

As Introduced

**129th General Assembly
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H. B. No. 292

Representative Gonzales

**Cosponsors: Representatives Grossman, Stebelton, Reece, Dovilla,
Gardner, Baker, Wachtmann**

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A B I L L

To amend sections 4731.051, 4731.07, 4731.224, 1
4731.24, and 4731.25 and to enact sections 2
4778.01, 4778.02, 4778.04, 4778.05, 4778.06, 3
4778.07, 4778.08, 4778.10, 4778.12, 4778.14, 4
4778.15, 4778.16, 4778.18, 4778.19, 4778.20, 5
4778.21, 4778.22, 4778.24, and 4778.99 of the 6
Revised Code regarding licensure of genetic 7
counselors. 8

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

Section 1. That sections 4731.051, 4731.07, 4731.224, 9
4731.24, and 4731.25 be amended and sections 4778.01, 4778.02, 10
4778.04, 4778.05, 4778.06, 4778.07, 4778.08, 4778.10, 4778.12, 11
4778.14, 4778.15, 4778.16, 4778.18, 4778.19, 4778.20, 4778.21, 12
4778.22, 4778.24, and 4778.99 of the Revised Code be enacted to 13
read as follows: 14

Sec. 4731.051. The state medical board shall adopt rules in 15
accordance with Chapter 119. of the Revised Code establishing 16
universal blood and body fluid precautions that shall be used by 17
each person who performs exposure prone invasive procedures and is 18

authorized to practice by this chapter or Chapter 4730., 4760., 19
4762., ~~or 4774.~~, or 4778. of the Revised Code. The rules shall 20
define and establish requirements for universal blood and body 21
fluid precautions that include the following: 22

(A) Appropriate use of hand washing; 23

(B) Disinfection and sterilization of equipment; 24

(C) Handling and disposal of needles and other sharp 25
instruments; 26

(D) Wearing and disposal of gloves and other protective 27
garments and devices. 28

Sec. 4731.07. The state medical board shall keep a record of 29
its proceedings. It shall also keep a register of applicants for 30
certificates of registration and certificates to practice issued 31
under this chapter and Chapters 4730., 4760., 4762., and 4774. of 32
the Revised Code and licenses and temporary licenses issued under 33
Chapter 4778. of the Revised Code. The register shall show the 34
name of the applicant and whether the applicant was granted or 35
refused a certificate, license, or temporary license. With respect 36
to applicants to practice medicine and surgery or osteopathic 37
medicine and surgery, the register shall show the name of the 38
institution that granted the applicant the degree of doctor of 39
medicine or osteopathic medicine. The books and records of the 40
board shall be prima-facie evidence of matters therein contained. 41

Sec. 4731.224. (A) Within sixty days after the imposition of 42
any formal disciplinary action taken by any health care facility, 43
including a hospital, health care facility operated by a health 44
insuring corporation, ambulatory surgical center, or similar 45
facility, against any individual holding a valid certificate to 46
practice issued pursuant to this chapter, the chief administrator 47
or executive officer of the facility shall report to the state 48

medical board the name of the individual, the action taken by the 49
facility, and a summary of the underlying facts leading to the 50
action taken. Upon request, the board shall be provided certified 51
copies of the patient records that were the basis for the 52
facility's action. Prior to release to the board, the summary 53
shall be approved by the peer review committee that reviewed the 54
case or by the governing board of the facility. As used in this 55
division, "formal disciplinary action" means any action resulting 56
in the revocation, restriction, reduction, or termination of 57
clinical privileges for violations of professional ethics, or for 58
reasons of medical incompetence, medical malpractice, or drug or 59
alcohol abuse. "Formal disciplinary action" includes a summary 60
action, an action that takes effect notwithstanding any appeal 61
rights that may exist, and an action that results in an individual 62
surrendering clinical privileges while under investigation and 63
during proceedings regarding the action being taken or in return 64
for not being investigated or having proceedings held. "Formal 65
disciplinary action" does not include any action taken for the 66
sole reason of failure to maintain records on a timely basis or 67
failure to attend staff or section meetings. 68

The filing or nonfiling of a report with the board, 69
investigation by the board, or any disciplinary action taken by 70
the board, shall not preclude any action by a health care facility 71
to suspend, restrict, or revoke the individual's clinical 72
privileges. 73

In the absence of fraud or bad faith, no individual or entity 74
that provides patient records to the board shall be liable in 75
damages to any person as a result of providing the records. 76

(B) If any individual authorized to practice under this 77
chapter or any professional association or society of such 78
individuals believes that a violation of any provision of this 79

chapter, Chapter 4730., 4760., 4762., ~~or 4774.~~ or 4778. of the 80
Revised Code, or any rule of the board has occurred, the 81
individual, association, or society shall report to the board the 82
information upon which the belief is based. This division does not 83
require any treatment provider approved by the board under section 84
4731.25 of the Revised Code or any employee, agent, or 85
representative of such a provider to make reports with respect to 86
an impaired practitioner participating in treatment or aftercare 87
for substance abuse as long as the practitioner maintains 88
participation in accordance with the requirements of section 89
4731.25 of the Revised Code, and as long as the treatment provider 90
or employee, agent, or representative of the provider has no 91
reason to believe that the practitioner has violated any provision 92
of this chapter or any rule adopted under it, other than the 93
provisions of division (B)(26) of section 4731.22 of the Revised 94
Code. This division does not require reporting by any member of an 95
impaired practitioner committee established by a health care 96
facility or by any representative or agent of a committee or 97
program sponsored by a professional association or society of 98
individuals authorized to practice under this chapter to provide 99
peer assistance to practitioners with substance abuse problems 100
with respect to a practitioner who has been referred for 101
examination to a treatment program approved by the board under 102
section 4731.25 of the Revised Code if the practitioner cooperates 103
with the referral for examination and with any determination that 104
the practitioner should enter treatment and as long as the 105
committee member, representative, or agent has no reason to 106
believe that the practitioner has ceased to participate in the 107
treatment program in accordance with section 4731.25 of the 108
Revised Code or has violated any provision of this chapter or any 109
rule adopted under it, other than the provisions of division 110
(B)(26) of section 4731.22 of the Revised Code. 111

