter 1500
119. of the Revised Code. 1501

(E) As used in this section, a "criminal offense that is 1502
substantially related" has the same meaning as in section 4743.06 1503
of the Revised Code. 1504

Sec. 4728.13. (A) No person, firm, partnership, corporation, 1505
or association, and no agent, officer, or employee thereof, shall 1506
violate this chapter. The division of financial institutions upon 1507
a criminal conviction for a violation of this chapter shall revoke 1508
any license theretofore issued to the person, firm, partnership, 1509
corporation, or association. The division also may revoke or 1510
suspend the license of any licensee in accordance with section 1511
4728.03 of the Revised Code upon a criminal conviction of or plea 1512
of guilty by the licensee for any ~~felony~~ criminal offense ~~or crime~~ 1513
~~involving moral turpitude~~ substantially related to the profession 1514
of precious metals dealer. 1515

(B) No person shall obstruct or refuse to permit any 1516
investigation conducted under this chapter by the superintendent 1517
of financial institutions, a person acting on behalf of an agency 1518
or a political subdivision of this state, or a law enforcement 1519
officer. All articles purchased by a person licensed under this 1520
chapter shall be made promptly available for inspection by these 1521
officials. 1522

(C) In any proceeding or action brought under this chapter, 1523
the burden of proving an exemption from a requirement of this 1524

chapter falls on the person claiming the benefit of the exemption. 1525

(D) As used in this section, a "criminal offense that is 1526
substantially related" has the same meaning as in section 4743.06 1527
of the Revised Code. 1528

Sec. 4729.16. (A) The state board of pharmacy, after notice 1529
and hearing in accordance with Chapter 119. of the Revised Code, 1530
may revoke, suspend, limit, place on probation, or refuse to grant 1531
or renew an identification card, or may impose a monetary penalty 1532
or forfeiture not to exceed in severity any fine designated under 1533
the Revised Code for a similar offense, or in the case of a 1534
violation of a section of the Revised Code that does not bear a 1535
penalty, a monetary penalty or forfeiture of not more than five 1536
hundred dollars, if the board finds a pharmacist or pharmacy 1537
intern: 1538

(1) Guilty of a ~~felony or gross immorality~~ criminal offense 1539
substantially related to the practice of pharmacy; 1540

(2) Guilty of dishonesty or unprofessional conduct in the 1541
practice of pharmacy; 1542

(3) Addicted to or abusing liquor or drugs or impaired 1543
physically or mentally to such a degree as to render the 1544
pharmacist or pharmacy intern unfit to practice pharmacy; 1545

(4) ~~Has been convicted of a misdemeanor related to, or~~ 1546
~~committed in, the practice of pharmacy;~~ 1547

~~(5)~~ Guilty of willfully violating, conspiring to violate, 1548
attempting to violate, or aiding and abetting the violation of any 1549
of the provisions of this chapter, sections 3715.52 to 3715.72 of 1550
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 1551
any rule adopted by the board under those provisions; 1552

~~(6)~~(5) Guilty of permitting anyone other than a pharmacist or 1553
pharmacy intern to practice pharmacy; 1554

~~(7)~~(6) Guilty of knowingly lending the pharmacist's or 1555
pharmacy intern's name to an illegal practitioner of pharmacy or 1556
having professional connection with an illegal practitioner of 1557
pharmacy; 1558

~~(8)~~(7) Guilty of dividing or agreeing to divide remuneration 1559
made in the practice of pharmacy with any other individual, 1560
including, but not limited to, any licensed health professional 1561
authorized to prescribe drugs or any owner, manager, or employee 1562
of a health care facility, residential care facility, or nursing 1563
home; 1564

~~(9)~~(8) Has violated the terms of a consult agreement entered 1565
into pursuant to section 4729.39 of the Revised Code; 1566

~~(10)~~(9) Has committed fraud, misrepresentation, or deception 1567
in applying for or securing a license or identification card 1568
issued by the board under this chapter or under Chapter 3715. or 1569
3719. of the Revised Code. 1570

(B) Any individual whose identification card is revoked, 1571
suspended, or refused, shall return the identification card and 1572
license to the offices of the state board of pharmacy within ten 1573
days after receipt of notice of such action. 1574

(C) As used in this section: 1575

(1) "Unprofessional conduct in the practice of pharmacy" 1576
includes any of the following: 1577

~~(1)~~(a) Advertising or displaying signs that promote dangerous 1578
drugs to the public in a manner that is false or misleading; 1579

~~(2)~~(b) Except as provided in section 4729.281 of the Revised 1580
Code, the sale of any drug for which a prescription is required, 1581
without having received a prescription for the drug; 1582

~~(3)~~(c) Knowingly dispensing medication pursuant to false or 1583
forged prescriptions; 1584

~~(4)~~(d) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;

~~(5)~~(e) Obtaining any remuneration by fraud, misrepresentation, or deception.

(2) A "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

(D) The board may suspend a license or identification card under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.

(E) If, pursuant to an adjudication under Chapter 119. of the Revised Code, the board has reasonable cause to believe that a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the pharmacist or pharmacy intern to submit to a physical or mental examination, or both.

Sec. 4729.53. (A) The board of pharmacy shall not register any person as a wholesale distributor of dangerous drugs unless the applicant for registration furnishes satisfactory proof to the board of pharmacy that ~~he~~ the applicant meets all of the following:

(1) That if the applicant has been convicted of or pleaded guilty to a violation of any federal, state, or local law relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances or of a ~~felony~~ criminal offense substantially related to the profession of wholesale distributor of dangerous drugs, or if a federal, state, or local governmental entity has suspended or revoked any current or prior license or registration of the applicant for the manufacture or sale of any dangerous drugs, including controlled substances, the

applicant, to the satisfaction of the board, assures that ~~he~~ the 1615
applicant has in place adequate safeguards to prevent the 1616
recurrence of any such violations; 1617

(2) The applicant's past experience in the manufacture or 1618
distribution of dangerous drugs, including controlled substances, 1619
is acceptable to the board. 1620

(3) The applicant is equipped as to land, buildings, 1621
equipment, and personnel to properly carry on the business of a 1622
wholesale distributor of dangerous drugs, including providing 1623
adequate security for and proper storage conditions and handling 1624
for dangerous drugs, and is complying with the requirements under 1625
this chapter and the rules adopted pursuant thereto for 1626
maintaining and making available records to properly identified 1627
board officials and federal, state, and local law enforcement 1628
agencies. 1629

(4) Personnel employed by the applicant have the appropriate 1630
education or experience, as determined by the board, to assume 1631
responsibility for positions related to compliance with this 1632
chapter and the rules adopted pursuant thereto. 1633

(5) The applicant has designated the name and address of a 1634
person to whom communications from the board may be directed and 1635
upon whom the notices and citations provided for in section 1636
4729.56 of the Revised Code may be served. 1637

(6) Adequate safeguards are assured to prevent the sale of 1638
dangerous drugs to any person other than those named in division 1639
(B) of section 4729.51 of the Revised Code. 1640

(7) Any other requirement or qualification the board, by rule 1641
adopted in accordance with Chapter 119. of the Revised Code, 1642
considers relevant to and consistent with the public safety and 1643
health. 1644

(B) The board may refuse to register or renew the 1645

registration certificate of any person if the board determines 1646
that the granting of the registration certificate or its renewal 1647
is not in the public interest. 1648

(C) As used in this section, a "criminal offense that is 1649
substantially related" has the same meaning as in section 4743.06 1650
of the Revised Code. 1651

Sec. 4729.56. (A) In accordance with Chapter 119. of the 1652
Revised Code, the board of pharmacy may suspend, revoke, or refuse 1653
to renew any registration certificate issued to a wholesale 1654
distributor of dangerous drugs pursuant to section 4729.52 of the 1655
Revised Code or may impose a monetary penalty or forfeiture not to 1656
exceed in severity any fine designated under the Revised Code for 1657
a similar offense or one thousand dollars if the acts committed 1658
are not classified as an offense by the Revised Code for any of 1659
the following causes: 1660

(1) Making any false material statements in an application 1661
for registration as a wholesale distributor of dangerous drugs; 1662

(2) Violating any federal, state, or local drug law; any 1663
provision of this chapter or Chapter 2925., 3715., or 3719. of the 1664
Revised Code; or any rule of the board; 1665

(3) A conviction of ~~a felony~~ or plea of guilty to a criminal 1666
offense that is substantially related to the practice of pharmacy; 1667

(4) Ceasing to satisfy the qualifications for registration 1668
under section 4729.53 of the Revised Code or the rules of the 1669
board. 1670

(B) Upon the suspension or revocation of the registration 1671
certificate of any wholesale distributor of dangerous drugs, the 1672
distributor shall immediately surrender ~~his~~ the distributor's 1673
registration certificate to the board. 1674

(C) If the board suspends, revokes, or refuses to renew any 1675

registration certificate issued to a wholesale distributor of 1676
dangerous drugs and determines that there is clear and convincing 1677
evidence of a danger of immediate and serious harm to any person, 1678
the board may place under seal all dangerous drugs owned by or in 1679
the possession, custody, or control of the affected wholesale 1680
distributor of dangerous drugs. Except as provided in this 1681
division, the board shall not dispose of the dangerous drugs 1682
sealed under this division until the wholesale distributor of 1683
dangerous drugs exhausts all of ~~his~~ the distributor's appeal 1684
rights under Chapter 119. of the Revised Code. The court involved 1685
in such an appeal may order the board, during the pendency of the 1686
appeal, to sell sealed dangerous drugs that are perishable. The 1687
board shall deposit the proceeds of the sale with the court. 1688

(D) As used in this section, a "criminal offense that is 1689
substantially related" has the same meaning as in section 4743.06 1690
of the Revised Code. 1691

Sec. 4730.25. (A) The state medical board, by an affirmative 1692
vote of not fewer than six members, may revoke or may refuse to 1693
grant a certificate to practice as a physician assistant or a 1694
certificate to prescribe to a person found by the board to have 1695
committed fraud, misrepresentation, or deception in applying for 1696
or securing the certificate. 1697

(B) The board, by an affirmative vote of not fewer than six 1698
members, shall, to the extent permitted by law, limit, revoke, or 1699
suspend an individual's certificate to practice as a physician 1700
assistant or certificate to prescribe, refuse to issue a 1701
certificate to an applicant, refuse to reinstate a certificate, or 1702
reprimand or place on probation the holder of a certificate for 1703
any of the following reasons: 1704

(1) Failure to practice in accordance with the conditions 1705
under which the supervising physician's supervision agreement with 1706

the physician assistant was approved, including the requirement 1707
that when practicing under a particular supervising physician, the 1708
physician assistant must practice only according to the physician 1709
supervisory plan the board approved for that physician or the 1710
policies of the health care facility in which the supervising 1711
physician and physician assistant are practicing; 1712

(2) Failure to comply with the requirements of this chapter, 1713
Chapter 4731. of the Revised Code, or any rules adopted by the 1714
board; 1715

(3) Violating or attempting to violate, directly or 1716
indirectly, or assisting in or abetting the violation of, or 1717
conspiring to violate, any provision of this chapter, Chapter 1718
4731. of the Revised Code, or the rules adopted by the board; 1719

(4) Inability to practice according to acceptable and 1720
prevailing standards of care by reason of mental illness or 1721
physical illness, including physical deterioration that adversely 1722
affects cognitive, motor, or perceptive skills; 1723

(5) Impairment of ability to practice according to acceptable 1724
and prevailing standards of care because of habitual or excessive 1725
use or abuse of drugs, alcohol, or other substances that impair 1726
ability to practice; 1727

(6) Administering drugs for purposes other than those 1728
authorized under this chapter; 1729

(7) Willfully betraying a professional confidence; 1730

(8) Making a false, fraudulent, deceptive, or misleading 1731
statement in soliciting or advertising for employment as a 1732
physician assistant; in connection with any solicitation or 1733
advertisement for patients; in relation to the practice of 1734
medicine as it pertains to physician assistants; or in securing or 1735
attempting to secure a certificate to practice as a physician 1736
assistant, a certificate to prescribe, or approval of a 1737

supervision agreement. 1738

As used in this division, "false, fraudulent, deceptive, or 1739
misleading statement" means a statement that includes a 1740
misrepresentation of fact, is likely to mislead or deceive because 1741
of a failure to disclose material facts, is intended or is likely 1742
to create false or unjustified expectations of favorable results, 1743
or includes representations or implications that in reasonable 1744
probability will cause an ordinarily prudent person to 1745
misunderstand or be deceived. 1746

(9) Representing, with the purpose of obtaining compensation 1747
or other advantage personally or for any other person, that an 1748
incurable disease or injury, or other incurable condition, can be 1749
permanently cured; 1750

(10) The obtaining of, or attempting to obtain, money or 1751
anything of value by fraudulent misrepresentations in the course 1752
of practice; 1753

(11) A plea of guilty to, a judicial finding of guilt of, or 1754
a judicial finding of eligibility for intervention in lieu of 1755
conviction for, a felony criminal offense that is substantially 1756
related to practice as a physician assistant; 1757

(12) Commission of an act that constitutes a felony criminal 1758
offense that is substantially related to practice as a physician 1759
assistant in this state, regardless of the jurisdiction in which 1760
the act was committed; 1761

~~(13) A plea of guilty to, a judicial finding of guilt of, or 1762
a judicial finding of eligibility for intervention in lieu of 1763
conviction for, a misdemeanor committed in the course of practice; 1764~~

~~(14) A plea of guilty to, a judicial finding of guilt of, or 1765
a judicial finding of eligibility for intervention in lieu of 1766
conviction for, a misdemeanor involving moral turpitude; 1767~~

(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	1768
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(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	1771
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(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;	1774
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(18) <u>(14)</u> Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	1779
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(19) <u>(15)</u> A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established;	1787
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(20) <u>(16)</u> Violation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement;	1791
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	1793
(21) <u>(17)</u> Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;	1794
	1795
	1796
(22) <u>(18)</u> Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including	1797
	1798

failure to comply with a subpoena or order issued by the board or 1799
failure to answer truthfully a question presented by the board at 1800
a deposition or in written interrogatories, except that failure to 1801
cooperate with an investigation shall not constitute grounds for 1802
discipline under this section if a court of competent jurisdiction 1803
has issued an order that either quashes a subpoena or permits the 1804
individual to withhold the testimony or evidence in issue; 1805

~~(23)~~(19) Assisting suicide as defined in section 3795.01 of 1806
the Revised Code; 1807

~~(24)~~(20) Prescribing any drug or device to perform or induce 1808
an abortion, or otherwise performing or inducing an abortion. 1809

(C) Disciplinary actions taken by the board under divisions 1810
(A) and (B) of this section shall be taken pursuant to an 1811
adjudication under Chapter 119. of the Revised Code, except that 1812
in lieu of an adjudication, the board may enter into a consent 1813
agreement with a physician assistant or applicant to resolve an 1814
allegation of a violation of this chapter or any rule adopted 1815
under it. A consent agreement, when ratified by an affirmative 1816
vote of not fewer than six members of the board, shall constitute 1817
the findings and order of the board with respect to the matter 1818
addressed in the agreement. If the board refuses to ratify a 1819
consent agreement, the admissions and findings contained in the 1820
consent agreement shall be of no force or effect. 1821

(D) For purposes of ~~divisions~~ division (B)(12), ~~(15)~~, and 1822
~~(16)~~ of this section, the commission of the act may be established 1823
by a finding by the board, pursuant to an adjudication under 1824
Chapter 119. of the Revised Code, that the applicant or 1825
certificate holder committed the act in question. The board shall 1826
have no jurisdiction under ~~these divisions~~ that division in cases 1827
where the trial court renders a final judgment in the certificate 1828
holder's favor and that judgment is based upon an adjudication on 1829
the merits. The board shall have jurisdiction under ~~these~~ 1830

~~divisions~~ that division in cases where the trial court issues an 1831
order of dismissal upon technical or procedural grounds. 1832

(E) The sealing of conviction records by any court shall have 1833
no effect upon a prior board order entered under the provisions of 1834
this section or upon the board's jurisdiction to take action under 1835
the provisions of this section if, based upon a plea of guilty, a 1836
judicial finding of guilt, or a judicial finding of eligibility 1837
for intervention in lieu of conviction, the board issued a notice 1838
of opportunity for a hearing prior to the court's order to seal 1839
the records. The board shall not be required to seal, destroy, 1840
redact, or otherwise modify its records to reflect the court's 1841
sealing of conviction records. 1842

(F) For purposes of this division, any individual who holds a 1843
certificate issued under this chapter, or applies for a 1844
certificate issued under this chapter, shall be deemed to have 1845
given consent to submit to a mental or physical examination when 1846
directed to do so in writing by the board and to have waived all 1847
objections to the admissibility of testimony or examination 1848
reports that constitute a privileged communication. 1849

(1) In enforcing division (B)(4) of this section, the board, 1850
upon a showing of a possible violation, may compel any individual 1851
who holds a certificate issued under this chapter or who has 1852
applied for a certificate pursuant to this chapter to submit to a 1853
mental examination, physical examination, including an HIV test, 1854
or both a mental and physical examination. The expense of the 1855
examination is the responsibility of the individual compelled to 1856
be examined. Failure to submit to a mental or physical examination 1857
or consent to an HIV test ordered by the board constitutes an 1858
admission of the allegations against the individual unless the 1859
failure is due to circumstances beyond the individual's control, 1860
and a default and final order may be entered without the taking of 1861
testimony or presentation of evidence. If the board finds a 1862

physician assistant unable to practice because of the reasons set 1863
forth in division (B)(4) of this section, the board shall require 1864
the physician assistant to submit to care, counseling, or 1865
treatment by physicians approved or designated by the board, as a 1866
condition for an initial, continued, reinstated, or renewed 1867
certificate. An individual affected under this division shall be 1868
afforded an opportunity to demonstrate to the board the ability to 1869
resume practicing in compliance with acceptable and prevailing 1870
standards of care. 1871

(2) For purposes of division (B)(5) of this section, if the 1872
board has reason to believe that any individual who holds a 1873
certificate issued under this chapter or any applicant for a 1874
certificate suffers such impairment, the board may compel the 1875
individual to submit to a mental or physical examination, or both. 1876
The expense of the examination is the responsibility of the 1877
individual compelled to be examined. Any mental or physical 1878
examination required under this division shall be undertaken by a 1879
treatment provider or physician qualified to conduct such 1880
examination and chosen by the board. 1881

Failure to submit to a mental or physical examination ordered 1882
by the board constitutes an admission of the allegations against 1883
the individual unless the failure is due to circumstances beyond 1884
the individual's control, and a default and final order may be 1885
entered without the taking of testimony or presentation of 1886
evidence. If the board determines that the individual's ability to 1887
practice is impaired, the board shall suspend the individual's 1888
certificate or deny the individual's application and shall require 1889
the individual, as a condition for initial, continued, reinstated, 1890
or renewed certification to practice or prescribe, to submit to 1891
treatment. 1892

Before being eligible to apply for reinstatement of a 1893
certificate suspended under this division, the physician assistant 1894

shall demonstrate to the board the ability to resume practice or
prescribing in compliance with acceptable and prevailing standards
of care. The demonstration shall include 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 such
assessments and shall describe the basis for their determination.

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

When the impaired physician assistant resumes practice or
prescribing, the board shall require continued monitoring of the
physician assistant. The monitoring shall include compliance with
the written consent agreement entered into before reinstatement or
with conditions imposed by board order after a hearing, and, upon
termination of the consent agreement, submission to the board for
at least two years of annual written progress reports made under
penalty of falsification stating whether the physician assistant
has maintained sobriety.

(G) If the secretary and supervising member determine that
there is clear and convincing evidence that a physician assistant
has violated division (B) of this section and that the
individual's continued practice or prescribing presents a danger
of immediate and serious harm to the public, they may recommend

that the board suspend the individual's certificate to practice or 1926
prescribe without a prior hearing. Written allegations shall be 1927
prepared for consideration by the board. 1928

The board, upon review of those allegations and by an 1929
affirmative vote of not fewer than six of its members, excluding 1930
the secretary and supervising member, may suspend a certificate 1931
without a prior hearing. A telephone conference call may be 1932
utilized for reviewing the allegations and taking the vote on the 1933
summary suspension. 1934

The board shall issue a written order of suspension by 1935
certified mail or in person in accordance with section 119.07 of 1936
the Revised Code. The order shall not be subject to suspension by 1937
the court during pendency of any appeal filed under section 119.12 1938
of the Revised Code. If the physician assistant requests an 1939
adjudicatory hearing by the board, the date set for the hearing 1940
shall be within fifteen days, but not earlier than seven days, 1941
after the physician assistant requests the hearing, unless 1942
otherwise agreed to by both the board and the certificate holder. 1943

A summary suspension imposed under this division shall remain 1944
in effect, unless reversed on appeal, until a final adjudicative 1945
order issued by the board pursuant to this section and Chapter 1946
119. of the Revised Code becomes effective. The board shall issue 1947
its final adjudicative order within sixty days after completion of 1948
its hearing. Failure to issue the order within sixty days shall 1949
result in dissolution of the summary suspension order, but shall 1950
not invalidate any subsequent, final adjudicative order. 1951

(H) If the board takes action under division (B)(11),~~(13)~~, 1952
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 1953
plea, or judicial finding of eligibility for intervention in lieu 1954
of conviction is overturned on appeal, upon exhaustion of the 1955
criminal appeal, a petition for reconsideration of the order may 1956
be filed with the board along with appropriate court documents. 1957

Upon receipt of a petition and supporting court documents, the 1958
board shall reinstate the certificate to practice or prescribe. 1959
The board may then hold an adjudication under Chapter 119. of the 1960
Revised Code to determine whether the individual committed the act 1961
in question. Notice of opportunity for hearing shall be given in 1962
accordance with Chapter 119. of the Revised Code. If the board 1963
finds, pursuant to an adjudication held under this division, that 1964
the individual committed the act, or if no hearing is requested, 1965
it may order any of the sanctions identified under division (B) of 1966
this section. 1967

(I) The certificate to practice issued to a physician 1968
assistant and the physician assistant's practice in this state are 1969
automatically suspended as of the date the physician assistant 1970
pleads guilty to, is found by a judge or jury to be guilty of, or 1971
is subject to a judicial finding of eligibility for intervention 1972
in lieu of conviction in this state or treatment or intervention 1973
in lieu of conviction in another state for any of the following 1974
criminal offenses in this state or a substantially equivalent 1975
criminal offense in another jurisdiction: aggravated murder, 1976
murder, voluntary manslaughter, felonious assault, kidnapping, 1977
rape, sexual battery, gross sexual imposition, aggravated arson, 1978
aggravated robbery, or aggravated burglary. Continued practice 1979
after the suspension shall be considered practicing without a 1980
certificate. 1981

The board shall notify the individual subject to the 1982
suspension by certified mail or in person in accordance with 1983
section 119.07 of the Revised Code. If an individual whose 1984
certificate is suspended under this division fails to make a 1985
timely request for an adjudication under Chapter 119. of the 1986
Revised Code, the board shall enter a final order permanently 1987
revoking the individual's certificate to practice. 1988

(J) In any instance in which the board is required by Chapter 1989

119. of the Revised Code to give notice of opportunity for hearing 1990
and the individual subject to the notice does not timely request a 1991
hearing in accordance with section 119.07 of the Revised Code, the 1992
board is not required to hold a hearing, but may adopt, by an 1993
affirmative vote of not fewer than six of its members, a final 1994
order that contains the board's findings. In that final order, the 1995
board may order any of the sanctions identified under division (A) 1996
or (B) of this section. 1997

(K) Any action taken by the board under division (B) of this 1998
section resulting in a suspension shall be accompanied by a 1999
written statement of the conditions under which the physician 2000
assistant's certificate may be reinstated. The board shall adopt 2001
rules in accordance with Chapter 119. of the Revised Code 2002
governing conditions to be imposed for reinstatement. 2003
Reinstatement of a certificate suspended pursuant to division (B) 2004
of this section requires an affirmative vote of not fewer than six 2005
members of the board. 2006

(L) When the board refuses to grant to an applicant a 2007
certificate to practice as a physician assistant or a certificate 2008
to prescribe, revokes an individual's certificate, refuses to 2009
issue a certificate, or refuses to reinstate an individual's 2010
certificate, the board may specify that its action is permanent. 2011
An individual subject to a permanent action taken by the board is 2012
forever thereafter ineligible to hold the certificate and the 2013
board shall not accept an application for reinstatement of the 2014
certificate or for issuance of a new certificate. 2015

(M) Notwithstanding any other provision of the Revised Code, 2016
all of the following apply: 2017

(1) The surrender of a certificate issued under this chapter 2018
is not effective unless or until accepted by the board. 2019
Reinstatement of a certificate surrendered to the board requires 2020
an affirmative vote of not fewer than six members of the board. 2021

(2) An application made under this chapter for a certificate, approval of a physician supervisory plan, or approval of a supervision agreement may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate in accordance with section 4730.14 or section 4730.48 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(N) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

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

(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, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

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

(2) Failure to maintain minimal standards applicable to the

selection or administration of drugs, or failure to employ 2052
acceptable scientific methods in the selection of drugs or other 2053
modalities for treatment of disease; 2054

(3) Selling, giving away, personally furnishing, prescribing, 2055
or administering drugs for other than legal and legitimate 2056
therapeutic purposes or a plea of guilty to, a judicial finding of 2057
guilt of, or a judicial finding of eligibility for intervention in 2058
lieu of conviction of, a violation of any federal or state law 2059
regulating the possession, distribution, or use of any drug; 2060

(4) Willfully betraying a professional confidence. 2061

For purposes of this division, "willfully betraying a 2062
professional confidence" does not include providing any 2063
information, documents, or reports to a child fatality review 2064
board under sections 307.621 to 307.629 of the Revised Code and 2065
does not include the making of a report of an employee's use of a 2066
drug of abuse, or a report of a condition of an employee other 2067
than one involving the use of a drug of abuse, to the employer of 2068
the employee as described in division (B) of section 2305.33 of 2069
the Revised Code. Nothing in this division affects the immunity 2070
from civil liability conferred by that section upon a physician 2071
who makes either type of report in accordance with division (B) of 2072
that section. As used in this division, "employee," "employer," 2073
and "physician" have the same meanings as in section 2305.33 of 2074
the Revised Code. 2075

(5) Making a false, fraudulent, deceptive, or misleading 2076
statement in the solicitation of or advertising for patients; in 2077
relation to the practice of medicine and surgery, osteopathic 2078
medicine and surgery, podiatric medicine and surgery, or a limited 2079
branch of medicine; or in securing or attempting to secure any 2080
certificate to practice or certificate of registration issued by 2081
the board. 2082

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.

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

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

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

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony criminal offense that is substantially related to the practice of medicine;

(10) Commission of an act that constitutes ~~a felony~~ in this state a criminal offense that is substantially related to the practice of medicine, regardless of the jurisdiction in which the act was committed;

~~(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;~~

~~(12) Commission of an act in the course of practice that~~

~~constitutes a misdemeanor in this state, regardless of the~~ 2114
~~jurisdiction in which the act was committed;~~ 2115

~~(13) A plea of guilty to, a judicial finding of guilt of, or~~ 2116
~~a judicial finding of eligibility for intervention in lieu of~~ 2117
~~conviction for, a misdemeanor involving moral turpitude;~~ 2118

~~(14) Commission of an act involving moral turpitude that~~ 2119
~~constitutes a misdemeanor in this state, regardless of the~~ 2120
~~jurisdiction in which the act was committed;~~ 2121

~~(15) Violation of the conditions of limitation placed by the~~ 2122
board upon a certificate to practice; 2123

~~(16)~~(12) Failure to pay license renewal fees specified in 2124
this chapter; 2125

~~(17)~~(13) Except as authorized in section 4731.31 of the 2126
Revised Code, engaging in the division of fees for referral of 2127
patients, or the receiving of a thing of value in return for a 2128
specific referral of a patient to utilize a particular service or 2129
business; 2130

~~(18)~~(14) Subject to section 4731.226 of the Revised Code, 2131
violation of any provision of a code of ethics of the American 2132
medical association, the American osteopathic association, the 2133
American podiatric medical association, or any other national 2134
professional organizations that the board specifies by rule. The 2135
state medical board shall obtain and keep on file current copies 2136
of the codes of ethics of the various national professional 2137
organizations. The individual whose certificate is being suspended 2138
or revoked shall not be found to have violated any provision of a 2139
code of ethics of an organization not appropriate to the 2140
individual's profession. 2141

For purposes of this division, a "provision of a code of 2142
ethics of a national professional organization" does not include 2143
any provision that would preclude the making of a report by a 2144

physician of an employee's use of a drug of abuse, or of a 2145
condition of an employee other than one involving the use of a 2146
drug of abuse, to the employer of the employee as described in 2147
division (B) of section 2305.33 of the Revised Code. Nothing in 2148
this division affects the immunity from civil liability conferred 2149
by that section upon a physician who makes either type of report 2150
in accordance with division (B) of that section. As used in this 2151
division, "employee," "employer," and "physician" have the same 2152
meanings as in section 2305.33 of the Revised Code. 2153

~~(19)~~(15) Inability to practice according to acceptable and 2154
prevailing standards of care by reason of mental illness or 2155
physical illness, including, but not limited to, physical 2156
deterioration that adversely affects cognitive, motor, or 2157
perceptive skills. 2158

In enforcing this division, the board, upon a showing of a 2159
possible violation, may compel any individual authorized to 2160
practice by this chapter or who has submitted an application 2161
pursuant to this chapter to submit to a mental examination, 2162
physical examination, including an HIV test, or both a mental and 2163
a physical examination. The expense of the examination is the 2164
responsibility of the individual compelled to be examined. Failure 2165
to submit to a mental or physical examination or consent to an HIV 2166
test ordered by the board constitutes an admission of the 2167
allegations against the individual unless the failure is due to 2168
circumstances beyond the individual's control, and a default and 2169
final order may be entered without the taking of testimony or 2170
presentation of evidence. If the board finds an individual unable 2171
to practice because of the reasons set forth in this division, the 2172
board shall require the individual to submit to care, counseling, 2173
or treatment by physicians approved or designated by the board, as 2174
a condition for initial, continued, reinstated, or renewed 2175
authority to practice. An individual affected under this division 2176

shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

~~(20)~~(16) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

~~(21)~~(17) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the public health council

pursuant to section 3701.341 of the Revised Code; 2209

~~(22)~~(18) Any of the following actions taken by the agency 2210
responsible for regulating the practice of medicine and surgery, 2211
osteopathic medicine and surgery, podiatric medicine and surgery, 2212
or the limited branches of medicine in another jurisdiction, for 2213
any reason other than the nonpayment of fees: the limitation, 2214
revocation, or suspension of an individual's license to practice; 2215
acceptance of an individual's license surrender; denial of a 2216
license; refusal to renew or reinstate a license; imposition of 2217
probation; or issuance of an order of censure or other reprimand; 2218

~~(23)~~(19) The violation of section 2919.12 of the Revised Code 2219
or the performance or inducement of an abortion upon a pregnant 2220
woman with actual knowledge that the conditions specified in 2221
division (B) of section 2317.56 of the Revised Code have not been 2222
satisfied or with a heedless indifference as to whether those 2223
conditions have been satisfied, unless an affirmative defense as 2224
specified in division (H)(2) of that section would apply in a 2225
civil action authorized by division (H)(1) of that section; 2226

~~(24)~~(20) The revocation, suspension, restriction, reduction, 2227
or termination of clinical privileges by the United States 2228
department of defense or department of veterans affairs or the 2229
termination or suspension of a certificate of registration to 2230
prescribe drugs by the drug enforcement administration of the 2231
United States department of justice; 2232

~~(25)~~(21) Termination or suspension from participation in the 2233
medicare or medicaid programs by the department of health and 2234
human services or other responsible agency for any act or acts 2235
that also would constitute a violation of division (B)(2), (3), 2236
(6), (8), or ~~(19)~~(15) of this section; 2237

~~(26)~~(22) Impairment of ability to practice according to 2238
acceptable and prevailing standards of care because of habitual or 2239

excessive use or abuse of drugs, alcohol, or other substances that 2240
impair ability to practice. 2241

For the purposes of this division, any individual authorized 2242
to practice by this chapter accepts the privilege of practicing in 2243
this state subject to supervision by the board. By filing an 2244
application for or holding a certificate to practice under this 2245
chapter, an individual shall be deemed to have given consent to 2246
submit to a mental or physical examination when ordered to do so 2247
by the board in writing, and to have waived all objections to the 2248
admissibility of testimony or examination reports that constitute 2249
privileged communications. 2250

If it has reason to believe that any individual authorized to 2251
practice by this chapter or any applicant for certification to 2252
practice suffers such impairment, the board may compel the 2253
individual to submit to a mental or physical examination, or both. 2254
The expense of the examination is the responsibility of the 2255
individual compelled to be examined. Any mental or physical 2256
examination required under this division shall be undertaken by a 2257
treatment provider or physician who is qualified to conduct the 2258
examination and who is chosen by the board. 2259

Failure to submit to a mental or physical examination ordered 2260
by the board constitutes an admission of the allegations against 2261
the individual unless the failure is due to circumstances beyond 2262
the individual's control, and a default and final order may be 2263
entered without the taking of testimony or presentation of 2264
evidence. If the board determines that the individual's ability to 2265
practice is impaired, the board shall suspend the individual's 2266
certificate or deny the individual's application and shall require 2267
the individual, as a condition for initial, continued, reinstated, 2268
or renewed certification to practice, to submit to treatment. 2269

Before being eligible to apply for reinstatement of a 2270
certificate suspended under this division, the impaired 2271

practitioner shall demonstrate to the board the ability to resume 2272
practice in compliance with acceptable and prevailing standards of 2273
care under the provisions of the practitioner's certificate. The 2274
demonstration shall include, but shall not be limited to, the 2275
following: 2276

(a) Certification from a treatment provider approved under 2277
section 4731.25 of the Revised Code that the individual has 2278
successfully completed any required inpatient treatment; 2279

(b) Evidence of continuing full compliance with an aftercare 2280
contract or consent agreement; 2281

(c) Two written reports indicating that the individual's 2282
ability to practice has been assessed and that the individual has 2283
been found capable of practicing according to acceptable and 2284
prevailing standards of care. The reports shall be made by 2285
individuals or providers approved by the board for making the 2286
assessments and shall describe the basis for their determination. 2287

The board may reinstate a certificate suspended under this 2288
division after that demonstration and after the individual has 2289
entered into a written consent agreement. 2290

When the impaired practitioner resumes practice, the board 2291
shall require continued monitoring of the individual. The 2292
monitoring shall include, but not be limited to, compliance with 2293
the written consent agreement entered into before reinstatement or 2294
with conditions imposed by board order after a hearing, and, upon 2295
termination of the consent agreement, submission to the board for 2296
at least two years of annual written progress reports made under 2297
penalty of perjury stating whether the individual has maintained 2298
sobriety. 2299

~~(27)~~(23) A second or subsequent violation of section 4731.66 2300
or 4731.69 of the Revised Code; 2301

~~(28)~~(24) Except as provided in division (N) of this section: 2302

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

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

~~(29)~~(25) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

~~(30)~~(26) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

~~(31)~~(27) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

~~(32)~~(28) 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)~~(29) Failure to comply with the terms of a consult

agreement entered into with a pharmacist pursuant to section 2334
4729.39 of the Revised Code; 2335

