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Representative Gonzales

**Cosponsors: Representatives Grossman, Stebelton, Reece, Dovilla,
Gardner, Baker, Wachtmann, Fende, Antonio, Carney, Celeste, Duffey,
Garland, Yuko, Beck, Blair, Boyd, Cera, Combs, Conditt, Damschroder,
DeVitis, Hackett, Johnson, Maag, Milkovich, Pelanda, Ruhl, Sears, Slaby,
Stinziano, Weddington, Winburn**

**Senators Jones, Tavares, Brown, Hite, Hughes, Kearney, Lehner, Manning,
Niehaus, Oelslager, Sawyer**

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A B I L L

To amend sections 4731.07, 4731.19, 4731.22, 1
4731.222, 4731.224, 4731.24, and 4731.25 and to 2
enact sections 4731.297, 4778.01, 4778.02, 3
4778.03, 4778.04, 4778.05, 4778.06, 4778.07, 4
4778.08, 4778.09, 4778.10, 4778.11, 4778.12, 5
4778.14, 4778.15, 4778.16, 4778.18, 4778.19, 6
4778.20, 4778.21, 4778.22, 4778.24, and 4778.99 of 7
the Revised Code to establish licensure 8
requirements for genetic counselors, to modify 9
certain laws governing the State Medical Board, 10
and to create a visiting clinical professional 11
development certificate for certain physicians who 12
are not licensed in Ohio. 13

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

Section 1. That sections 4731.07, 4731.19, 4731.22, 4731.222, 14

4731.224, 4731.24, 4731.25, and 4731.293 be amended and sections 15
4731.297, 4778.01, 4778.02, 4778.03, 4778.04, 4778.05, 4778.06, 16
4778.07, 4778.08, 4778.09, 4778.10, 4778.11, 4778.12, 4778.14, 17
4778.15, 4778.16, 4778.18, 4778.19, 4778.20, 4778.21, 4778.22, 18
4778.24, and 4778.99 of the Revised Code be enacted to read as 19
follows: 20

Sec. 4731.07. The state medical board shall keep a record of 21
its proceedings. It shall also keep a register of applicants for 22
certificates of registration and certificates to practice issued 23
under this chapter and Chapters 4730., 4760., 4762., and 4774. of 24
the Revised Code and licenses issued under Chapter 4778. of the 25
Revised Code. The register shall show the name of the applicant 26
and whether the applicant was granted or refused a certificate or 27
license. With respect to applicants to practice medicine and 28
surgery or osteopathic medicine and surgery, the register shall 29
show the name of the institution that granted the applicant the 30
degree of doctor of medicine or osteopathic medicine. The books 31
and records of the board shall be prima-facie evidence of matters 32
therein contained. 33

Sec. 4731.19. (A) A person seeking a certificate to practice 34
a limited branch of medicine shall file with the state medical 35
board an application in a manner prescribed by the board. The 36
application shall include or be accompanied by ~~evidence of~~ all of 37
the following: 38

(1) ~~That~~ Evidence that the applicant is at least eighteen 39
years of age and of good moral character; 40

(2) ~~That~~ Evidence that the applicant has attained high school 41
graduation or its equivalent; 42

(3) ~~That~~ Evidence that the applicant holds one of the 43
following: 44

(a) A diploma or certificate from a school, college, or 45
institution in good standing as determined by the board, showing 46
the completion of the required courses of instruction; 47

(b) A diploma or certificate from a school, college, or 48
institution in another state or jurisdiction showing completion of 49
a course of instruction that meets course requirements determined 50
by the board through rules adopted under section 4731.05 of the 51
Revised Code; 52

(c) For not less than five years preceding application, a 53
current license, registration, or certificate in good standing in 54
another state for massage therapy or cosmetic therapy. 55

(4) Evidence that the applicant has successfully passed an 56
examination, prescribed in rules described in section 4731.16 of 57
the Revised Code, to determine competency to practice the 58
applicable limited branch of medicine; 59

(5) An affidavit signed by the applicant attesting to the 60
accuracy and truthfulness of information submitted under this 61
section and consenting to release of information; 62

(6) Any other information the board requires. 63

(B) An applicant for a certificate to practice a limited 64
branch of medicine shall comply with the requirements of section 65
4731.171 of the Revised Code. 66

(C) At the time of making application for a certificate to 67
practice a limited branch of medicine, the applicant shall pay to 68
the board a fee of one hundred fifty dollars, no part of which 69
shall be returned. No application shall be considered filed until 70
the board receives the appropriate fee. 71