(C) Any professional association or society composed 112

primarily of doctors of medicine and surgery, doctors of 113
osteopathic medicine and surgery, doctors of podiatric medicine 114
and surgery, or practitioners of limited branches of medicine that 115
suspends or revokes an individual's membership for violations of 116
professional ethics, or for reasons of professional incompetence 117
or professional malpractice, within sixty days after a final 118
decision shall report to the board, on forms prescribed and 119
provided by the board, the name of the individual, the action 120
taken by the professional organization, and a summary of the 121
underlying facts leading to the action taken. 122

The filing of a report with the board or decision not to file 123
a report, investigation by the board, or any disciplinary action 124
taken by the board, does not preclude a professional organization 125
from taking disciplinary action against an individual. 126

(D) Any insurer providing professional liability insurance to 127
an individual authorized to practice under this chapter, or any 128
other entity that seeks to indemnify the professional liability of 129
such an individual, shall notify the board within thirty days 130
after the final disposition of any written claim for damages where 131
such disposition results in a payment exceeding twenty-five 132
thousand dollars. The notice shall contain the following 133
information: 134

(1) The name and address of the person submitting the 135
notification; 136

(2) The name and address of the insured who is the subject of 137
the claim; 138

(3) The name of the person filing the written claim; 139

(4) The date of final disposition; 140

(5) If applicable, the identity of the court in which the 141
final disposition of the claim took place. 142

(E) The board may investigate possible violations of this 143
chapter or the rules adopted under it that are brought to its 144
attention as a result of the reporting requirements of this 145
section, except that the board shall conduct an investigation if a 146
possible violation involves repeated malpractice. As used in this 147
division, "repeated malpractice" means three or more claims for 148
medical malpractice within the previous five-year period, each 149
resulting in a judgment or settlement in excess of twenty-five 150
thousand dollars in favor of the claimant, and each involving 151
negligent conduct by the practicing individual. 152

(F) All summaries, reports, and records received and 153
maintained by the board pursuant to this section shall be held in 154
confidence and shall not be subject to discovery or introduction 155
in evidence in any federal or state civil action involving a 156
health care professional or facility arising out of matters that 157
are the subject of the reporting required by this section. The 158
board may use the information obtained only as the basis for an 159
investigation, as evidence in a disciplinary hearing against an 160
individual whose practice is regulated under this chapter, or in 161
any subsequent trial or appeal of a board action or order. 162

The board may disclose the summaries and reports it receives 163
under this section only to health care facility committees within 164
or outside this state that are involved in credentialing or 165
recredentialing the individual or in reviewing the individual's 166
clinical privileges. The board shall indicate whether or not the 167
information has been verified. Information transmitted by the 168
board shall be subject to the same confidentiality provisions as 169
when maintained by the board. 170

(G) Except for reports filed by an individual pursuant to 171
division (B) of this section, the board shall send a copy of any 172
reports or summaries it receives pursuant to this section to the 173
individual who is the subject of the reports or summaries. The 174

individual shall have the right to file a statement with the board 175
concerning the correctness or relevance of the information. The 176
statement shall at all times accompany that part of the record in 177
contention. 178

(H) An individual or entity that, pursuant to this section, 179
reports to the board or refers an impaired practitioner to a 180
treatment provider approved by the board under section 4731.25 of 181
the Revised Code shall not be subject to suit for civil damages as 182
a result of the report, referral, or provision of the information. 183

(I) In the absence of fraud or bad faith, no professional 184
association or society of individuals authorized to practice under 185
this chapter that sponsors a committee or program to provide peer 186
assistance to practitioners with substance abuse problems, no 187
representative or agent of such a committee or program, and no 188
member of the state medical board shall be held liable in damages 189
to any person by reason of actions taken to refer a practitioner 190
to a treatment provider approved under section 4731.25 of the 191
Revised Code for examination or treatment. 192

Sec. 4731.24. Except as provided in sections 4731.281 and 193
4731.40 of the Revised Code, all receipts of the state medical 194
board, from any source, shall be deposited in the state treasury. 195
Until July 1, 1998, the funds shall be deposited to the credit of 196
the occupational licensing and regulatory fund. On and after July 197
1, 1998, the funds shall be deposited to the credit of the state 198
medical board operating fund, which is hereby created on July 1, 199
1998. All funds deposited into the state treasury under this 200
section shall be used solely for the administration and 201
enforcement of this chapter and Chapters 4730., 4760., 4762., ~~and~~ 202
4774., and 4778. of the Revised Code by the board. 203

Sec. 4731.25. The state medical board, in accordance with 204

Chapter 119. of the Revised Code, shall adopt and may amend and 205
rescind rules establishing standards for approval of physicians 206
and facilities as treatment providers for impaired practitioners 207
who are regulated under this chapter or Chapter 4730., 4760., 208
4762., ~~or 4774.~~ or 4778. of the Revised Code. The rules shall 209
include standards for both inpatient and outpatient treatment. The 210
rules shall provide that in order to be approved, a treatment 211
provider must have the capability of making an initial examination 212
to determine what type of treatment an impaired practitioner 213
requires. Subject to the rules, the board shall review and approve 214
treatment providers on a regular basis. The board, at its 215
discretion, may withdraw or deny approval subject to the rules. 216

An approved impaired practitioner treatment provider shall: 217

(A) Report to the board the name of any practitioner 218
suffering or showing evidence of suffering impairment as described 219
in division (B)(5) of section 4730.25 of the Revised Code, 220
division (B)(26) of section 4731.22 of the Revised Code, division 221
(B)(6) of section 4760.13 of the Revised Code, division (B)(6) of 222
section 4762.13 of the Revised Code, ~~or~~ division (B)(6) of section 223
4774.13 of the Revised Code, or division (B)(6) of section 4778.14 224
of the Revised Code who fails to comply within one week with a 225
referral for examination; 226

(B) Report to the board the name of any impaired practitioner 227
who fails to enter treatment within forty-eight hours following 228
the provider's determination that the practitioner needs 229
treatment; 230

(C) Require every practitioner who enters treatment to agree 231
to a treatment contract establishing the terms of treatment and 232
aftercare, including any required supervision or restrictions of 233
practice during treatment or aftercare; 234