~~(34)~~(30) Failure to cooperate in an investigation conducted 2336
by the board under division (F) of this section, including failure 2337
to comply with a subpoena or order issued by the board or failure 2338
to answer truthfully a question presented by the board at a 2339
deposition or in written interrogatories, except that failure to 2340
cooperate with an investigation shall not constitute grounds for 2341
discipline under this section if a court of competent jurisdiction 2342
has issued an order that either quashes a subpoena or permits the 2343
individual to withhold the testimony or evidence in issue; 2344

~~(35)~~(31) Failure to supervise an acupuncturist in accordance 2345
with Chapter 4762. of the Revised Code and the board's rules for 2346
supervision of an acupuncturist; 2347

~~(36)~~(32) Failure to supervise an anesthesiologist assistant 2348
in accordance with Chapter 4760. of the Revised Code and the 2349
board's rules for supervision of an anesthesiologist assistant; 2350

~~(37)~~(33) Assisting suicide as defined in section 3795.01 of 2351
the Revised Code; 2352

~~(38)~~(34) Failure to comply with the requirements of section 2353
2317.561 of the Revised Code; 2354

~~(39)~~(35) Failure to supervise a radiologist assistant in 2355
accordance with Chapter 4774. of the Revised Code and the board's 2356
rules for supervision of radiologist assistants. 2357

(C) Disciplinary actions taken by the board under divisions 2358
(A) and (B) of this section shall be taken pursuant to an 2359
adjudication under Chapter 119. of the Revised Code, except that 2360
in lieu of an adjudication, the board may enter into a consent 2361
agreement with an individual to resolve an allegation of a 2362
violation of this chapter or any rule adopted under it. A consent 2363
agreement, when ratified by an affirmative vote of not fewer than 2364

six members of the board, shall constitute the findings and order 2365
of the board with respect to the matter addressed in the 2366
agreement. If the board refuses to ratify a consent agreement, the 2367
admissions and findings contained in the consent agreement shall 2368
be of no force or effect. 2369

If the board takes disciplinary action against an individual 2370
under division (B) of this section for a second or subsequent plea 2371
of guilty to, or judicial finding of guilt of, a violation of 2372
section 2919.123 of the Revised Code, the disciplinary action 2373
shall consist of a suspension of the individual's certificate to 2374
practice for a period of at least one year or, if determined 2375
appropriate by the board, a more serious sanction involving the 2376
individual's certificate to practice. Any consent agreement 2377
entered into under this division with an individual that pertains 2378
to a second or subsequent plea of guilty to, or judicial finding 2379
of guilt of, a violation of that section shall provide for a 2380
suspension of the individual's certificate to practice for a 2381
period of at least one year or, if determined appropriate by the 2382
board, a more serious sanction involving the individual's 2383
certificate to practice. 2384

(D) For purposes of ~~divisions~~ division (B)(10), ~~(12), and~~ 2385
~~(14)~~ of this section, the commission of the act may be established 2386
by a finding by the board, pursuant to an adjudication under 2387
Chapter 119. of the Revised Code, that the individual committed 2388
the act. The board does not have jurisdiction under ~~these~~ 2389
~~divisions~~ that division if the trial court renders a final 2390
judgment in the individual's favor and that judgment is based upon 2391
an adjudication on the merits. The board has jurisdiction under 2392
~~these divisions~~ that division if the trial court issues an order 2393
of dismissal upon technical or procedural grounds. 2394

(E) The sealing of conviction records by any court shall have 2395
no effect upon a prior board order entered under this section or 2396

upon the board's jurisdiction to take action under this section 2397
if, based upon a plea of guilty, a judicial finding of guilt, or a 2398
judicial finding of eligibility for intervention in lieu of 2399
conviction, the board issued a notice of opportunity for a hearing 2400
prior to the court's order to seal the records. The board shall 2401
not be required to seal, destroy, redact, or otherwise modify its 2402
records to reflect the court's sealing of conviction records. 2403

(F)(1) The board shall investigate evidence that appears to 2404
show that a person has violated any provision of this chapter or 2405
any rule adopted under it. Any person may report to the board in a 2406
signed writing any information that the person may have that 2407
appears to show a violation of any provision of this chapter or 2408
any rule adopted under it. In the absence of bad faith, any person 2409
who reports information of that nature or who testifies before the 2410
board in any adjudication conducted under Chapter 119. of the 2411
Revised Code shall not be liable in damages in a civil action as a 2412
result of the report or testimony. Each complaint or allegation of 2413
a violation received by the board shall be assigned a case number 2414
and shall be recorded by the board. 2415

(2) Investigations of alleged violations of this chapter or 2416
any rule adopted under it shall be supervised by the supervising 2417
member elected by the board in accordance with section 4731.02 of 2418
the Revised Code and by the secretary as provided in section 2419
4731.39 of the Revised Code. The president may designate another 2420
member of the board to supervise the investigation in place of the 2421
supervising member. No member of the board who supervises the 2422
investigation of a case shall participate in further adjudication 2423
of the case. 2424

(3) In investigating a possible violation of this chapter or 2425
any rule adopted under this chapter, the board may administer 2426
oaths, order the taking of depositions, issue subpoenas, and 2427
compel the attendance of witnesses and production of books, 2428

accounts, papers, records, documents, and testimony, except that a 2429
subpoena for patient record information shall not be issued 2430
without consultation with the attorney general's office and 2431
approval of the secretary and supervising member of the board. 2432
Before issuance of a subpoena for patient record information, the 2433
secretary and supervising member shall determine whether there is 2434
probable cause to believe that the complaint filed alleges a 2435
violation of this chapter or any rule adopted under it and that 2436
the records sought are relevant to the alleged violation and 2437
material to the investigation. The subpoena may apply only to 2438
records that cover a reasonable period of time surrounding the 2439
alleged violation. 2440

On failure to comply with any subpoena issued by the board 2441
and after reasonable notice to the person being subpoenaed, the 2442
board may move for an order compelling the production of persons 2443
or records pursuant to the Rules of Civil Procedure. 2444

A subpoena issued by the board may be served by a sheriff, 2445
the sheriff's deputy, or a board employee designated by the board. 2446
Service of a subpoena issued by the board may be made by 2447
delivering a copy of the subpoena to the person named therein, 2448
reading it to the person, or leaving it at the person's usual 2449
place of residence. When the person being served is a person whose 2450
practice is authorized by this chapter, service of the subpoena 2451
may be made by certified mail, restricted delivery, return receipt 2452
requested, and the subpoena shall be deemed served on the date 2453
delivery is made or the date the person refuses to accept 2454
delivery. 2455

A sheriff's deputy who serves a subpoena shall receive the 2456
same fees as a sheriff. Each witness who appears before the board 2457
in obedience to a subpoena shall receive the fees and mileage 2458
provided for witnesses in civil cases in the courts of common 2459
pleas. 2460

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

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

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

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

complainants whose confidentiality was protected by the state 2493
medical board when the information was in the board's possession. 2494
Measures to ensure confidentiality that may be taken by the court 2495
include sealing its records or deleting specific information from 2496
its records. 2497

(6) On a quarterly basis, the board shall prepare a report 2498
that documents the disposition of all cases during the preceding 2499
three months. The report shall contain the following information 2500
for each case with which the board has completed its activities: 2501

(a) The case number assigned to the complaint or alleged 2502
violation; 2503

(b) The type of certificate to practice, if any, held by the 2504
individual against whom the complaint is directed; 2505

(c) A description of the allegations contained in the 2506
complaint; 2507

(d) The disposition of the case. 2508

The report shall state how many cases are still pending and 2509
shall be prepared in a manner that protects the identity of each 2510
person involved in each case. The report shall be a public record 2511
under section 149.43 of the Revised Code. 2512

(G) If the secretary and supervising member determine that 2513
there is clear and convincing evidence that an individual has 2514
violated division (B) of this section and that the individual's 2515
continued practice presents a danger of immediate and serious harm 2516
to the public, they may recommend that the board suspend the 2517
individual's certificate to practice without a prior hearing. 2518
Written allegations shall be prepared for consideration by the 2519
board. 2520

The board, upon review of those allegations and by an 2521
affirmative vote of not fewer than six of its members, excluding 2522

the secretary and supervising member, may suspend a certificate 2523
without a prior hearing. A telephone conference call may be 2524
utilized for reviewing the allegations and taking the vote on the 2525
summary suspension. 2526

The board shall issue a written order of suspension by 2527
certified mail or in person in accordance with section 119.07 of 2528
the Revised Code. The order shall not be subject to suspension by 2529
the court during pendency of any appeal filed under section 119.12 2530
of the Revised Code. If the individual subject to the summary 2531
suspension requests an adjudicatory hearing by the board, the date 2532
set for the hearing shall be within fifteen days, but not earlier 2533
than seven days, after the individual requests the hearing, unless 2534
otherwise agreed to by both the board and the individual. 2535

Any summary suspension imposed under this division shall 2536
remain in effect, unless reversed on appeal, until a final 2537
adjudicative order issued by the board pursuant to this section 2538
and Chapter 119. of the Revised Code becomes effective. The board 2539
shall issue its final adjudicative order within seventy-five days 2540
after completion of its hearing. A failure to issue the order 2541
within seventy-five days shall result in dissolution of the 2542
summary suspension order but shall not invalidate any subsequent, 2543
final adjudicative order. 2544

(H) If the board takes action under division (B)(9), ~~(11), or~~ 2545
~~(13)~~ of this section and the judicial finding of guilt, guilty 2546
plea, or judicial finding of eligibility for intervention in lieu 2547
of conviction is overturned on appeal, upon exhaustion of the 2548
criminal appeal, a petition for reconsideration of the order may 2549
be filed with the board along with appropriate court documents. 2550
Upon receipt of a petition of that nature and supporting court 2551
documents, the board shall reinstate the individual's certificate 2552
to practice. The board may then hold an adjudication under Chapter 2553
119. of the Revised Code to determine whether the individual 2554

committed the act in question. Notice of an opportunity for a 2555
hearing shall be given in accordance with Chapter 119. of the 2556
Revised Code. If the board finds, pursuant to an adjudication held 2557
under this division, that the individual committed the act or if 2558
no hearing is requested, the board may order any of the sanctions 2559
identified under division (B) of this section. 2560

(I) The certificate to practice issued to an individual under 2561
this chapter and the individual's practice in this state are 2562
automatically suspended as of the date of the individual's second 2563
or subsequent plea of guilty to, or judicial finding of guilt of, 2564
a violation of section 2919.123 of the Revised Code, or the date 2565
the individual pleads guilty to, is found by a judge or jury to be 2566
guilty of, or is subject to a judicial finding of eligibility for 2567
intervention in lieu of conviction in this state or treatment or 2568
intervention in lieu of conviction in another jurisdiction for any 2569
of the following criminal offenses in this state or a 2570
substantially equivalent criminal offense in another jurisdiction: 2571
aggravated murder, murder, voluntary manslaughter, felonious 2572
assault, kidnapping, rape, sexual battery, gross sexual 2573
imposition, aggravated arson, aggravated robbery, or aggravated 2574
burglary. Continued practice after suspension shall be considered 2575
practicing without a certificate. 2576

The board shall notify the individual subject to the 2577
suspension by certified mail or in person in accordance with 2578
section 119.07 of the Revised Code. If an individual whose 2579
certificate is automatically suspended under this division fails 2580
to make a timely request for an adjudication under Chapter 119. of 2581
the Revised Code, the board shall do whichever of the following is 2582
applicable: 2583

(1) If the automatic suspension under this division is for a 2584
second or subsequent plea of guilty to, or judicial finding of 2585
guilt of, a violation of section 2919.123 of the Revised Code, the 2586

board shall enter an order suspending the individual's certificate 2587
to practice for a period of at least one year or, if determined 2588
appropriate by the board, imposing a more serious sanction 2589
involving the individual's certificate to practice. 2590

(2) In all circumstances in which division (I)(1) of this 2591
section does not apply, enter a final order permanently revoking 2592
the individual's certificate to practice. 2593

(J) If the board is required by Chapter 119. of the Revised 2594
Code to give notice of an opportunity for a hearing and if the 2595
individual subject to the notice does not timely request a hearing 2596
in accordance with section 119.07 of the Revised Code, the board 2597
is not required to hold a hearing, but may adopt, by an 2598
affirmative vote of not fewer than six of its members, a final 2599
order that contains the board's findings. In that final order, the 2600
board may order any of the sanctions identified under division (A) 2601
or (B) of this section. 2602

(K) Any action taken by the board under division (B) of this 2603
section resulting in a suspension from practice shall be 2604
accompanied by a written statement of the conditions under which 2605
the individual's certificate to practice may be reinstated. The 2606
board shall adopt rules governing conditions to be imposed for 2607
reinstatement. Reinstatement of a certificate suspended pursuant 2608
to division (B) of this section requires an affirmative vote of 2609
not fewer than six members of the board. 2610

(L) When the board refuses to grant a certificate to an 2611
applicant, revokes an individual's certificate to practice, 2612
refuses to register an applicant, or refuses to reinstate an 2613
individual's certificate to practice, the board may specify that 2614
its action is permanent. An individual subject to a permanent 2615
action taken by the board is forever thereafter ineligible to hold 2616
a certificate to practice and the board shall not accept an 2617
application for reinstatement of the certificate or for issuance 2618

of a new certificate. 2619

(M) Notwithstanding any other provision of the Revised Code, 2620
all of the following apply: 2621

(1) The surrender of a certificate issued under this chapter 2622
shall not be effective unless or until accepted by the board. 2623
Reinstatement of a certificate surrendered to the board requires 2624
an affirmative vote of not fewer than six members of the board. 2625

(2) An application for a certificate made under the 2626
provisions of this chapter may not be withdrawn without approval 2627
of the board. 2628

(3) Failure by an individual to renew a certificate of 2629
registration in accordance with this chapter shall not remove or 2630
limit the board's jurisdiction to take any disciplinary action 2631
under this section against the individual. 2632

(N) Sanctions shall not be imposed under division (B)~~(28)~~(24) 2633
of this section against any person who waives deductibles and 2634
copayments as follows: 2635

(1) In compliance with the health benefit plan that expressly 2636
allows such a practice. Waiver of the deductibles or copayments 2637
shall be made only with the full knowledge and consent of the plan 2638
purchaser, payer, and third-party administrator. Documentation of 2639
the consent shall be made available to the board upon request. 2640

(2) For professional services rendered to any other person 2641
authorized to practice pursuant to this chapter, to the extent 2642
allowed by this chapter and rules adopted by the board. 2643

(O) Under the board's investigative duties described in this 2644
section and subject to division (F) of this section, the board 2645
shall develop and implement a quality intervention program 2646
designed to improve through remedial education the clinical and 2647
communication skills of individuals authorized under this chapter 2648

to practice medicine and surgery, osteopathic medicine and 2649
surgery, and podiatric medicine and surgery. In developing and 2650
implementing the quality intervention program, the board may do 2651
all of the following: 2652

(1) Offer in appropriate cases as determined by the board an 2653
educational and assessment program pursuant to an investigation 2654
the board conducts under this section; 2655

(2) Select providers of educational and assessment services, 2656
including a quality intervention program panel of case reviewers; 2657

(3) Make referrals to educational and assessment service 2658
providers and approve individual educational programs recommended 2659
by those providers. The board shall monitor the progress of each 2660
individual undertaking a recommended individual educational 2661
program. 2662

(4) Determine what constitutes successful completion of an 2663
individual educational program and require further monitoring of 2664
the individual who completed the program or other action that the 2665
board determines to be appropriate; 2666

(5) Adopt rules in accordance with Chapter 119. of the 2667
Revised Code to further implement the quality intervention 2668
program. 2669

An individual who participates in an individual educational 2670
program pursuant to this division shall pay the financial 2671
obligations arising from that educational program. 2672

(P) As used in this section, a "criminal offense that is 2673
substantially related" has the same meaning as in section 4743.06 2674
of the Revised Code. 2675

Sec. 4731.224. (A) Within sixty days after the imposition of 2676
any formal disciplinary action taken by any health care facility, 2677
including a hospital, health care facility operated by a health 2678

insuring corporation, ambulatory surgical center, or similar 2679
facility, against any individual holding a valid certificate to 2680
practice issued pursuant to this chapter, the chief administrator 2681
or executive officer of the facility shall report to the state 2682
medical board the name of the individual, the action taken by the 2683
facility, and a summary of the underlying facts leading to the 2684
action taken. Upon request, the board shall be provided certified 2685
copies of the patient records that were the basis for the 2686
facility's action. Prior to release to the board, the summary 2687
shall be approved by the peer review committee that reviewed the 2688
case or by the governing board of the facility. As used in this 2689
division, "formal disciplinary action" means any action resulting 2690
in the revocation, restriction, reduction, or termination of 2691
clinical privileges for violations of professional ethics, or for 2692
reasons of medical incompetence, medical malpractice, or drug or 2693
alcohol abuse. "Formal disciplinary action" includes a summary 2694
action, an action that takes effect notwithstanding any appeal 2695
rights that may exist, and an action that results in an individual 2696
surrendering clinical privileges while under investigation and 2697
during proceedings regarding the action being taken or in return 2698
for not being investigated or having proceedings held. "Formal 2699
disciplinary action" does not include any action taken for the 2700
sole reason of failure to maintain records on a timely basis or 2701
failure to attend staff or section meetings. 2702

The filing or nonfiling of a report with the board, 2703
investigation by the board, or any disciplinary action taken by 2704
the board, shall not preclude any action by a health care facility 2705
to suspend, restrict, or revoke the individual's clinical 2706
privileges. 2707

In the absence of fraud or bad faith, no individual or entity 2708
that provides patient records to the board shall be liable in 2709
damages to any person as a result of providing the records. 2710

(B) If any individual authorized to practice under this 2711
chapter or any professional association or society of such 2712
individuals believes that a violation of any provision of this 2713
chapter, Chapter 4730., 4760., 4762., or 4774. of the Revised 2714
Code, or any rule of the board has occurred, the individual, 2715
association, or society shall report to the board the information 2716
upon which the belief is based. This division does not require any 2717
treatment provider approved by the board under section 4731.25 of 2718
the Revised Code or any employee, agent, or representative of such 2719
a provider to make reports with respect to an impaired 2720
practitioner participating in treatment or aftercare for substance 2721
abuse as long as the practitioner maintains participation in 2722
accordance with the requirements of section 4731.25 of the Revised 2723
Code, and as long as the treatment provider or employee, agent, or 2724
representative of the provider has no reason to believe that the 2725
practitioner has violated any provision of this chapter or any 2726
rule adopted under it, other than the provisions of division 2727
(B)~~(26)~~(22) of section 4731.22 of the Revised Code. This division 2728
does not require reporting by any member of an impaired 2729
practitioner committee established by a health care facility or by 2730
any representative or agent of a committee or program sponsored by 2731
a professional association or society of individuals authorized to 2732
practice under this chapter to provide peer assistance to 2733
practitioners with substance abuse problems with respect to a 2734
practitioner who has been referred for examination to a treatment 2735
program approved by the board under section 4731.25 of the Revised 2736
Code if the practitioner cooperates with the referral for 2737
examination and with any determination that the practitioner 2738
should enter treatment and as long as the committee member, 2739
representative, or agent has no reason to believe that the 2740
practitioner has ceased to participate in the treatment program in 2741
accordance with section 4731.25 of the Revised Code or has 2742
violated any provision of this chapter or any rule adopted under 2743

it, other than the provisions of division (B)~~(26)~~(22) of section 2744
4731.22 of the Revised Code. 2745

(C) Any professional association or society composed 2746
primarily of doctors of medicine and surgery, doctors of 2747
osteopathic medicine and surgery, doctors of podiatric medicine 2748
and surgery, or practitioners of limited branches of medicine that 2749
suspends or revokes an individual's membership for violations of 2750
professional ethics, or for reasons of professional incompetence 2751
or professional malpractice, within sixty days after a final 2752
decision shall report to the board, on forms prescribed and 2753
provided by the board, the name of the individual, the action 2754
taken by the professional organization, and a summary of the 2755
underlying facts leading to the action taken. 2756

The filing of a report with the board or decision not to file 2757
a report, investigation by the board, or any disciplinary action 2758
taken by the board, does not preclude a professional organization 2759
from taking disciplinary action against an individual. 2760

(D) Any insurer providing professional liability insurance to 2761
an individual authorized to practice under this chapter, or any 2762
other entity that seeks to indemnify the professional liability of 2763
such an individual, shall notify the board within thirty days 2764
after the final disposition of any written claim for damages where 2765
such disposition results in a payment exceeding twenty-five 2766
thousand dollars. The notice shall contain the following 2767
information: 2768

(1) The name and address of the person submitting the 2769
notification; 2770

(2) The name and address of the insured who is the subject of 2771
the claim; 2772

(3) The name of the person filing the written claim; 2773

(4) The date of final disposition; 2774

(5) If applicable, the identity of the court in which the 2775
final disposition of the claim took place. 2776

(E) The board may investigate possible violations of this 2777
chapter or the rules adopted under it that are brought to its 2778
attention as a result of the reporting requirements of this 2779
section, except that the board shall conduct an investigation if a 2780
possible violation involves repeated malpractice. As used in this 2781
division, "repeated malpractice" means three or more claims for 2782
medical malpractice within the previous five-year period, each 2783
resulting in a judgment or settlement in excess of twenty-five 2784
thousand dollars in favor of the claimant, and each involving 2785
negligent conduct by the practicing individual. 2786

(F) All summaries, reports, and records received and 2787
maintained by the board pursuant to this section shall be held in 2788
confidence and shall not be subject to discovery or introduction 2789
in evidence in any federal or state civil action involving a 2790
health care professional or facility arising out of matters that 2791
are the subject of the reporting required by this section. The 2792
board may use the information obtained only as the basis for an 2793
investigation, as evidence in a disciplinary hearing against an 2794
individual whose practice is regulated under this chapter, or in 2795
any subsequent trial or appeal of a board action or order. 2796

The board may disclose the summaries and reports it receives 2797
under this section only to health care facility committees within 2798
or outside this state that are involved in credentialing or 2799
recredentialing the individual or in reviewing the individual's 2800
clinical privileges. The board shall indicate whether or not the 2801
information has been verified. Information transmitted by the 2802
board shall be subject to the same confidentiality provisions as 2803
when maintained by the board. 2804

(G) Except for reports filed by an individual pursuant to 2805
division (B) of this section, the board shall send a copy of any 2806

reports or summaries it receives pursuant to this section to the 2807
individual who is the subject of the reports or summaries. The 2808
individual shall have the right to file a statement with the board 2809
concerning the correctness or relevance of the information. The 2810
statement shall at all times accompany that part of the record in 2811
contention. 2812

(H) An individual or entity that, pursuant to this section, 2813
reports to the board or refers an impaired practitioner to a 2814
treatment provider approved by the board under section 4731.25 of 2815
the Revised Code shall not be subject to suit for civil damages as 2816
a result of the report, referral, or provision of the information. 2817

(I) In the absence of fraud or bad faith, no professional 2818
association or society of individuals authorized to practice under 2819
this chapter that sponsors a committee or program to provide peer 2820
assistance to practitioners with substance abuse problems, no 2821
representative or agent of such a committee or program, and no 2822
member of the state medical board shall be held liable in damages 2823
to any person by reason of actions taken to refer a practitioner 2824
to a treatment provider approved under section 4731.25 of the 2825
Revised Code for examination or treatment. 2826

Sec. 4731.225. If the holder of a certificate issued under 2827
this chapter violates division (A), (B), or (C) of section 4731.66 2828
or section 4731.69 of the Revised Code, or if any other person 2829
violates division (B) or (C) of section 4731.66 or section 4731.69 2830
of the Revised Code, the state medical board, pursuant to an 2831
adjudication under Chapter 119. of the Revised Code and an 2832
affirmative vote of not fewer than six of its members, shall: 2833

(A) For a first violation, impose a civil penalty of not more 2834
than five thousand dollars; 2835

(B) For each subsequent violation, impose a civil penalty of 2836
not more than twenty thousand dollars and, if the violator is a 2837

certificate holder, proceed under division (B)~~(27)~~(23) of section 2838
4731.22 of the Revised Code. 2839

Sec. 4731.226. (A)(1) An individual whom the state medical 2840
board licenses, certificates, or otherwise legally authorizes to 2841
engage in the practice of medicine and surgery, osteopathic 2842
medicine and surgery, or podiatric medicine and surgery may render 2843
the professional services of a doctor of medicine and surgery, 2844
osteopathic medicine and surgery, or podiatric medicine and 2845
surgery within this state through a corporation formed under 2846
division (B) of section 1701.03 of the Revised Code, a limited 2847
liability company formed under Chapter 1705. of the Revised Code, 2848
a partnership, or a professional association formed under Chapter 2849
1785. of the Revised Code. Division (A)(1) of this section does 2850
not preclude an individual of that nature from rendering 2851
professional services as a doctor of medicine and surgery, 2852
osteopathic medicine and surgery, or podiatric medicine and 2853
surgery through another form of business entity, including, but 2854
not limited to, a nonprofit corporation or foundation, or in 2855
another manner that is authorized by or in accordance with this 2856
chapter, another chapter of the Revised Code, or rules of the 2857
state medical board adopted pursuant to this chapter. 2858

(2) An individual whom the state medical board authorizes to 2859
engage in the practice of mechanotherapy may render the 2860
professional services of a mechanotherapist within this state 2861
through a corporation formed under division (B) of section 1701.03 2862
of the Revised Code, a limited liability company formed under 2863
Chapter 1705. of the Revised Code, a partnership, or a 2864
professional association formed under Chapter 1785. of the Revised 2865
Code. Division (A)(2) of this section does not preclude an 2866
individual of that nature from rendering professional services as 2867
a mechanotherapist through another form of business entity, 2868
including, but not limited to, a nonprofit corporation or 2869

foundation, or in another manner that is authorized by or in 2870
accordance with this chapter, another chapter of the Revised Code, 2871
or rules of the state medical board adopted pursuant to this 2872
chapter. 2873

(B) A corporation, limited liability company, partnership, or 2874
professional association described in division (A) of this section 2875
may be formed for the purpose of providing a combination of the 2876
professional services of the following individuals who are 2877
licensed, certificated, or otherwise legally authorized to 2878
practice their respective professions: 2879

(1) Optometrists who are authorized to practice optometry 2880
under Chapter 4725. of the Revised Code; 2881

(2) Chiropractors who are authorized to practice chiropractic 2882
or acupuncture under Chapter 4734. of the Revised Code; 2883

(3) Psychologists who are authorized to practice psychology 2884
under Chapter 4732. of the Revised Code; 2885

(4) Registered or licensed practical nurses who are 2886
authorized to practice nursing as registered nurses or as licensed 2887
practical nurses under Chapter 4723. of the Revised Code; 2888

(5) Pharmacists who are authorized to practice pharmacy under 2889
Chapter 4729. of the Revised Code; 2890

(6) Physical therapists who are authorized to practice 2891
physical therapy under sections 4755.40 to 4755.56 of the Revised 2892
Code; 2893

(7) Occupational therapists who are authorized to practice 2894
occupational therapy under sections 4755.04 to 4755.13 of the 2895
Revised Code; 2896

(8) Mechanotherapists who are authorized to practice 2897
mechanotherapy under section 4731.151 of the Revised Code; 2898

(9) Doctors of medicine and surgery, osteopathic medicine and 2899

surgery, or podiatric medicine and surgery who are authorized for 2900
their respective practices under this chapter. 2901

(C) Division (B) of this section shall apply notwithstanding 2902
a provision of a code of ethics described in division (B)~~(18)~~(14) 2903
of section 4731.22 of the Revised Code that prohibits either of 2904
the following: 2905

(1) A doctor of medicine and surgery, osteopathic medicine 2906
and surgery, or podiatric medicine and surgery from engaging in 2907
the doctor's authorized practice in combination with a person who 2908
is licensed, certificated, or otherwise legally authorized to 2909
engage in the practice of optometry, chiropractic, acupuncture 2910
through the state chiropractic board, psychology, nursing, 2911
pharmacy, physical therapy, occupational therapy, or 2912
mechanotherapy, but who is not also licensed, certificated, or 2913
otherwise legally authorized to practice medicine and surgery, 2914
osteopathic medicine and surgery, or podiatric medicine and 2915
surgery. 2916

(2) A mechanotherapist from engaging in the practice of 2917
mechanotherapy in combination with a person who is licensed, 2918
certificated, or otherwise legally authorized to engage in the 2919
practice of optometry, chiropractic, acupuncture through the state 2920
chiropractic board, psychology, nursing, pharmacy, physical 2921
therapy, occupational therapy, medicine and surgery, osteopathic 2922
medicine and surgery, or podiatric medicine and surgery, but who 2923
is not also licensed, certificated, or otherwise legally 2924
authorized to engage in the practice of mechanotherapy. 2925

Sec. 4731.25. The state medical board, in accordance with 2926
Chapter 119. of the Revised Code, shall adopt and may amend and 2927
rescind rules establishing standards for approval of physicians 2928
and facilities as treatment providers for impaired practitioners 2929
who are regulated under this chapter or Chapter 4730., 4760., 2930

4762., or 4774. of the Revised Code. The rules shall include 2931
standards for both inpatient and outpatient treatment. The rules 2932
shall provide that in order to be approved, a treatment provider 2933
must have the capability of making an initial examination to 2934
determine what type of treatment an impaired practitioner 2935
requires. Subject to the rules, the board shall review and approve 2936
treatment providers on a regular basis. The board, at its 2937
discretion, may withdraw or deny approval subject to the rules. 2938

An approved impaired practitioner treatment provider shall: 2939

(A) Report to the board the name of any practitioner 2940
suffering or showing evidence of suffering impairment as described 2941
in division (B)(5) of section 4730.25 of the Revised Code, 2942
division (B)~~(26)~~(22) of section 4731.22 of the Revised Code, 2943
division (B)(6) of section 4760.13 of the Revised Code, division 2944
(B)(6) of section 4762.13 of the Revised Code, or division (B)(6) 2945
of section 4774.13 of the Revised Code who fails to comply within 2946
one week with a referral for examination; 2947

(B) Report to the board the name of any impaired practitioner 2948
who fails to enter treatment within forty-eight hours following 2949
the provider's determination that the practitioner needs 2950
treatment; 2951

(C) Require every practitioner who enters treatment to agree 2952
to a treatment contract establishing the terms of treatment and 2953
aftercare, including any required supervision or restrictions of 2954
practice during treatment or aftercare; 2955

(D) Require a practitioner to suspend practice upon entry 2956
into any required inpatient treatment; 2957

(E) Report to the board any failure by an impaired 2958
practitioner to comply with the terms of the treatment contract 2959
during inpatient or outpatient treatment or aftercare; 2960

(F) Report to the board the resumption of practice of any 2961

impaired practitioner before the treatment provider has made a 2962
clear determination that the practitioner is capable of practicing 2963
according to acceptable and prevailing standards of care; 2964

(G) Require a practitioner who resumes practice after 2965
completion of treatment to comply with an aftercare contract that 2966
meets the requirements of rules adopted by the board for approval 2967
of treatment providers; 2968

(H) Report the identity of any practitioner practicing under 2969
the terms of an aftercare contract to hospital administrators, 2970
medical chiefs of staff, and chairpersons of impaired practitioner 2971
committees of all health care institutions at which the 2972
practitioner holds clinical privileges or otherwise practices. If 2973
the practitioner does not hold clinical privileges at any health 2974
care institution, the treatment provider shall report the 2975
practitioner's identity to the impaired practitioner committee of 2976
the county medical society, osteopathic academy, or podiatric 2977
medical association in every county in which the practitioner 2978
practices. If there are no impaired practitioner committees in the 2979
county, the treatment provider shall report the practitioner's 2980
identity to the president or other designated member of the county 2981
medical society, osteopathic academy, or podiatric medical 2982
association. 2983

(I) Report to the board the identity of any practitioner who 2984
suffers a relapse at any time during or following aftercare. 2985

Any individual authorized to practice under this chapter who 2986
enters into treatment by an approved treatment provider shall be 2987
deemed to have waived any confidentiality requirements that would 2988
otherwise prevent the treatment provider from making reports 2989
required under this section. 2990

In the absence of fraud or bad faith, no person or 2991
organization that conducts an approved impaired practitioner 2992

treatment program, no member of such an organization, and no 2993
employee, representative, or agent of the treatment provider shall 2994
be held liable in damages to any person by reason of actions taken 2995
or recommendations made by the treatment provider or its 2996
employees, representatives, or agents. 2997

Sec. 4732.17. (A) The state board of psychology may refuse to 2998
issue a license to any applicant, may issue a reprimand, or 2999
suspend or revoke the license of any licensed psychologist or 3000
licensed school psychologist, on any of the following grounds: 3001

(1) Conviction of or plea of guilty to a felony, or of any 3002
criminal offense involving moral turpitude that is substantially 3003
related to the practice of psychology, in a court of this or any 3004
other state or in a federal court; 3005

(2) Using fraud or deceit in the procurement of the license 3006
to practice psychology or school psychology or knowingly assisting 3007
another in the procurement of such a license through fraud or 3008
deceit; 3009

(3) Accepting commissions or rebates or other forms of 3010
remuneration for referring persons to other professionals; 3011

(4) Willful, unauthorized communication of information 3012
received in professional confidence; 3013

(5) Being negligent in the practice of psychology or school 3014
psychology; 3015

(6) Using any controlled substance or alcoholic beverage to 3016
an extent that such use impairs the person's ability to perform 3017
the work of a psychologist or school psychologist with safety to 3018
the public; 3019

(7) Subject to section 4732.28 of the Revised Code, violating 3020
any rule of professional conduct promulgated by the board; 3021

(8) Practicing in an area of psychology for which the person 3022

is clearly untrained or incompetent; 3023

(9) An adjudication by a court, as provided in section 3024
5122.301 of the Revised Code, that the person is incompetent for 3025
the purpose of holding the license. Such person may have the 3026
person's license issued or restored only upon determination by a 3027
court that the person is competent for the purpose of holding the 3028
license and upon the decision by the board that such license be 3029
issued or restored. The board may require an examination prior to 3030
such issuance or restoration. 3031

(10) Waiving the payment of all or any part of a deductible 3032
or copayment that a patient, pursuant to a health insurance or 3033
health care policy, contract, or plan that covers psychological 3034
services, would otherwise be required to pay if the waiver is used 3035
as an enticement to a patient or group of patients to receive 3036
health care services from that provider; 3037

(11) Advertising that the person will waive the payment of 3038
all or any part of a deductible or copayment that a patient, 3039
pursuant to a health insurance or health care policy, contract, or 3040
plan that covers psychological services, would otherwise be 3041
required to pay; 3042

(12) Notwithstanding ~~division~~ divisions (A)(10) and (11) of 3043
this section, sanctions shall not be imposed against any licensee 3044
who waives deductibles and copayments: 3045

(a) In compliance with the health benefit plan that expressly 3046
allows such a practice. Waiver of the deductibles or copays shall 3047
be made only with the full knowledge and consent of the plan 3048
purchaser, payer, and third-party administrator. Such consent 3049
shall be made available to the board upon request. 3050

(b) For professional services rendered to any other person 3051
licensed pursuant to this chapter to the extent allowed by this 3052
chapter and the rules of the board. 3053

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

(C) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

Sec. 4733.20. (A) Pursuant to this section, the state board of registration for professional engineers and surveyors may fine, revoke, suspend, refuse to renew, or limit the registration, or reprimand, place on probation, deny an applicant the opportunity to sit for an examination or to have an examination scored, or impose any combination of these disciplinary measures on any applicant or registrant, or revoke the certificate of authorization of any holder found to be or to have been engaged in any one or more of the following acts or practices:

(1) Any fraud or deceit in obtaining registration or a certificate of authorization;

(2) Any gross negligence, incompetency, or misconduct in the practice of professional engineering or professional surveying as a registered professional engineer or registered professional surveyor;

(3) Aiding or abetting any person to practice professional engineering or professional surveying illegally in the state;

(4) Conviction of or plea of guilty to ~~any felony or crime involving moral turpitude~~ a criminal offense that is substantially related to the practice of professional engineering or professional surveying;

(5) Violation of this chapter or any rule adopted by the board;	3084 3085
(6) Violation of any condition of limitation placed by the board upon the registration of any professional engineer or professional surveyor;	3086 3087 3088
(7) Failure to abide by or comply with examination instructions.	3089 3090
(B) The board shall cause to have prepared and shall adopt a code of ethics, which it shall make known to every registrant. The board may revise and amend this code of ethics from time to time in accordance with Chapter 119. of the Revised Code.	3091 3092 3093 3094
(C) Any person may file with the board a complaint alleging fraud, deceit, gross negligence, incompetency, misconduct, or violation of this chapter or any rule adopted by the board pursuant to section 4733.07 of the Revised Code. Complaints shall be in writing.	3095 3096 3097 3098 3099
(D) The board may investigate any registrant or holder of a certificate of authorization to determine whether the registrant or certificate holder is or has been engaged in any one or more of the acts or practices listed in division (A) of this section. The board, by subpoena, may compel witnesses to appear and testify in relation to any investigation under this chapter and may require, by subpoena duces tecum, the production and copying of any book, paper, or document pertaining to an investigation. If a person fails to comply with the subpoena or subpoena duces tecum, the board may apply to the Franklin county court of common pleas for an order compelling the person to comply or, for the failure to do so, to be held in contempt of court.	3100 3101 3102 3103 3104 3105 3106 3107 3108 3109 3110 3111
(E) If the board determines there is cause to believe that an applicant, registrant, or a holder of a certificate of authorization is or has been engaged in any act or practice listed	3112 3113 3114

in division (A) of this section, the board shall issue a written charge and notify the applicant, registrant, or certificate holder of the right to an adjudication hearing, in accordance with Chapter 119. of the Revised Code. If the accused applicant, registrant, or holder of a certificate of authorization fails or refuses to appear, or does not request a hearing within the time period specified in Chapter 119. of the Revised Code, the board may determine the validity of the charge and issue an adjudication order in accordance with Chapter 119. of the Revised Code.

(F) If a majority of the board votes in favor of sustaining the charge, the board shall impose one or any combination of the following disciplinary measures:

(1) Reprimanding the individual;

(2) Imposing a fine on the individual of not more than one thousand dollars for each offense committed by the individual;

(3) Refusing to renew, suspending, or revoking the individual's registration, or revoking the holder's certificate of authorization;

(4) Refusing to allow an applicant to take an examination;

(5) Refusing to score an applicant's examination.

The board, for good cause shown, may reregister any person or reissue a certificate of authorization to any corporation, firm, partnership, association, or limited liability company whose registration or certificate has been revoked or suspended.

(G) Any applicant, registrant, or certificate holder aggrieved by any action of the board in fining the registrant or denying, suspending, refusing to renew, or revoking the registrant's registration or a certificate of authorization, or denying an applicant the opportunity to take an examination or to have an examination scored may appeal such action to the proper

court under section 119.12 of the Revised Code. 3145

(H) A new certificate of authorization to replace any 3146
certificate revoked, lost, destroyed, or mutilated, may be issued, 3147
subject to the rules of the board, upon payment of a fee 3148
established by the board at an amount adequate to cover the 3149
expense of issuing a duplicate certificate of authorization. 3150

(I) As used in this section, a "criminal offense that is 3151
substantially related" has the same meaning as in section 4743.06 3152
of the Revised Code. 3153

Sec. 4734.31. (A) The state chiropractic board may take any 3154
of the actions specified in division (B) of this section against 3155
an individual who has applied for or holds a license to practice 3156
chiropractic in this state if any of the reasons specified in 3157
division (C) of this section for taking action against an 3158
individual are applicable. Except as provided in division (D) of 3159
this section, actions taken against an individual shall be taken 3160
in accordance with Chapter 119. of the Revised Code. The board may 3161
specify that any action it takes is a permanent action. The 3162
board's authority to take action against an individual is not 3163
removed or limited by the individual's failure to renew a license. 3164

(B) In its imposition of sanctions against an individual, the 3165
board may do any of the following: 3166

(1) Refuse to issue, renew, restore, or reinstate a license 3167
to practice chiropractic or a certificate to practice acupuncture; 3168

(2) Reprimand or censure a license holder; 3169

(3) Place limits, restrictions, or probationary conditions on 3170
a license holder's practice; 3171

(4) Impose a civil fine of not more than five thousand 3172
dollars according to a schedule of fines specified in rules that 3173
the board shall adopt in accordance with Chapter 119. of the 3174

Revised Code.	3175
(5) Suspend a license to practice chiropractic or a certificate to practice acupuncture for a limited or indefinite period;	3176 3177 3178
(6) Revoke a license to practice chiropractic or a certificate to practice acupuncture.	3179 3180
(C) The board may take the actions specified in division (B) of this section for any of the following reasons:	3181 3182
(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, <u>a felony criminal offense that is substantially related to the practice of chiropractic or acupuncture</u> in any jurisdiction, in which case a certified copy of the court record shall be conclusive evidence of the conviction;	3183 3184 3185 3186 3187 3188
(2) Commission of an act that constitutes a <u>felony criminal offense that is substantially related to the practice of chiropractic or acupuncture</u> in this state, regardless of the jurisdiction in which the act was committed;	3189 3190 3191 3192
(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter;	3193 3194 3195 3196 3197
(4) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	3198 3199 3200
(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice, in which case a certified copy of the court record shall be	3201 3202 3203 3204

~~conclusive evidence of the matter;~~ 3205

~~(6) Commission of an act in the course of practice that~~ 3206
~~constitutes a misdemeanor in this state, regardless of the~~ 3207
~~jurisdiction in which the act was committed;~~ 3208

~~(7)~~ A violation or attempted violation of this chapter or the 3209
rules adopted under it governing the practice of chiropractic and 3210
the practice of acupuncture by a chiropractor licensed under this 3211
chapter; 3212

~~(8)~~(4) Failure to cooperate in an investigation conducted by 3213
the board, including failure to comply with a subpoena or order 3214
issued by the board or failure to answer truthfully a question 3215
presented by the board at a deposition or in written 3216
interrogatories, except that failure to cooperate with an 3217
investigation shall not constitute grounds for discipline under 3218
this section if the board or a court of competent jurisdiction has 3219
issued an order that either quashes a subpoena or permits the 3220
individual to withhold the testimony or evidence in issue; 3221

~~(9)~~(5) Engaging in an ongoing professional relationship with 3222
a person or entity that violates any provision of this chapter or 3223
the rules adopted under it, unless the chiropractor makes a good 3224
faith effort to have the person or entity comply with the 3225
provisions; 3226

~~(10)~~(6) Retaliating against a chiropractor for the 3227
chiropractor's reporting to the board or any other agency with 3228
jurisdiction any violation of the law or for cooperating with the 3229
board of another agency in the investigation of any violation of 3230
the law; 3231

~~(11)~~(7) Aiding, abetting, assisting, counseling, or 3232
conspiring with any person in that person's violation of any 3233
provision of this chapter or the rules adopted under it, including 3234
the practice of chiropractic without a license, the practice of 3235

acupuncture without a certificate, or aiding, abetting, assisting, 3236
counseling, or conspiring with any person in that person's 3237
unlicensed practice of any other health care profession that has 3238
licensing requirements; 3239

~~(12)~~(8) With respect to a report or record that is made, 3240
filed, or signed in connection with the practice of chiropractic 3241
or acupuncture, knowingly making or filing a report or record that 3242
is false, intentionally or negligently failing to file a report or 3243
record required by federal, state, or local law or willfully 3244
impeding or obstructing the required filing, or inducing another 3245
person to engage in any such acts; 3246

~~(13)~~(9) Making a false, fraudulent, or deceitful statement to 3247
the board or any agent of the board during any investigation or 3248
other official proceeding conducted by the board under this 3249
chapter or in any filing that must be submitted to the board; 3250

~~(14)~~(10) Attempting to secure a license to practice 3251
chiropractic or certificate to practice acupuncture or to corrupt 3252
the outcome of an official board proceeding through bribery or any 3253
other improper means; 3254

~~(15)~~(11) Willfully obstructing or hindering the board or any 3255
agent of the board in the discharge of the board's duties; 3256

~~(16)~~(12) Habitually using drugs or intoxicants to the extent 3257
that the person is rendered unfit for the practice of chiropractic 3258
or acupuncture; 3259

~~(17)~~(13) Inability to practice chiropractic or acupuncture 3260
according to acceptable and prevailing standards of care by reason 3261
of chemical dependency, mental illness, or physical illness, 3262
including conditions in which physical deterioration has adversely 3263
affected the person's cognitive, motor, or perceptive skills and 3264
conditions in which a chiropractor's continued practice may pose a 3265
danger to the chiropractor or the public; 3266

(18) <u>(14)</u> Any act constituting gross immorality relative to	3267
the person's practice of chiropractic or acupuncture, including	3268
acts involving sexual abuse, sexual misconduct, or sexual	3269
exploitation;	3270
(19) <u>(15)</u> Exploiting a patient for personal or financial gain;	3271
(20) <u>(16)</u> Failing to maintain proper, accurate, and legible	3272
records in the English language documenting each patient's care,	3273
including, as appropriate, records of the following: dates of	3274
treatment, services rendered, examinations, tests, x-ray reports,	3275
referrals, and the diagnosis or clinical impression and clinical	3276
treatment plan provided to the patient;	3277
(21) <u>(17)</u> Except as otherwise required by the board or by law,	3278
disclosing patient information gained during the chiropractor's	3279
professional relationship with a patient without obtaining the	3280
patient's authorization for the disclosure;	3281
(22) <u>(18)</u> Commission of willful or gross malpractice, or	3282
willful or gross neglect, in the practice of chiropractic or	3283
acupuncture;	3284
(23) <u>(19)</u> Failing to perform or negligently performing an act	3285
recognized by the board as a general duty or the exercise of due	3286
care in the practice of chiropractic or acupuncture, regardless of	3287
whether injury results to a patient from the failure to perform or	3288
negligent performance of the act;	3289
(24) <u>(20)</u> Engaging in any conduct or practice that impairs or	3290
may impair the ability to practice chiropractic or acupuncture	3291
safely and skillfully;	3292
(25) <u>(21)</u> Practicing, or claiming to be capable of practicing,	3293
beyond the scope of the practice of chiropractic or acupuncture as	3294
established under this chapter and the rules adopted under this	3295
chapter;	3296

(26) <u>(22)</u> Accepting and performing professional responsibilities as a chiropractor or chiropractor with a certificate to practice acupuncture when not qualified to perform those responsibilities, if the person knew or had reason to know that the person was not qualified to perform them;	3297 3298 3299 3300 3301
(27) <u>(23)</u> Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual when the delegating chiropractor knows or had reason to know that the employee or other individual is not qualified by training, experience, or professional licensure to perform the responsibilities;	3302 3303 3304 3305 3306 3307
(28) <u>(24)</u> Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual in a negligent manner or failing to provide proper supervision of the employee or other individual to whom the responsibilities are delegated;	3308 3309 3310 3311 3312
(29) <u>(25)</u> Failing to refer a patient to another health care practitioner for consultation or treatment when the chiropractor knows or has reason to know that the referral is in the best interest of the patient;	3313 3314 3315 3316
(30) <u>(26)</u> Obtaining or attempting to obtain any fee or other advantage by fraud or misrepresentation;	3317 3318
(31) <u>(27)</u> Making misleading, deceptive, false, or fraudulent representations in the practice of chiropractic or acupuncture;	3319 3320
(32) <u>(28)</u> Being guilty of false, fraudulent, deceptive, or misleading advertising or other solicitations for patients or knowingly having professional connection with any person that advertises or solicits for patients in such a manner;	3321 3322 3323 3324
(33) <u>(29)</u> Violation of a provision of any code of ethics established or adopted by the board under section 4734.16 of the Revised Code;	3325 3326 3327

(34) <u>(30)</u> Failing to meet the examination requirements for receipt of a license specified under section 4734.20 of the Revised Code;	3328 3329 3330
(35) <u>(31)</u> Actions taken for any reason, other than nonpayment of fees, by the chiropractic or acupuncture licensing authority of another state or country;	3331 3332 3333
(36) <u>(32)</u> Failing to maintain clean and sanitary conditions at the clinic, office, or other place in which chiropractic services or acupuncture services are provided;	3334 3335 3336
(37) <u>(33)</u> Except as provided in division (G) of this section:	3337
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that chiropractor;	3338 3339 3340 3341 3342 3343
(b) Advertising that the chiropractor will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay.	3344 3345 3346 3347 3348
(38) <u>(34)</u> Failure to supervise an acupuncturist in accordance with the provisions of section 4762.11 of the Revised Code that are applicable to the supervising chiropractor of an acupuncturist.	3349 3350 3351 3352
(D) The adjudication requirements of Chapter 119. of the Revised Code apply to the board when taking actions against an individual under this section, except as follows:	3353 3354 3355
(1) An applicant is not entitled to an adjudication for failing to meet the conditions specified under section 4734.20 of	3356 3357

the Revised Code for receipt of a license that involve the board's 3358
examination on jurisprudence or the examinations of the national 3359
board of chiropractic examiners. 3360

(2) A person is not entitled to an adjudication if the person 3361
fails to make a timely request for a hearing, in accordance with 3362
Chapter 119. of the Revised Code. 3363

(3) In lieu of an adjudication, the board may accept the 3364
surrender of a license to practice chiropractic or certificate to 3365
practice acupuncture from a chiropractor. 3366

(4) In lieu of an adjudication, the board may enter into a 3367
consent agreement with an individual to resolve an allegation of a 3368
violation of this chapter or any rule adopted under it. A consent 3369
agreement, when ratified by the board, shall constitute the 3370
findings and order of the board with respect to the matter 3371
addressed in the agreement. If the board refuses to ratify a 3372
consent agreement, the admissions and findings contained in the 3373
consent agreement shall be of no force or effect. 3374

(E) This section does not require the board to hire, contract 3375
with, or retain the services of an expert witness when the board 3376
takes action against a chiropractor concerning compliance with 3377
acceptable and prevailing standards of care in the practice of 3378
chiropractic or acupuncture. As part of an action taken concerning 3379
compliance with acceptable and prevailing standards of care, the 3380
board may rely on the knowledge of its members for purposes of 3381
making a determination of compliance, notwithstanding any expert 3382
testimony presented by the chiropractor that contradicts the 3383
knowledge and opinions of the members of the board. 3384

(F) The sealing of conviction records by a court shall have 3385
no effect on a prior board order entered under this section or on 3386
the board's jurisdiction to take action under this section if, 3387
3388

based on a plea of guilty, a judicial finding of guilt, or a 3389
judicial finding of eligibility for intervention in lieu of 3390
conviction, the board issued a notice of opportunity for a hearing 3391
prior to the court's order to seal the records. The board shall 3392
not be required to seal, destroy, redact, or otherwise modify its 3393
records to reflect the court's sealing of conviction records. 3394

(G) Actions shall not be taken pursuant to division 3395
(C)~~(37)~~(33) of this section against any chiropractor who waives 3396
deductibles and copayments as follows: 3397

(1) In compliance with the health benefit plan that expressly 3398
allows a practice of that nature. Waiver of the deductibles or 3399
copayments shall be made only with the full knowledge and consent 3400
of the plan purchaser, payer, and third-party administrator. 3401
Documentation of the consent shall be made available to the board 3402
upon request. 3403

(2) For professional services rendered to any other person 3404
licensed pursuant to this chapter, to the extent allowed by this 3405
chapter and the rules of the board. 3406

(H) As used in this section, a "criminal offense that is 3407
substantially related" has the same meaning as in section 4743.06 3408
of the Revised Code. 3409

Sec. 4734.39. (A) For purposes of the state chiropractic 3410
board's enforcement of division (C)~~(16)~~(12) or ~~(17)~~(13) of section 3411
4734.31 of the Revised Code, an individual who applies for or 3412
receives a license to practice chiropractic or certificate to 3413
practice acupuncture under this chapter accepts the privilege of 3414
practicing chiropractic and, if applicable, acupuncture in this 3415
state and, by so doing, shall be deemed to have given consent to 3416
submit to a mental or physical examination when directed to do so 3417
in writing by the board in its enforcement of those divisions, and 3418
to have waived all objections to the admissibility of testimony or 3419

examination reports that constitute a privileged communication. 3420
3421

(B) If the board has reason to believe that a chiropractor or 3422
applicant suffers an impairment described in division (C)~~(16)~~(12) 3423
or ~~(17)~~(13) of section 4734.31 of the Revised Code, the board may 3424
compel the individual to submit to a mental or physical 3425
examination, or both. The expense of the examination is the 3426
responsibility of the individual compelled to be examined. Any 3427
mental or physical examination required under this section shall 3428
be undertaken by a provider who is qualified to conduct the 3429
examination and who is chosen by the board. 3430

Failure to submit to a mental or physical examination ordered 3431
by the board constitutes an admission of the allegations against 3432
the individual unless the failure is due to circumstances beyond 3433
the individual's control. A default and final order may be entered 3434
without the taking of testimony or presentation of evidence. 3435

If the board determines that an individual's ability to 3436
practice is impaired, the board shall suspend the individual's 3437
license to practice chiropractic and, if applicable, certificate 3438
to practice acupuncture or deny the individual's application and 3439
shall require the individual, as a condition for initial, 3440
continued, reinstated, restored, or renewed certification to 3441
practice, to submit to care, counseling, or treatment. 3442

(C) Before being eligible to apply for reinstatement of a 3443
license or certificate suspended under division (C)~~(16)~~(12) of 3444
section 4734.31 of the Revised Code or the chemical dependency 3445
provisions of division (C)~~(17)~~(13) of section ~~4731.34~~ 4734.31 of 3446
the Revised Code, the impaired individual shall demonstrate to the 3447
board the ability to resume practice in compliance with acceptable 3448
and prevailing standards of care in the practice of chiropractic 3449
and, if applicable, acupuncture under this chapter. If rules have 3450
been adopted under section 4734.40 of the Revised Code, the 3451

demonstration shall include, but shall not be limited to, the 3452
following: 3453

(1) Certification from a treatment provider approved under 3454
section 4734.40 of the Revised Code that the individual has 3455
successfully completed any required inpatient treatment; 3456

(2) Evidence of continuing full compliance with an aftercare 3457
contract or consent agreement; 3458

(3) Two written reports indicating that the individual's 3459
ability to practice has been assessed and that the individual has 3460
been found capable of practicing according to acceptable and 3461
prevailing standards of care. The reports shall be made by 3462
individuals or providers approved by the board for making the 3463
assessments and shall describe the basis for their determination. 3464

The board may reinstate a license and, if applicable, 3465
certificate suspended under this division after that demonstration 3466
and after the individual has entered into a written consent 3467
agreement. 3468

When the impaired individual resumes practice, the board 3469
shall require continued monitoring of the individual. The 3470
monitoring shall include, but not be limited to, compliance with 3471
the written consent agreement entered into before reinstatement or 3472
with conditions imposed by board order after a hearing, and, upon 3473
termination of the consent agreement, submission to the board for 3474
at least two years of annual written progress reports made under 3475
penalty of perjury stating whether the individual has maintained 3476
sobriety. 3477

Sec. 4735.07. (A) The superintendent of real estate, with the 3478
consent of the Ohio real estate commission, may enter into 3479
agreements with recognized national testing services to administer 3480
the real estate broker's examination under the superintendent's 3481

supervision and control, consistent with the requirements of this 3482
chapter as to the contents of such examination. 3483

(B) No applicant for a real estate broker's license shall 3484
take the broker's examination who has not established to the 3485
satisfaction of the superintendent that the applicant: 3486

(1) Is honest, truthful, and of good reputation; 3487

(2)(a) Has not been convicted of or pleaded guilty to a 3488
~~felony or crime of moral turpitude~~ criminal offense that is 3489
substantially related to practice as a real estate broker, or if 3490
the applicant has been so convicted or so pleaded guilty, the 3491
superintendent has disregarded the conviction or guilty plea 3492
because the applicant has proven to the superintendent, by a 3493
preponderance of the evidence, that the applicant's activities and 3494
employment record since the conviction or guilty plea show that 3495
the applicant is honest, truthful, and of good reputation, and 3496
there is no basis in fact for believing that the applicant again 3497
will violate the laws involved; 3498

(b) Has not been finally adjudged by a court to have violated 3499
any municipal, state, or federal civil rights laws relevant to the 3500
protection of purchasers or sellers of real estate or, if the 3501
applicant has been so adjudged, at least two years have passed 3502
since the court decision and the superintendent has disregarded 3503
the adjudication because the applicant has proven, by a 3504
preponderance of the evidence, that the applicant's activities and 3505
employment record since the adjudication show that the applicant 3506
is honest, truthful, and of good reputation, and there is no basis 3507
in fact for believing that the applicant will again violate the 3508
laws involved. 3509

(3) Has not, during any period in which the applicant was 3510
licensed under this chapter, violated any provision of, or any 3511
rule adopted pursuant to, this chapter, or, if the applicant has 3512

violated any such provision or rule, has established to the 3513
satisfaction of the superintendent that the applicant will not 3514
again violate such provision or rule; 3515

(4) Is at least eighteen years of age; 3516

(5) Has been a licensed real estate broker or salesperson for 3517
at least two years; during at least two of the five years 3518
preceding the person's application, has worked as a licensed real 3519
estate broker or salesperson for an average of at least thirty 3520
hours per week; and has completed one of the following: 3521

(a) At least twenty real estate transactions, in which 3522
property was sold for another by the applicant while acting in the 3523
capacity of a real estate broker or salesperson; 3524

(b) Such equivalent experience as is defined by rules adopted 3525
by the commission. 3526

(6)(a) If licensed as a real estate salesperson prior to 3527
August 1, 2001, successfully has completed at an institution of 3528
higher education all of the following: 3529

(i) Thirty hours of classroom instruction in real estate 3530
practice; 3531

(ii) Thirty hours of classroom instruction that includes the 3532
subjects of Ohio real estate law, municipal, state, and federal 3533
civil rights law, new case law on housing discrimination, 3534
desegregation issues, and methods of eliminating the effects of 3535
prior discrimination. If feasible, the classroom instruction in 3536
Ohio real estate law shall be taught by a member of the faculty of 3537
an accredited law school. If feasible, the classroom instruction 3538
in municipal, state, and federal civil rights law, new case law on 3539
housing discrimination, desegregation issues, and methods of 3540
eliminating the effects of prior discrimination shall be taught by 3541
a staff member of the Ohio civil rights commission who is 3542
knowledgeable with respect to those subjects. The requirements of 3543

this division do not apply to an applicant who is admitted to practice before the supreme court.	3544 3545
(iii) Thirty hours of classroom instruction in real estate appraisal;	3546 3547
(iv) Thirty hours of classroom instruction in real estate finance;	3548 3549
(v) Three quarter hours, or its equivalent in semester hours, in financial management;	3550 3551
(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;	3552 3553
(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;	3554 3555
(viii) Three quarter hours, or its equivalent in semester hours, in business law.	3556 3557
(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:	3558 3559 3560
(i) Forty hours of classroom instruction in real estate practice;	3561 3562
(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is	3563 3564 3565 3566 3567 3568 3569 3570 3571 3572 3573

knowledgeable with respect to those subjects. The requirements of 3574
this division do not apply to an applicant who is admitted to 3575
practice before the supreme court. 3576

(iii) Twenty hours of classroom instruction in real estate 3577
appraisal; 3578

(iv) Twenty hours of classroom instruction in real estate 3579
finance; 3580

(v) The training in the amount of hours specified under 3581
divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 3582

(c) Division (B)(6)(a) or (b) of this section does not apply 3583
to any applicant who holds a valid real estate salesperson's 3584
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 3585
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 3586
do not apply to any applicant who holds a valid real estate 3587
salesperson's license issued prior to January 3, 1984. 3588

(7) If licensed as a real estate salesperson on or after 3589
January 3, 1984, satisfactorily has completed a minimum of two 3590
years of post-secondary education, or its equivalent in semester 3591
or quarter hours, at an institution of higher education, and has 3592
fulfilled the requirements of division (B)(6)(a) or (b) of this 3593
section. The requirements of division (B)(6)(a) or (b) of this 3594
section may be included in the two years of post-secondary 3595
education, or its equivalent in semester or quarter hours, that is 3596
required by this division. 3597

(C) Each applicant for a broker's license shall be examined 3598
in the principles of real estate practice, Ohio real estate law, 3599
and financing and appraisal, and as to the duties of real estate 3600
brokers and real estate salespersons, the applicant's knowledge of 3601
real estate transactions and instruments relating to them, and the 3602
canons of business ethics pertaining to them. The commission from 3603
time to time shall promulgate such canons and cause them to be 3604

published in printed form. 3605

(D) Examinations shall be administered with reasonable 3606
accommodations in accordance with the requirements of the 3607
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 3608
U.S.C. 12101. The contents of an examination shall be consistent 3609
with the requirements of division (B)(6) of this section and with 3610
the other specific requirements of this section. An applicant who 3611
has completed the requirements of division (B)(6) of this section 3612
at the time of application shall be examined no later than twelve 3613
months after the applicant is notified of admission to the 3614
examination. 3615

(E) The superintendent may waive one or more of the 3616
requirements of this section in the case of an application from a 3617
nonresident real estate broker pursuant to a reciprocity agreement 3618
with the licensing authority of the state from which the 3619
nonresident applicant holds a valid real estate broker license. 3620

(F) There shall be no limit placed on the number of times an 3621
applicant may retake the examination. 3622

(G)(1) No later than twelve months after the date of issue of 3623
a real estate broker's license to a licensee, the licensee shall 3624
submit proof satisfactory to the superintendent, on forms made 3625
available by the superintendent, of the completion of ten hours of 3626
classroom instruction in real estate brokerage at an institution 3627
of higher education or any other institution that is approved by 3628
the commission. That instruction shall include, but not be limited 3629
to, current issues in managing a real estate company or office. 3630

If the required proof of completion is not submitted to the 3631
superintendent within twelve months of the date a license is 3632
issued under this section, the license of the real estate broker 3633
is suspended automatically without the taking of any action by the 3634
superintendent. The broker's license shall not be reactivated by 3635

the superintendent until it is established, to the satisfaction of 3636
the superintendent, that the requirements of this division have 3637
been met and that the licensee is in compliance with this chapter. 3638
A licensee's license is revoked automatically without the taking 3639
of any action by the superintendent if the licensee fails to 3640
submit proof of completion of the education requirements specified 3641
under division (G)(1) of this section within twelve months of the 3642
date the license is suspended. 3643

(2) If the license of a real estate broker is suspended 3644
pursuant to division (G)(1) of this section, the license of a real 3645
estate salesperson associated with that broker correspondingly is 3646
suspended pursuant to division (H) of section 4735.20 of the 3647
Revised Code. However, the suspended license of the associated 3648
real estate salesperson shall be reactivated and no fee shall be 3649
charged or collected for that reactivation if all of the following 3650
occur: 3651

(a) That broker subsequently submits satisfactory proof to 3652
the superintendent that the broker has complied with the 3653
requirements of division (G)(1) of this section and requests that 3654
the broker's license as a real estate broker be reactivated; 3655

(b) The superintendent then reactivates the broker's license 3656
as a real estate broker; 3657

(c) The associated real estate salesperson intends to 3658
continue to be associated with that broker and otherwise is in 3659
compliance with this chapter. 3660

(H) As used in this section, a "criminal offense that is 3661
substantially related" has the same meaning as in section 4743.06 3662
of the Revised Code. 3663

Sec. 4735.09. (A) Application for a license as a real estate 3664
salesperson shall be made to the superintendent of real estate on 3665

forms furnished by the superintendent and signed by the applicant. 3666
The application shall be in the form prescribed by the 3667
superintendent and shall contain such information as is required 3668
by this chapter and the rules of the Ohio real estate commission. 3669
The application shall be accompanied by the recommendation of the 3670
real estate broker with whom the applicant is associated or with 3671
whom the applicant intends to be associated, certifying that the 3672
applicant is honest, truthful, and of good reputation, has not 3673
been convicted of or pleaded guilty to a felony or a crime 3674
involving moral turpitude criminal offense that is substantially 3675
related to practice as a real estate broker, and has not been 3676
finally adjudged by a court to have violated any municipal, state, 3677
or federal civil rights laws relevant to the protection of 3678
purchasers or sellers of real estate, which conviction, guilty 3679
plea, or adjudication the applicant has not disclosed to the 3680
superintendent, and recommending that the applicant be admitted to 3681
the real estate salesperson examination. 3682

(B) A fee of forty-nine dollars shall accompany the 3683
application, which fee includes the fee for the initial year of 3684
the licensing period, if a license is issued. The application fee 3685
shall be retained by the superintendent if the applicant is 3686
admitted to the examination for the license or the examination 3687
requirement is waived, but, if an applicant is not so admitted and 3688
a waiver is not involved, one-half of the fee shall be retained by 3689
the superintendent to cover the expenses of processing the 3690
application and the other one-half shall be returned to the 3691
applicant. A fee of forty-nine dollars shall be charged by the 3692
superintendent for each successive application made by the 3693
applicant. Four dollars of each application fee shall be credited 3694
to the real estate education and research fund. 3695

(C) There shall be no limit placed on the number of times an 3696
applicant may retake the examination. 3697

(D) The superintendent, with the consent of the commission, 3698
may enter into an agreement with a recognized national testing 3699
service to administer the real estate salesperson's examination 3700
under the superintendent's supervision and control, consistent 3701
with the requirements of this chapter as to the contents of the 3702
examination. 3703

If the superintendent, with the consent of the commission, 3704
enters into an agreement with a national testing service to 3705
administer the real estate salesperson's examination, the 3706
superintendent may require an applicant to pay the testing 3707
service's examination fee directly to the testing service. If the 3708
superintendent requires the payment of the examination fee 3709
directly to the testing service, each applicant shall submit to 3710
the superintendent a processing fee in an amount determined by the 3711
Ohio real estate commission pursuant to division (A)(1) of section 3712
4735.10 of the Revised Code. 3713

(E) The superintendent shall issue a real estate 3714
salesperson's license when satisfied that the applicant has 3715
received a passing score on each portion of the salesperson's 3716
examination as determined by rule by the real estate commission, 3717
except that the superintendent may waive one or more of the 3718
requirements of this section in the case of an applicant who is a 3719
licensed real estate salesperson in another state pursuant to a 3720
reciprocity agreement with the licensing authority of the state 3721
from which the applicant holds a valid real estate salesperson's 3722
license. 3723

(F) No applicant for a salesperson's license shall take the 3724
salesperson's examination who has not established to the 3725
satisfaction of the superintendent that the applicant: 3726

(1) Is honest, truthful, and of good reputation; 3727

(2)(a) Has not been convicted of or pleaded guilty to a 3728

~~felony or crime of moral turpitude~~ criminal offense that is 3729
substantially related to practice as a salesperson or, if the 3730
applicant has been so convicted or so pleaded guilty, the 3731
superintendent has disregarded the conviction or guilty plea 3732
because the applicant has proven to the superintendent, by a 3733
preponderance of the evidence, that the applicant's activities and 3734
employment record since the conviction or guilty plea show that 3735
the applicant is honest, truthful, and of good reputation, and 3736
there is no basis in fact for believing that the applicant again 3737
will violate the laws involved; 3738

(b) Has not been finally adjudged by a court to have violated 3739
any municipal, state, or federal civil rights laws relevant to the 3740
protection of purchasers or sellers of real estate or, if the 3741
applicant has been so adjudged, at least two years have passed 3742
since the court decision and the superintendent has disregarded 3743
the adjudication because the applicant has proven, by a 3744
preponderance of the evidence, that the applicant is honest, 3745
truthful, and of good reputation, and there is no basis in fact 3746
for believing that the applicant again will violate the laws 3747
involved. 3748

(3) Has not, during any period in which the applicant was 3749
licensed under this chapter, violated any provision of, or any 3750
rule adopted pursuant to this chapter, or, if the applicant has 3751
violated such provision or rule, has established to the 3752
satisfaction of the superintendent that the applicant will not 3753
again violate such provision or rule; 3754

(4) Is at least eighteen years of age; 3755

(5) If born after the year 1950, has a high school diploma or 3756
its equivalent as recognized by the state department of education; 3757

(6)(a) If beginning instruction prior to August 1, 2001, has 3758
successfully completed at an institution of higher education all 3759

of the following: 3760

(i) Thirty hours of classroom instruction in real estate 3761
practice; 3762

(ii) Thirty hours of classroom instruction that includes the 3763
subjects of Ohio real estate law, municipal, state, and federal 3764
civil rights law, new case law on housing discrimination, 3765
desegregation issues, and methods of eliminating the effects of 3766
prior discrimination. If feasible, the classroom instruction in 3767
Ohio real estate law shall be taught by a member of the faculty of 3768
an accredited law school. If feasible, the classroom instruction 3769
in municipal, state, and federal civil rights law, new case law on 3770
housing discrimination, desegregation issues, and methods of 3771
eliminating the effects of prior discrimination shall be taught by 3772
a staff member of the Ohio civil rights commission who is 3773
knowledgeable with respect to those subjects. The requirements of 3774
this division do not apply to an applicant who is admitted to 3775
practice before the supreme court. 3776

(iii) Thirty hours of classroom instruction in real estate 3777
appraisal; 3778

(iv) Thirty hours of classroom instruction in real estate 3779
finance. 3780

(b) Any person who has not been licensed as a real estate 3781
salesperson or broker within a four-year period immediately 3782
preceding the person's current application for the salesperson's 3783
examination shall have successfully completed the classroom 3784
instruction required by division (F)(6)(a) of this section within 3785
a ten-year period immediately preceding the person's current 3786
application for the salesperson's examination. 3787