(D) Require a practitioner to suspend practice upon entry 235

into any required inpatient treatment;	236
(E) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare;	237 238 239
(F) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care;	240 241 242 243
(G) Require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for approval of treatment providers;	244 245 246 247
(H) Report the identity of any practitioner practicing under the terms of an aftercare contract to hospital administrators, medical chiefs of staff, and chairpersons of impaired practitioner committees of all health care institutions at which the practitioner holds clinical privileges or otherwise practices. If the practitioner does not hold clinical privileges at any health care institution, the treatment provider shall report the practitioner's identity to the impaired practitioner committee of the county medical society, osteopathic academy, or podiatric medical association in every county in which the practitioner practices. If there are no impaired practitioner committees in the county, the treatment provider shall report the practitioner's identity to the president or other designated member of the county medical society, osteopathic academy, or podiatric medical association.	248 249 250 251 252 253 254 255 256 257 258 259 260 261 262
(I) Report to the board the identity of any practitioner who suffers a relapse at any time during or following aftercare.	263 264
Any individual authorized to practice under this chapter who enters into treatment by an approved treatment provider shall be	265 266

deemed to have waived any confidentiality requirements that would 267
otherwise prevent the treatment provider from making reports 268
required under this section. 269

In the absence of fraud or bad faith, no person or 270
organization that conducts an approved impaired practitioner 271
treatment program, no member of such an organization, and no 272
employee, representative, or agent of the treatment provider shall 273
be held liable in damages to any person by reason of actions taken 274
or recommendations made by the treatment provider or its 275
employees, representatives, or agents. 276

Sec. 4778.01. As used in this chapter: 277

(A) "American board of genetic counseling, inc." means the 278
American board of genetic counseling, inc., its successor 279
organization, or an equivalent organization recognized by the 280
state medical board. 281

(B) "American board of medical genetics, inc." means the 282
American board of medical genetics, inc., its successor 283
organization, or an equivalent organization recognized by the 284
state medical board. 285

(C) "Certified genetic counselor" means an individual who 286
possesses the certified genetic counselor credential from the 287
American board of genetic counseling, inc., or is a diplomate of 288
the American board of medical genetics, inc. 289

(D) "Genetic counselor" means an individual who engages in 290
any of the activities listed in section 4778.10 of the Revised 291
Code regardless of whether the individual is authorized to do so. 292

(E) "Physician" means an individual authorized under Chapter 293
4731. of the Revised Code to practice medicine and surgery or 294
osteopathic medicine and surgery. 295

Sec. 4778.02. (A) Beginning one year after the effective date 296
of this section, no person shall do either of the following 297
without a valid license or temporary license issued under this 298
chapter: 299

(1) Except as provided in division (B) of this section, 300
practice as a genetic counselor. 301

(2) Hold the person out in any manner as a genetic counselor, 302
including using any sign, advertisement, card, letterhead, 303
circular, or other writing, document, or design, the evident 304
purpose of which is to induce others to believe the person is 305
authorized to practice as a genetic counselor. 306

(B) Division (A)(1) of this section does not apply to any of 307
the following: 308

(1) An individual engaging in the scope of practice for which 309
the individual holds a valid license or certificate; 310

(2) An individual performing a task as part of a genetic 311
counseling graduate program described in division (B)(2) of 312
section 4778.04 of the Revised Code. 313

(3) An individual to whom all of the following apply: 314

(a) The individual is a certified genetic counselor; 315

(b) The individual is a resident of another state. 316

(c) The individual engages in the activities listed in 317
section 4778.10 of the Revised Code not more than thirty days in a 318
calendar year. 319

Sec. 4778.04. (A) An individual seeking a license to practice 320
as a genetic counselor shall file with the state medical board a 321
written application on a form prescribed and supplied by the 322
board. The application shall include all the information the board 323
considers necessary to process the application, including evidence 324

satisfactory to the board that the applicant meets the 325
requirements specified in division (B) of this section. 326

At the time an application is submitted, the applicant shall 327
pay the board the application fee specified by the board in rules 328
adopted under section 4778.12 of the Revised Code. No part of the 329
fee shall be returned. 330

(B) To be eligible to receive a license to practice as a 331
genetic counselor, an applicant must meet all of the following 332
requirements: 333

(1) Be at least eighteen years of age and of good moral 334
character; 335

(2) Have attained a master's degree or higher degree from a 336
genetic counseling graduate program accredited by the American 337
board of genetic counseling, inc.; 338

(3) Have attained the certified genetic counselor credential 339
from the American board of genetic counseling, inc.; 340

(4) Have satisfied any other requirements established by the 341
board in rules adopted under section 4778.12 of the Revised Code. 342

(C) The board shall review all applications received under 343
this section. Not later than sixty days after receiving an 344
application it considers complete, the board shall determine 345
whether the applicant meets the requirements for a license to 346
practice as a genetic counselor. The affirmative vote of not fewer 347
than six members of the board is required for that determination. 348

Sec. 4778.05. In addition to meeting any other eligibility 349
requirement of this chapter and rules adopted under it, each 350
applicant for a license to practice as a genetic counselor shall 351
comply with sections 4776.01 to 4776.04 of the Revised Code. The 352
state medical board shall not grant a license to practice as a 353

genetic counselor unless the board decides that the results of the 354
criminal records check do not make the applicant ineligible for 355
the license. 356

Sec. 4778.06. (A) If the state medical board determines under 357
section 4778.04 of the Revised Code that an applicant meets the 358
requirements for a license to practice as a genetic counselor, the 359
secretary of the board shall issue the license to the applicant. 360

(B) A license issued under this section is valid for the 362
length of time specified in rules adopted under section 4778.12 of 363
the Revised Code. 364

(C) The board shall renew a license held by an individual who 365
continues to meet the requirements of this section on application 366
and payment of a fee unless the license has been suspended or 367
revoked under section 4778.14 of the Revised Code. Renewal shall 368
be in accordance with the procedure specified by the board in 369
rules adopted under section 4778.12 of the Revised Code. The board 370
shall impose continuing education requirements in accordance with 371
rules adopted under section 4778.12 of the Revised Code. 372

Sec. 4778.07. (A) On receipt of an application for a license 373
as a genetic counselor, the state medical board may issue a 374
temporary license to an applicant if all of the following apply: 375

(1) The applicant meets the requirements specified in section 376
4778.04 of the Revised Code other than having attained the 377
certified genetic counselor credential from the American board of 378
genetic counseling, inc.; 379