(7) If beginning instruction, as determined by the 3788
superintendent, on or after August 1, 2001, has successfully 3789
completed at an institution of higher education all of the 3790

following:	3791
(a) Forty hours of classroom instruction in real estate	3792
practice;	3793
(b) Forty hours of classroom instruction that includes the	3794
subjects of Ohio real estate law, municipal, state, and federal	3795
civil rights law, new case law on housing discrimination,	3796
desegregation issues, and methods of eliminating the effects of	3797
prior discrimination. If feasible, the classroom instruction in	3798
Ohio real estate law shall be taught by a member of the faculty of	3799
an accredited law school. If feasible, the classroom instruction	3800
in municipal, state, and federal civil rights law, new case law on	3801
housing discrimination, desegregation issues, and methods of	3802
eliminating the effects of prior discrimination shall be taught by	3803
a staff member of the Ohio civil rights commission who is	3804
knowledgeable with respect to those subjects. The requirements of	3805
this division do not apply to an applicant who is admitted to	3806
practice before the supreme court.	3807
(c) Twenty hours of classroom instruction in real estate	3808
appraisal;	3809
(d) Twenty hours of classroom instruction in real estate	3810
finance.	3811
(G) No later than twelve months after the date of issue of a	3812
real estate salesperson license to a licensee, the licensee shall	3813
submit proof satisfactory to the superintendent, on forms made	3814
available by the superintendent, of completion, at an institution	3815
of higher education or any other institution approved by the	3816
commission, of ten hours of classroom instruction in real estate	3817
courses that cover current issues regarding consumers, real estate	3818
practice, ethics, and real estate law.	3819
If proof of completion of the required instruction is not	3820
submitted within twelve months of the date a license is issued	3821

under this section, the licensee's license is suspended 3822
automatically without the taking of any action by the 3823
superintendent. The superintendent immediately shall notify the 3824
broker with whom such salesperson is associated of the suspension 3825
of the salesperson's license. A salesperson whose license has been 3826
suspended under this division shall have twelve months after the 3827
date of the suspension of the salesperson's license to submit 3828
proof of successful completion of the instruction required under 3829
this division. No such license shall be reactivated by the 3830
superintendent until it is established, to the satisfaction of the 3831
superintendent, that the requirements of this division have been 3832
met and that the licensee is in compliance with this chapter. A 3833
licensee's license is revoked automatically without the taking of 3834
any action by the superintendent when the licensee fails to submit 3835
the required proof of completion of the education requirements 3836
under division (G) of this section within twelve months of the 3837
date the license is suspended. 3838

(H) Examinations shall be administered with reasonable 3839
accommodations in accordance with the requirements of the 3840
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 3841
U.S.C. 12101. The contents of an examination shall be consistent 3842
with the classroom instructional requirements of division (F)(6) 3843
or (7) of this section. An applicant who has completed the 3844
classroom instructional requirements of division (F)(6) or (7) of 3845
this section at the time of application shall be examined no later 3846
than twelve months after the applicant is notified of the 3847
applicant's admission to the examination. 3848

(I) As used in this section, a "criminal offense that is 3849
substantially related" has the same meaning as in section 4743.06 3850
of the Revised Code. 3851

Sec. 4735.13. (A) The license of a real estate broker shall 3852

be prominently displayed in the office or place of business of the 3853
broker, and no license shall authorize the licensee to do business 3854
except from the location specified in it. If the broker maintains 3855
more than one place of business within the state, the broker shall 3856
apply for and procure a duplicate license for each branch office 3857
maintained by the broker. Each branch office shall be in the 3858
charge of a licensed broker or salesperson. The branch office 3859
license shall be prominently displayed at the branch office 3860
location. 3861

(B) The license of each real estate salesperson shall be 3862
mailed to and remain in the possession of the licensed broker with 3863
whom the salesperson is or is to be associated until the licensee 3864
places the license on inactive, voluntary hold, or resigned status 3865
or until the salesperson leaves the brokerage or is terminated. 3866
The broker shall keep each salesperson's license in a way that it 3867
can, and shall on request, be made immediately available for 3868
public inspection at the office or place of business of the 3869
broker. Except as provided in divisions (G) and (H) of this 3870
section, immediately upon the salesperson's leaving the 3871
association or termination of the association of a real estate 3872
salesperson with the broker, the broker shall return the 3873
salesperson's license to the superintendent of real estate. 3874

The failure of a broker to return the license of a real 3875
estate salesperson or broker who leaves or who is terminated, via 3876
certified mail return receipt requested, within three business 3877
days of the receipt of a written request from the superintendent 3878
for the return of the license, is prima-facie evidence of 3879
misconduct under division (A)(6) of section 4735.18 of the Revised 3880
Code. 3881

(C) Any licensee who is convicted of or pleads guilty to a 3882
felony or a crime involving moral turpitude criminal offense that 3883
is substantially related to practice as a real estate broker or 3884

salesperson or of violating any federal, state, or municipal civil 3885
rights law pertaining to discrimination in housing, or any court 3886
that issues a finding of an unlawful discriminatory practice 3887
pertaining to housing accommodations described in division (H) of 3888
section 4112.02 of the Revised Code or that convicts a licensee of 3889
a violation of any municipal civil rights law pertaining to 3890
housing discrimination, shall notify the superintendent of the 3891
conviction, guilty plea, or finding within fifteen days. If a 3892
licensee fails to notify the superintendent within the required 3893
time, the superintendent immediately may revoke the license of the 3894
licensee. 3895

Any court that convicts a licensee of a violation of any 3896
municipal civil rights law pertaining to housing discrimination 3897
also shall notify the Ohio civil rights commission within fifteen 3898
days of the conviction. 3899

(D) In case of any change of business location, a broker 3900
shall give notice in writing to the superintendent, whereupon the 3901
superintendent shall issue new licenses for the unexpired period 3902
without charge. If a broker changes a business location without 3903
giving the required notice and without receiving new licenses that 3904
action is prima-facie evidence of misconduct under division (A)(6) 3905
of section 4735.18 of the Revised Code. 3906

(E) If a real estate broker desires to associate with another 3907
real estate broker in the capacity of a real estate salesperson, 3908
the broker shall apply to the superintendent to deposit the 3909
broker's real estate broker's license with the superintendent and 3910
for the issuance of a real estate salesperson's license. The 3911
application shall be made on a form prescribed by the 3912
superintendent and shall be accompanied by the recommendation of 3913
the real estate broker with whom the applicant intends to become 3914
associated and a fee of twenty-five dollars for the real estate 3915
salesperson's license. Four dollars of the fee shall be credited 3916

to the real estate education and research fund. If the 3917
superintendent is satisfied that the applicant is honest, 3918
truthful, and of good reputation, has not been convicted of or 3919
pleaded guilty to a felony or a crime involving moral turpitude 3920
criminal offense that is substantially related to practice as a 3921
real estate broker or salesperson, and has not been finally 3922
adjudged by a court to have violated any municipal, state, or 3923
federal civil rights laws relevant to the protection of purchasers 3924
or sellers of real estate, and that the association of the real 3925
estate broker and the applicant will be in the public interest, 3926
the superintendent shall grant the application and issue a real 3927
estate salesperson's license to the applicant. Any license so 3928
deposited with the superintendent shall be subject to this 3929
chapter. A broker who intends to deposit the broker's license with 3930
the superintendent, as provided in this section, shall give 3931
written notice of this fact in a format prescribed by the 3932
superintendent to all salespersons associated with the broker when 3933
applying to place the broker's license on deposit. 3934

(F) If a real estate broker desires to become a member or 3935
officer of a partnership, association, limited liability company, 3936
limited liability partnership, or corporation that is or intends 3937
to become a licensed real estate broker, the broker shall notify 3938
the superintendent of the broker's intentions. The notice of 3939
intention shall be on a form prescribed by the superintendent and 3940
shall be accompanied by a fee of twenty-five dollars. Four dollars 3941
of the fee shall be credited to the real estate education and 3942
research fund. 3943

No real estate broker who is a member or officer of a 3944
partnership, association, limited liability company, limited 3945
liability partnership, or corporation that is a licensed real 3946
estate broker shall perform any acts as a real estate broker other 3947
than as the agent of the partnership, association, limited 3948

liability company, limited liability partnership, or corporation, 3949
and such broker shall not have any real estate salespersons 3950
associated with the broker. 3951

(G) If a real estate broker or salesperson enters the armed 3952
forces, the broker or salesperson may place the broker's or 3953
salesperson's license on deposit with the Ohio real estate 3954
commission. The licensee shall not be required to renew the 3955
license until the renewal date that follows the date of discharge 3956
from the armed forces. Any license deposited with the commission 3957
shall be subject to this chapter. Any licensee whose license is on 3958
deposit under this division and who fails to meet the continuing 3959
education requirements of section 4735.141 of the Revised Code 3960
because the licensee is in the armed forces shall satisfy the 3961
commission that the licensee has complied with the continuing 3962
education requirements within twelve months of the licensee's 3963
discharge. The commission shall notify the licensee of the 3964
licensee's obligations under section 4735.141 of the Revised Code 3965
at the time the licensee applies for reactivation of the 3966
licensee's license. 3967

(H) If a licensed real estate salesperson submits an 3968
application to the superintendent to leave the association of one 3969
broker to associate with a different broker, the broker possessing 3970
the licensee's license need not return the salesperson's license 3971
to the superintendent. The superintendent may process the 3972
application regardless of whether the licensee's license is 3973
returned to the superintendent. 3974

(I) As used in this section, a "criminal offense that is 3975
substantially related" has the same meaning as in section 4743.06 3976
of the Revised Code. 3977

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised 3978
Code, the superintendent of real estate, upon the superintendent's 3979

own motion, may investigate the conduct of any licensee. Subject 3980
to section 4735.32 of the Revised Code, the Ohio real estate 3981
commission shall, pursuant to section 4735.051 of the Revised 3982
Code, impose disciplinary sanctions upon any licensee who, whether 3983
or not acting in the licensee's capacity as a real estate broker 3984
or salesperson, or in handling the licensee's own property, is 3985
found to have been convicted of or pleaded guilty to a felony or a 3986
crime of moral turpitude criminal offense that is substantially 3987
related to practice as a real estate broker or salesperson, and 3988
shall, pursuant to section 4735.051 of the Revised Code, impose 3989
disciplinary sanctions upon any licensee who, in the licensee's 3990
capacity as a real estate broker or salesperson, or in handling 3991
the licensee's own property, is found guilty of: 3992

(1) Knowingly making any misrepresentation; 3993

(2) Making any false promises with intent to influence, 3994
persuade, or induce; 3995

(3) A continued course of misrepresentation or the making of 3996
false promises through agents, salespersons, advertising, or 3997
otherwise; 3998

(4) Acting for more than one party in a transaction except as 3999
permitted by and in compliance with section 4735.71 of the Revised 4000
Code; 4001

(5) Failure within a reasonable time to account for or to 4002
remit any money coming into the licensee's possession which 4003
belongs to others; 4004

(6) Dishonest or illegal dealing, gross negligence, 4005
incompetency, or misconduct; 4006

(7)(a) By final adjudication by a court, a violation of any 4007
municipal or federal civil rights law relevant to the protection 4008
of purchasers or sellers of real estate or, by final adjudication 4009
by a court, any unlawful discriminatory practice pertaining to the 4010

purchase or sale of real estate prohibited by Chapter 4112. of the 4011
Revised Code, provided that such violation arose out of a 4012
situation wherein parties were engaged in bona fide efforts to 4013
purchase, sell, or lease real estate, in the licensee's practice 4014
as a licensed real estate broker or salesperson; 4015

(b) A second or subsequent violation of any unlawful 4016
discriminatory practice pertaining to the purchase or sale of real 4017
estate prohibited by Chapter 4112. of the Revised Code or any 4018
second or subsequent violation of municipal or federal civil 4019
rights laws relevant to purchasing or selling real estate whether 4020
or not there has been a final adjudication by a court, provided 4021
that such violation arose out of a situation wherein parties were 4022
engaged in bona fide efforts to purchase, sell, or lease real 4023
estate. For any second offense under this division, the commission 4024
shall suspend for a minimum of two months or revoke the license of 4025
the broker or salesperson. For any subsequent offense, the 4026
commission shall revoke the license of the broker or salesperson. 4027

(8) Procuring a license under this chapter, for the licensee 4028
or any salesperson by fraud, misrepresentation, or deceit; 4029

(9) Having violated or failed to comply with any provision of 4030
sections 4735.51 to 4735.74 of the Revised Code or having 4031
willfully disregarded or violated any other provisions of this 4032
chapter; 4033

(10) As a real estate broker, having demanded, without 4034
reasonable cause, other than from a broker licensed under this 4035
chapter, a commission to which the licensee is not entitled, or, 4036
as a real estate salesperson, having demanded, without reasonable 4037
cause, a commission to which the licensee is not entitled; 4038

(11) Except as permitted under section 4735.20 of the Revised 4039
Code, having paid commissions or fees to, or divided commissions 4040
or fees with, anyone not licensed as a real estate broker or 4041

salesperson under this chapter or anyone not operating as an 4042
out-of-state commercial real estate broker or salesperson under 4043
section 4735.022 of the Revised Code; 4044

(12) Having falsely represented membership in any real estate 4045
professional association of which the licensee is not a member; 4046

(13) Having accepted, given, or charged any undisclosed 4047
commission, rebate, or direct profit on expenditures made for a 4048
principal; 4049

(14) Having offered anything of value other than the 4050
consideration recited in the sales contract as an inducement to a 4051
person to enter into a contract for the purchase or sale of real 4052
estate or having offered real estate or the improvements on real 4053
estate as a prize in a lottery or scheme of chance; 4054

(15) Having acted in the dual capacity of real estate broker 4055
and undisclosed principal, or real estate salesperson and 4056
undisclosed principal, in any transaction; 4057

(16) Having guaranteed, authorized, or permitted any person 4058
to guarantee future profits which may result from the resale of 4059
real property; 4060

(17) Having placed a sign on any property offering it for 4061
sale or for rent without the consent of the owner or the owner's 4062
authorized agent; 4063

(18) Having induced any party to a contract of sale or lease 4064
to break such contract for the purpose of substituting in lieu of 4065
it a new contract with another principal; 4066

(19) Having negotiated the sale, exchange, or lease of any 4067
real property directly with a seller, purchaser, lessor, or tenant 4068
knowing that such seller, purchaser, lessor, or tenant is 4069
represented by another broker under a written exclusive agency 4070
agreement, exclusive right to sell or lease listing agreement, or 4071

exclusive purchaser agency agreement with respect to such property	4072
except as provided for in section 4735.75 of the Revised Code;	4073
(20) Having offered real property for sale or for lease	4074
without the knowledge and consent of the owner or the owner's	4075
authorized agent, or on any terms other than those authorized by	4076
the owner or the owner's authorized agent;	4077
(21) Having published advertising, whether printed, radio,	4078
display, or of any other nature, which was misleading or	4079
inaccurate in any material particular, or in any way having	4080
misrepresented any properties, terms, values, policies, or	4081
services of the business conducted;	4082
(22) Having knowingly withheld from or inserted in any	4083
statement of account or invoice any statement that made it	4084
inaccurate in any material particular;	4085
(23) Having published or circulated unjustified or	4086
unwarranted threats of legal proceedings which tended to or had	4087
the effect of harassing competitors or intimidating their	4088
customers;	4089
(24) Having failed to keep complete and accurate records of	4090
all transactions for a period of three years from the date of the	4091
transaction, such records to include copies of listing forms,	4092
earnest money receipts, offers to purchase and acceptances of	4093
them, records of receipts and disbursements of all funds received	4094
by the licensee as broker and incident to the licensee's	4095
transactions as such, and records required pursuant to divisions	4096
(C)(4) and (5) of section 4735.20 of the Revised Code, and any	4097
other instruments or papers related to the performance of any of	4098
the acts set forth in the definition of a real estate broker;	4099
(25) Failure of a real estate broker or salesperson to	4100
furnish all parties involved in a real estate transaction true	4101
copies of all listings and other agreements to which they are a	4102

party, at the time each party signs them; 4103

(26) Failure to maintain at all times a special or trust bank 4104
account in a depository located in this state. The account shall 4105
be noninterest-bearing, separate and distinct from any personal or 4106
other account of the broker, and, except as provided in division 4107
(A)(27) of this section, shall be used for the deposit and 4108
maintenance of all escrow funds, security deposits, and other 4109
moneys received by the broker in a fiduciary capacity. The name, 4110
account number, if any, and location of the depository wherein 4111
such special or trust account is maintained shall be submitted in 4112
writing to the superintendent. Checks drawn on such special or 4113
trust bank accounts are deemed to meet the conditions imposed by 4114
section 1349.21 of the Revised Code. 4115

(27) Failure to maintain at all times a special or trust bank 4116
account in a depository in this state, to be used exclusively for 4117
the deposit and maintenance of all rents, security deposits, 4118
escrow funds, and other moneys received by the broker in a 4119
fiduciary capacity in the course of managing real property. This 4120
account shall be separate and distinct from any other account 4121
maintained by the broker. The name, account number, and location 4122
of the depository shall be submitted in writing to the 4123
superintendent. This account may earn interest, which shall be 4124
paid to the property owners on a pro rata basis. 4125

Division (A)(27) of this section does not apply to brokers 4126
who are not engaged in the management of real property on behalf 4127
of real property owners. 4128

(28) Having failed to put definite expiration dates in all 4129
written agency agreements to which the broker is a party; 4130

(29) Having an unsatisfied final judgment in any court of 4131
record against the licensee arising out of the licensee's conduct 4132
as a licensed broker or salesperson; 4133

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;

(32) Performing any service for another constituting the practice of law, as determined by any court of law;

(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counteroffer or having failed to present an offer or counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law.

(B) Whenever the commission, pursuant to section 4735.051 of

the Revised Code, imposes disciplinary sanctions for any violation 4165
of this section, the commission also may impose such sanctions 4166
upon the broker with whom the salesperson is affiliated if the 4167
commission finds that the broker had knowledge of the 4168
salesperson's actions that violated this section. 4169

(C) The commission shall, pursuant to section 4735.051 of the 4170
Revised Code, impose disciplinary sanctions upon any foreign real 4171
estate dealer or salesperson who, in that capacity or in handling 4172
the dealer's or salesperson's own property, is found guilty of any 4173
of the acts or omissions specified or comprehended in division (A) 4174
of this section insofar as the acts or omissions pertain to 4175
foreign real estate. If the commission imposes such sanctions upon 4176
a foreign real estate salesperson for a violation of this section, 4177
the commission also may suspend or revoke the license of the 4178
foreign real estate dealer with whom the salesperson is affiliated 4179
if the commission finds that the dealer had knowledge of the 4180
salesperson's actions that violated this section. 4181

(D) The commission may suspend, in whole or in part, the 4182
imposition of the penalty of suspension of a license under this 4183
section. 4184

(E) The commission immediately shall notify the real estate 4185
appraiser board of any disciplinary action taken under this 4186
section against a licensee who also is a state-certified real 4187
estate appraiser under Chapter 4763. of the Revised Code. 4188

(F) As used in this section, a "criminal offense that is 4189
substantially related" has the same meaning as in section 4743.06 4190
of the Revised Code. 4191

Sec. 4735.27. (A) An application to act as a foreign real 4192
estate dealer shall be in writing and filed with the 4193
superintendent of real estate. It shall be in the form the 4194
superintendent prescribes and shall contain the following 4195

information:	4196
(1) The name and address of the applicant;	4197
(2) A description of the applicant, including, if the applicant is a partnership, unincorporated association, or any similar form of business organization, the names and the residence and business addresses of all partners, officers, directors, trustees, or managers of the organization, and the limitation of the liability of any partner or member; and if the applicant is a corporation, a list of its officers and directors, and the residence and business addresses of each, and, if it is a foreign corporation, a copy of its articles of incorporation in addition;	4198 4199 4200 4201 4202 4203 4204 4205 4206
(3) The location and addresses of the principal office and all other offices of the applicant;	4207 4208
(4) A general description of the business of the applicant prior to the application, including a list of states in which the applicant is a licensed foreign real estate dealer;	4209 4210 4211
(5) The names and addresses of all salesmen <u>salespersons</u> of the applicant at the date of the application;	4212 4213
(6) The nature of the business of the applicant, and its places of business, for the ten-year period preceding the date of application.	4214 4215 4216
(B) Every nonresident applicant shall name a person within this state upon whom process against the applicant may be served and shall give the complete residence and business address of the person designated. Every applicant shall file an irrevocable written consent, executed and acknowledged by an individual duly authorized to give such consent, that actions growing out of a fraud committed by the applicant in connection with the sale in this state of foreign real estate may be commenced against it, in the proper court of any county in this state in which a cause of action for such fraud may arise or in which the plaintiff in such	4217 4218 4219 4220 4221 4222 4223 4224 4225 4226

action may reside, by serving on the secretary of state any proper 4227
process or pleading authorized by the laws of this state, in the 4228
event that the applicant if a resident of this state, or the 4229
person designated by the nonresident applicant, cannot be found at 4230
the address given. The consent shall stipulate that the service of 4231
process on the secretary of state shall be taken in all courts to 4232
be as valid and binding as if service had been made upon the 4233
foreign real estate dealer. If the applicant is a corporation or 4234
an unincorporated association, the consent shall be accompanied by 4235
a certified copy of the resolution of the board of directors, 4236
trustees, or managers of the corporation or association, 4237
authorizing such individual to execute the consent. 4238

(C) The superintendent may investigate any applicant for a 4239
dealer's license, and may require any additional information ~~he~~ 4240
the superintendent considers necessary to determine the business 4241
repute and qualifications of the applicant to act as a foreign 4242
real estate dealer. If the application for a dealer's license 4243
involves investigation outside this state, the superintendent may 4244
require the applicant to advance sufficient funds to pay any of 4245
the actual expenses of the investigation, and an itemized 4246
statement of such expense shall be furnished to the applicant. 4247

(D) Every applicant shall take a written examination, 4248
prescribed and conducted by the superintendent, which covers ~~his~~ 4249
the applicant's knowledge of the principles of real estate 4250
practice, real estate law, financing and appraisal, real estate 4251
transactions and instruments relating to them, canons of business 4252
ethics relating to real estate transactions, and the duties of 4253
foreign real estate dealers and ~~salesmen~~ salespersons. The fee for 4254
the examination, when administered by the superintendent, is 4255
seventy-five dollars. If the applicant does not appear for the 4256
examination, the fee shall be forfeited and a new application and 4257
fee shall be filed, unless good cause for the failure to appear is 4258

shown to the superintendent. The requirement of an examination may 4259
be waived in whole or in part by the superintendent if an 4260
applicant is licensed as a real estate broker by any state. 4261

Any applicant who fails the examination twice shall wait six 4262
months before applying to retake the examination. 4263

(E) No person shall take the foreign real estate dealer's 4264
examination who has not established to the satisfaction of the 4265
superintendent that ~~he~~ the person: 4266

(1) Has not been convicted of or pleaded guilty to a felony 4267
~~or a crime of moral turpitude~~ criminal offense that is 4268
substantially related to practice as a foreign real estate dealer 4269
or, if ~~he~~ the applicant has been so convicted or so pleaded 4270
guilty, the superintendent has disregarded the conviction or 4271
guilty plea because the applicant has proven to the 4272
superintendent, by a preponderance of the evidence, that ~~his~~ the 4273
applicant's activities and employment record since the conviction 4274
or guilty plea show that ~~he~~ the applicant is honest, truthful, and 4275
of good reputation, and there is no basis in fact for believing 4276
that ~~he~~ the applicant again will violate the laws involved; 4277

(2) Has not been finally adjudged by a court to have violated 4278
any municipal, state, or federal civil rights laws relevant to the 4279
protection of purchasers or sellers of real estate or, if ~~he~~ the 4280
applicant has been so adjudged, at least two years have passed 4281
since the court decision and the superintendent has disregarded 4282
the adjudication because the applicant has proven, by a 4283
preponderance of the evidence, that ~~his~~ the applicant's activities 4284
and employment record since the adjudication show that ~~he~~ the 4285
applicant is honest, truthful, and of good reputation, and there 4286
is no basis in fact for believing that ~~he~~ the applicant again will 4287
violate the laws involved; 4288

(3) Has not, during any period for which ~~he~~ the applicant was 4289

licensed under this chapter or any former section of the Revised 4290
Code applicable to licensed foreign real estate dealers or 4291
~~salesmen~~ salespersons, violated any provision of, or any rule 4292
adopted pursuant to, this chapter or that section, or, if ~~he~~ the 4293
applicant has violated any such provision or rule, has established 4294
to the satisfaction of the superintendent that ~~he~~ the applicant 4295
will not again violate the provision or rule. 4296

(F) If the superintendent finds that an applicant for a 4297
license as a foreign real estate dealer, or each named member, 4298
manager, or officer of a partnership, association, or corporate 4299
applicant is at least eighteen years of age, is of good business 4300
repute, has passed the examination required under this section or 4301
has had the requirement of an examination waived, and appears 4302
otherwise qualified, the superintendent shall issue a license to 4303
the applicant to engage in business in this state as a foreign 4304
real estate dealer. Dealers licensed pursuant to this section 4305
shall employ as ~~salesmen~~ salespersons of foreign real estate only 4306
persons licensed pursuant to section 4735.28 of the Revised Code. 4307
If at any time such ~~salesmen~~ salespersons resign or are discharged 4308
or new ~~salesmen~~ salespersons are added, the dealer forthwith shall 4309
notify the superintendent and shall file with the division of real 4310
estate the names and addresses of new ~~salesmen~~ salespersons. 4311

(G) If the applicant merely is renewing ~~his~~ the applicant's 4312
license for the previous year, the application need contain only 4313
the information required by divisions (A)(2), (3), and (6) of this 4314
section. 4315

(H) As used in this section, a "criminal offense that is 4316
substantially related" has the same meaning as in section 4743.06 4317
of the Revised Code. 4318

Sec. 4735.28. (A) An application to act as a foreign real 4319
estate ~~salesman~~ salesperson shall be in writing and filed with the 4320

superintendent of real estate. It shall be in the form the 4321
superintendent prescribes and shall contain the following 4322
information: 4323

(1) The name and complete residence and business addresses of 4324
the applicant; 4325

(2) The name of the foreign real estate dealer who is 4326
employing the applicant or who intends to employ ~~him~~ the 4327
applicant; 4328

(3) The age and education of the applicant, and ~~his~~ the 4329
applicant's experience in the sale of foreign real estate; whether 4330
~~he~~ the applicant has ever been licensed by the superintendent, and 4331
if so, when; whether ~~he~~ the applicant has ever been refused a 4332
license by the superintendent; and whether ~~he~~ the applicant has 4333
ever been licensed or refused a license or any similar permit by 4334
any division or superintendent of real estate, by whatsoever name 4335
known or designated, anywhere; 4336

(4) The nature of the employment, and the names and addresses 4337
of the employers, of the applicant for the period of ten years 4338
immediately preceding the date of the application. 4339

(B) Every applicant shall take a written examination, 4340
prescribed and conducted by the superintendent, which covers ~~his~~ 4341
the applicant's knowledge of the principles of real estate 4342
practice, real estate law, financing and appraisal, real estate 4343
transactions and instruments relating to them, canons of business 4344
ethics relating to real estate transactions, and the duties of 4345
foreign real estate ~~salesmen~~ salespersons. The fee for the 4346
examination, when administered by the superintendent, is fifty 4347
dollars. If the applicant does not appear for the examination, the 4348
fee shall be forfeited and a new application and fee shall be 4349
filed, unless good cause for the failure to appear is shown to the 4350
superintendent. The requirement of an examination may be waived in 4351

whole or in part by the superintendent if an applicant is licensed 4352
as a real estate broker or ~~salesman~~ salesperson by any state. 4353

Any applicant who fails the examination twice shall wait six 4354
months before applying to retake the examination. 4355

(C) No person shall take the foreign real estate ~~salesman's~~ 4356
salesperson's examination who has not established to the 4357
satisfaction of the superintendent that ~~he~~ the person: 4358

(1) Has not been convicted of or pleaded guilty to a felony 4359
~~or a crime of moral turpitude~~ criminal offense that is 4360
substantially related to practice as a foreign real estate 4361
salesperson or, if ~~he~~ the applicant has been so convicted or 4362
pleaded guilty, the superintendent has disregarded the conviction 4363
or guilty plea because the applicant has proven to the 4364
superintendent, by a preponderance of the evidence, that ~~his~~ the 4365
applicant's activities and employment record since the conviction 4366
or plea of guilty show that ~~he~~ the applicant is honest, truthful, 4367
and of good reputation, and there is no basis in fact for 4368
believing that ~~he~~ the applicant again will violate the laws 4369
involved; 4370

(2) Has not been finally adjudged by a court to have violated 4371
any municipal, state, or federal civil rights laws relevant to the 4372
protection of purchasers or sellers of real estate or, if ~~he~~ the 4373
applicant has been so adjudged, at least two years have passed 4374
since the court decision and the superintendent has disregarded 4375
the adjudication because the applicant has proven, by a 4376
preponderance of the evidence, that ~~his~~ the applicant's activities 4377
and employment record since the adjudication show that ~~he~~ the 4378
applicant is honest, truthful, and of good reputation, and there 4379
is no basis in fact for believing that ~~he~~ the applicant will again 4380
violate the laws; 4381

(3) Has not, during any period for which ~~he~~ the applicant was 4382

licensed under this chapter or any former section of the Revised 4383
Code ~~aplicable~~ applicable to licensed foreign real estate dealers 4384
or ~~salesmen~~ salespersons, violated any provision of, or any rule 4385
adopted pursuant to, this chapter or that section, or, if ~~he~~ the 4386
applicant has violated any such provision or rule, has established 4387
to the satisfaction of the superintendent that ~~he~~ the applicant 4388
will not again violate the provision or rule. 4389

(D) Every ~~salesman~~ salesperson of foreign real estate shall 4390
be licensed by the superintendent of real estate and shall be 4391
employed only by the licensed foreign real estate dealer specified 4392
on ~~his~~ the salesperson's license. 4393

(E) If the superintendent finds that the applicant is of good 4394
business repute, appears to be qualified to act as a foreign real 4395
estate ~~salesman~~ salesperson, and has fully complied with the 4396
provisions of this chapter, and that the dealer in the application 4397
is a licensed foreign real estate dealer, the superintendent, upon 4398
payment of the fees prescribed by section 4735.15 of the Revised 4399
Code, shall issue a license to the applicant authorizing ~~him~~ the 4400
applicant to act as ~~salesman~~ a salesperson for the dealer named in 4401
the application. 4402

(F) As used in this section, a "criminal offense that is 4403
substantially related" has the same meaning as in section 4743.06 4404
of the Revised Code. 4405

Sec. 4738.04. ~~Each~~ As used in this section, a "criminal 4406
offense that is substantially related" has the same meaning as in 4407
section 4743.06 of the Revised Code. 4408

Each person applying for a motor vehicle salvage dealer 4409
license or a salvage motor vehicle auction license or a salvage 4410
motor vehicle pool license shall make out and deliver to the 4411
registrar of motor vehicles, upon a blank to be furnished by the 4412
registrar for that purpose, a separate application for license for 4413

each county in which the business is to be conducted. The 4414
application for each type of license shall be in the form 4415
prescribed by the registrar and shall be signed and sworn to by 4416
the applicant. The application for a license for a motor vehicle 4417
salvage dealer, a salvage motor vehicle auction, or salvage motor 4418
vehicle pool, in addition to other information as is required by 4419
the registrar, shall include the following: 4420

(A) Name of applicant and location of principal place of 4421
business; 4422

(B) Name or style under which business is to be conducted 4423
and, if a corporation, the state of incorporation; 4424

(C) Name and address of each owner or partner and, if a 4425
corporation, the names of the officers and directors; 4426

(D) The county in which the business is to be conducted and 4427
the address of each place of business therein; 4428

(E) A financial statement of the applicant showing the true 4429
financial condition as of a date not earlier than six months prior 4430
to the date of the application; 4431

(F) A statement of the previous history, record, and 4432
association of the applicant and of each owner, partner, officer, 4433
and director, which statement shall be sufficient to establish to 4434
the satisfaction of the registrar the reputation in business of 4435
the applicant; 4436

(G) A statement showing whether the applicant has previously 4437
been convicted of or pleaded guilty to a felony criminal offense 4438
that is substantially related to the operation of a motor vehicle 4439
salvage dealer, salvage motor vehicle auction, or salvage motor 4440
vehicle pool; 4441

(H) A statement showing whether the applicant has previously 4442
applied for a license under this chapter and the result of the 4443

application, and whether the applicant has ever been the holder of 4444
any such license which was revoked or suspended; 4445

(I) If the applicant is a corporation or partnership, a 4446
statement showing whether any of the partners, officers, or 4447
directors have been refused a license under this chapter, or have 4448
been the holder of any such license which was revoked or 4449
suspended. 4450

Sec. 4738.07. The As used in this section, a "criminal 4451
offense that is substantially related" has the same meaning as in 4452
section 4743.06 of the Revised Code. 4453

The registrar of motor vehicles shall deny the application of 4454
any person for a license under this chapter and refuse to issue 4455
him a license if the registrar finds that the applicant: 4456

(A) Has made false statement of a material fact in his 4457
application; 4458

(B) Has not complied with sections 4738.01 to 4738.15 of the 4459
Revised Code: 4460

(C) Is of bad business repute or has habitually defaulted on 4461
financial obligations; 4462

(D) Has been convicted of or pleaded guilty to a felony 4463
criminal offense that is substantially related to the operation of 4464
a motor vehicle salvage dealer, salvage motor vehicle auction, or 4465
salvage motor vehicle pool; 4466

(E) Has been guilty of a fraudulent act in connection with 4467
dealing in salvage motor vehicles or when operating as a motor 4468
vehicle salvage dealer, salvage motor vehicle auction, or salvage 4469
motor vehicle pool; 4470

(F) Is insolvent; 4471

(G) Is of insufficient responsibility to assure the prompt 4472

payment of any final judgments which might reasonably be entered 4473
against him because of the transaction of his business during the 4474
period of the license applied for; 4475

(H) Has no established place of business; 4476

(I) Has less than twelve months prior to said application, 4477
been denied a license under this chapter. 4478

If the applicant is a corporation or partnership, the 4479
registrar may refuse to issue a license if any officer, director, 4480
or partner of the applicant has been guilty of any act or omission 4481
which would be cause for refusing or revoking a license issued to 4482
the officer, director, or partner as an individual. The 4483
registrar's finding may be based upon facts contained in the 4484
application or upon any other information which he may have. 4485
Immediately upon denying an application for any of the reasons in 4486
this section, the registrar shall enter a final order together 4487
with his findings and certify the same to the motor vehicle 4488
salvage dealer's licensing board. 4489

An applicant who has been refused a license may appeal from 4490
the action of the registrar to the motor vehicle salvage dealer's 4491
licensing board in the manner prescribed in section 4738.12 of the 4492
Revised Code. 4493

Sec. 4738.12. The motor vehicle salvage dealer's licensing 4494
board shall hear appeals which may be taken from an order of the 4495
registrar of motor vehicles, refusing to issue a license. All 4496
appeals from any order of the registrar refusing to issue any 4497
license upon proper application made must be taken within thirty 4498
days from the date of the order, or the order is final and 4499
conclusive. All appeals from orders of the registrar must be by 4500
petition in writing and verified under oath by the applicant whose 4501
application for license has been denied, and must set forth the 4502
reason why, in the petitioner's opinion, the order of the 4503

registrar is not correct. In appeals the board may make 4504
investigation to determine the correctness and legality of the 4505
order of the registrar. 4506

The board may make rules governing its actions relative to 4507
the suspension and revocation of licenses and may, upon its own 4508
motion, and shall, upon the verified complaint in writing of any 4509
person, investigate the conduct of any licensee under this 4510
chapter. The board shall suspend or revoke or notify the registrar 4511
to refuse to renew any license if any ground existed upon which 4512
the license would have been refused, or if a ground exists which 4513
would be cause for refusal to issue a license. 4514

The board may suspend or revoke any license if the licensee 4515
has in any manner violated the rules issued pursuant to sections 4516
4738.01 to 4738.16 of the Revised Code, or has been convicted of 4517
~~committing a felony or violating any law which in any way relates~~ 4518
~~to the theft of motor vehicles~~ pleaded guilty to a criminal 4519
offense that is substantially related to the operation of a motor 4520
vehicle salvage dealer, salvage motor vehicle auction, or salvage 4521
motor vehicle pool. 4522

As used in this section, "a criminal offense that is 4523
substantially related" has the same meaning as in section 4743.06 4524
of the Revised Code. 4525

Sec. 4738.18. (A) Any person licensed under division (A) of 4526
section 4738.03 of the Revised Code who wishes to purchase salvage 4527
motor vehicles at salvage motor vehicle auctions or salvage motor 4528
vehicle pools shall make application to the registrar of motor 4529
vehicles for a buyer's identification card. The application shall 4530
be on a form prescribed by the registrar and shall contain the 4531
applicant's name, principal business address, the license number 4532
under which the applicant will be making purchases, and such other 4533
information as the registrar requires. In lieu of directly 4534

obtaining a buyer's identification card or in addition thereto, 4535
any person licensed under division (A) of section 4738.03 of the 4536
Revised Code may designate up to two employees to act as buyers 4537
for the licensee. The licensee shall make application for a 4538
buyer's identification card for each employee in the same manner 4539
as for a card for the licensee. 4540

(B) The fee for each buyer's identification card shall be 4541
thirty-five dollars. 4542

(C) Beginning on ~~the effective date of this amendment~~ 4543
September 16, 2004, each buyer's identification card shall expire 4544
biennially on a day within the two-year cycle that is prescribed 4545
by the registrar, unless sooner suspended or revoked. Before the 4546
first day after the day prescribed by the registrar in the year 4547
that the card expires, each cardholder shall file an application 4548
for renewal of the card, in a form that the registrar prescribes. 4549
A buyer's identification card is nontransferable. If the holder of 4550
a card no longer possesses a valid salvage motor vehicle dealer's 4551
license, or if an employee of the licensee leaves the employment 4552
of the licensee, the buyer's identification card of that person is 4553
invalid and the holder shall return the card to the registrar. 4554

(D) Any person who holds a valid salvage motor vehicle 4555
dealer's license from another state that imposes qualifications 4556
and requirements with respect to the license that are equivalent 4557
to those required by Chapter 4738. of the Revised Code may make 4558
application and receive a buyer's identification card. The person 4559
shall make application to the registrar who shall, based upon the 4560
registrar's investigation, issue a buyer's identification card to 4561
those applicants who the registrar determines are qualified. 4562

(E) All applicants for a buyer's identification card must be 4563
of good financial repute and not have been convicted of or pleaded 4564
guilty to a felony criminal offense that is substantially related 4565
to the purchase of salvage motor vehicles as verified by a report 4566

from a law enforcement agency and credit report furnished to the 4567
registrar by the applicant. 4568

(F) The registrar may revoke or suspend the license of any 4569
salvage motor vehicle dealer who allows the dealer's card or the 4570
card of any employee to be used by any unauthorized person. 4571

(G) As used in this section, a "criminal offense that is 4572
substantially related" has the same meaning as in section 4743.06 4573
of the Revised Code. 4574

Sec. 4740.06. (A) Any individual who applies for a license 4575
shall file a written application with the appropriate section of 4576
the Ohio construction industry licensing board, accompanied with 4577
the application fee as determined pursuant to section 4740.09 of 4578
the Revised Code. The individual shall file the application not 4579
more than sixty days nor less than thirty days prior to the date 4580
of the examination. The application shall be on the form the 4581
section prescribes and verified by the applicant's oath. The 4582
applicant shall provide information satisfactory to the section 4583
showing that the applicant meets the requirements of division (B) 4584
of this section. 4585

(B) To qualify to take an examination, an individual shall: 4586

(1) Be at least eighteen years of age; 4587

(2) Be a United States citizen or legal alien who produces 4588
valid documentation to demonstrate the individual is a legal 4589
resident of the United States; 4590

(3) Either have been a tradesperson in the type of licensed 4591
trade for which the application is filed for not less than five 4592
years immediately prior to the date the application is filed, be a 4593
currently registered engineer in this state with three years of 4594
business experience in the construction industry in the trade for 4595
which the engineer is applying to take an examination, or have 4596

other experience acceptable to the appropriate section of the board; 4597
4598

(4) Maintain contractor's liability insurance, including 4599
without limitation, complete operations coverage, in an amount the 4600
appropriate section of the board determines; 4601

(5) Not have done any of the following: 4602

(a) Been convicted of or pleaded guilty to a ~~misdemeanor~~ 4603
~~involving moral turpitude or of any felony~~ criminal offense that 4604
is substantially related to practice as a contractor; 4605

(b) Violated this chapter or any rule adopted pursuant to it; 4606

(c) Obtained or renewed a license issued pursuant to this 4607
chapter, or any order, ruling, or authorization of the board or a 4608
section of the board by fraud, misrepresentation, or deception; 4609

(d) Engaged in fraud, misrepresentation, or deception in the 4610
conduct of business. 4611

(C) When an applicant for licensure as a contractor in a 4612
licensed trade meets the qualifications set forth in division (B) 4613
of this section and passes the required examination, the 4614
appropriate section of the board, within ninety days after the 4615
application was filed, shall authorize the administrative section 4616
of the board to license the applicant for the type of contractor's 4617
license for which the applicant qualifies. A section of the board 4618
may withdraw its authorization to the administrative section for 4619
issuance of a license for good cause shown, on the condition that 4620
notice of that withdrawal is given prior to the administrative 4621
section's issuance of the license. 4622

(D) All licenses a contractor holds pursuant to this chapter 4623
shall expire annually on the same date, which shall be the 4624
expiration date of the original license the contractor holds. An 4625
individual holding a valid, unexpired license may renew the 4626

license, without reexamination, by submitting an application to 4627
the appropriate section of the board not more than ninety calendar 4628
days before the expiration of the license, along with the renewal 4629
fee the section requires and proof of compliance with the 4630
applicable continuing education requirements. The applicant shall 4631
provide information in the renewal application satisfactory to 4632
demonstrate to the appropriate section that the applicant 4633
continues to meet the requirements of division (B) of this 4634
section. 4635

Upon application and within one calendar year after a license 4636
has expired, a section may waive any of the requirements for 4637
renewal of a license upon finding that an applicant substantially 4638
meets the renewal requirements or that failure to timely apply for 4639
renewal is due to excusable neglect. A section that waives 4640
requirements for renewal of a license may impose conditions upon 4641
the licensee and assess a late filing fee of not more than double 4642
the usual renewal fee. An applicant shall satisfy any condition 4643
the section imposes before a license is reissued. 4644

(E) An individual holding a valid license may request the 4645
section of the board that authorized that license to place the 4646
license in inactive status under conditions, and for a period of 4647
time, as that section determines. 4648

(F) Except for the ninety-day extension provided for a 4649
license assigned to a business entity under division (D) of 4650
section 4740.07 of the Revised Code, a license held by an 4651
individual immediately terminates upon the death of the 4652
individual. 4653

(G) Nothing in any license issued by the Ohio construction 4654
industry licensing board shall be construed to limit or eliminate 4655
any requirement of or any license issued by the Ohio fire marshal. 4656

(H) As used in this section, a "criminal offense that is 4657

substantially related" has the same meaning as in section 4743.06 4658
of the Revised Code. 4659

Sec. 4740.10. (A) The appropriate section of the Ohio 4660
construction industry licensing board may take any of the 4661
following actions against a licensee who violates Chapter 4740. of 4662
the Revised Code: 4663

(1) Impose a fine on the licensee, not exceeding one thousand 4664
dollars per violation per day; 4665

(2) Direct the administrative section to suspend the 4666
licensee's license for a period of time the section establishes; 4667

(3) Direct the administrative section to revoke the 4668
licensee's license; 4669

(4) Require the licensee to complete additional continuing 4670
education course work. Any continuing education course work 4671
completed pursuant to this division may not count toward any other 4672
continuing education requirements this chapter establishes. 4673

(5) Direct the administrative section to refuse to issue or 4674
renew a license if the section finds that the applicant or 4675
licensee has done any of the following: 4676

(a) Been convicted of or pleaded guilty to a misdemeanor 4677
involving moral turpitude or a felony criminal offense that is 4678
substantially related to the construction profession; 4679

(b) Violated any provision of this chapter or the rules 4680
adopted pursuant thereto; 4681

(c) Obtained a license or any order, ruling, or authorization 4682
of the board by fraud, misrepresentation, or deception; 4683

(d) Engaged in fraud, misrepresentation, or deception in the 4684
conduct of business. 4685

(B) The appropriate section of the board shall determine the 4686

length of time that a license is to be suspended and whether or 4687
when an individual whose license has been revoked may apply for 4688
reinstatement. The appropriate section of the board may accept or 4689
refuse an application for reinstatement and may require an 4690
examination for reinstatement. 4691

(C) The appropriate section of the board may investigate any 4692
alleged violation of this chapter or the rules adopted pursuant to 4693
it. If, after an investigation, a section determines that any 4694
person has engaged or is engaging in any practice that violates 4695
this chapter or the rules adopted pursuant to it, that section may 4696
apply to the court of common pleas of the county in which the 4697
violation occurred or is occurring for an injunction or other 4698
appropriate relief to enjoin or terminate the violation. 4699

(D) Any person who wishes to make a complaint against a 4700
person who holds a license shall submit the complaint in writing 4701
to the appropriate section of the board within three years after 4702
the date of the action or event upon which the complaint is based. 4703

(E) As used in this section, a "criminal offense that is 4704
substantially related" has the same meaning as in section 4743.06 4705
of the Revised Code. 4706

Sec. 4741.22. The As used in this section, a "criminal 4707
offense that is substantially related" has the same meaning as in 4708
section 4743.06 of the Revised Code. 4709

The state veterinary medical licensing board may refuse to 4710
issue or renew a license, limited license, registration, or 4711
temporary permit to or of any applicant who, and may issue a 4712
reprimand to, suspend or revoke the license, limited license, 4713
registration, or the temporary permit of, or impose a civil 4714
penalty pursuant to this section upon any person holding a 4715
license, limited license, or temporary permit to practice 4716
veterinary medicine or any person registered as a registered 4717

veterinary technician who: 4718

(A) In the conduct of the person's practice does not conform 4719
to the rules of the board or the standards of the profession 4720
governing proper, humane, sanitary, and hygienic methods to be 4721
used in the care and treatment of animals; 4722

(B) Uses fraud, misrepresentation, or deception in any 4723
application or examination for licensure, or any other 4724
documentation created in the course of practicing veterinary 4725
medicine; 4726

(C) Is found to be physically or psychologically addicted to 4727
alcohol or an illegal or controlled substance, as defined in 4728
section 3719.01 of the Revised Code, to such a degree as to render 4729
the person unfit to practice veterinary medicine; 4730

(D) Directly or indirectly employs or lends the person's 4731
services to a solicitor for the purpose of obtaining patients; 4732

(E) Obtains a fee on the assurance that an incurable disease 4733
can be cured; 4734

(F) Advertises in a manner that violates section 4741.21 of 4735
the Revised Code; 4736

(G) Divides fees or charges or has any arrangement to share 4737
fees or charges with any other person, except on the basis of 4738
services performed; 4739

(H) Sells any biologic containing living, dead, or sensitized 4740
organisms or products of those organisms, except in a manner that 4741
the board by rule has prescribed; 4742

(I) Is convicted of or pleads guilty to ~~any felony or crime~~ 4743
~~involving illegal or prescription drugs~~ a criminal offense that is 4744
substantially related to the practice of veterinary medicine or 4745
practice as a registered veterinary technician, or fails to report 4746
to the board within sixty days of the individual's conviction of, 4747

plea of guilty to, or treatment in lieu of conviction involving a 4748
felony, ~~misdemeanor of the first degree, or offense involving~~ 4749
~~illegal or prescription drugs~~ criminal offense that is 4750
substantially related to the practice of veterinary medicine or 4751
practice as a registered veterinary technician; 4752

(J) Is convicted of any violation of section 959.13 of the 4753
Revised Code; 4754

(K) Swears falsely in any affidavit required to be made by 4755
the person in the course of the practice of veterinary medicine; 4756

(L) Fails to report promptly to the proper official any known 4757
reportable disease; 4758

(M) Fails to report promptly vaccinations or the results of 4759
tests when required to do so by law or rule; 4760

(N) Has been adjudicated incompetent for the purpose of 4761
holding the license or permit by a court, as provided in Chapter 4762
2111. of the Revised Code, and has not been restored to legal 4763
capacity for that purpose; 4764

(O) Permits a person who is not a licensed veterinarian, a 4765
veterinary student, or a registered veterinary technician to 4766
engage in work or perform duties in violation of this chapter; 4767

(P) Is guilty of gross incompetence or gross negligence; 4768

(Q) Has had a license to practice veterinary medicine or a 4769
license, registration, or certificate to engage in activities as a 4770
registered veterinary technician revoked, suspended, or acted 4771
against by disciplinary action by an agency similar to this board 4772
of another state, territory, or country or the District of 4773
Columbia; 4774

(R) Is or has practiced with a revoked, suspended, inactive, 4775
expired, or terminated license or registration; 4776

(S) Represents self as a specialist unless certified as a 4777

specialist by the board; 4778

(T) In the person's capacity as a veterinarian or registered 4779
veterinary technician makes or files a report, health certificate, 4780
vaccination certificate, or other document that the person knows 4781
is false or negligently or intentionally fails to file a report or 4782
record required by any applicable state or federal law; 4783

(U) Fails to use reasonable care in the administration of 4784
drugs or acceptable scientific methods in the selection of those 4785
drugs or other modalities for treatment of a disease or in conduct 4786
of surgery; 4787

(V) Makes available a dangerous drug, as defined in section 4788
4729.01 of the Revised Code, to any person other than for the 4789
specific treatment of an animal patient; 4790

(W) Refuses to permit a board investigator or the board's 4791
designee to inspect the person's business premises during regular 4792
business hours, except as provided in division (A) of section 4793
4741.26 of the Revised Code; 4794

(X) Violates any order of the board or fails to comply with a 4795
subpoena of the board; 4796

(Y) Fails to maintain medical records as required by rule of 4797
the board; 4798

(Z) Engages in cruelty to animals; 4799

(AA) Uses, prescribes, or sells any veterinary prescription 4800
drug or biologic, or prescribes any extra-label use of any 4801
over-the-counter drug or dangerous drug in the absence of a valid 4802
veterinary-client-patient relationship. 4803

Before the board may revoke, deny, refuse to renew, or 4804
suspend a license, registration, or temporary permit or otherwise 4805
discipline the holder of a license, registration, or temporary 4806
permit, the executive director shall file written charges with the 4807

board. The board shall conduct a hearing on the charges as 4808
provided in Chapter 119. of the Revised Code. 4809

If the board, after a hearing conducted pursuant to Chapter 4810
119. of the Revised Code, revokes, refuses to renew, or suspends a 4811
license, registration, or temporary permit for a violation of this 4812
section, section 4741.23, division (C) or (D) of section 4741.19, 4813
or division (B), (C), or (D) of section 4741.21 of the Revised 4814
Code, the board may impose a civil penalty upon the holder of the 4815
license, permit, or registration of not less than one hundred 4816
dollars or more than one thousand dollars. In addition to the 4817
civil penalty and any other penalties imposed pursuant to this 4818
chapter, the board may assess any holder of a license, permit, or 4819
registration the costs of the hearing conducted under this section 4820
if the board determines that the holder has violated any provision 4821
for which the board may impose a civil penalty under this section. 4822

Sec. 4743.06. (A) As used in this section: 4823

(1) A "criminal offense that is substantially related" means 4824
that the nature of the felony or misdemeanor offense for which the 4825
person was convicted or to which the person pleaded guilty has a 4826
direct bearing on the fitness or ability of the person to perform 4827
one or more of the duties or responsibilities necessarily related 4828
to a particular occupation, profession, or trade regulated by 4829
Title XLVII of the Revised Code. 4830

(2) A "board, commission, or agency" includes only those 4831
boards, commissions, or agencies subject to section 4701.16, 4832
4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 4717.14, 4833
4719.03, 4723.28, 4725.19, 4725.53, 4727.15, 4728.13, 4729.16, 4834
4729.53, 4729.56, 4730.25, 4731.22, 4732.17, 4733.20, 4734.31, 4835
4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 4738.04, 4836
4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 4741.22, 4747.12, 4837
4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 4755.11, 4755.47, 4838

4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 4762.13, 4839
4763.11, 4765.18, 4765.301, 4774.13, 4779.28, or 4781.09 of the 4840
Revised Code. 4841

(B) Within ninety days of the effective date of this section, 4842
each board, commission, or agency shall adopt rules that identify 4843
each criminal offense that is substantially related to the 4844
occupation, profession, or trade under its supervision or 4845
regulation. 4846

(C) Each board, commission, or agency shall keep records of 4847
the number of licenses, permits, registrations, and certificates 4848
denied, revoked, or suspended because the applicant or license, 4849
permit, registration, or certificate holder is convicted of or 4850
pleads guilty to a criminal offense that is substantially related 4851
to the occupation, profession, or trade under the supervision or 4852
regulation of the board, commission, or agency and of the reasons 4853
for the denial, revocation, or suspension. 4854

(D) In the absence of fraud or bad faith, there is no private 4855
cause of action for damages against any board, commission, or 4856
agency; a current or former board, commission, or agency member; 4857
an agent of a board, commission, or agency; a person formally 4858
requested by a board, commission, or agency to be a representative 4859
of the entity; or an employee of a board, commission, or agency 4860
that grants a license, permit, registration, or certificate to a 4861
person who is convicted of or pleads guilty to a criminal offense 4862
if that person subsequent to receiving the license, permit, 4863
registration, or certificate commits another criminal offense. 4864

Sec. 4747.12. The As used in this section, a "criminal 4865
offense that is substantially related" has the same meaning as in 4866
section 4743.06 of the Revised Code. 4867

The hearing aid dealers and fitters licensing board may 4868
revoke or suspend a license or permit if the person who holds such 4869

license or permit: 4870

(A) Is convicted of or pleads guilty to a felony or a 4871
~~misdemeanor involving moral turpitude~~ criminal offense that is 4872
substantially related to practice as a hearing aid dealer or 4873
fitter. The record of conviction or guilty plea, or a copy thereof 4874
certified by the clerk of the court or by the judge in whose court 4875
the conviction or guilty plea occurs, is conclusive evidence of 4876
such conviction; 4877

(B) Procured a license or permit by fraud or deceit practiced 4878
upon the board; 4879

(C) Obtained any fee or made any sale of a hearing aid by 4880
fraud or misrepresentation; 4881

(D) Knowingly employed any person without a license or a 4882
person whose license was suspended or revoked to engage in the 4883
fitting or sale of hearing aids; 4884

(E) Used or caused or promoted the use of any advertising 4885
matter, promotional literature, testimonial, guarantee, warranty, 4886
label, brand, insignia, or any other representation, however 4887
disseminated or published, which is misleading, deceptive, or 4888
untruthful; 4889

(F) Advertised a particular model or type of hearing aid for 4890
sale when purchasers or prospective purchasers responding to the 4891
advertisement cannot purchase the specified model or type of 4892
hearing aid; 4893

(G) Represented or advertised that the service or advice of a 4894
person licensed to practice medicine will be used or made 4895
available in the selection, fitting, adjustment, maintenance, or 4896
repair of hearing aids when such is not true, or using the words 4897
"doctor," "clinic," or similar words, abbreviations, or symbols 4898
which connote the medical profession when such use is not 4899
accurate; 4900

(H) Is found by the board to be a person of habitual 4901
intemperance or gross immorality; 4902

(I) Advertised a manufacturer's product or used a 4903
manufacturer's name or trademark in a manner which suggested the 4904
existence of a relationship with the manufacturer which did not or 4905
does not exist; 4906

(J) Fitted or sold, or attempted to fit or sell, a hearing 4907
aid to a person without first utilizing the appropriate procedures 4908
and instruments required for proper fitting of hearing aids; 4909

(K) Engaged in the fitting and sale of hearing aids under a 4910
false name or an alias; 4911

(L) Engaged in the practice of dealing in or fitting of 4912
hearing aids while suffering from a contagious or infectious 4913
disease; 4914

(M) Was found by the board to be guilty of gross incompetence 4915
or negligence in the fitting or sale of hearing aids; 4916

(N) Permitted another person to use ~~his~~ the licensee's 4917
license. 4918

Sec. 4749.03. (A)(1) Any individual, including a partner in a 4919
partnership, may be licensed as a private investigator under a 4920
class B license, or as a security guard provider under a class C 4921
license, or as a private investigator and a security guard 4922
provider under a class A license, if the individual meets all of 4923
the following requirements: 4924

(a) Has a good reputation for integrity, has not been 4925
convicted of or pleaded guilty to a felony criminal offense that 4926
is substantially related to the business of private investigation 4927
or the business of security services within the last twenty years 4928
or any offense involving moral turpitude, and has not been 4929
adjudicated incompetent for the purpose of holding the license, as 4930

provided in section 5122.301 of the Revised Code, without having 4931
been restored to legal capacity for that purpose. 4932

(b) Depending upon the class of license for which application 4933
is made, for a continuous period of at least two years immediately 4934
preceding application for a license, has been engaged in 4935
investigatory or security services work for a law enforcement or 4936
other public agency engaged in investigatory activities, or for a 4937
private investigator or security guard provider, or engaged in the 4938
practice of law, or has acquired equivalent experience as 4939
determined by rule of the director of public safety. 4940

(c) Demonstrates competency as a private investigator or 4941
security guard provider by passing an examination devised for this 4942
purpose by the director, except that any individually licensed 4943
person who qualifies a corporation for licensure shall not be 4944
required to be reexamined if the person qualifies the corporation 4945
in the same capacity that the person was individually licensed. 4946

(d) Submits evidence of comprehensive general liability 4947
insurance coverage, or other equivalent guarantee approved by the 4948
director in such form and in principal amounts satisfactory to the 4949
director, but not less than one hundred thousand dollars for each 4950
person and three hundred thousand dollars for each occurrence for 4951
bodily injury liability, and one hundred thousand dollars for 4952
property damage liability. 4953

(e) Pays the requisite examination and license fees. 4954

(2) A corporation may be licensed as a private investigator 4955
under a class B license, or as a security guard provider under a 4956
class C license, or as a private investigator and a security guard 4957
provider under a class A license, if an application for licensure 4958
is filed by an officer of the corporation and the officer, another 4959
officer, or the qualifying agent of the corporation satisfies the 4960
requirements of divisions (A)(1) and (F)(1) of this section. 4961

Officers and the statutory agent of a corporation shall be 4962
determined in accordance with Chapter 1701. of the Revised Code. 4963

(3) At least one partner in a partnership shall be licensed 4964
as a private investigator, or as a security guard provider, or as 4965
a private investigator and a security guard provider. Partners in 4966
a partnership shall be determined as provided for in Chapter 1775. 4967
or 1776. of the Revised Code. 4968

(B) An application for a class A, B, or C license shall be 4969
completed in the form the director prescribes. In the case of an 4970
individual, the application shall state the applicant's name, 4971
birth date, citizenship, physical description, current residence, 4972
residences for the preceding ten years, current employment, 4973
employment for the preceding seven years, experience 4974
qualifications, the location of each of the applicant's offices in 4975
this state, and any other information that is necessary in order 4976
for the director to comply with the requirements of this chapter. 4977
In the case of a corporation, the application shall state the name 4978
of the officer or qualifying agent filing the application; the 4979
state in which the corporation is incorporated and the date of 4980
incorporation; the states in which the corporation is authorized 4981
to transact business; the name of its qualifying agent; the name 4982
of the officer or qualifying agent of the corporation who 4983
satisfies the requirements of divisions (A)(1) and (F)(1) of this 4984
section and the birth date, citizenship, physical description, 4985
current residence, residences for the preceding ten years, current 4986
employment, employment for the preceding seven years, and 4987
experience qualifications of that officer or qualifying agent; and 4988
other information that the director requires. A corporation may 4989
specify in its application information relative to one or more 4990
individuals who satisfy the requirements of divisions (A)(1) and 4991
(F)(1) of this section. 4992

The application described in this division shall be 4993

accompanied by all of the following: 4994

(1) One recent full-face photograph of the applicant or, in 4995
the case of a corporation, of each officer or qualifying agent 4996
specified in the application as satisfying the requirements of 4997
divisions (A)(1) and (F)(1) of this section; 4998

(2) Character references from at least five reputable 4999
citizens for the applicant or, in the case of a corporation, for 5000
each officer or qualifying agent specified in the application as 5001
satisfying the requirements of divisions (A)(1) and (F)(1) of this 5002
section, each of whom has known the applicant, officer, or 5003
qualifying agent for at least five years preceding the 5004
application, and none of whom are connected with the applicant, 5005
officer, or qualifying agent by blood or marriage; 5006

(3) An examination fee of twenty-five dollars for the 5007
applicant or, in the case of a corporation, for each officer or 5008
qualifying agent specified in the application as satisfying the 5009
requirements of divisions (A)(1) and (F)(1) of this section, and a 5010
license fee in the amount the director determines, not to exceed 5011
three hundred seventy-five dollars. The license fee shall be 5012
refunded if a license is not issued. 5013

(C)(1) Each individual applying for a license and each 5014
individual specified by a corporation as an officer or qualifying 5015
agent in an application shall submit one complete set of 5016
fingerprints directly to the superintendent of the bureau of 5017
criminal identification and investigation for the purpose of 5018
conducting a criminal records check. The individual shall provide 5019
the fingerprints using a method the superintendent prescribes 5020
pursuant to division (C)(2) of section 109.572 of the Revised Code 5021
and fill out the form the superintendent prescribes pursuant to 5022
division (C)(1) of section 109.572 of the Revised Code. An 5023
applicant who intends to carry a firearm as defined in section 5024
2923.11 of the Revised Code in the course of business or 5025

employment shall so notify the superintendent. This notification 5026
is in addition to any other requirement related to carrying a 5027
firearm that applies to the applicant. The individual or 5028
corporation requesting the criminal records check shall pay the 5029
fee the superintendent prescribes. 5030

(2) The superintendent shall conduct the criminal records 5031
check as set forth in division (B) of section 109.572 of the 5032
Revised Code. If an applicant intends to carry a firearm in the 5033
course of business or employment, the superintendent shall make a 5034
request to the federal bureau of investigation for any information 5035
and review the information the bureau provides pursuant to 5036
division (B)(2) of section 109.572 of the Revised Code. The 5037
superintendent shall submit all results of the completed 5038
investigation to the director of public safety. 5039

(3) If the director determines that the applicant, officer, 5040
or qualifying agent meets the requirements of divisions (A)(1)(a), 5041
(b), and (d) of this section and that an officer or qualifying 5042
agent meets the requirement of division (F)(1) of this section, 5043
the director shall notify the applicant, officer, or agent of the 5044
time and place for the examination. If the director determines 5045
that an applicant does not meet the requirements of divisions 5046
(A)(1)(a), (b), and (d) of this section, the director shall notify 5047
the applicant that the applicant's application is refused and 5048
refund the license fee. If the director determines that none of 5049
the individuals specified in the application of a corporation as 5050
satisfying the requirements of divisions (A)(1) and (F)(1) of this 5051
section meet the requirements of divisions (A)(1)(a), (b), and (d) 5052
and (F)(1) of this section, the director shall notify the 5053
corporation that its application is refused and refund the license 5054
fee. If the bureau assesses the director a fee for any 5055
investigation, the director, in addition to any other fee assessed 5056
pursuant to this chapter, may assess the applicant, officer, or 5057

qualifying agent, as appropriate, a fee that is equal to the fee 5058
assessed by the bureau. 5059

(D) If upon application, investigation, and examination, the 5060
director finds that the applicant or, in the case of a 5061
corporation, any officer or qualifying agent specified in the 5062
application as satisfying the requirements of divisions (A)(1) and 5063
(F)(1) of this section, meets the applicable requirements, the 5064
director shall issue the applicant or the corporation a class A, 5065
B, or C license. The director also shall issue an identification 5066
card to an applicant, but not an officer or qualifying agent of a 5067
corporation, who meets the applicable requirements. The license 5068
and identification card shall state the licensee's name, the 5069
classification of the license, the location of the licensee's 5070
principal place of business in this state, and the expiration date 5071
of the license, and, in the case of a corporation, it also shall 5072
state the name of each officer or qualifying agent who satisfied 5073
the requirements of divisions (A)(1) and (F)(1) of this section. 5074

Licenses expire on the first day of March following the date 5075
of initial issue, and on the first day of March of each year 5076
thereafter. Annual renewals shall be according to the standard 5077
renewal procedures contained in Chapter 4745. of the Revised Code, 5078
upon payment of an annual renewal fee the director determines, not 5079
to exceed two hundred seventy-five dollars. No license shall be 5080
renewed if the licensee or, in the case of a corporation, each 5081
officer or qualifying agent who qualified the corporation for 5082
licensure no longer meets the applicable requirements of this 5083
section. No license shall be renewed unless the licensee provides 5084
evidence of workers' compensation risk coverage and unemployment 5085
compensation insurance coverage, other than for clerical employees 5086
and excepting sole proprietors who are exempted therefrom, as 5087
provided for in Chapters 4123. and 4141. of the Revised Code, 5088
respectively, as well as the licensee's state tax identification 5089

number. No reexamination shall be required for renewal of a 5090
current license. 5091

For purposes of this chapter, a class A, B, or C license 5092
issued to a corporation shall be considered as also having 5093
licensed the individuals who qualified the corporation for 5094
licensure, for as long as they are associated with the 5095
corporation. 5096

For purposes of this division, "sole proprietor" means an 5097
individual licensed under this chapter who does not employ any 5098
other individual. 5099

(E) The director may issue a duplicate copy of a license 5100
issued under this section for the purpose of replacement of a 5101
lost, spoliated, or destroyed license, upon payment of a fee the 5102
director determines, not exceeding twenty-five dollars. Any change 5103
in license classification requires new application and application 5104
fees. 5105

(F)(1) In order to qualify a corporation for a class A, B, or 5106
C license, an officer or qualifying agent may qualify another 5107
corporation for similar licensure, provided that the officer or 5108
qualifying agent is actively engaged in the business of both 5109
corporations. 5110

(2) Each officer or qualifying agent who qualifies a 5111
corporation for class A, B, or C licensure shall surrender any 5112
personal license of a similar nature that the officer or 5113
qualifying agent possesses. 5114

(3) Upon written notification to the director, completion of 5115
an application similar to that for original licensure, surrender 5116
of the corporation's current license, and payment of a twenty-five 5117
dollar fee, a corporation's class A, B, or C license may be 5118
transferred to another corporation. 5119

(4) Upon written notification to the director, completion of 5120

an application similar to that for an individual seeking class A, 5121
B, or C licensure, payment of a twenty-five dollar fee, and, if 5122
the individual was the only individual that qualified a 5123
corporation for licensure, surrender of the corporation's license, 5124
any officer or qualifying agent who qualified a corporation for 5125
licensure under this chapter may obtain a similar license in the 5126
individual's own name without reexamination. A request by an 5127
officer or qualifying agent for an individual license shall not 5128
affect a corporation's license unless the individual is the only 5129
individual that qualified the corporation for licensure or all the 5130
other individuals who qualified the corporation for licensure 5131
submit such requests. 5132

(G) If a corporation is for any reason no longer associated 5133
with an individual who qualified it for licensure under this 5134
chapter, an officer of the corporation shall notify the director 5135
of that fact by certified mail, return receipt requested, within 5136
ten days after the association terminates. If the notification is 5137
so given, the individual was the only individual that qualified 5138
the corporation for licensure, and the corporation submits the 5139
name of another officer or qualifying agent to qualify the 5140
corporation for the license within thirty days after the 5141
association terminates, the corporation may continue to operate in 5142
the business of private investigation, the business of security 5143
services, or both businesses in this state under that license for 5144
ninety days after the association terminates. If the officer or 5145
qualifying agent whose name is submitted satisfies the 5146
requirements of divisions (A)(1) and (F)(1) of this section, the 5147
director shall issue a new license to the corporation within that 5148
ninety-day period. The names of more than one individual may be 5149
submitted. 5150

(H) As used in this section, a "criminal offense that is 5151
substantially related" has the same meaning as in section 4743.06 5152

of the Revised Code. 5153

Sec. 4749.04. (A) The director of public safety may revoke, 5154
suspend, or refuse to renew, when a renewal form has been 5155
submitted, the license of any private investigator or security 5156
guard provider, or the registration of any employee of a private 5157
investigator or security guard provider, for any of the following: 5158

(1) Violation of any of the provisions of division (B) or (C) 5159
of section 4749.13 of the Revised Code; 5160

(2) Conviction of or plea of guilty to a felony or a crime 5161
involving moral turpitude criminal offense that is substantially 5162
related to the business of private investigation or the business 5163
or security services; 5164

(3) Violation of any rule of the director governing private 5165
investigators, the business of private investigation, security 5166
guard providers, or the business of security services; 5167

(4) Testifying falsely under oath, or suborning perjury, in 5168
any judicial proceeding; 5169

(5) Failure to satisfy the requirements specified in division 5170
(D) of section 4749.03 of the Revised Code. 5171

Any person whose license or registration is revoked, 5172
suspended, or not renewed when a renewal form is submitted may 5173
appeal in accordance with Chapter 119. of the Revised Code. 5174

(B) In lieu of suspending, revoking, or refusing to renew the 5175
class A, B, or C license, or of suspending, revoking, or refusing 5176
to renew the registration of an employee of a class A, B, or C 5177
licensee, the director may impose a civil penalty of not more than 5178
one hundred dollars for each calendar day of a violation of any of 5179
the provisions of this section or of division (B) or (C) of 5180
section 4749.13 of the Revised Code or of a violation of any rule 5181
of the director governing private investigators, the business of 5182

private investigation, security guard providers, or the business 5183
of security services. 5184

(C) As used in this section, a "criminal offense that is 5185
substantially related" has the same meaning as in section 4743.06 5186
of the Revised Code. 5187

Sec. 4749.06. (A) Each class A, B, or C licensee shall 5188
register the licensee's investigator or security guard employees, 5189
with the department of public safety, which shall maintain a 5190
record of each licensee and registered employee and make it 5191
available, upon request, to any law enforcement agency. The class 5192
A, B, or C licensee shall file an application to register a new 5193
employee no sooner than three days nor later than seven calendar 5194
days after the date on which the employee is hired. 5195

(B)(1) Each employee's registration application shall be 5196
accompanied by one recent photograph of the employee, the 5197
employee's physical description, and the registration fee the 5198
director determines, not to exceed forty dollars. 5199