(2) The applicant is in active candidate status with the 380
American board of genetic counseling, inc.; 381

(3) The applicant pays the temporary license fee specified by 382

the board in rules adopted under section 4778.12 of the Revised Code. 383
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(B) A temporary license allows the holder to engage in the activities authorized by section 4778.10 of the Revised Code while the holder is under the general supervision of a genetic counselor licensed under section 4778.06 of the Revised Code or a physician. General supervision does not require the supervising licensed genetic counselor or physician to be present while the holder engages in such activities, but does require the licensed genetic counselor or physician to have professional responsibility for the holder and be readily accessible to the holder for professional consultation and assistance. 385
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A temporary license is valid from the date of issuance until the earlier of one year from that date or the date a license is issued under section 4778.06 of the Revised Code. A temporary license may be renewed only while the applicant is in active candidate status with the American board of genetic counseling, inc. Renewal shall be in accordance with the procedures specified by the board in rules adopted under section 4778.12 of the Revised Code. 395
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Sec. 4778.08. On application by the holder of a license to practice as a genetic counselor, the state medical board shall issue a duplicate license to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate license is thirty-five dollars. 403
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Sec. 4778.10. (A)(1) "Collaborating physician" means a physician who works with a genetic counselor and provides medical support to the genetic counselor as memorialized in a collaborative agreement; 408
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(2) "Collaborative agreement" means a written, formal 412

document that memorializes the relationship between a genetic counselor and the genetic counselor's collaborating physician and establishes the criteria governing a genetic counselor's performance of the tasks described in division (B)(9) of this section. 413
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(B) An individual who holds a valid license to practice as a genetic counselor may engage in all of the following activities: 418
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(1) Obtain and evaluate the medical histories of a patient and the patient's family members to determine the risk for genetic or medical conditions and diseases in the patient, the patient's offspring, or the patient's family members; 420
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(2) Discuss with a patient and the patient's family the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions and diseases; 424
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(3) Identify and coordinate genetic laboratory tests and other diagnostic studies as appropriate for genetic assessment; 428
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(4) Integrate the results of genetic laboratory tests and other diagnostic tests with individual and family medical histories; 430
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(5) Explain to a patient and the patient's family the clinical implications of the results of genetic laboratory tests and other diagnostic tests; 433
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(6) Evaluate the response of a patient or the patient's family members to one or more genetic conditions or the risk of reoccurrence and provide patient-centered counseling and guidance; 436
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(7) Identify and use community resources that provide medical, educational, financial, and psychosocial support and advocacy; 439
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(8) Provide medical, genetic, and counseling information to 442

patients, their families, and other health care professionals; 443

(9) Pursuant to a collaborative agreement with a 444
collaborating physician, do both of the following: 445

(a) Order genetic or other tests for the purpose of 446
diagnosing a medical condition or inherited disorder or 447
determining the carrier status of one or more of the patient's 448
family members; 449

(b) Select the most appropriate, accurate, and cost-effective 450
methods of diagnosis. 451

Sec. 4778.12. (A) Subject to division (B) of this section, 452
the state medical board shall adopt, and may amend and rescind, 453
rules in accordance with Chapter 119. of the Revised Code to 454
implement and administer this chapter. At a minimum, the rules 455
shall establish all of the following: 456

(1) For purposes of division (B)(4) of section 4778.04 of the 457
Revised Code, any requirements, other than those specified in that 458
section, to attain licensure; 459

(2) For purposes of division (A) of section 4778.04, division 460
(C) of section 4778.06, and division (A) of section 4778.07 of the 461
Revised Code, the fees to apply for or renew a license or 462
temporary license; 463

(3) For purposes of division (B) of section 4778.06 of the 464
Revised Code, the length of time a license is valid; 465

(4) For purposes of division (C) of section 4778.06 or 466
division (B) of section 4778.07 of the Revised Code, procedures 467
for renewing a license or temporary license; 468

(5) For purposes of division (C) of section 4778.06 of the 469
Revised Code, continuing education requirements for individuals 470
who hold a license under this chapter; 471

(6) Any other requirements the board considers appropriate to 472
implement this chapter. 473

(B) To the maximum extent possible, the rules adopted under 474
division (A) of this section shall be consistent with the 475
standards, guidelines, or policy directives adopted by the 476
American board of genetic counseling, inc. 477

Sec. 4778.14. (A) The state medical board, by an affirmative 478
vote of not fewer than six members, may revoke or may refuse to 479
grant a license or temporary license to practice as a genetic 480
counselor to an individual found by the board to have committed 481
fraud, misrepresentation, or deception in applying for or securing 482
the license or temporary license. 483

(B) The board, by an affirmative vote of not fewer than six 484
members, shall, to the extent permitted by law, limit, revoke, or 485
suspend an individual's license or temporary license to practice 486
as a genetic counselor, refuse to issue a license or temporary 487
license to an applicant, refuse to reinstate a license or 488
temporary license, or reprimand or place on probation the holder 489
of a license or temporary license for any of the following 490
reasons: 491

(1) Permitting the holder's name, license, or temporary 492
license to be used by another person; 493

(2) Failure to comply with the requirements of this chapter, 494
Chapter 4731. of the Revised Code, or any rules adopted by the 495
board; 496

(3) Violating or attempting to violate, directly or 497
indirectly, or assisting in or abetting the violation of, or 498
conspiring to violate, any provision of this chapter, Chapter 499
4731. of the Revised Code, or the rules adopted by the board; 500

(4) A departure from, or failure to conform to, minimal 501

standards of care of similar practitioners under the same or 502
similar circumstances whether or not actual injury to the patient 503
is established; 504

(5) Inability to practice according to acceptable and 505
prevailing standards of care by reason of mental illness or 506
physical illness, including physical deterioration that adversely 507
affects cognitive, motor, or perceptive skills; 508

(6) Impairment of ability to practice according to acceptable 509
and prevailing standards of care because of habitual or excessive 510
use or abuse of drugs, alcohol, or other substances that impair 511
ability to practice; 512

(7) Willfully betraying a professional confidence; 513

(8) Making a false, fraudulent, deceptive, or misleading 514
statement in securing or attempting to secure a license or 515
temporary license to practice as a genetic counselor. 516

As used in this division, "false, fraudulent, deceptive, or 517
misleading statement" means a statement that includes a 518
misrepresentation of fact, is likely to mislead or deceive because 519
of a failure to disclose material facts, is intended or is likely 520
to create false or unjustified expectations of favorable results, 521
or includes representations or implications that in reasonable 522
probability will cause an ordinarily prudent person to 523
misunderstand or be deceived. 524

(9) The obtaining of, or attempting to obtain, money or a 525
thing of value by fraudulent misrepresentations in the course of 526
practice; 527

(10) A plea of guilty to, a judicial finding of guilt of, or 528
a judicial finding of eligibility for intervention in lieu of 529
conviction for, a felony; 530

(11) Commission of an act that constitutes a felony in this 531

state, regardless of the jurisdiction in which the act was 532
committed; 533

(12) A plea of guilty to, a judicial finding of guilt of, or 534
a judicial finding of eligibility for intervention in lieu of 535
conviction for, a misdemeanor committed in the course of practice; 536

(13) A plea of guilty to, a judicial finding of guilt of, or 537
a judicial finding of eligibility for intervention in lieu of 538
conviction for, a misdemeanor involving moral turpitude; 539

(14) Commission of an act in the course of practice that 540
constitutes a misdemeanor in this state, regardless of the 541
jurisdiction in which the act was committed; 542

(15) Commission of an act involving moral turpitude that 543
constitutes a misdemeanor in this state, regardless of the 544
jurisdiction in which the act was committed; 545

(16) A plea of guilty to, a judicial finding of guilt of, or 546
a judicial finding of eligibility for intervention in lieu of 547
conviction for violating any state or federal law regulating the 548
possession, distribution, or use of any drug, including 549
trafficking in drugs; 550

(17) Any of the following actions taken by the state agency 551
responsible for regulating the practice of genetic counselors in 552
another jurisdiction, for any reason other than the nonpayment of 553
fees: the limitation, revocation, or suspension of an individual's 554
license to practice; acceptance of an individual's license 555
surrender; denial of a license; refusal to renew or reinstate a 556
license; imposition of probation; or issuance of an order of 557
censure or other reprimand; 558

(18) Violation of the conditions placed by the board on a 559
license or temporary license to practice as a genetic counselor; 560

(19) Failure to use universal blood and body fluid 561

precautions established by rules adopted under section 4731.051 of 562
the Revised Code; 563

(20) Failure to cooperate in an investigation conducted by 564
the board under section 4778.18 of the Revised Code, including 565
failure to comply with a subpoena or order issued by the board or 566
failure to answer truthfully a question presented by the board at 567
a deposition or in written interrogatories, except that failure to 568
cooperate with an investigation shall not constitute grounds for 569
discipline under this section if a court of competent jurisdiction 570
has issued an order that either quashes a subpoena or permits the 571
individual to withhold the testimony or evidence in issue; 572

(21) Failure to maintain the certified genetic counselor 573
credential from the American board of genetic counseling, inc.; 574

(22) Failure to comply with any of the rules of ethics 575
established by the American board of genetic counseling, inc. 576

(C) Disciplinary actions taken by the board under divisions 577
(A) and (B) of this section shall be taken pursuant to an 578
adjudication under Chapter 119. of the Revised Code, except that 579
in lieu of an adjudication, the board may enter into a consent 580
agreement with a genetic counselor or applicant to resolve an 581
allegation of a violation of this chapter or any rule adopted 582
under it. A consent agreement, when ratified by an affirmative 583
vote of not fewer than six members of the board, shall constitute 584
the findings and order of the board with respect to the matter 585
addressed in the agreement. If the board refuses to ratify a 586
consent agreement, the admissions and findings contained in the 587
consent agreement shall be of no force or effect. 588

(D) For purposes of divisions (B)(11), (14), and (15) of this 589
section, the commission of the act may be established by a finding 590
by the board, pursuant to an adjudication under Chapter 119. of 591
the Revised Code, that the applicant, license holder, or temporary 592

license holder committed the act in question. The board shall have 593
no jurisdiction under these divisions in cases where the trial 594
court renders a final judgment in the license or temporary license 595
holder's favor and that judgment is based upon an adjudication on 596
the merits. The board shall have jurisdiction under these 597
divisions in cases where the trial court issues an order of 598
dismissal on technical or procedural grounds. 599

(E) The sealing of conviction records by any court shall have 600
no effect on a prior board order entered under the provisions of 601
this section or on the board's jurisdiction to take action under 602
the provisions of this section if, based upon a plea of guilty, a 603
judicial finding of guilt, or a judicial finding of eligibility 604
for intervention in lieu of conviction, the board issued a notice 605
of opportunity for a hearing prior to the court's order to seal 606
the records. The board shall not be required to seal, destroy, 607
redact, or otherwise modify its records to reflect the court's 608
sealing of conviction records. 609

(F) For purposes of this division, any individual who holds a 610
license or temporary license to practice as a genetic counselor 611
issued under this chapter, or applies for a license or temporary 612
license to practice, shall be deemed to have given consent to 613
submit to a mental or physical examination when directed to do so 614
in writing by the board and to have waived all objections to the 615
admissibility of testimony or examination reports that constitute 616
a privileged communication. 617

(1) In enforcing division (B)(5) of this section, the board, 618
on a showing of a possible violation, may compel any individual 619
who holds a license or temporary license to practice as a genetic 620
counselor issued under this chapter or who has applied for a 621
license or temporary license to practice to submit to a mental or 622
physical examination, or both. A physical examination may include 623
an HIV test. The expense of the examination is the responsibility 624

of the individual compelled to be examined. Failure to submit to a 625
mental or physical examination or consent to an HIV test ordered 626
by the board constitutes an admission of the allegations against 627
the individual unless the failure is due to circumstances beyond 628
the individual's control, and a default and final order may be 629
entered without the taking of testimony or presentation of 630
evidence. If the board finds a genetic counselor unable to 631
practice because of the reasons set forth in division (B)(5) of 632
this section, the board shall require the genetic counselor to 633
submit to care, counseling, or treatment by physicians approved or 634
designated by the board, as a condition for an initial, continued, 635
reinstated, or renewed license or temporary license to practice. 636
An individual affected by this division shall be afforded an 637
opportunity to demonstrate to the board the ability to resume 638
practicing in compliance with acceptable and prevailing standards 639
of care. 640