(2) The employee shall submit one complete set of 5200
fingerprints directly to the superintendent of the bureau of 5201
criminal identification and investigation for the purpose of 5202
conducting a criminal records check. The employee shall provide 5203
the fingerprints using a method the superintendent prescribes 5204
pursuant to division (C)(2) of section 109.572 of the Revised Code 5205
and fill out the form the superintendent prescribes pursuant to 5206
division (C)(1) of section 109.572 of the Revised Code. An 5207
employee who intends to carry a firearm as defined in section 5208
2923.11 of the Revised Code in the course of business or 5209
employment shall so notify the superintendent. This notification 5210
is in addition to any other requirement related to carrying a 5211
firearm that applies to the employee. The individual or 5212
corporation requesting the criminal records check shall pay the 5213

fee the superintendent prescribes. 5214

The superintendent shall conduct the criminal records check 5215
as set forth in division (B) of section 109.572 of the Revised 5216
Code. If an employee intends to carry a firearm in the course of 5217
business or employment, pursuant to division (B)(2) of section 5218
109.572 of the Revised Code the superintendent shall make a 5219
request of the federal bureau of investigation for any information 5220
and review the information the bureau provides. The superintendent 5221
shall submit all results of the completed investigation to the 5222
director of public safety. 5223

(3) If, after investigation, the bureau finds that the 5224
employee has not been convicted of or pleaded guilty to a felony 5225
criminal offense that is substantially related to the business of 5226
private investigation or the business security services within the 5227
last twenty years, the director shall issue to the employee an 5228
identification card bearing the license number and signature of 5229
the licensee, which in the case of a corporation shall be the 5230
signature of its president or its qualifying agent, and containing 5231
the employee's name, address, age, physical description, and right 5232
thumb print or other identifying mark as the director prescribes, 5233
a recent photograph of the employee, and the employee's signature. 5234
The director may issue a duplicate of a lost, spoliated, or 5235
destroyed identification card issued under this section, upon 5236
payment of a fee fixed by the director, not exceeding five 5237
dollars. 5238

(C) Except as provided in division (E) of this section, no 5239
class A, B, or C licensee shall permit an employee, other than an 5240
individual who qualified a corporation for licensure, to engage in 5241
the business of private investigation, the business of security 5242
services, or both businesses until the employee receives an 5243
identification card from the department, except that pending the 5244
issuance of an identification card, a class A, B, or C licensee 5245

may offer for hire security guard or investigator employees 5246
provided the licensee obtains a waiver from the person who 5247
receives, for hire, security guard or investigative services, 5248
acknowledging that the person is aware the employees have not 5249
completed their registration and agreeing to their employment. 5250

(D) If a class A, B, or C licensee, or a registered employee 5251
of a class A, B, or C licensee, intends to carry a firearm, as 5252
defined in section 2923.11 of the Revised Code, in the course of 5253
engaging in the business or employment, the licensee or registered 5254
employee shall satisfactorily complete a firearms basic training 5255
program that includes twenty hours of handgun training and five 5256
hours of training in the use of other firearms, if any other 5257
firearm is to be used, or equivalency training, if authorized, or 5258
shall be a former peace officer who previously had successfully 5259
completed a firearms training course, shall receive a certificate 5260
of satisfactory completion of that program or written evidence of 5261
approval of the equivalency training, shall file an application 5262
for registration, shall receive a firearm-bearer notation on the 5263
licensee's or registered employee's identification card, and shall 5264
annually requalify on a firearms range, all as described in 5265
division (A) of section 4749.10 of the Revised Code. A private 5266
investigator, security guard provider, or employee is authorized 5267
to carry a firearm only in accordance with that division. 5268

(E) This section does not apply to commissioned peace 5269
officers, as defined in division (B) of section 2935.01 of the 5270
Revised Code, working for, either as an employee or independent 5271
contractor, a class A, B, or C licensee. For purposes of this 5272
chapter, a commissioned peace officer is an employee exempt from 5273
registration. 5274

(F) The registration of an investigator or security guard 5275
employee expires annually on the anniversary date of its initial 5276
issuance. Annual renewals shall be made pursuant to procedures the 5277

director establishes by rule and upon payment of a renewal fee the 5278
director determines, not to exceed thirty-five dollars. The 5279
director shall not renew the registration of any investigator or 5280
security guard employee who no longer meets the requirements of 5281
this section. No background check is required for annual renewal, 5282
but an investigator or security guard employee shall report any 5283
felony conviction to the employer and the director of public 5284
safety as a condition of continued registration. 5285

(G) As used in this section, a "criminal offense that is 5286
substantially related" has the same meaning as in section 4743.06 5287
of the Revised Code. 5288

Sec. 4751.10. The As used in this section, a "criminal 5289
offense that is substantially related" has the same meaning as in 5290
section 4743.06 of the Revised Code. 5291

The license or registration, or both, or the temporary 5292
license of any person practicing or offering to practice nursing 5293
home administration, shall be revoked or suspended by the board of 5294
examiners of nursing home administrators if such licensee or 5295
temporary licensee: 5296

(A) Is unfit or incompetent by reason of negligence, habits, 5297
or other causes; 5298

(B) Has willfully or repeatedly violated any of the 5299
provisions of Chapter 4751. of the Revised Code or the regulations 5300
adopted thereunder; or willfully or repeatedly acted in a manner 5301
inconsistent with the health and safety of the patients of the 5302
nursing home in which ~~he~~ the licensee or temporary licensee is the 5303
administrator; 5304

(C) Is guilty of fraud or deceit in the practice of nursing 5305
home administration or in ~~his~~ the licensee's or temporary 5306
licensee's admission to such practice; 5307

(D) Has been convicted in a court of competent jurisdiction, 5308
either within or without this state, of or pleaded guilty to a 5309
felony criminal offense that is substantially related to the 5310
practice of nursing home administration. 5311

Proceedings under this section shall be instituted by the 5312
board or shall be begun by filing with the board charges in 5313
writing and under oath. 5314

Sec. 4753.10. ~~In~~ As used in this section, a "criminal offense 5315
that is substantially related" has the same meaning as in section 5316
4743.06 of the Revised Code. 5317

In accordance with Chapter 119. of the Revised Code, the 5318
board of speech-language pathology and audiology may reprimand or 5319
place on probation a speech-language pathologist or audiologist or 5320
suspend, revoke, or refuse to issue or renew the license of a 5321
speech-language pathologist or audiologist. Disciplinary actions 5322
may be taken by the board for conduct that may result from but not 5323
necessarily be limited to: 5324

(A) Fraud, deception, or misrepresentation in obtaining or 5325
attempting to obtain a license; 5326

(B) Fraud, deception, or misrepresentation in using a 5327
license; 5328

(C) Altering a license; 5329

(D) Aiding or abetting unlicensed practice; 5330

(E) Committing fraud, deception, or misrepresentation in the 5331
practice of speech-language pathology or audiology including: 5332

(1) Making or filing a false report or record in the practice 5333
of speech-language pathology or audiology; 5334

(2) Submitting a false statement to collect a fee; 5335

(3) Obtaining a fee through fraud, deception, or 5336

misrepresentation, or accepting commissions or rebates or other forms of remuneration for referring persons to others.	5337 5338
(F) Using or promoting or causing the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation;	5339 5340 5341 5342
(G) Falsely representing the use or availability of services or advice of a physician;	5343 5344
(H) Misrepresenting the applicant, licensee, or holder by using the word "doctor" or any similar word, abbreviation, or symbol if the use is not accurate or if the degree was not obtained from an accredited institution;	5345 5346 5347 5348
(I) Committing any act of dishonorable, immoral, or unprofessional conduct while engaging in the practice of speech-language pathology or audiology;	5349 5350 5351
(J) Engaging in illegal, incompetent, or habitually negligent practice;	5352 5353
(K) Providing professional services while:	5354
(1) Mentally incompetent;	5355
(2) Under the influence of alcohol;	5356
(3) Using any narcotic or controlled substance or other drug that is in excess of therapeutic amounts or without valid medical indication.	5357 5358 5359
(L) Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from such services, devices, appliances, or products in accordance with results obtained utilizing appropriate assessment procedures and instruments;	5360 5361 5362 5363 5364
(M) Violating this chapter or any lawful order given or rule adopted by the board;	5365 5366

(N) Being convicted of or pleading guilty or nolo contendere 5367
to a ~~felony or to a crime involving moral turpitude~~ criminal 5368
offense that is substantially related to the practice of 5369
speech-language pathology or audiology, whether or not any appeal 5370
or other proceeding is pending to have the conviction or plea set 5371
aside; 5372

(O) Being disciplined by a licensing or disciplinary 5373
authority of this or any other state or country or convicted or 5374
disciplined by a court of this or any other state or country for 5375
an act that would be grounds for disciplinary action under this 5376
section. 5377

After revocation of a license under this section, application 5378
may be made to the board for reinstatement. The board, in 5379
accordance with an order of revocation as issued under Chapter 5380
119. of the Revised Code, may require an examination for such 5381
reinstatement. 5382

If any person has engaged in any practice which constitutes 5383
an offense under the provisions of this chapter or rules 5384
promulgated thereunder by the board, the board may apply to the 5385
court of common pleas of the county for an injunction or other 5386
appropriate order restraining such conduct, and the court may 5387
issue such order. 5388

Any person who wishes to make a complaint against any person 5389
licensed pursuant to this chapter shall submit the complaint in 5390
writing to the board within one year from the date of the action 5391
or event upon which the complaint is based. The board shall 5392
determine whether the allegations in the complaint are of a 5393
sufficiently serious nature to warrant formal disciplinary charges 5394
against the licensee pursuant to this section. If the board 5395
determines that formal disciplinary charges are warranted, it 5396
shall proceed in accordance with the procedures established in 5397
Chapter 119. of the Revised Code. 5398

Sec. 4755.11. (A) In accordance with Chapter 119. of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew an occupational therapist license, occupational therapy assistant license, occupational therapist limited permit, occupational therapy assistant limited permit, or reprimand, fine, or place a license or limited permit holder on probation, for any of the following:

(1) Conviction of ~~an~~ or a plea of guilty to a criminal offense involving moral turpitude or a felony that is substantially related to practice as an occupational therapist or occupational therapy assistant, regardless of the state or country in which the conviction or guilty plea occurred;

(2) Violation of any provision of sections 4755.04 to 4755.13 of the Revised Code;

(3) Violation of any lawful order or rule of the occupational therapy section;

(4) Obtaining or attempting to obtain a license or limited permit issued by the occupational therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statements in relation to these activities;

(5) Negligence, unprofessional conduct, or gross misconduct in the practice of the profession of occupational therapy;

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

(7) Communicating, without authorization, information received in professional confidence;

(8) Using controlled substances, habit forming drugs, or alcohol to an extent that it impairs the ability to perform the

work of an occupational therapist, occupational therapy assistant,	5429
occupational therapist limited permit holder, or occupational	5430
therapy assistant limited permit holder;	5431
(9) Practicing in an area of occupational therapy for which	5432
the individual is untrained or incompetent;	5433
(10) Failing the licensing or Ohio jurisprudence examination;	5434
(11) Aiding, abetting, directing, or supervising the	5435
unlicensed practice of occupational therapy;	5436
(12) Denial, revocation, suspension, or restriction of	5437
authority to practice a health care occupation, including	5438
occupational therapy, for any reason other than a failure to	5439
renew, in Ohio or another state or jurisdiction;	5440
(13) Except as provided in division (B) of this section:	5441
(a) Waiving the payment of all or any part of a deductible or	5442
copayment that a patient, pursuant to a health insurance or health	5443
care policy, contract, or plan that covers occupational therapy,	5444
would otherwise be required to pay if the waiver is used as an	5445
enticement to a patient or group of patients to receive health	5446
care services from that provider;	5447
(b) Advertising that the individual will waive the payment of	5448
all or any part of a deductible or copayment that a patient,	5449
pursuant to a health insurance or health care policy, contract, or	5450
plan that covers occupational therapy, would otherwise be required	5451
to pay.	5452
(14) Working or representing oneself as an occupational	5453
therapist, occupational therapy assistant, occupational therapist	5454
limited permit holder, or occupational therapy assistant limited	5455
permit holder without a current and valid license or limited	5456
permit issued by the occupational therapy section;	5457
(15) Engaging in a deceptive trade practice, as defined in	5458

section 4165.02 of the Revised Code;	5459
(16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;	5460 5461 5462
(17) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders, whether or not actual injury to a patient is established;	5463 5464 5465
(18) An adjudication by a court that the applicant, licensee, or limited permit holder is incompetent for the purpose of holding a license or limited permit and has not thereafter been restored to legal capacity for that purpose;	5466 5467 5468 5469
(19)(a) Except as provided in division (A)(19)(b) of this section, failure to cooperate with an investigation conducted by the occupational therapy section, including failure to comply with a subpoena or orders issued by the section or failure to answer truthfully a question presented by the section at a deposition or in written interrogatories.	5470 5471 5472 5473 5474 5475
(b) Failure to cooperate with an investigation does not constitute grounds for discipline under this section if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue.	5476 5477 5478 5479 5480
(20) Conviction of a misdemeanor reasonably related to the practice of occupational therapy, regardless of the state or country in which the conviction occurred;	5481 5482 5483
(21) Inability to practice according to acceptable and prevailing standards of care because of mental or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;	5484 5485 5486 5487
(22) <u>(21)</u> Violation of conditions, limitations, or agreements	5488

placed by the occupational therapy section on a license or limited permit to practice; 5489
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~~(23)~~(22) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of occupational therapy; 5491
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~~(24)~~(23) Failure to complete continuing education requirements as prescribed in rules adopted by the occupational therapy section under section 4755.06 of the Revised Code. 5494
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(B) Sanctions shall not be imposed under division (A)(13) of this section against any individual who waives deductibles and copayments as follows: 5497
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(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the section upon request. 5500
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(2) For professional services rendered to any other person licensed pursuant to sections 4755.04 to 4755.13 of the Revised Code to the extent allowed by those sections and the rules of the occupational therapy section. 5505
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(C) Except as provided in division (D) of this section, the suspension or revocation of a license or limited permit under this section is not effective until either the order for suspension or revocation has been affirmed following an adjudication hearing, or the time for requesting a hearing has elapsed. 5509
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When a license or limited permit is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The occupational therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition of reinstatement. 5514
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When a license or limited permit holder is placed on 5520
probation under this section, the occupational therapy section's 5521
probation order shall be accompanied by a statement of the 5522
conditions under which the individual may be removed from 5523
probation and restored to unrestricted practice. 5524

(D) On receipt of a complaint that a person who holds a 5525
license or limited permit issued by the occupational therapy 5526
section has committed any of the prohibited actions listed in 5527
division (A) of this section, the section may immediately suspend 5528
the license or limited permit prior to holding a hearing in 5529
accordance with Chapter 119. of the Revised Code if it determines, 5530
based on the complaint, that the licensee or limited permit holder 5531
poses an immediate threat to the public. The section shall notify 5532
the licensee or limited permit holder of the suspension in 5533
accordance with section 119.07 of the Revised Code. If the 5534
individual whose license or limited permit is suspended fails to 5535
make a timely request for an adjudication under Chapter 119. of 5536
the Revised Code, the section shall enter a final order 5537
permanently revoking the individual's license or limited permit. 5538

(E) If any person other than a person who holds a license or 5539
limited permit issued under section 4755.08 of the Revised Code 5540
has engaged in any practice that is prohibited under sections 5541
4755.04 to 4755.13 of the Revised Code or the rules of the 5542
occupational therapy section, the section may apply to the court 5543
of common pleas of the county in which the violation occurred, for 5544
an injunction or other appropriate order restraining this conduct, 5545
and the court shall issue this order. 5546

(F) As used in this section, a "criminal offense that is 5547
substantially related" has the same meaning as in section 4743.06 5548
of the Revised Code. 5549

Sec. 4755.47. (A) In accordance with Chapter 119. of the 5550

Revised Code, the physical therapy section of the Ohio 5551
occupational therapy, physical therapy, and athletic trainers 5552
board may refuse to grant a license to an applicant for an initial 5553
or renewed license as a physical therapist or physical therapist 5554
assistant or, by an affirmative vote of not less than five 5555
members, may limit, suspend, or revoke the license of a physical 5556
therapist or physical therapist assistant or reprimand, fine, or 5557
place a license holder on probation, on any of the following 5558
grounds: 5559

(1) Habitual indulgence in the use of controlled substances, 5560
other habit-forming drugs, or alcohol to an extent that affects 5561
the individual's professional competency; 5562

(2) Conviction of or plea of guilty to a felony or a crime 5563
involving moral turpitude criminal offense that is substantially 5564
related to the practice of physical therapy, regardless of the 5565
state or country in which the conviction or guilty plea occurred; 5566

(3) Obtaining or attempting to obtain a license issued by the 5567
physical therapy section by fraud or deception, including the 5568
making of a false, fraudulent, deceptive, or misleading statement; 5569

(4) An adjudication by a court, as provided in section 5570
5122.301 of the Revised Code, that the applicant or licensee is 5571
incompetent for the purpose of holding the license and has not 5572
thereafter been restored to legal capacity for that purpose; 5573

(5) Subject to section 4755.471 of the Revised Code, 5574
violation of the code of ethics adopted by the physical therapy 5575
section; 5576

(6) Violating or attempting to violate, directly or 5577
indirectly, or assisting in or abetting the violation of or 5578
conspiring to violate sections 4755.40 to 4755.56 of the Revised 5579
Code or any order issued or rule adopted under those sections; 5580

(7) Failure of one or both of the examinations required under 5581

section 4755.43 or 4755.431 of the Revised Code; 5582

(8) Permitting the use of one's name or license by a person, 5583
group, or corporation when the one permitting the use is not 5584
directing the treatment given; 5585

(9) Denial, revocation, suspension, or restriction of 5586
authority to practice a health care occupation, including physical 5587
therapy, for any reason other than a failure to renew, in Ohio or 5588
another state or jurisdiction; 5589

(10) Failure to maintain minimal standards of practice in the 5590
administration or handling of drugs, as defined in section 4729.01 5591
of the Revised Code, or failure to employ acceptable scientific 5592
methods in the selection of drugs, as defined in section 4729.01 5593
of the Revised Code, or other modalities for treatment; 5594

(11) Willful betrayal of a professional confidence; 5595

(12) Making a false, fraudulent, deceptive, or misleading 5596
statement in the solicitation of or advertising for patients in 5597
relation to the practice of physical therapy; 5598

(13) A departure from, or the failure to conform to, minimal 5599
standards of care required of licensees when under the same or 5600
similar circumstances, whether or not actual injury to a patient 5601
is established; 5602

(14) Obtaining, or attempting to obtain, money or anything of 5603
value by fraudulent misrepresentations in the course of practice; 5604

(15) Violation of the conditions of limitation or agreements 5605
placed by the physical therapy section on a license to practice; 5606

(16) Failure to renew a license in accordance with section 5607
4755.46 of the Revised Code; 5608

(17) Except as provided in section 4755.471 of the Revised 5609
Code, engaging in the division of fees for referral of patients or 5610
receiving anything of value in return for a specific referral of a 5611

patient to utilize a particular service or business; 5612

(18) Inability to practice according to acceptable and 5613
prevailing standards of care because of mental illness or physical 5614
illness, including physical deterioration that adversely affects 5615
cognitive, motor, or perception skills; 5616

(19) The revocation, suspension, restriction, or termination 5617
of clinical privileges by the United States department of defense 5618
or department of veterans affairs; 5619

(20) Termination or suspension from participation in the 5620
medicare or medicaid program established under Title XVIII and 5621
Title XIX, respectively, of the "Social Security Act," 49 Stat. 5622
620 (1935), 42 U.S.C. 301, as amended, for an act or acts that 5623
constitute a violation of sections 4755.40 to 4755.56 of the 5624
Revised Code; 5625

(21) Failure of a physical therapist to maintain supervision 5626
of a student, physical therapist assistant, unlicensed support 5627
personnel, other assistant personnel, or a license applicant in 5628
accordance with the requirements of sections 4755.40 to 4755.56 of 5629
the Revised Code and rules adopted under those sections; 5630

(22) Failure to complete continuing education requirements as 5631
prescribed in section 4755.51 or 4755.511 of the Revised Code or 5632
to satisfy any rules applicable to continuing education 5633
requirements that are adopted by the physical therapy section; 5634

~~(23) Conviction of a misdemeanor when the act that 5635
constitutes the misdemeanor occurs during the practice of physical 5636
therapy; 5637~~

~~(24)~~(a) Except as provided in division (A)~~(24)~~(23)(b) of this 5638
section, failure to cooperate with an investigation conducted by 5639
the physical therapy section, including failure to comply with a 5640
subpoena or orders issued by the section or failure to answer 5641
truthfully a question presented by the section at a deposition or 5642

in written interrogatories. 5643

(b) Failure to cooperate with an investigation does not 5644
constitute grounds for discipline under this section if a court of 5645
competent jurisdiction issues an order that either quashes a 5646
subpoena or permits the individual to withhold the testimony or 5647
evidence at issue. 5648

~~(25)~~(24) Regardless of whether the contact or verbal behavior 5649
is consensual, engaging with a patient other than the spouse of 5650
the physical therapist or physical therapist assistant, in any of 5651
the following: 5652

(a) Sexual contact, as defined in section 2907.01 of the 5653
Revised Code; 5654

(b) Verbal behavior that is sexually demeaning to the patient 5655
or may be reasonably interpreted by the patient as sexually 5656
demeaning. 5657

~~(26)~~(25) Failure to notify the physical therapy section of a 5658
change in name, business address, or home address within thirty 5659
days after the date of change; 5660

~~(27)~~(26) Except as provided in division (B) of this section: 5661

(a) Waiving the payment of all or any part of a deductible or 5662
copayment that a patient, pursuant to a health insurance or health 5663
care policy, contract, or plan that covers physical therapy, would 5664
otherwise be required to pay if the waiver is used as an 5665
enticement to a patient or group of patients to receive health 5666
care services from that provider; 5667

(b) Advertising that the individual will waive the payment of 5668
all or any part of a deductible or copayment that a patient, 5669
pursuant to a health insurance or health care policy, contract, or 5670
plan that covers physical therapy, would otherwise be required to 5671
pay; 5672

~~(28)~~(27) Violation of any section of this chapter or rule 5673
adopted under it. 5674

(B) Sanctions shall not be imposed under division (A)~~(27)~~(26) 5675
of this section against any individual who waives deductibles and 5676
copayments as follows: 5677

(1) In compliance with the health benefit plan that expressly 5678
allows such a practice. Waiver of the deductibles or copayments 5679
shall be made only with the full knowledge and consent of the plan 5680
purchaser, payer, and third-party administrator. Documentation of 5681
the consent shall be made available to the physical therapy 5682
section upon request. 5683

(2) For professional services rendered to any other person 5684
licensed pursuant to sections 4755.40 to 4755.56 of the Revised 5685
Code to the extent allowed by those sections and the rules of the 5686
physical therapy section. 5687

(C) When a license is revoked under this section, application 5688
for reinstatement may not be made sooner than one year after the 5689
date of revocation. The physical therapy section may accept or 5690
refuse an application for reinstatement and may require that the 5691
applicant pass an examination as a condition for reinstatement. 5692

When a license holder is placed on probation under this 5693
section, the physical therapy section's order for placement on 5694
probation shall be accompanied by a statement of the conditions 5695
under which the individual may be removed from probation and 5696
restored to unrestricted practice. 5697

(D) When an application for an initial or renewed license is 5698
refused under this section, the physical therapy section shall 5699
notify the applicant in writing of the section's decision to 5700
refuse issuance of a license and the reason for its decision. 5701

(E) On receipt of a complaint that a person licensed by the 5702
physical therapy section has committed any of the actions listed 5703

in division (A) of this section, the physical therapy section may 5704
immediately suspend the license of the physical therapist or 5705
physical therapist assistant prior to holding a hearing in 5706
accordance with Chapter 119. of the Revised Code if it determines, 5707
based on the complaint, that the person poses an immediate threat 5708
to the public. The physical therapy section shall notify the 5709
person of the suspension in accordance with section 119.07 of the 5710
Revised Code. If the person fails to make a timely request for an 5711
adjudication under Chapter 119. of the Revised Code, the physical 5712
therapy section shall enter a final order permanently revoking the 5713
person's license. 5714

(F) As used in this section, a "criminal offense that is 5715
substantially related" has the same meaning as in section 4743.06 5716
of the Revised Code. 5717

Sec. 4755.64. (A) In accordance with Chapter 119. of the 5718
Revised Code, the athletic trainers section of the Ohio 5719
occupational therapy, physical therapy, and athletic trainers 5720
board may suspend, revoke, or refuse to issue or renew an athletic 5721
trainers license, or reprimand, fine, or place a licensee on 5722
probation, for any of the following: 5723

(1) Conviction of or plea of guilty to a felony or criminal 5724
offense involving moral turpitude that is substantially related to 5725
the practice of athletic training, regardless of the state or 5726
country in which the conviction or guilty plea occurred; 5727

(2) Violation of sections 4755.61 to 4755.65 of the Revised 5728
Code or any order issued or rule adopted thereunder; 5729

(3) Obtaining a license through fraud, false or misleading 5730
representation, or concealment of material facts; 5731

(4) Negligence or gross misconduct in the practice of 5732
athletic training; 5733

(5) Violating the standards of ethical conduct in the practice of athletic training as adopted by the athletic trainers section under section 4755.61 of the Revised Code;	5734 5735 5736
(6) Using any controlled substance or alcohol to the extent that the ability to practice athletic training at a level of competency is impaired;	5737 5738 5739
(7) Practicing in an area of athletic training for which the individual is untrained, incompetent, or practicing without the referral of a practitioner licensed under Chapter 4731. of the Revised Code, a dentist licensed under Chapter 4715. of the Revised Code, a chiropractor licensed under Chapter 4734. of the Revised Code, or a physical therapist licensed under this chapter;	5740 5741 5742 5743 5744 5745
(8) Employing, directing, or supervising a person in the performance of athletic training procedures who is not authorized to practice as a licensed athletic trainer under this chapter;	5746 5747 5748
(9) Misrepresenting educational attainments or the functions the individual is authorized to perform for the purpose of obtaining some benefit related to the individual's athletic training practice;	5749 5750 5751 5752
(10) Failing the licensing examination;	5753
(11) Aiding or abetting the unlicensed practice of athletic training;	5754 5755
(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction.	5756 5757 5758 5759
(B) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed	5760 5761 5762 5763

from probation and restored to unrestricted practice. 5764

(C) A licensee whose license has been revoked under division 5765
(A) of this section may apply to the athletic trainers section for 5766
reinstatement of the license one year following the date of 5767
revocation. The athletic trainers section may accept or deny the 5768
application for reinstatement and may require that the applicant 5769
pass an examination as a condition for reinstatement. 5770

(D) On receipt of a complaint that a person licensed by the 5771
athletic trainers section has committed any of the prohibited 5772
actions listed in division (A) of this section, the section may 5773
immediately suspend the license of a licensed athletic trainer 5774
prior to holding a hearing in accordance with Chapter 119. of the 5775
Revised Code if it determines, based on the complaint, that the 5776
licensee poses an immediate threat to the public. The section 5777
shall notify the licensed athletic trainer of the suspension in 5778
accordance with section 119.07 of the Revised Code. If the 5779
individual whose license is suspended fails to make a timely 5780
request for an adjudication under Chapter 119. of the Revised 5781
Code, the section shall enter a final order permanently revoking 5782
the individual's license. 5783

(E) As used in this section, a "criminal offense that is 5784
substantially related" has the same meaning as in section 4743.06 5785
of the Revised Code. 5786

Sec. 4757.36. (A) The professional standards committees of 5787
the counselor, social worker, and marriage and family therapist 5788
board, in accordance with Chapter 119. of the Revised Code, may 5789
refuse to issue a license or certificate of registration applied 5790
for under this chapter; refuse to renew a license or certificate 5791
of registration issued under this chapter; suspend, revoke, or 5792
otherwise restrict a license or certificate of registration issued 5793
under this chapter; or reprimand a person holding a license or 5794

certificate of registration issued under this chapter. Such 5795
actions may be taken by the appropriate committee if the applicant 5796
for a license or certificate of registration or the person holding 5797
a license or certificate of registration has: 5798

(1) Committed a violation of any provision of this chapter or 5799
rules adopted under it; 5800

(2) Knowingly made a false statement on an application for 5801
licensure or registration, or for renewal of a license or 5802
certificate of registration; 5803

(3) Accepted a commission or rebate for referring persons to 5804
any professionals licensed, certified, or registered by any court 5805
or board, commission, department, division, or other agency of the 5806
state, including, but not limited to, individuals practicing 5807
counseling, social work, or marriage and family therapy or 5808
practicing in fields related to counseling, social work, or 5809
marriage and family therapy; 5810

(4) Failed to comply with section 4757.12 of the Revised 5811
Code; 5812

(5) Been convicted in this or any other state of ~~any crime~~ 5813
~~that is a felony or pleaded guilty in this state or any other~~ 5814
~~state to a criminal offense that is substantially related to the~~ 5815
~~practice of professional counseling, social work, or marriage and~~ 5816
~~family therapy~~ in this state; 5817

(6) Had the ability to perform properly as a professional 5818
clinical counselor, professional counselor, independent marriage 5819
and family therapist, marriage and family therapist, social work 5820
assistant, social worker, or independent social worker impaired 5821
due to the use of alcohol or other drugs or any other physical or 5822
mental condition; 5823

(7) ~~Been convicted in this state or in any other state of a~~ 5824
~~misdemeanor committed in the course of practice as a professional~~ 5825

clinical counselor, professional counselor, independent marriage	5826
and family therapist, marriage and family therapist, social work	5827
assistant, social worker, or independent social worker;	5828
(8) Practiced outside the scope of practice applicable to	5829
that person;	5830
(9) <u>(8)</u> Practiced without complying with the supervision	5831
requirements specified under sections 4757.21 and 4757.26, and	5832
division (F) of section 4757.30, of the Revised Code;	5833
(10) <u>(9)</u> Violated the person's code of ethical practice	5834
adopted by rule of the board pursuant to section 4757.11 of the	5835
Revised Code;	5836
(11) <u>(10)</u> Had a license or certificate of registration revoked	5837
or suspended, or voluntarily surrendered a license or certificate	5838
of registration in another state or jurisdiction for an offense	5839
that would be a violation of this chapter.	5840
(B) One year or more after the date of suspension or	5841
revocation of a license or certificate of registration under this	5842
section, application may be made to the appropriate professional	5843
standards committee for reinstatement. The committee may accept or	5844
refuse an application for reinstatement. If a license has been	5845
suspended or revoked, the committee may require an examination for	5846
reinstatement.	5847
<u>(C) As used in this section, a "criminal offense that is</u>	5848
<u>substantially related" has the same meaning as in section 4743.06</u>	5849
<u>of the Revised Code.</u>	5850
Sec. 4758.30. (A) The chemical dependency professionals	5851
board, in accordance with Chapter 119. of the Revised Code, may	5852
refuse to issue a license or certificate applied for under this	5853
chapter; refuse to renew a license or certificate issued under	5854
this chapter; suspend, revoke, or otherwise restrict a license or	5855

certificate issued under this chapter; or reprimand an individual 5856
holding a license or certificate issued under this chapter. These 5857
actions may be taken by the board regarding the applicant for a 5858
license or certificate or the individual holding a license or 5859
certificate for one or more of the following reasons: 5860

(1) Violation of any provision of this chapter or rules 5861
adopted under it; 5862

(2) Knowingly making a false statement on an application for 5863
a license or certificate or for renewal, restoration, or 5864
reinstatement of a license or certificate; 5865

(3) Acceptance of a commission or rebate for referring an 5866
individual to a person who holds a license or certificate issued 5867
by, or who is registered with, an entity of state government, 5868
including persons practicing chemical dependency counseling, 5869
alcohol and other drug prevention services, or fields related to 5870
chemical dependency counseling or alcohol and other drug 5871
prevention services; 5872

(4) Conviction in this or any other state of ~~any crime that~~ 5873
~~is a felony~~ or plea of guilty in this state or any other state to 5874
a criminal offense that is substantially related to the practice 5875
of chemical dependency counseling or alcohol and other drug 5876
clinical counseling in this state; 5877

~~(5) Conviction in this or any other state of a misdemeanor~~ 5878
~~committed in the course of practice as an independent chemical~~ 5879
~~dependency counselor, chemical dependency counselor III, chemical~~ 5880
~~dependency counselor II, chemical dependency counselor I, chemical~~ 5881
~~dependency counselor assistant, prevention specialist II,~~ 5882
~~prevention specialist I, or registered applicant;~~ 5883

~~(6)~~ Inability to practice as an independent chemical 5884
dependency counselor, chemical dependency counselor III, chemical 5885
dependency counselor II, chemical dependency counselor I, chemical 5886

dependency counselor assistant, prevention specialist II, 5887
prevention specialist I, or registered applicant due to abuse of 5888
or dependency on alcohol or other drugs or other physical or 5889
mental condition; 5890

~~(7)~~(6) Practicing outside the individual's scope of practice; 5891

~~(8)~~(7) Practicing without complying with the supervision 5892
requirements specified under section 4758.56, 4758.59, or 4758.61 5893
of the Revised Code; 5894

~~(9)~~(8) Violation of the code of ethical practice and 5895
professional conduct for chemical dependency counseling or alcohol 5896
and other drug prevention services adopted by the board pursuant 5897
to section 4758.23 of the Revised Code; 5898

~~(10)~~(9) Revocation of a license or certificate or voluntary 5899
surrender of a license or certificate in another state or 5900
jurisdiction for an offense that would be a violation of this 5901
chapter. 5902

(B) An individual whose license or certificate has been 5903
suspended or revoked under this section may apply to the board for 5904
reinstatement after an amount of time the board shall determine in 5905
accordance with rules adopted under section 4758.20 of the Revised 5906
Code. The board may accept or refuse an application for 5907
reinstatement. The board may require an examination for 5908
reinstatement of a license or certificate that has been suspended 5909
or revoked. 5910

(C) As used in this section, a "criminal offense that is 5911
substantially related" has the same meaning as in section 4743.06 5912
of the Revised Code. 5913

Sec. 4759.07. (A) The Ohio board of dietetics may, in 5914
accordance with Chapter 119. of the Revised Code, refuse to issue, 5915
review, or renew, or may suspend, revoke, or impose probationary 5916

conditions upon any license or permit to practice dietetics, if 5917
the applicant has: 5918

(1) Violated sections 4759.02 to 4759.10 of the Revised Code 5919
or rules adopted under those sections; 5920

(2) Knowingly made a false statement in ~~his~~ an application 5921
for licensure or license renewal; 5922

(3) Been convicted of ~~any crime constituting a felony or~~ 5923
pleaded guilty to in this or any other state a criminal offense 5924
that is substantially related to the practice of dietetics; 5925

(4) Been impaired in ~~his~~ ability to perform as a licensed 5926
dietitian due to the use of a controlled substance or alcoholic 5927
beverage; 5928

(5) ~~Been convicted of a misdemeanor committed in the course~~ 5929
~~of his work as a dietitian in this or any other state;~~ 5930