(2) For purposes of division (B)(6) of this section, if the 641
board has reason to believe that any individual who holds a 642
license or temporary license to practice as a genetic counselor 643
issued under this chapter or any applicant for a license or 644
temporary license to practice suffers such impairment, the board 645
may compel the individual to submit to a mental or physical 646
examination, or both. The expense of the examination is the 647
responsibility of the individual compelled to be examined. Any 648
mental or physical examination required under this division shall 649
be undertaken by a treatment provider or physician qualified to 650
conduct such examination and chosen by the board. 651

Failure to submit to a mental or physical examination ordered 652
by the board constitutes an admission of the allegations against 653
the individual unless the failure is due to circumstances beyond 654
the individual's control, and a default and final order may be 655
entered without the taking of testimony or presentation of 656

evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or temporary license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license or temporary license to practice, to submit to treatment. 657
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Before being eligible to apply for reinstatement of a license or temporary license suspended under this division, the genetic counselor shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following: 663
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(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; 668
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(b) Evidence of continuing full compliance with an aftercare contract or consent agreement; 671
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(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. 673
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The board may reinstate a license or temporary license suspended under this division after such demonstration and after the individual has entered into a written consent agreement. 679
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When the impaired genetic counselor resumes practice, the board shall require continued monitoring of the genetic counselor. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for 682
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at least two years of annual written progress reports made under 688
penalty of falsification stating whether the genetic counselor has 689
maintained sobriety. 690

(G) If the secretary and supervising member determine that 691
there is clear and convincing evidence that a genetic counselor 692
has violated division (B) of this section and that the 693
individual's continued practice presents a danger of immediate and 694
serious harm to the public, they may recommend that the board 695
suspend the individual's license or temporary license to practice 696
without a prior hearing. Written allegations shall be prepared for 697
consideration by the board. 698

The board, on review of the allegations and by an affirmative 699
vote of not fewer than six of its members, excluding the secretary 700
and supervising member, may suspend a license or temporary license 701
without a prior hearing. A telephone conference call may be 702
utilized for reviewing the allegations and taking the vote on the 703
summary suspension. 704

The board shall issue a written order of suspension by 705
certified mail or in person in accordance with section 119.07 of 706
the Revised Code. The order shall not be subject to suspension by 707
the court during pendency of any appeal filed under section 119.12 708
of the Revised Code. If the genetic counselor requests an 709
adjudicatory hearing by the board, the date set for the hearing 710
shall be within fifteen days, but not earlier than seven days, 711
after the genetic counselor requests the hearing, unless otherwise 712
agreed to by both the board and the license or temporary license 713
holder. 714

A summary suspension imposed under this division shall remain 715
in effect, unless reversed on appeal, until a final adjudicative 716
order issued by the board pursuant to this section and Chapter 717
119. of the Revised Code becomes effective. The board shall issue 718
its final adjudicative order within sixty days after completion of 719

its hearing. Failure to issue the order within sixty days shall 720
result in dissolution of the summary suspension order, but shall 721
not invalidate any subsequent, final adjudicative order. 722

(H) If the board takes action under division (B)(10), (12), 723
or (13) of this section, and the judicial finding of guilt, guilty 724
plea, or judicial finding of eligibility for intervention in lieu 725
of conviction is overturned on appeal, on exhaustion of the 726
criminal appeal, a petition for reconsideration of the order may 727
be filed with the board along with appropriate court documents. On 728
receipt of a petition and supporting court documents, the board 729
shall reinstate the license or temporary license to practice as a 730
genetic counselor. The board may then hold an adjudication under 731
Chapter 119. of the Revised Code to determine whether the 732
individual committed the act in question. Notice of opportunity 733
for hearing shall be given in accordance with Chapter 119. of the 734
Revised Code. If the board finds, pursuant to an adjudication held 735
under this division, that the individual committed the act, or if 736
no hearing is requested, it may order any of the sanctions 737
specified in division (B) of this section. 738

(I) The license or temporary license to practice of a genetic 739
counselor and the counselor's practice in this state are 740
automatically suspended as of the date the genetic counselor 741
pleads guilty to, is found by a judge or jury to be guilty of, or 742
is subject to a judicial finding of eligibility for intervention 743
in lieu of conviction in this state or treatment of intervention 744
in lieu of conviction in another jurisdiction for any of the 745
following criminal offenses in this state or a substantially 746
equivalent criminal offense in another jurisdiction: aggravated 747
murder, murder, voluntary manslaughter, felonious assault, 748
kidnapping, rape, sexual battery, gross sexual imposition, 749
aggravated arson, aggravated robbery, or aggravated burglary. 750
Continued practice after the suspension shall be considered 751

practicing without a license or temporary license. 752

The board shall notify the individual subject to the 753
suspension by certified mail or in person in accordance with 754
section 119.07 of the Revised Code. If an individual whose license 755
or temporary license is suspended under this division fails to 756
make a timely request for an adjudication under Chapter 119. of 757
the Revised Code, the board shall enter a final order permanently 758
revoking the individual's license or temporary license to 759
practice. 760

(J) In any instance in which the board is required by Chapter 761
119. of the Revised Code to give notice of opportunity for hearing 762
and the individual subject to the notice does not timely request a 763
hearing in accordance with section 119.07 of the Revised Code, the 764
board is not required to hold a hearing, but may adopt, by an 765
affirmative vote of not fewer than six of its members, a final 766
order that contains the board's findings. In the final order, the 767
board may order any of the sanctions identified under division (A) 768
or (B) of this section. 769

(K) Any action taken by the board under division (B) of this 770
section resulting in a suspension shall be accompanied by a 771
written statement of the conditions under which the license or 772
temporary license of the genetic counselor may be reinstated. The 773
board shall adopt rules in accordance with Chapter 119. of the 774
Revised Code governing conditions to be imposed for reinstatement. 775
Reinstatement of a license or temporary license suspended pursuant 776
to division (B) of this section requires an affirmative vote of 777
not fewer than six members of the board. 778

(L) When the board refuses to grant a license or temporary 779
license to practice as a genetic counselor to an applicant, 780
revokes an individual's license or temporary license, refuses to 781
renew a license or temporary license, or refuses to reinstate an 782
individual's license or temporary license, the board may specify 783

that its action is permanent. An individual subject to a permanent 784
action taken by the board is forever thereafter ineligible to hold 785
a license or temporary license to practice as a genetic counselor 786
and the board shall not accept an application for reinstatement of 787
the license or temporary license or for issuance of a new license 788
or temporary license. 789

(M) Notwithstanding any other provision of the Revised Code, 790
all of the following apply: 791

(1) The surrender of a license or temporary license to 792
practice as a genetic counselor issued under this chapter is not 793
effective unless or until accepted by the board. Reinstatement of 794
a license or temporary license surrendered to the board requires 795
an affirmative vote of not fewer than six members of the board. 796

(2) An application made under this chapter for a license or 797
temporary license to practice may not be withdrawn without 798
approval of the board. 799

(3) Failure by an individual to renew a license or temporary 800
license to practice in accordance with section 4774.06 of the 801
Revised Code shall not remove or limit the board's jurisdiction to 802
take disciplinary action under this section against the 803
individual. 804

Sec. 4778.15. On receipt of a notice pursuant to section 805
3123.43 of the Revised Code, the state medical board shall comply 806
with sections 3123.41 to 3123.50 of the Revised Code and any 807
applicable rules adopted under section 3123.63 of the Revised Code 808
with respect to a license or temporary license issued under this 809
chapter. 810

Sec. 4778.16. If the state medical board has reason to 811
believe that any person who has been granted a license or 812
temporary license to practice as a genetic counselor under this 813

chapter is mentally ill or mentally incompetent, it may file in 814
the probate court of the county in which the person has a legal 815
residence an affidavit in the form prescribed in section 5122.11 816
of the Revised Code and signed by the board secretary or a member 817
of the board secretary's staff, whereupon the same proceedings 818
shall be had as provided in Chapter 5122. of the Revised Code. The 819
attorney general may represent the board in any proceeding 820
commenced under this section. 821

If any person who has been granted a license or temporary 822
license to practice is adjudged by a probate court to be mentally 823
ill or mentally incompetent, the person's license or temporary 824
license shall be automatically suspended until the person has 825
filed with the state medical board a certified copy of an 826
adjudication by a probate court of the person's subsequent 827
restoration to competency or has submitted to the board proof, 828
satisfactory to the board, that the person has been discharged as 829
having a restoration to competency in the manner and form provided 830
in section 5122.38 of the Revised Code. The judge of the probate 831
court shall forthwith notify the state medical board of an 832
adjudication of mental illness or mental incompetence, and shall 833
note any suspension of a license or temporary license in the 834
margin of the court's record of such license or temporary license. 835

Sec. 4778.18. (A) The state medical board shall investigate 836
evidence that appears to show that any individual has violated 837
this chapter or the rules adopted under it. Any person may report 838
to the board in a signed writing any information the person has 839
that appears to show a violation of this chapter or rules adopted 840
under it. In the absence of bad faith, a person who reports such 841
information or testifies before the board in an adjudication 842
conducted under Chapter 119. of the Revised Code shall not be 843
liable for civil damages as a result of reporting the information 844
or providing testimony. Each complaint or allegation of a 845

violation received by the board shall be assigned a case number 846
and be recorded by the board. 847

(B) Investigations of alleged violations of this chapter or 848
rules adopted under it shall be supervised by the supervising 849
member elected by the board in accordance with section 4731.02 of 850
the Revised Code and by the board's secretary, pursuant to section 851
4778.20 of the Revised Code. The board's president may designate 852
another member of the board to supervise the investigation in 853
place of the supervising member. A member of the board who 854
supervises the investigation of a case shall not participate in 855
further adjudication of the case. 856

(C) In investigating a possible violation of this chapter or 857
the rules adopted under it, the board may administer oaths, order 858
the taking of depositions, issue subpoenas, and compel the 859
attendance of witnesses and production of books, accounts, papers, 860
records, documents, and testimony, except that a subpoena for 861
patient record information shall not be issued without 862
consultation with the attorney general's office and approval of 863
the secretary and supervising member of the board. Before issuance 864
of a subpoena for patient record information, the secretary and 865
supervising member shall determine whether there is probable cause 866
to believe that the complaint filed alleges a violation of this 867
chapter or the rules adopted under it and that the records sought 868
are relevant to the alleged violation and material to the 869
investigation. The subpoena may apply only to records that cover a 870
reasonable period of time surrounding the alleged violation. 871

On failure to comply with any subpoena issued by the board 872
and after reasonable notice to the person being subpoenaed, the 873
board may move for an order compelling the production of persons 874
or records pursuant to the Rules of Civil Procedure. 875

A subpoena issued by the board may be served by a sheriff, 876

the sheriff's deputy, or a board employee designated by the board. 877
Service of a subpoena issued by the board may be made by 878
delivering a copy of the subpoena to the person named therein, 879
reading it to the person, or leaving it at the person's usual 880
place of residence. When the person being served is a genetic 881
counselor, service of the subpoena may be made by certified mail, 882
restricted delivery, return receipt requested, and the subpoena 883
shall be deemed served on the date delivery is made or the date 884
the person refuses to accept delivery. 885

A sheriff's deputy who serves a subpoena shall receive the 886
same fees as a sheriff. Each witness who appears before the board 887
in obedience to a subpoena shall receive the fees and mileage 888
provided for witnesses in civil cases in the courts of common 889
pleas. 890

(D) All hearings and investigations of the board shall be 891
considered civil actions for the purposes of section 2305.252 of 892
the Revised Code. 893

(E) Information received by the board pursuant to an 894
investigation is confidential and not subject to discovery in any 895
civil action. 896

The board shall conduct all investigations and proceedings in 897
a manner that protects the confidentiality of patients and persons 898
who file complaints with the board. The board shall not make 899
public the names or any other identifying information about 900
patients or complainants unless proper consent is given. 901

The board may share any information it receives pursuant to 902
an investigation, including patient records and patient record 903
information, with law enforcement agencies, other licensing 904
boards, and other governmental agencies that are prosecuting, 905
adjudicating, or investigating alleged violations of statutes or 906
administrative rules. An agency or board that receives the 907

information shall comply with the same requirements regarding 908
confidentiality as those with which the state medical board must 909
comply, notwithstanding any conflicting provision of the Revised 910
Code or procedure of the agency or board that applies when it is 911
dealing with other information in its possession. In a judicial 912
proceeding, the information may be admitted into evidence only in 913
accordance with the Rules of Evidence, but the court shall require 914
that appropriate measures are taken to ensure that confidentiality 915
is maintained with respect to any part of the information that 916
contains names or other identifying information about patients or 917
complainants whose confidentiality was protected by the state 918
medical board when the information was in the board's possession. 919
Measures to ensure confidentiality that may be taken by the court 920
include sealing its records or deleting specific information from 921
its records. 922