~~(6)~~ A record of incompetent or negligent conduct in ~~his~~ the 5931
practice of dietetics. 5932

(B) One year or more after the date of suspension or 5933
revocation of a license or permit, an application for 5934
reinstatement of the license or permit may be made to the board. 5935
The board shall grant or deny reinstatement with a hearing, at the 5936
request of the applicant, in accordance with Chapter 119. of the 5937
Revised Code and may impose conditions upon the reinstatement, 5938
including the requirement of passing an examination approved by 5939
the board. 5940

(C) As used in this section, a "criminal offense that is 5941
substantially related" has the same meaning as in section 4743.06 5942
of the Revised Code. 5943

Sec. 4760.13. (A) The state medical board, by an affirmative 5944
vote of not fewer than six members, may revoke or may refuse to 5945
grant a certificate of registration as an anesthesiologist 5946

assistant to a person found by the board to have committed fraud, 5947
misrepresentation, or deception in applying for or securing the 5948
certificate. 5949

(B) The board, by an affirmative vote of not fewer than six 5950
members, shall, to the extent permitted by law, limit, revoke, or 5951
suspend an individual's certificate of registration as an 5952
anesthesiologist assistant, refuse to issue a certificate to an 5953
applicant, refuse to reinstate a certificate, or reprimand or 5954
place on probation the holder of a certificate for any of the 5955
following reasons: 5956

(1) Permitting the holder's name or certificate to be used by 5957
another person; 5958

(2) Failure to comply with the requirements of this chapter, 5959
Chapter 4731. of the Revised Code, or any rules adopted by the 5960
board; 5961

(3) Violating or attempting to violate, directly or 5962
indirectly, or assisting in or abetting the violation of, or 5963
conspiring to violate, any provision of this chapter, Chapter 5964
4731. of the Revised Code, or the rules adopted by the board; 5965

(4) A departure from, or failure to conform to, minimal 5966
standards of care of similar practitioners under the same or 5967
similar circumstances whether or not actual injury to the patient 5968
is established; 5969

(5) Inability to practice according to acceptable and 5970
prevailing standards of care by reason of mental illness or 5971
physical illness, including physical deterioration that adversely 5972
affects cognitive, motor, or perceptive skills; 5973

(6) Impairment of ability to practice according to acceptable 5974
and prevailing standards of care because of habitual or excessive 5975
use or abuse of drugs, alcohol, or other substances that impair 5976
ability to practice; 5977

- (7) Willfully betraying a professional confidence; 5978
- (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate of registration to practice as an anesthesiologist assistant. 5979
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- 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. 5982
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- (9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice; 5990
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- (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~~ criminal offense that is substantially related to practice as an anesthesiologist assistant; 5993
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- (11) Commission of an act that constitutes a ~~felony~~ criminal offense that is substantially related to practice as an anesthesiologist assistant in this state, regardless of the jurisdiction in which the act was committed; 5997
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- (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;~~ 6001
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- (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;~~ 6004
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- (14) ~~Commission of an act in the course of practice that~~ 6007

~~constitutes a misdemeanor in this state, regardless of the~~ 6008
~~jurisdiction in which the act was committed;~~ 6009

~~(15) Commission of an act involving moral turpitude that~~ 6010
~~constitutes a misdemeanor in this state, regardless of the~~ 6011
~~jurisdiction in which the act was committed;~~ 6012

~~(16)~~ A plea of guilty to, a judicial finding of guilt of, or 6013
a judicial finding of eligibility for intervention in lieu of 6014
conviction for violating any state or federal law regulating the 6015
possession, distribution, or use of any drug, including 6016
trafficking in drugs; 6017

~~(17)~~(13) Any of the following actions taken by the state 6018
agency responsible for regulating the practice of anesthesiologist 6019
assistants in another jurisdiction, for any reason other than the 6020
nonpayment of fees: the limitation, revocation, or suspension of 6021
an individual's license to practice; acceptance of an individual's 6022
license surrender; denial of a license; refusal to renew or 6023
reinstate a license; imposition of probation; or issuance of an 6024
order of censure or other reprimand; 6025

~~(18)~~(14) Violation of the conditions placed by the board on a 6026
certificate of registration; 6027

~~(19)~~(15) Failure to use universal blood and body fluid 6028
precautions established by rules adopted under section 4731.051 of 6029
the Revised Code; 6030

~~(20)~~(16) Failure to cooperate in an investigation conducted 6031
by the board under section 4760.14 of the Revised Code, including 6032
failure to comply with a subpoena or order issued by the board or 6033
failure to answer truthfully a question presented by the board at 6034
a deposition or in written interrogatories, except that failure to 6035
cooperate with an investigation shall not constitute grounds for 6036
discipline under this section if a court of competent jurisdiction 6037
has issued an order that either quashes a subpoena or permits the 6038

individual to withhold the testimony or evidence in issue; 6039

~~(21)~~(17) Failure to comply with any code of ethics 6040
established by the national commission for the certification of 6041
anesthesiologist assistants; 6042

~~(22)~~(18) Failure to notify the state medical board of the 6043
revocation or failure to maintain certification from the national 6044
commission for certification of anesthesiologist assistants. 6045

(C) Disciplinary actions taken by the board under divisions 6046
(A) and (B) of this section shall be taken pursuant to an 6047
adjudication under Chapter 119. of the Revised Code, except that 6048
in lieu of an adjudication, the board may enter into a consent 6049
agreement with an anesthesiologist assistant or applicant to 6050
resolve an allegation of a violation of this chapter or any rule 6051
adopted under it. A consent agreement, when ratified by an 6052
affirmative vote of not fewer than six members of the board, shall 6053
constitute the findings and order of the board with respect to the 6054
matter addressed in the agreement. If the board refuses to ratify 6055
a consent agreement, the admissions and findings contained in the 6056
consent agreement shall be of no force or effect. 6057

(D) For purposes of ~~divisions~~ division (B)(11), ~~(14)~~, and 6058
~~(15)~~ of this section, the commission of the act may be established 6059
by a finding by the board, pursuant to an adjudication under 6060
Chapter 119. of the Revised Code, that the applicant or 6061
certificate holder committed the act in question. The board shall 6062
have no jurisdiction under ~~these divisions~~ that division in cases 6063
where the trial court renders a final judgment in the certificate 6064
holder's favor and that judgment is based upon an adjudication on 6065
the merits. The board shall have jurisdiction under ~~these~~ 6066
~~divisions~~ that division in cases where the trial court issues an 6067
order of dismissal on technical or procedural grounds. 6068

(E) The sealing of conviction records by any court shall have 6069

no effect on a prior board order entered under the provisions of 6070
this section or on the board's jurisdiction to take action under 6071
the provisions of this section if, based upon a plea of guilty, a 6072
judicial finding of guilt, or a judicial finding of eligibility 6073
for intervention in lieu of conviction, the board issued a notice 6074
of opportunity for a hearing prior to the court's order to seal 6075
the records. The board shall not be required to seal, destroy, 6076
redact, or otherwise modify its records to reflect the court's 6077
sealing of conviction records. 6078

(F) For purposes of this division, any individual who holds a 6079
certificate of registration issued under this chapter, or applies 6080
for a certificate of registration, shall be deemed to have given 6081
consent to submit to a mental or physical examination when 6082
directed to do so in writing by the board and to have waived all 6083
objections to the admissibility of testimony or examination 6084
reports that constitute a privileged communication. 6085

(1) In enforcing division (B)(5) of this section, the board, 6086
on a showing of a possible violation, may compel any individual 6087
who holds a certificate of registration issued under this chapter 6088
or who has applied for a certificate of registration pursuant to 6089
this chapter to submit to a mental or physical examination, or 6090
both. A physical examination may include an HIV test. The expense 6091
of the examination is the responsibility of the individual 6092
compelled to be examined. Failure to submit to a mental or 6093
physical examination or consent to an HIV test ordered by the 6094
board constitutes an admission of the allegations against the 6095
individual unless the failure is due to circumstances beyond the 6096
individual's control, and a default and final order may be entered 6097
without the taking of testimony or presentation of evidence. If 6098
the board finds an anesthesiologist assistant unable to practice 6099
because of the reasons set forth in division (B)(5) of this 6100
section, the board shall require the anesthesiologist assistant to 6101

submit to care, counseling, or treatment by physicians approved or 6102
designated by the board, as a condition for an initial, continued, 6103
reinstated, or renewed certificate of registration. An individual 6104
affected by this division shall be afforded an opportunity to 6105
demonstrate to the board the ability to resume practicing in 6106
compliance with acceptable and prevailing standards of care. 6107

(2) For purposes of division (B)(6) of this section, if the 6108
board has reason to believe that any individual who holds a 6109
certificate of registration issued under this chapter or any 6110
applicant for a certificate of registration suffers such 6111
impairment, the board may compel the individual to submit to a 6112
mental or physical examination, or both. The expense of the 6113
examination is the responsibility of the individual compelled to 6114
be examined. Any mental or physical examination required under 6115
this division shall be undertaken by a treatment provider or 6116
physician qualified to conduct such examination and chosen by the 6117
board. 6118

Failure to submit to a mental or physical examination ordered 6119
by the board constitutes an admission of the allegations against 6120
the individual unless the failure is due to circumstances beyond 6121
the individual's control, and a default and final order may be 6122
entered without the taking of testimony or presentation of 6123
evidence. If the board determines that the individual's ability to 6124
practice is impaired, the board shall suspend the individual's 6125
certificate or deny the individual's application and shall require 6126
the individual, as a condition for an initial, continued, 6127
reinstated, or renewed certificate of registration, to submit to 6128
treatment. 6129

Before being eligible to apply for reinstatement of a 6130
certificate suspended under this division, the anesthesiologist 6131
assistant shall demonstrate to the board the ability to resume 6132
practice in compliance with acceptable and prevailing standards of 6133

care. The demonstration shall include the following: 6134

(a) Certification from a treatment provider approved under 6135
section 4731.25 of the Revised Code that the individual has 6136
successfully completed any required inpatient treatment; 6137

(b) Evidence of continuing full compliance with an aftercare 6138
contract or consent agreement; 6139

(c) Two written reports indicating that the individual's 6140
ability to practice has been assessed and that the individual has 6141
been found capable of practicing according to acceptable and 6142
prevailing standards of care. The reports shall be made by 6143
individuals or providers approved by the board for making such 6144
assessments and shall describe the basis for their determination. 6145

The board may reinstate a certificate suspended under this 6146
division after such demonstration and after the individual has 6147
entered into a written consent agreement. 6148

When the impaired anesthesiologist assistant resumes 6149
practice, the board shall require continued monitoring of the 6150
anesthesiologist assistant. The monitoring shall include 6151
monitoring of compliance with the written consent agreement 6152
entered into before reinstatement or with conditions imposed by 6153
board order after a hearing, and, on termination of the consent 6154
agreement, submission to the board for at least two years of 6155
annual written progress reports made under penalty of 6156
falsification stating whether the anesthesiologist assistant has 6157
maintained sobriety. 6158

(G) If the secretary and supervising member determine that 6159
there is clear and convincing evidence that an anesthesiologist 6160
assistant has violated division (B) of this section and that the 6161
individual's continued practice presents a danger of immediate and 6162
serious harm to the public, they may recommend that the board 6163
suspend the individual's certificate or registration without a 6164

prior hearing. Written allegations shall be prepared for 6165
consideration by the board. 6166

The board, on review of the allegations and by an affirmative 6167
vote of not fewer than six of its members, excluding the secretary 6168
and supervising member, may suspend a certificate without a prior 6169
hearing. A telephone conference call may be utilized for reviewing 6170
the allegations and taking the vote on the summary suspension. 6171

The board shall issue a written order of suspension by 6172
certified mail or in person in accordance with section 119.07 of 6173
the Revised Code. The order shall not be subject to suspension by 6174
the court during pendency of any appeal filed under section 119.12 6175
of the Revised Code. If the anesthesiologist assistant requests an 6176
adjudicatory hearing by the board, the date set for the hearing 6177
shall be within fifteen days, but not earlier than seven days, 6178
after the anesthesiologist assistant requests the hearing, unless 6179
otherwise agreed to by both the board and the certificate holder. 6180

A summary suspension imposed under this division shall remain 6181
in effect, unless reversed on appeal, until a final adjudicative 6182
order issued by the board pursuant to this section and Chapter 6183
119. of the Revised Code becomes effective. The board shall issue 6184
its final adjudicative order within sixty days after completion of 6185
its hearing. Failure to issue the order within sixty days shall 6186
result in dissolution of the summary suspension order, but shall 6187
not invalidate any subsequent, final adjudicative order. 6188

(H) If the board takes action under division (B)(11), ~~(13),~~ 6189
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 6190
plea, or judicial finding of eligibility for intervention in lieu 6191
of conviction is overturned on appeal, on exhaustion of the 6192
criminal appeal, a petition for reconsideration of the order may 6193
be filed with the board along with appropriate court documents. On 6194
receipt of a petition and supporting court documents, the board 6195
shall reinstate the certificate of registration. The board may 6196

then hold an adjudication under Chapter 119. of the Revised Code 6197
to determine whether the individual committed the act in question. 6198
Notice of opportunity for hearing shall be given in accordance 6199
with Chapter 119. of the Revised Code. If the board finds, 6200
pursuant to an adjudication held under this division, that the 6201
individual committed the act, or if no hearing is requested, it 6202
may order any of the sanctions specified in division (B) of this 6203
section. 6204

(I) The certificate of registration of an anesthesiologist 6205
assistant and the assistant's practice in this state are 6206
automatically suspended as of the date the anesthesiologist 6207
assistant pleads guilty to, is found by a judge or jury to be 6208
guilty of, or is subject to a judicial finding of eligibility for 6209
intervention in lieu of conviction in this state or treatment of 6210
intervention in lieu of conviction in another jurisdiction for any 6211
of the following criminal offenses in this state or a 6212
substantially equivalent criminal offense in another jurisdiction: 6213
aggravated murder, murder, voluntary manslaughter, felonious 6214
assault, kidnapping, rape, sexual battery, gross sexual 6215
imposition, aggravated arson, aggravated robbery, or aggravated 6216
burglary. Continued practice after the suspension shall be 6217
considered practicing without a certificate. 6218

The board shall notify the individual subject to the 6219
suspension by certified mail or in person in accordance with 6220
section 119.07 of the Revised Code. If an individual whose 6221
certificate is suspended under this division fails to make a 6222
timely request for an adjudication under Chapter 119. of the 6223
Revised Code, the board shall enter a final order permanently 6224
revoking the individual's certificate of registration. 6225

(J) In any instance in which the board is required by Chapter 6226
119. of the Revised Code to give notice of opportunity for hearing 6227
and the individual subject to the notice does not timely request a 6228

hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

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

(L) When the board refuses to grant a certificate of registration as an anesthesiologist assistant to an applicant, revokes an individual's certificate of registration, refuses to renew a certificate of registration, or refuses to reinstate an individual's certificate of registration, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate of registration as an anesthesiologist assistant 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 of registration 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.

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

(3) Failure by an individual to renew a certificate of registration in accordance with section 4760.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(N) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

Sec. 4761.09. (A) The Ohio respiratory care board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds:

(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for ~~an a criminal offense involving moral turpitude or of a felony~~ that is substantially related to the practice of respiratory care, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(2) Violating any provision of this chapter or an order or rule of the board;

(3) Assisting another person in that person's violation of any provision of this chapter or an order or rule of the board;

(4) Obtaining a license or limited permit by means of fraud, false or misleading representation, or concealment of material facts or making any other material misrepresentation to the board;

(5) Being guilty of negligence or gross misconduct in the practice of respiratory care;

(6) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;	6291 6292
(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;	6293 6294 6295
(8) Using any dangerous drug, as defined in section 4729.01 of the Revised Code, or alcohol to the extent that the use impairs the ability to practice respiratory care at an acceptable level of competency;	6296 6297 6298 6299
(9) Practicing respiratory care while mentally incompetent;	6300
(10) Accepting commissions, rebates, or other forms of remuneration for patient referrals;	6301 6302
(11) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing in a manner that conflicts with section 4761.17 of the Revised Code;	6303 6304 6305
(12) Employing, directing, or supervising a person who is not authorized to practice respiratory care under this chapter in the performance of respiratory care procedures;	6306 6307 6308
(13) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care;	6309 6310 6311
(14) Assisting suicide as defined in section 3795.01 of the Revised Code.	6312 6313
Before the board may take any action under this section, other than issuance of a summary suspension order under division (C) of this section, the executive director of the board shall prepare and file written charges with the board. Disciplinary actions taken by the board under 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	6314 6315 6316 6317 6318 6319 6320

into a consent agreement to resolve an allegation of a violation 6321
of this chapter or any rule adopted under it. A consent agreement, 6322
when ratified by the board, shall constitute the findings and 6323
order of the board with respect to the matter addressed in the 6324
agreement. If the board refuses to ratify a consent agreement, the 6325
admissions and findings contained in the consent agreement shall 6326
be of no effect. 6327

(B) If the board orders a license or limited permit holder 6328
placed on probation, the order shall be accompanied by a written 6329
statement of the conditions under which the person may be restored 6330
to practice. 6331

The person may reapply to the board for original issuance of 6332
a license after one year following the date the license was 6333
denied. 6334

A person may apply to the board for the reinstatement of a 6335
license or limited permit after one year following the date of 6336
suspension or refusal to renew. The board may accept or refuse the 6337
application for reinstatement and may require that the applicant 6338
pass a reexamination as a condition of eligibility for 6339
reinstatement. 6340

(C) If the president and secretary of the board determine 6341
that there is clear and convincing evidence that a license or 6342
limited permit holder has committed an act that is grounds for 6343
board action under division (A) of this section and that continued 6344
practice by the license or permit holder presents a danger of 6345
immediate and serious harm to the public, the president and 6346
secretary may recommend that the board suspend the license or 6347
limited permit without a prior hearing. The president and 6348
secretary shall submit in writing to the board the allegations 6349
causing them to recommend the suspension. 6350

On review of the allegations, the board, by a vote of not 6351

less than seven of its members, may suspend a license or limited permit without a prior hearing. The board may review the allegations and vote on the suspension by a telephone conference call.

If the board votes to suspend a license or limited permit under this division, the board shall issue a written order of summary suspension to the license or limited permit holder in accordance with section 119.07 of the Revised Code. If the license or limited permit holder requests a hearing by the board, the board shall conduct the hearing in accordance with Chapter 119. of the Revised Code. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the board's order of summary suspension pending determination of an appeal filed under that section.

Any order of summary suspension issued under this division shall remain in effect until a final adjudication order issued by the board pursuant to division (A) of this section becomes effective. The board shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

(D) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.

Sec. 4762.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as an acupuncturist to a person 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 an acupuncturist, 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;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading

statement in soliciting or advertising for patients or in securing 6413
or attempting to secure a certificate to practice as an 6414
acupuncturist. 6415

As used in this division, "false, fraudulent, deceptive, or 6416
misleading statement" means a statement that includes a 6417
misrepresentation of fact, is likely to mislead or deceive because 6418
of a failure to disclose material facts, is intended or is likely 6419
to create false or unjustified expectations of favorable results, 6420
or includes representations or implications that in reasonable 6421
probability will cause an ordinarily prudent person to 6422
misunderstand or be deceived. 6423

(9) Representing, with the purpose of obtaining compensation 6424
or other advantage personally or for any other person, that an 6425
incurable disease or injury, or other incurable condition, can be 6426
permanently cured; 6427

(10) The obtaining of, or attempting to obtain, money or a 6428
thing of value by fraudulent misrepresentations in the course of 6429
practice; 6430

(11) A plea of guilty to, a judicial finding of guilt of, or 6431
a judicial finding of eligibility for intervention in lieu of 6432
conviction for, a felony criminal offense that is substantially 6433
related to the practice of acupuncture; 6434

(12) Commission of an act that constitutes a felony criminal 6435
offense that is substantially related to the practice of 6436
acupuncture in this state, regardless of the jurisdiction in which 6437
the act was committed; 6438

~~(13) A plea of guilty to, a judicial finding of guilt of, or 6439
a judicial finding of eligibility for intervention in lieu of 6440
conviction for, a misdemeanor committed in the course of practice; 6441~~

~~(14) A plea of guilty to, a judicial finding of guilt of, or 6442
a judicial finding of eligibility for intervention in lieu of 6443~~

~~conviction for, a misdemeanor involving moral turpitude;~~ 6444

~~(15) Commission of an act in the course of practice that~~ 6445
~~constitutes a misdemeanor in this state, regardless of the~~ 6446
~~jurisdiction in which the act was committed;~~ 6447

~~(16) Commission of an act involving moral turpitude that~~ 6448
~~constitutes a misdemeanor in this state, regardless of the~~ 6449
~~jurisdiction in which the act was committed;~~ 6450

~~(17)~~ A plea of guilty to, a judicial finding of guilt of, or 6451
a judicial finding of eligibility for intervention in lieu of 6452
conviction for violating any state or federal law regulating the 6453
possession, distribution, or use of any drug, including 6454
trafficking in drugs; 6455

~~(18)~~(14) Any of the following actions taken by the state 6456
agency responsible for regulating the practice of acupuncture in 6457
another jurisdiction, for any reason other than the nonpayment of 6458
fees: the limitation, revocation, or suspension of an individual's 6459
license to practice; acceptance of an individual's license 6460
surrender; denial of a license; refusal to renew or reinstate a 6461
license; imposition of probation; or issuance of an order of 6462
censure or other reprimand; 6463

~~(19)~~(15) Violation of the conditions placed by the board on a 6464
certificate to practice as an acupuncturist; 6465

~~(20)~~(16) Failure to use universal blood and body fluid 6466
precautions established by rules adopted under section 4731.051 of 6467
the Revised Code; 6468

~~(21)~~(17) Failure to cooperate in an investigation conducted 6469
by the board under section 4762.14 of the Revised Code, including 6470
failure to comply with a subpoena or order issued by the board or 6471
failure to answer truthfully a question presented by the board at 6472
a deposition or in written interrogatories, except that failure to 6473
cooperate with an investigation shall not constitute grounds for 6474

discipline under this section if a court of competent jurisdiction 6475
has issued an order that either quashes a subpoena or permits the 6476
individual to withhold the testimony or evidence in issue; 6477

~~(22)~~(18) Failure to comply with the standards of the national 6478
certification commission for acupuncture and oriental medicine 6479
regarding professional ethics, commitment to patients, commitment 6480
to the profession, and commitment to the public; 6481

~~(23)~~(19) Failure to have adequate professional liability 6482
insurance coverage in accordance with section 4762.22 of the 6483
Revised Code. 6484

(C) Disciplinary actions taken by the board under divisions 6485
(A) and (B) of this section shall be taken pursuant to an 6486
adjudication under Chapter 119. of the Revised Code, except that 6487
in lieu of an adjudication, the board may enter into a consent 6488
agreement with an acupuncturist or applicant to resolve an 6489
allegation of a violation of this chapter or any rule adopted 6490
under it. A consent agreement, when ratified by an affirmative 6491
vote of not fewer than six members of the board, shall constitute 6492
the findings and order of the board with respect to the matter 6493
addressed in the agreement. If the board refuses to ratify a 6494
consent agreement, the admissions and findings contained in the 6495
consent agreement shall be of no force or effect. 6496

(D) For purposes of ~~divisions~~ division (B)(12), ~~(15), and~~ 6497
~~(16)~~ of this section, the commission of the act may be established 6498
by a finding by the board, pursuant to an adjudication under 6499
Chapter 119. of the Revised Code, that the applicant or 6500
certificate holder committed the act in question. The board shall 6501
have no jurisdiction under ~~these divisions~~ that division in cases 6502
where the trial court renders a final judgment in the certificate 6503
holder's favor and that judgment is based upon an adjudication on 6504
the merits. The board shall have jurisdiction under ~~these~~ 6505
~~divisions~~ that division in cases where the trial court issues an 6506

order of dismissal upon technical or procedural grounds. 6507

6508

(E) The sealing of conviction records by any court shall have 6509
no effect upon a prior board order entered under the provisions of 6510
this section or upon the board's jurisdiction to take action under 6511
the provisions of this section if, based upon a plea of guilty, a 6512
judicial finding of guilt, or a judicial finding of eligibility 6513
for intervention in lieu of conviction, the board issued a notice 6514
of opportunity for a hearing prior to the court's order to seal 6515
the records. The board shall not be required to seal, destroy, 6516
redact, or otherwise modify its records to reflect the court's 6517
sealing of conviction records. 6518

(F) For purposes of this division, any individual who holds a 6519
certificate to practice issued under this chapter, or applies for 6520
a certificate to practice, shall be deemed to have given consent 6521
to submit to a mental or physical examination when directed to do 6522
so in writing by the board and to have waived all objections to 6523
the admissibility of testimony or examination reports that 6524
constitute a privileged communication. 6525

(1) In enforcing division (B)(5) of this section, the board, 6526
upon a showing of a possible violation, may compel any individual 6527
who holds a certificate to practice issued under this chapter or 6528
who has applied for a certificate pursuant to this chapter to 6529
submit to a mental examination, physical examination, including an 6530
HIV test, or both a mental and physical examination. The expense 6531
of the examination is the responsibility of the individual 6532
compelled to be examined. Failure to submit to a mental or 6533
physical examination or consent to an HIV test ordered by the 6534
board constitutes an admission of the allegations against the 6535
individual unless the failure is due to circumstances beyond the 6536
individual's control, and a default and final order may be entered 6537
without the taking of testimony or presentation of evidence. If 6538

the board finds an acupuncturist unable to practice because of the 6539
reasons set forth in division (B)(5) of this section, the board 6540
shall require the acupuncturist to submit to care, counseling, or 6541
treatment by physicians approved or designated by the board, as a 6542
condition for an initial, continued, reinstated, or renewed 6543
certificate to practice. An individual affected by this division 6544
shall be afforded an opportunity to demonstrate to the board the 6545
ability to resume practicing in compliance with acceptable and 6546
prevailing standards of care. 6547

6548

(2) For purposes of division (B)(6) of this section, if the 6549
board has reason to believe that any individual who holds a 6550
certificate to practice issued under this chapter or any applicant 6551
for a certificate suffers such impairment, the board may compel 6552
the individual to submit to a mental or physical examination, or 6553
both. The expense of the examination is the responsibility of the 6554
individual compelled to be examined. Any mental or physical 6555
examination required under this division shall be undertaken by a 6556
treatment provider or physician qualified to conduct such 6557
examination and chosen by the board. 6558

Failure to submit to a mental or physical examination ordered 6559
by the board constitutes an admission of the allegations against 6560
the individual unless the failure is due to circumstances beyond 6561
the individual's control, and a default and final order may be 6562
entered without the taking of testimony or presentation of 6563
evidence. If the board determines that the individual's ability to 6564
practice is impaired, the board shall suspend the individual's 6565
certificate or deny the individual's application and shall require 6566
the individual, as a condition for an initial, continued, 6567
reinstated, or renewed certificate, to submit to treatment. 6568

Before being eligible to apply for reinstatement of a 6569
certificate suspended under this division, the acupuncturist shall 6570

demonstrate to the board the ability to resume practice in 6571
compliance with acceptable and prevailing standards of care. The 6572
demonstration shall include the following: 6573

(a) Certification from a treatment provider approved under 6574
section 4731.25 of the Revised Code that the individual has 6575
successfully completed any required inpatient treatment; 6576

(b) Evidence of continuing full compliance with an aftercare 6577
contract or consent agreement; 6578

(c) Two written reports indicating that the individual's 6579
ability to practice has been assessed and that the individual has 6580
been found capable of practicing according to acceptable and 6581
prevailing standards of care. The reports shall be made by 6582
individuals or providers approved by the board for making such 6583
assessments and shall describe the basis for their determination. 6584

The board may reinstate a certificate suspended under this 6585
division after such demonstration and after the individual has 6586
entered into a written consent agreement. 6587

When the impaired acupuncturist resumes practice, the board 6588
shall require continued monitoring of the acupuncturist. The 6589
monitoring shall include monitoring of compliance with the written 6590
consent agreement entered into before reinstatement or with 6591
conditions imposed by board order after a hearing, and, upon 6592
termination of the consent agreement, submission to the board for 6593
at least two years of annual written progress reports made under 6594
penalty of falsification stating whether the acupuncturist has 6595
maintained sobriety. 6596

(G) If the secretary and supervising member determine that 6597
there is clear and convincing evidence that an acupuncturist has 6598
violated division (B) of this section and that the individual's 6599
continued practice presents a danger of immediate and serious harm 6600
to the public, they may recommend that the board suspend the 6601

individual's certificate to practice without a prior hearing. 6602
Written allegations shall be prepared for consideration by the 6603
board. 6604

The board, upon review of the allegations and by an 6605
affirmative vote of not fewer than six of its members, excluding 6606
the secretary and supervising member, may suspend a certificate 6607
without a prior hearing. A telephone conference call may be 6608
utilized for reviewing the allegations and taking the vote on the 6609
summary suspension. 6610

The board shall issue a written order of suspension by 6611
certified mail or in person in accordance with section 119.07 of 6612
the Revised Code. The order shall not be subject to suspension by 6613
the court during pendency of any appeal filed under section 119.12 6614
of the Revised Code. If the acupuncturist requests an adjudicatory 6615
hearing by the board, the date set for the hearing shall be within 6616
fifteen days, but not earlier than seven days, after the 6617
acupuncturist requests the hearing, unless otherwise agreed to by 6618
both the board and the certificate holder. 6619

A summary suspension imposed under this division shall remain 6620
in effect, unless reversed on appeal, until a final adjudicative 6621
order issued by the board pursuant to this section and Chapter 6622
119. of the Revised Code becomes effective. The board shall issue 6623
its final adjudicative order within sixty days after completion of 6624
its hearing. Failure to issue the order within sixty days shall 6625
result in dissolution of the summary suspension order, but shall 6626
not invalidate any subsequent, final adjudicative order. 6627

(H) If the board takes action under division (B)(11),~~(13)~~, 6628
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 6629
plea, or judicial finding of eligibility for intervention in lieu 6630
of conviction is overturned on appeal, upon exhaustion of the 6631
criminal appeal, a petition for reconsideration of the order may 6632
be filed with the board along with appropriate court documents. 6633

Upon receipt of a petition and supporting court documents, the 6634
board shall reinstate the certificate to practice. The board may 6635
then hold an adjudication under Chapter 119. of the Revised Code 6636
to determine whether the individual committed the act in question. 6637
Notice of opportunity for hearing shall be given in accordance 6638
with Chapter 119. of the Revised Code. If the board finds, 6639
pursuant to an adjudication held under this division, that the 6640
individual committed the act, or if no hearing is requested, it 6641
may order any of the sanctions specified in division (B) of this 6642
section. 6643

(I) The certificate to practice of an acupuncturist and the 6644
acupuncturist's practice in this state are automatically suspended 6645
as of the date the acupuncturist pleads guilty to, is found by a 6646
judge or jury to be guilty of, or is subject to a judicial finding 6647
of eligibility for intervention in lieu of conviction in this 6648
state or treatment or intervention in lieu of conviction in 6649
another jurisdiction for any of the following criminal offenses in 6650
this state or a substantially equivalent criminal offense in 6651
another jurisdiction: aggravated murder, murder, voluntary 6652
manslaughter, felonious assault, kidnapping, rape, sexual battery, 6653
gross sexual imposition, aggravated arson, aggravated robbery, or 6654
aggravated burglary. Continued practice after the suspension shall 6655
be considered practicing without a certificate. 6656

The board shall notify the individual subject to the 6658
suspension by certified mail or in person in accordance with 6659
section 119.07 of the Revised Code. If an individual whose 6660
certificate is suspended under this division fails to make a 6661
timely request for an adjudication under Chapter 119. of the 6662
Revised Code, the board shall enter a final order permanently 6663
revoking the individual's certificate to practice. 6664

(J) In any instance in which the board is required by Chapter 6665

119. of the Revised Code to give notice of opportunity for hearing 6666
and the individual subject to the notice does not timely request a 6667
hearing in accordance with section 119.07 of the Revised Code, the 6668
board is not required to hold a hearing, but may adopt, by an 6669
affirmative vote of not fewer than six of its members, a final 6670
order that contains the board's findings. In the final order, the 6671
board may order any of the sanctions identified under division (A) 6672
or (B) of this section. 6673

(K) Any action taken by the board under division (B) of this 6674
section resulting in a suspension shall be accompanied by a 6675
written statement of the conditions under which the 6676
acupuncturist's certificate to practice may be reinstated. The 6677
board shall adopt rules in accordance with Chapter 119. of the 6678
Revised Code governing conditions to be imposed for reinstatement. 6679
Reinstatement of a certificate suspended pursuant to division (B) 6680
of this section requires an affirmative vote of not fewer than six 6681
members of the board. 6682

(L) When the board refuses to grant a certificate to practice 6683
as an acupuncturist to an applicant, revokes an individual's 6684
certificate, refuses to renew a certificate, or refuses to 6685
reinstate an individual's certificate, the board may specify that 6686
its action is permanent. An individual subject to a permanent 6687
action taken by the board is forever thereafter ineligible to hold 6688
a certificate to practice as an acupuncturist and the board shall 6689
not accept an application for reinstatement of the certificate or 6690
for issuance of a new certificate. 6691

(M) Notwithstanding any other provision of the Revised Code, 6692
all of the following apply: 6693

(1) The surrender of a certificate to practice as an 6694
acupuncturist issued under this chapter is not effective unless or 6695
until accepted by the board. Reinstatement of a certificate 6696
surrendered to the board requires an affirmative vote of not fewer 6697

than six members of the board. 6698

(2) An application made under this chapter for a certificate 6699
may not be withdrawn without approval of the board. 6700

(3) Failure by an individual to renew a certificate in 6701
accordance with section 4762.06 of the Revised Code shall not 6702
remove or limit the board's jurisdiction to take disciplinary 6703
action under this section against the individual. 6704

(N) As used in this section, a "criminal offense that is 6705
substantially related" has the same meaning as in section 4743.06 6706
of the Revised Code. 6707

Sec. 4763.11. (A) Within five business days after a person 6708
files a signed written complaint against a person certified, 6709
registered, or licensed under this chapter with the division of 6710
real estate, the superintendent of real estate shall acknowledge 6711
receipt of the complaint or request and send a notice to the 6712
certificate holder, registrant, or licensee describing the acts of 6713
which there is a complaint. The acknowledgement to the complainant 6714
and the notice to the certificate holder, registrant, or licensee 6715
shall state that an informal meeting will be held with the 6716
complainant, the certificate holder, registrant, or licensee, and 6717
an investigator from the investigation and audit section of the 6718
division, if the complainant and certificate holder, registrant, 6719
or licensee both file a request for such a meeting within ten 6720
business days thereafter on a form the superintendent provides. 6721

(B) If the complainant and certificate holder, registrant, or 6722
licensee both file with the division requests for an informal 6723
meeting, the superintendent shall notify the complainant and 6724
certificate holder, registrant, or licensee of the date of the 6725
meeting, which shall be within twenty business days thereafter, 6726
except that the complainant, certificate holder, registrant, or 6727
licensee may request an extension of up to fifteen business days 6728

for good cause shown. If the complainant and certificate holder, 6729
registrant, or licensee reach an accommodation at an informal 6730
meeting, the investigator shall so report to the superintendent 6731
and to the complainant and certificate holder, registrant, or 6732
licensee and the complaint file shall be closed, unless, based 6733
upon the investigator's report, the superintendent finds evidence 6734
that the certificate holder, registrant, or licensee has violated 6735
division (G) of this section. 6736

(C) If the complainant and certificate holder, registrant, or 6737
licensee fail to agree to an informal meeting or fail to reach an 6738
accommodation, or if the superintendent finds evidence of a 6739
violation of division (G) of this section pursuant to an 6740
investigation conducted pursuant to division (B)(9) of section 6741
4763.03 of the Revised Code, the superintendent shall, within five 6742
business days of such determination, notify the complainant and 6743
certificate holder, registrant, or licensee and investigate the 6744
conduct of the certificate holder, registrant, or licensee against 6745
whom the complaint is filed. 6746

(D) Within sixty business days after receipt of the 6747
complaint, or, if an informal meeting is held, within sixty days 6748
after such meeting, the investigator shall file a written report 6749
of the results of the investigation with the superintendent. 6750
Within ten business days thereafter, the superintendent shall 6751
review the report and determine whether there exists reasonable 6752
and substantial evidence of a violation of division (G) of this 6753
section by the certificate holder, registrant, or licensee. If the 6754
superintendent finds such evidence exists, within five business 6755
days of that determination, the superintendent shall notify the 6756
complainant and certificate holder, registrant, or licensee of the 6757
determination. The certificate holder, registrant, or licensee may 6758
request a hearing pursuant to Chapter 119. of the Revised Code. If 6759
the superintendent finds that such evidence does not exist, within 6760

five business days thereafter, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of that determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and certificate holder, registrant, or licensee that such evidence does not exist, the complainant may file with the division a request that the real estate appraiser board review the determination. If the complainant files such request, the board shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed but no longer than six months after the request is filed. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee at the meeting upon the request of that party. If the board affirms the determination of the superintendent, the superintendent shall notify the complainant and the certificate holder, registrant, or licensee within five business days thereafter. If the board reverses the determination of the superintendent, a hearing shall be held and the complainant and certificate holder, registrant, or licensee notified as provided in this division.