(F) The state medical board shall develop requirements for 923
and provide appropriate initial training and continuing education 924
for investigators employed by the board to carry out its duties 925
under this chapter. The training and continuing education may 926
include enrollment in courses operated or approved by the Ohio 927
peace officer training council that the board considers 928
appropriate under conditions set forth in section 109.79 of the 929
Revised Code. 930

(G) On a quarterly basis, the board shall prepare a report 931
that documents the disposition of all cases during the preceding 932
three months. The report shall contain the following information 933
for each case with which the board has completed its activities: 934

(1) The case number assigned to the complaint or alleged 935
violation; 936

(2) The type of license, if any, held by the individual 937
against whom the complaint is directed; 938

(3) A description of the allegations contained in the 939
complaint; 940

(4) The disposition of the case. 941

The report shall state how many cases are still pending, and 942
shall be prepared in a manner that protects the identity of each 943
individual involved in each case. The report is a public record 944
for purposes of section 149.43 of the Revised Code. 945

Sec. 4778.19. (A) As used in this section, "prosecutor" has 946
the same meaning as in section 2935.01 of the Revised Code. 947

(B) Whenever any individual holding a valid license or 948
temporary license to practice as a genetic counselor issued under 949
this chapter pleads guilty to, is subject to a judicial finding of 950
guilt of, or is subject to a judicial finding of eligibility for 951
intervention in lieu of conviction for a violation of Chapter 952
2907., 2925., or 3719. of the Revised Code or of any substantively 953
comparable ordinance of a municipal corporation in connection with 954
the person's practice, the prosecutor in the case, on forms 955
prescribed and provided by the state medical board, shall promptly 956
notify the board of the conviction. Within thirty days of receipt 957
of that information, the board shall initiate action in accordance 958
with Chapter 119. of the Revised Code to determine whether to 959
suspend or revoke the license under section 4778.16 of the Revised 960
Code. 961

(C) The prosecutor in any case against any person holding a 962
valid license to practice issued under this chapter, on forms 963
prescribed and provided by the state medical board, shall notify 964
the board of any of the following: 965

(1) A plea of guilty to, a finding of guilt by a jury or 966
court of, or judicial finding of eligibility for intervention in 967
lieu of conviction for a felony, or a case in which the trial 968

court issues an order of dismissal upon technical or procedural grounds of a felony charge; 969
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(2) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice; 971
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(3) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude. 978
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The report shall include the name and address of the license or temporary license holder, the nature of the offense for which the action was taken, and the certified court documents recording the action. 984
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Sec. 4778.20. The secretary of the state medical board shall enforce the laws relating to the practice of genetic counselors. If the secretary has knowledge or notice of a violation of this chapter or the rules adopted under it, the secretary shall investigate the matter, and, upon probable cause appearing, file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county shall take charge of and conduct the prosecution. 988
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Sec. 4778.21. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having 996
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knowledge of a person engaged either directly or by complicity in 999
practicing as a genetic counselor without having first obtained 1000
under this chapter a license or temporary license to practice as a 1001
genetic counselor, may, in accordance with provisions of the 1002
Revised Code governing injunctions, maintain an action in the name 1003
of the state to enjoin any person from engaging either directly or 1004
by complicity in unlawfully practicing as a genetic counselor by 1005
applying for an injunction in any court of competent jurisdiction. 1006

Prior to application for an injunction, the secretary of the 1007
state medical board shall notify the individual allegedly engaged 1008
either directly or by complicity in the unlawful practice by 1009
registered mail that the secretary has received information 1010
indicating that this individual is so engaged. The individual 1011
shall answer the secretary within thirty days showing that the 1012
individual is either properly licensed for the stated activity or 1013
that the individual is not in violation of this chapter. If the 1014
answer is not forthcoming within thirty days after notice by the 1015
secretary, the secretary shall request that the attorney general, 1016
the prosecuting attorney of the county in which the offense was 1017
committed or the offender resides, or the state medical board 1018
proceed as authorized in this section. 1019

Upon the filing of a verified petition in court, the court 1020
shall conduct a hearing on the petition and shall give the same 1021
preference to this proceeding as is given all proceedings under 1022
Chapter 119. of the Revised Code, irrespective of the position of 1023
the proceeding on the calendar of the court. 1024

Injunction proceedings shall be in addition to, and not in 1025
lieu of, all penalties and other remedies provided in this 1026
chapter. 1027

Sec. 4778.22. All fees, penalties, and other funds received 1028

by the state medical board under this chapter shall be deposited 1029
in accordance with section 4731.24 of the Revised Code. 1030

Sec. 4778.24. In the absence of fraud or bad faith, the 1031
state medical board, a current or former board member, an agent of 1032
the board, a person formally requested by the board to be the 1033
board's representative, or an employee of the board shall not be 1034
held liable in damages to any person as the result of any act, 1035
omission, proceeding, conduct, or decision related to official 1036
duties undertaken or performed pursuant to this chapter. If any 1037
such person asks to be defended by the state against any claim or 1038
action arising out of any act, omission, proceeding, conduct, or 1039
decision related to the person's official duties, and if the 1040
request is made in writing at a reasonable time before trial and 1041
the person requesting defense cooperates in good faith in the 1042
defense of the claim or action, the state shall provide and pay 1043
for the person's defense and shall pay any resulting judgment, 1044
compromise, or settlement. At no time shall the state pay any part 1045
of a claim or judgment that is for punitive or exemplary damages. 1046

Sec. 4778.99. Whoever violates section 4778.02 of the Revised 1047
Code is guilty of a misdemeanor of the first degree on a first 1048
offense and felony of the fifth degree on each subsequent offense. 1049

Section 2. That existing sections 4731.051, 4731.07, 1051
4731.224, 4731.24, and 4731.25 of the Revised Code are hereby 1052
repealed. 1053