(E) The board shall review the referee's or examiner's report and the evidence at the next regularly scheduled board meeting held at least fifteen business days after receipt of the referee's or examiner's report. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee upon request. If the complainant is the Ohio civil rights commission, the board shall review the complaint

(F) If the board determines that a licensee, registrant, or certificate holder has violated this chapter for which disciplinary action may be taken under division (G) of this section, after review of the referee's or examiner's report and the evidence as provided in division (E) of this section, the

board shall order the disciplinary action the board considers 6793
appropriate, which may include, but is not limited to, any of the 6794
following: 6795

(1) Reprimand of the certificate holder, registrant, or 6796
licensee; 6797

(2) Suspension of the certificate, registration, or license 6798
for a specific period of time; 6799

(3) Suspension of the certificate, registration, or license 6800
until the certificate holder, registrant, or licensee complies 6801
with conditions the board sets, including but not limited to, 6802
successful completion of the real estate appraiser examination 6803
described in division (D) of section 4763.05 of the Revised Code 6804
or completion of a specific number of hours of continuing 6805
education instruction in courses or seminars approved by the 6806
board; 6807

(4) Revocation of the certificate, registration, or license. 6808

The decision and order of the board is final, subject to 6809
review in the manner provided for in Chapter 119. of the Revised 6810
Code and appeal to any court of common pleas. 6811

(G) The board shall take any disciplinary action authorized 6812
by this section against a certificate holder, registrant, or 6813
licensee who is found to have committed any of the following acts, 6814
omissions, or violations during the appraiser's certification, 6815
registration, or licensure: 6816

(1) Procuring or attempting to procure a certificate, 6817
registration, or license pursuant to this chapter by knowingly 6818
making a false statement, submitting false information, refusing 6819
to provide complete information in response to a question in an 6820
application for certification, registration, or licensure, or by 6821
any means of fraud or misrepresentation; 6822

- (2) Paying, or attempting to pay, anything of value, other than the fees or assessments required by this chapter, to any member or employee of the board for the purpose of procuring a certificate, registration, or license;
- (3) Being convicted in a criminal proceeding for or pleading guilty to a felony or a crime involving moral turpitude criminal offense that is substantially related to the practice of real estate appraisal;
- (4) Dishonesty, fraud, or misrepresentation, with the intent to either benefit the certificate holder, registrant, or licensee or another person or injure another person;
- (5) Violation of any of the standards for the development or communication of real estate appraisals set forth in this chapter and rules of the board;
- (6) Failure or refusal to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;
- (7) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;
- (8) Willfully disregarding or violating this chapter or the rules adopted thereunder;
- (9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the consequences resulting from the appraisal assignment;
- (10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by

a governmental agency; 6853

(11) Entry of final judgment against the certificate holder, 6854
registrant, or licensee on the grounds of fraud, deceit, 6855
misrepresentation, or gross negligence in the making of any 6856
appraisal of real estate; 6857

(12) Violating any federal or state civil rights law; 6858

(13) Having published advertising, whether printed, radio, 6859
display, or of any other nature, which was misleading or 6860
inaccurate in any material particular, or in any way having 6861
misrepresented any appraisal or specialized service; 6862

(14) Failing to maintain records for five years as required 6863
by section 4763.14 of the Revised Code. 6864

(H) The board immediately shall notify the superintendent of 6865
real estate of any disciplinary action taken under this section 6866
against a certificate holder, registrant, or licensee who also is 6867
licensed under Chapter 4735. of the Revised Code, and also shall 6868
notify any other federal, state, or local agency and any other 6869
public or private association that the board determines is 6870
responsible for licensing or otherwise regulating the professional 6871
or business activity of the appraiser. Additionally, the board 6872
shall notify the complainant and any other party who may have 6873
suffered financial loss because of the certificate holder's, 6874
registrant's, or licensee's violations, that the complainant or 6875
other party may sue for recovery under section 4763.16 of the 6876
Revised Code. The notice provided under this division shall 6877
specify the conduct for which the certificate holder, registrant, 6878
or licensee was disciplined and the disciplinary action taken by 6879
the board and the result of that conduct. 6880

(I) A certificate holder, registrant, or licensee shall 6881
notify the board of the existence of a criminal conviction or 6882
guilty plea of the type described in division (G)(3) of this 6883

section within fifteen days of the conviction or guilty plea. 6884

(J) If the board determines that a certificate holder, 6885
registrant, or licensee has violated this chapter for which 6886
disciplinary action may be taken under division (G) of this 6887
section as a result of an investigation conducted by the 6888
superintendent upon the superintendent's own motion or upon the 6889
request of the board, the superintendent shall notify the 6890
certificate holder, registrant, or licensee of the certificate 6891
holder's, registrant's, or licensee's right to a hearing pursuant 6892
to Chapter 119. of the Revised Code and to an appeal of a final 6893
determination of such administrative proceedings to any court of 6894
common pleas. 6895

(K) As used in this section, a "criminal offense that is 6896
substantially related" has the same meaning as in section 4743.06 6897
of the Revised Code. 6898

Sec. 4765.18. The As used in this section, a "criminal 6899
offense that is substantially related" has the same meaning as in 6900
section 4743.06 of the Revised Code. 6901

The state board of emergency medical services may suspend or 6902
revoke a certificate of accreditation or a certificate of approval 6903
issued under section 4765.17 of the Revised Code for any of the 6904
following reasons: 6905

(A) Violation of this chapter or any rule adopted under it; 6906

(B) Furnishing of false, misleading, or incomplete 6907
information to the board; 6908

(C) The signing of an application or the holding of a 6909
certificate of accreditation by a person who has pleaded guilty to 6910
or has been convicted of a ~~felony, or has pleaded guilty to or~~ 6911
~~been convicted of a crime involving moral turpitude~~ criminal 6912
offense that is substantially related to the practice of emergency 6913

medical services; 6914

(D) The signing of an application or the holding of a 6915
certificate of accreditation by a person who is addicted to the 6916
use of any controlled substance or has been adjudicated 6917
incompetent for that purpose by a court, as provided in section 6918
5122.301 of the Revised Code; 6919

(E) Violation of any commitment made in an application for a 6920
certificate of accreditation or certificate of approval; 6921

(F) Presentation to prospective students of misleading, 6922
false, or fraudulent information relating to the emergency medical 6923
services training program or emergency medical services continuing 6924
education program, employment opportunities, or opportunities for 6925
enrollment in accredited institutions of higher education after 6926
entering or completing courses offered by the operator of a 6927
program; 6928

(G) Failure to maintain in a safe and sanitary condition 6929
premises and equipment used in conducting courses of study; 6930

(H) Failure to maintain financial resources adequate for the 6931
satisfactory conduct of courses of study or to retain a sufficient 6932
number of certified instructors; 6933

(I) Discrimination in the acceptance of students upon the 6934
basis of race, color, religion, sex, or national origin. 6935

Sec. 4765.301. (A) An appointing authority may request the 6936
superintendent of BCII to conduct a criminal records check with 6937
respect to any person who is under consideration for appointment 6938
or employment as an emergency medical technician-basic, an 6939
emergency medical technician-intermediate, or an emergency medical 6940
technician-paramedic. 6941

(B)(1) The appointing authority may request that the 6942
superintendent of BCII obtain information from the federal bureau 6943

of investigation as a part of the criminal records check requested 6944
pursuant to division (A) of this section. 6945

(2) An appointing authority authorized by division (A) of 6946
this section to request a criminal records check shall provide to 6947
each person for whom the appointing authority intends to request a 6948
criminal records check a copy of the form prescribed pursuant to 6949
division (C)(1) of section 109.578 of the Revised Code and a 6950
standard impression sheet to obtain fingerprint impressions 6951
prescribed pursuant to division (C)(2) of section 109.578 of the 6952
Revised Code, obtain the completed form and impression sheet from 6953
the person, and forward the completed form and impression sheet to 6954
the superintendent of BCII at the time the criminal records check 6955
is requested. 6956

(3) Any person subject to a criminal records check who 6957
receives a copy of the form and a copy of the impression sheet 6958
pursuant to division (B)(2) of this section and who is requested 6959
to complete the form and provide a set of fingerprint impressions 6960
shall complete the form or provide all the information necessary 6961
to complete the form and shall provide the impression sheet with 6962
the impressions of the person's fingerprints. If a person fails to 6963
provide the information necessary to complete the form or fails to 6964
provide impressions of the person's fingerprints, the appointing 6965
authority shall not appoint or employ the person as an emergency 6966
medical technician-basic, an emergency medical 6967
technician-intermediate, or an emergency medical 6968
technician-paramedic. 6969

(C)(1) Except as otherwise provided in division (C)(2) of 6970
this section, an appointing authority shall not appoint or employ 6971
a person as an emergency medical technician-basic, an emergency 6972
medical technician-intermediate, or an emergency medical 6973
technician-paramedic if the appointing authority has requested a 6974
criminal records check pursuant to division (A) of this section 6975

and the criminal records check indicates that the person 6976
previously has been convicted of or pleaded guilty to ~~any of the~~ 6977
~~following:~~ 6978

~~(a) A felony;~~ 6979

~~(b) A violation of section 2909.03 of the Revised Code;~~ 6980

~~(c) A violation of an existing or former law of this state,~~ 6981
~~any other state, or the United States that is substantially~~ 6982
~~equivalent to any of the offenses described in division (C)(1)(a)~~ 6983
~~or (b) of this section~~ a criminal offense in any jurisdiction that 6984
is substantially related to practice as an emergency medical 6985
technician-basic, emergency medical technician-intermediate, or 6986
emergency medical technician-paramedic. 6987

(2) Notwithstanding division (C)(1) of this section, an 6988
appointing authority may appoint or employ a person as an 6989
emergency medical technician-basic, an emergency medical 6990
technician-intermediate, or an emergency medical 6991
technician-paramedic if all of the following apply: 6992

(a) The appointing authority has requested a criminal records 6993
check pursuant to division (A) of this section. 6994

(b) The criminal records check indicates that the person 6995
previously has been convicted of or pleaded guilty to ~~any of the~~ 6996
~~offenses described in division (C)(1) of this section~~ a criminal 6997
offense in any jurisdiction that is substantially related to 6998
practice as an emergency medical technician-basic, emergency 6999
medical technician-intermediate, or emergency medical 7000
technician-paramedic. 7001

(c) The person meets rehabilitation standards established in 7002
rules adopted under division (E) of this section. 7003

(3) If an appointing authority requests a criminal records 7004
check pursuant to division (A) of this section, the appointing 7005

authority may appoint or employ a person as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic conditionally until the criminal records check is completed and the appointing authority receives the results. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the person subject to the criminal records check is disqualified from appointment or employment, the appointing authority shall release the person from appointment or employment.

(D) The appointing authority shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.578 of the Revised Code for each criminal records check conducted in accordance with that section. The appointing authority may charge the applicant who is subject to the criminal records check a fee for the costs the appointing authority incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the appointing authority pays for the criminal records check. If a fee is charged under this division, the appointing authority shall notify the applicant at the time of the applicant's initial application for appointment or employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for appointment or employment.

(E) The appointing authority shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (C)(1) of this section must meet for the appointing authority to appoint or employ the person as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic.

(F) An appointing authority that intends to request a

criminal records check for an applicant shall inform each 7038
applicant, at the time of the person's initial application for 7039
appointment or employment, that the applicant is required to 7040
provide a set of impressions of the person's fingerprints and that 7041
the appointing authority requires a criminal records check to be 7042
conducted and satisfactorily completed in accordance with section 7043
109.578 of the Revised Code. 7044

(G) As used in this section: 7045

(1) "Appointing authority" means any person or body that has 7046
the authority to hire, appoint, or employ emergency medical 7047
technicians-basic, emergency medical technicians-intermediate, or 7048
emergency medical technicians-paramedic. 7049

(2) "Criminal offense that is substantially related" has the 7050
same meaning as in section 4743.06 of the Revised Code. 7051

(3) Criminal records check" has the same meaning as in 7052
section 109.578 of the Revised Code. 7053

~~(3)~~(4) "Superintendent of BCII" has the same meaning as in 7054
section 2151.86 of the Revised Code. 7055

Sec. 4774.13. (A) The state medical board, by an affirmative 7056
vote of not fewer than six members, may revoke or may refuse to 7057
grant a certificate to practice as a radiologist assistant to an 7058
individual found by the board to have committed fraud, 7059
misrepresentation, or deception in applying for or securing the 7060
certificate. 7061

(B) The board, by an affirmative vote of not fewer than six 7062
members, shall, to the extent permitted by law, limit, revoke, or 7063
suspend an individual's certificate to practice as a radiologist 7064
assistant, refuse to issue a certificate to an applicant, refuse 7065
to reinstate a certificate, or reprimand or place on probation the 7066
holder of a certificate for any of the following reasons: 7067

(1) Permitting the holder's name or certificate to be used by another person;	7068 7069
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	7070 7071 7072
(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;	7073 7074 7075 7076
(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;	7077 7078 7079 7080
(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;	7081 7082 7083 7084
(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;	7085 7086 7087 7088
(7) Willfully betraying a professional confidence;	7089
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant.	7090 7091 7092
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,	7093 7094 7095 7096 7097

or includes representations or implications that in reasonable 7098
probability will cause an ordinarily prudent person to 7099
misunderstand or be deceived. 7100

(9) The obtaining of, or attempting to obtain, money or a 7101
thing of value by fraudulent misrepresentations in the course of 7102
practice; 7103

(10) A plea of guilty to, a judicial finding of guilt of, or 7104
a judicial finding of eligibility for intervention in lieu of 7105
conviction for, a felony criminal offense that is substantially 7106
related to practice as a radiologist assistant; 7107

(11) Commission of an act that constitutes a felony criminal 7108
offense that is substantially related to practice as a radiologist 7109
assistant in this state, regardless of the jurisdiction in which 7110
the act was committed; 7111

~~(12) A plea of guilty to, a judicial finding of guilt of, or 7112
a judicial finding of eligibility for intervention in lieu of 7113
conviction for, a misdemeanor committed in the course of practice;~~ 7114

~~(13) A plea of guilty to, a judicial finding of guilt of, or 7115
a judicial finding of eligibility for intervention in lieu of 7116
conviction for, a misdemeanor involving moral turpitude;~~ 7117

~~(14) Commission of an act in the course of practice that 7118
constitutes a misdemeanor in this state, regardless of the 7119
jurisdiction in which the act was committed;~~ 7120

~~(15) Commission of an act involving moral turpitude that 7121
constitutes a misdemeanor in this state, regardless of the 7122
jurisdiction in which the act was committed;~~ 7123

~~(16) A plea of guilty to, a judicial finding of guilt of, or 7124
a judicial finding of eligibility for intervention in lieu of 7125
conviction for violating any state or federal law regulating the 7126
possession, distribution, or use of any drug, including 7127~~

trafficking in drugs; 7128

~~(17)~~(13) Any of the following actions taken by the state 7129
agency responsible for regulating the practice of radiologist 7130
assistants in another jurisdiction, for any reason other than the 7131
nonpayment of fees: the limitation, revocation, or suspension of 7132
an individual's license to practice; acceptance of an individual's 7133
license surrender; denial of a license; refusal to renew or 7134
reinstate a license; imposition of probation; or issuance of an 7135
order of censure or other reprimand; 7136

~~(18)~~(14) Violation of the conditions placed by the board on a 7137
certificate to practice as a radiologist assistant; 7138

~~(19)~~(15) Failure to use universal blood and body fluid 7139
precautions established by rules adopted under section 4731.051 of 7140
the Revised Code; 7141

~~(20)~~(16) Failure to cooperate in an investigation conducted 7142
by the board under section 4774.14 of the Revised Code, including 7143
failure to comply with a subpoena or order issued by the board or 7144
failure to answer truthfully a question presented by the board at 7145
a deposition or in written interrogatories, except that failure to 7146
cooperate with an investigation shall not constitute grounds for 7147
discipline under this section if a court of competent jurisdiction 7148
has issued an order that either quashes a subpoena or permits the 7149
individual to withhold the testimony or evidence in issue; 7150

~~(21)~~(17) Failure to maintain a license as a radiographer 7151
under Chapter 4773. of the Revised Code; 7152

~~(22)~~(18) Failure to maintain certification as a registered 7153
radiologist assistant from the American registry of radiologic 7154
technologists, including revocation by the registry of the 7155
assistant's certification or failure by the assistant to meet the 7156
registry's requirements for annual registration, or failure to 7157
notify the board that the certification as a registered 7158

radiologist assistant has not been maintained; 7159

~~(23)~~(19) Failure to comply with any of the rules of ethics 7160
included in the standards of ethics established by the American 7161
registry of radiologic technologists, as those rules apply to an 7162
individual who holds the registry's certification as a registered 7163
radiologist assistant. 7164

(C) Disciplinary actions taken by the board under divisions 7165
(A) and (B) of this section shall be taken pursuant to an 7166
adjudication under Chapter 119. of the Revised Code, except that 7167
in lieu of an adjudication, the board may enter into a consent 7168
agreement with a radiologist assistant or applicant to resolve an 7169
allegation of a violation of this chapter or any rule adopted 7170
under it. A consent agreement, when ratified by an affirmative 7171
vote of not fewer than six members of the board, shall constitute 7172
the findings and order of the board with respect to the matter 7173
addressed in the agreement. If the board refuses to ratify a 7174
consent agreement, the admissions and findings contained in the 7175
consent agreement shall be of no force or effect. 7176

(D) For purposes of ~~divisions~~ division (B)(11), ~~(14)~~, and 7177
~~(15)~~ of this section, the commission of the act may be established 7178
by a finding by the board, pursuant to an adjudication under 7179
Chapter 119. of the Revised Code, that the applicant or 7180
certificate holder committed the act in question. The board shall 7181
have no jurisdiction under ~~these divisions~~ that division in cases 7182
where the trial court renders a final judgment in the certificate 7183
holder's favor and that judgment is based upon an adjudication on 7184
the merits. The board shall have jurisdiction under ~~these~~ 7185
~~divisions~~ that division in cases where the trial court issues an 7186
order of dismissal on technical or procedural grounds. 7187

(E) The sealing of conviction records by any court shall have 7189
no effect on a prior board order entered under the provisions of 7190

this section or on the board's jurisdiction to take action under 7191
the provisions of this section if, based upon a plea of guilty, a 7192
judicial finding of guilt, or a judicial finding of eligibility 7193
for intervention in lieu of conviction, the board issued a notice 7194
of opportunity for a hearing prior to the court's order to seal 7195
the records. The board shall not be required to seal, destroy, 7196
redact, or otherwise modify its records to reflect the court's 7197
sealing of conviction records. 7198

(F) For purposes of this division, any individual who holds a 7199
certificate to practice as a radiologist assistant issued under 7200
this chapter, or applies for a certificate to practice, shall be 7201
deemed to have given consent to submit to a mental or physical 7202
examination when directed to do so in writing by the board and to 7203
have waived all objections to the admissibility of testimony or 7204
examination reports that constitute a privileged communication. 7205

(1) In enforcing division (B)(5) of this section, the board, 7206
on a showing of a possible violation, may compel any individual 7207
who holds a certificate to practice as a radiologist assistant 7208
issued under this chapter or who has applied for a certificate to 7209
practice to submit to a mental or physical examination, or both. A 7210
physical examination may include an HIV test. The expense of the 7211
examination is the responsibility of the individual compelled to 7212
be examined. Failure to submit to a mental or physical examination 7213
or consent to an HIV test ordered by the board constitutes an 7214
admission of the allegations against the individual unless the 7215
failure is due to circumstances beyond the individual's control, 7216
and a default and final order may be entered without the taking of 7217
testimony or presentation of evidence. If the board finds a 7218
radiologist assistant unable to practice because of the reasons 7219
set forth in division (B)(5) of this section, the board shall 7220
require the radiologist assistant to submit to care, counseling, 7221
or treatment by physicians approved or designated by the board, as 7222

a condition for an initial, continued, reinstated, or renewed 7223
certificate to practice. An individual affected by this division 7224
shall be afforded an opportunity to demonstrate to the board the 7225
ability to resume practicing in compliance with acceptable and 7226
prevailing standards of care. 7227

(2) For purposes of division (B)(6) of this section, if the 7228
board has reason to believe that any individual who holds a 7229
certificate to practice as a radiologist assistant issued under 7230
this chapter or any applicant for a certificate to practice 7231
suffers such impairment, the board may compel the individual to 7232
submit to a mental or physical examination, or both. The expense 7233
of the examination is the responsibility of the individual 7234
compelled to be examined. Any mental or physical examination 7235
required under this division shall be undertaken by a treatment 7236
provider or physician qualified to conduct such examination and 7237
chosen by the board. 7238

Failure to submit to a mental or physical examination ordered 7239
by the board constitutes an admission of the allegations against 7240
the individual unless the failure is due to circumstances beyond 7241
the individual's control, and a default and final order may be 7242
entered without the taking of testimony or presentation of 7243
evidence. If the board determines that the individual's ability to 7244
practice is impaired, the board shall suspend the individual's 7245
certificate or deny the individual's application and shall require 7246
the individual, as a condition for an initial, continued, 7247
reinstated, or renewed certificate to practice, to submit to 7248
treatment. 7249

Before being eligible to apply for reinstatement of a 7250
certificate suspended under this division, the radiologist 7251
assistant shall demonstrate to the board the ability to resume 7252
practice in compliance with acceptable and prevailing standards of 7253
care. The demonstration shall include the following: 7254

(a) Certification from a treatment provider approved under 7255
section 4731.25 of the Revised Code that the individual has 7256
successfully completed any required inpatient treatment; 7257

(b) Evidence of continuing full compliance with an aftercare 7258
contract or consent agreement; 7259

(c) Two written reports indicating that the individual's 7260
ability to practice has been assessed and that the individual has 7261
been found capable of practicing according to acceptable and 7262
prevailing standards of care. The reports shall be made by 7263
individuals or providers approved by the board for making such 7264
assessments and shall describe the basis for their determination. 7265

The board may reinstate a certificate suspended under this 7266
division after such demonstration and after the individual has 7267
entered into a written consent agreement. 7268

When the impaired radiologist assistant resumes practice, the 7269
board shall require continued monitoring of the radiologist 7270
assistant. The monitoring shall include monitoring of compliance 7271
with the written consent agreement entered into before 7272
reinstatement or with conditions imposed by board order after a 7273
hearing, and, on termination of the consent agreement, submission 7274
to the board for at least two years of annual written progress 7275
reports made under penalty of falsification stating whether the 7276
radiologist assistant has maintained sobriety. 7277

(G) If the secretary and supervising member determine that 7278
there is clear and convincing evidence that a radiologist 7279
assistant has violated division (B) of this section and that the 7280
individual's continued practice presents a danger of immediate and 7281
serious harm to the public, they may recommend that the board 7282
suspend the individual's certificate to practice without a prior 7283
hearing. Written allegations shall be prepared for consideration 7284
by the board. 7285

The board, on review of the allegations and by an affirmative 7286
vote of not fewer than six of its members, excluding the secretary 7287
and supervising member, may suspend a certificate without a prior 7288
hearing. A telephone conference call may be utilized for reviewing 7289
the allegations and taking the vote on the summary suspension. 7290

The board shall issue a written order of suspension by 7291
certified mail or in person in accordance with section 119.07 of 7292
the Revised Code. The order shall not be subject to suspension by 7293
the court during pendency of any appeal filed under section 119.12 7294
of the Revised Code. If the radiologist assistant requests an 7295
adjudicatory hearing by the board, the date set for the hearing 7296
shall be within fifteen days, but not earlier than seven days, 7297
after the radiologist assistant requests the hearing, unless 7298
otherwise agreed to by both the board and the certificate holder. 7299

A summary suspension imposed under this division shall remain 7300
in effect, unless reversed on appeal, until a final adjudicative 7301
order issued by the board pursuant to this section and Chapter 7302
119. of the Revised Code becomes effective. The board shall issue 7303
its final adjudicative order within sixty days after completion of 7304
its hearing. Failure to issue the order within sixty days shall 7305
result in dissolution of the summary suspension order, but shall 7306
not invalidate any subsequent, final adjudicative order. 7307

(H) If the board takes action under division (B)(10),~~(12)~~, 7308
~~or (13)~~ of this section, and the judicial finding of guilt, guilty 7309
plea, or judicial finding of eligibility for intervention in lieu 7310
of conviction is overturned on appeal, on exhaustion of the 7311
criminal appeal, a petition for reconsideration of the order may 7312
be filed with the board along with appropriate court documents. On 7313
receipt of a petition and supporting court documents, the board 7314
shall reinstate the certificate to practice as a radiologist 7315
assistant. The board may then hold an adjudication under Chapter 7316
119. of the Revised Code to determine whether the individual 7317

committed the act in question. Notice of opportunity for hearing 7318
shall be given in accordance with Chapter 119. of the Revised 7319
Code. If the board finds, pursuant to an adjudication held under 7320
this division, that the individual committed the act, or if no 7321
hearing is requested, it may order any of the sanctions specified 7322
in division (B) of this section. 7323

(I) The certificate to practice of a radiologist assistant 7324
and the assistant's practice in this state are automatically 7325
suspended as of the date the radiologist assistant pleads guilty 7326
to, is found by a judge or jury to be guilty of, or is subject to 7327
a judicial finding of eligibility for intervention in lieu of 7328
conviction in this state or treatment of intervention in lieu of 7329
conviction in another jurisdiction for any of the following 7330
criminal offenses in this state or a substantially equivalent 7331
criminal offense in another jurisdiction: aggravated murder, 7332
murder, voluntary manslaughter, felonious assault, kidnapping, 7333
rape, sexual battery, gross sexual imposition, aggravated arson, 7334
aggravated robbery, or aggravated burglary. Continued practice 7335
after the suspension shall be considered practicing without a 7336
certificate. 7337

The board shall notify the individual subject to the 7338
suspension by certified mail or in person in accordance with 7339
section 119.07 of the Revised Code. If an individual whose 7340
certificate is suspended under this division fails to make a 7341
timely request for an adjudication under Chapter 119. of the 7342
Revised Code, the board shall enter a final order permanently 7343
revoking the individual's certificate to practice. 7344

(J) In any instance in which the board is required by Chapter 7345
119. of the Revised Code to give notice of opportunity for hearing 7346
and the individual subject to the notice does not timely request a 7347
hearing in accordance with section 119.07 of the Revised Code, the 7348
board is not required to hold a hearing, but may adopt, by an 7349

affirmative vote of not fewer than six of its members, a final 7350
order that contains the board's findings. In the final order, the 7351
board may order any of the sanctions identified under division (A) 7352
or (B) of this section. 7353

(K) Any action taken by the board under division (B) of this 7354
section resulting in a suspension shall be accompanied by a 7355
written statement of the conditions under which the radiologist 7356
assistant's certificate may be reinstated. The board shall adopt 7357
rules in accordance with Chapter 119. of the Revised Code 7358
governing conditions to be imposed for reinstatement. 7359
Reinstatement of a certificate suspended pursuant to division (B) 7360
of this section requires an affirmative vote of not fewer than six 7361
members of the board. 7362

(L) When the board refuses to grant a certificate to practice 7363
as a radiologist assistant to an applicant, revokes an 7364
individual's certificate, refuses to renew a certificate, or 7365
refuses to reinstate an individual's certificate, the board may 7366
specify that its action is permanent. An individual subject to a 7367
permanent action taken by the board is forever thereafter 7368
ineligible to hold a certificate to practice as a radiologist 7369
assistant and the board shall not accept an application for 7370
reinstatement of the certificate or for issuance of a new 7371
certificate. 7372

(M) Notwithstanding any other provision of the Revised Code, 7373
all of the following apply: 7374

(1) The surrender of a certificate to practice as a 7375
radiologist assistant issued under this chapter is not effective 7376
unless or until accepted by the board. Reinstatement of a 7377
certificate surrendered to the board requires an affirmative vote 7378
of not fewer than six members of the board. 7379

(2) An application made under this chapter for a certificate 7380

to practice may not be withdrawn without approval of the board. 7381

(3) Failure by an individual to renew a certificate to 7382
practice in accordance with section 4774.06 of the Revised Code 7383
shall not remove or limit the board's jurisdiction to take 7384
disciplinary action under this section against the individual. 7385

(N) As used in this section, a "criminal offense that is 7386
substantially related" has the same meaning as in section 4743.06 7387
of the Revised Code. 7388

Sec. 4779.28. (A) The board may, pursuant to an adjudication 7389
under Chapter 119. of the Revised Code and by a vote of not fewer 7390
than four of its members, limit, revoke, or suspend a license 7391
issued under this chapter, refuse to issue a license to an 7392
applicant, or reprimand or place on probation a license holder for 7393
any of the following reasons: 7394

(1) Conviction of, or a plea of guilty to, a ~~misdemeanor or~~ 7395
~~felony involving moral turpitude~~ criminal offense that is 7396
substantially related to the practice of orthotics, prosthetics, 7397
or pedorthics; 7398

(2) Any violation of this chapter; 7399

(3) Committing fraud, misrepresentation, or deception in 7400
applying for or securing a license issued under this chapter; 7401

(4) Habitual use of drugs or intoxicants to the extent that 7402
it renders the person unfit to practice; 7403

(5) Violation of any rule adopted by the board under section 7404
4779.08 of the Revised Code; 7405

(6) A departure from, or failure to conform to, minimal 7406
standards of care of similar orthotists, prosthetists, 7407
orthotists-prosthetists, or pedorthists under the same or similar 7408
circumstances, regardless of whether actual injury to a patient is 7409
established; 7410

(7) Obtaining or attempting to obtain money or anything of value by fraudulent misrepresentation in the course of practice;	7411 7412
(8) Publishing a false, fraudulent, deceptive, or misleading statement;	7413 7414
(9) Waiving the payment of all or part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan, would otherwise be required to pay, if the waiver is used as an enticement to a patient or group of patients to receive health care services from a person who holds a license issued under this chapter;	7415 7416 7417 7418 7419 7420
(10) Advertising that a person who holds a license issued under this chapter will waive the payment of all or part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan, that covers the person's services, would otherwise be required to pay.	7421 7422 7423 7424 7425
(B) For the purpose of investigating whether a person is engaging or has engaged in conduct described in division (A) of this section, the board may administer oaths, order the taking of depositions, issue subpoenas, examine witnesses, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.	7426 7427 7428 7429 7430 7431
<u>(C) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.06 of the Revised Code.</u>	7432 7433 7434
Sec. 4781.09. (A) The manufactured homes commission may deny, suspend, revoke, or refuse to renew the license of any manufactured home installer for any of the following reasons:	7435 7436 7437
(1) Failure to satisfy the requirements of section 4781.08 or 4781.10 of the Revised Code;	7438 7439
(2) Violation of this chapter or any rule adopted pursuant to	7440

it;	7441
(3) Making a material misstatement in an application for a license;	7442 7443
(4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;	7444 7445 7446
(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;	7447 7448 7449
(6) Conviction of a felony or a crime involving moral turpitude <u>or plea of guilty to a criminal offense that is substantially related to practice as a manufactured home installer;</u>	7450 7451 7452 7453
(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;	7454 7455
(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;	7456 7457
(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.	7458 7459
(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.	7460 7461 7462
(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to division (C) of this section may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code.	7463 7464 7465 7466 7467 7468
(2) Any licensee or applicant may appeal an order made pursuant to an adjudication hearing in the manner provided in	7469 7470

section 119.12 of the Revised Code. 7471

(C) As an alternative to suspending, revoking, or refusing to 7472
renew a manufactured housing ~~installer's~~ installer license, the 7473
commission may impose a civil penalty of not less than one hundred 7474
dollars or more than five hundred dollars per violation of this 7475
chapter or any rule adopted pursuant to it. The commission shall 7476
deposit penalties in the occupational licensing and regulatory 7477
fund pursuant to section 4743.05 of the Revised Code. 7478

(D) A person whose license is suspended, revoked, or not 7479
renewed may apply for a new license two years after the date on 7480
which the license was suspended, revoked, or not renewed. 7481

(E) As used in this section, a "criminal offense that is 7482
substantially related" has the same meaning as in section 4743.06 7483
of the Revised Code. 7484

Section 2. That existing sections 3923.233, 3923.301, 7485
4701.16, 4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 7486
4717.14, 4719.03, 4723.07, 4723.28, 4723.34, 4725.19, 4725.53, 7487
4727.15, 4728.13, 4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 7488
4731.224, 4731.225, 4731.226, 4731.25, 4732.17, 4733.20, 4734.31, 7489
4734.39, 4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 7490
4738.04, 4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 4741.22, 7491
4747.12, 4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 4755.11, 7492
4755.47, 4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 7493
4762.13, 4763.11, 4765.18, 4765.301, 4774.13, 4779.28, and 4781.09 7494
of the Revised Code are hereby repealed. 7495

Section 3. Sections 3923.233, 3923.301, 4701.16, 4703.15, 7496
4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 4717.14, 4719.03, 7497
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4765.18, 4765.301, 4774.13, 4779.28, and 4781.09 of the Revised 7505
Code, as amended by this act, shall take effect ninety days after 7506
the effective date of this act. 7507