(D) The board may investigate the application materials 72
received under this section and contact any agency or organization 73
for recommendations or other information about the applicant. 74

Sec. 4731.22. (A) The state medical board, by an affirmative 75
vote of not fewer than six of its members, may revoke or may 76
refuse to grant a certificate to a person found by the board to 77
have committed fraud during the administration of the examination 78
for a certificate to practice or to have committed fraud, 79
misrepresentation, or deception in applying for or securing any 80
certificate to practice or certificate of registration issued by 81
the board. 82

(B) The board, by an affirmative vote of not fewer than six 83
members, shall, to the extent permitted by law, limit, revoke, or 84
suspend an individual's certificate to practice, refuse to 85
register an individual, refuse to reinstate a certificate, or 86
reprimand or place on probation the holder of a certificate for 87
one or more of the following reasons: 88

(1) Permitting one's name or one's certificate to practice or 89
certificate of registration to be used by a person, group, or 90
corporation when the individual concerned is not actually 91
directing the treatment given; 92

(2) Failure to maintain minimal standards applicable to the 93
selection or administration of drugs, or failure to employ 94
acceptable scientific methods in the selection of drugs or other 95
modalities for treatment of disease; 96

(3) Selling, giving away, personally furnishing, prescribing, 97
or administering drugs for other than legal and legitimate 98
therapeutic purposes or a plea of guilty to, a judicial finding of 99
guilt of, or a judicial finding of eligibility for intervention in 100
lieu of conviction of, a violation of any federal or state law 101
regulating the possession, distribution, or use of any drug; 102

(4) Willfully betraying a professional confidence. 103

For purposes of this division, "willfully betraying a 104

professional confidence" does not include providing any 105
information, documents, or reports to a child fatality review 106
board under sections 307.621 to 307.629 of the Revised Code and 107
does not include the making of a report of an employee's use of a 108
drug of abuse, or a report of a condition of an employee other 109
than one involving the use of a drug of abuse, to the employer of 110
the employee as described in division (B) of section 2305.33 of 111
the Revised Code. Nothing in this division affects the immunity 112
from civil liability conferred by that section upon a physician 113
who makes either type of report in accordance with division (B) of 114
that section. As used in this division, "employee," "employer," 115
and "physician" have the same meanings as in section 2305.33 of 116
the Revised Code. 117

(5) Making a false, fraudulent, deceptive, or misleading 118
statement in the solicitation of or advertising for patients; in 119
relation to the practice of medicine and surgery, osteopathic 120
medicine and surgery, podiatric medicine and surgery, or a limited 121
branch of medicine; or in securing or attempting to secure any 122
certificate to practice or certificate of registration issued by 123
the board. 124

As used in this division, "false, fraudulent, deceptive, or 125
misleading statement" means a statement that includes a 126
misrepresentation of fact, is likely to mislead or deceive because 127
of a failure to disclose material facts, is intended or is likely 128
to create false or unjustified expectations of favorable results, 129
or includes representations or implications that in reasonable 130
probability will cause an ordinarily prudent person to 131
misunderstand or be deceived. 132

(6) A departure from, or the failure to conform to, minimal 133
standards of care of similar practitioners under the same or 134
similar circumstances, whether or not actual injury to a patient 135
is established; 136

(7) Representing, with the purpose of obtaining compensation	137
or other advantage as personal gain or for any other person, that	138
an incurable disease or injury, or other incurable condition, can	139
be permanently cured;	140
(8) The obtaining of, or attempting to obtain, money or	141
anything of value by fraudulent misrepresentations in the course	142
of practice;	143
(9) A plea of guilty to, a judicial finding of guilt of, or a	144
judicial finding of eligibility for intervention in lieu of	145
conviction for, a felony;	146
(10) Commission of an act that constitutes a felony in this	147
state, regardless of the jurisdiction in which the act was	148
committed;	149
(11) A plea of guilty to, a judicial finding of guilt of, or	150
a judicial finding of eligibility for intervention in lieu of	151
conviction for, a misdemeanor committed in the course of practice;	152
(12) Commission of an act in the course of practice that	153
constitutes a misdemeanor in this state, regardless of the	154
jurisdiction in which the act was committed;	155
(13) A plea of guilty to, a judicial finding of guilt of, or	156
a judicial finding of eligibility for intervention in lieu of	157
conviction for, a misdemeanor involving moral turpitude;	158
(14) Commission of an act involving moral turpitude that	159
constitutes a misdemeanor in this state, regardless of the	160
jurisdiction in which the act was committed;	161
(15) Violation of the conditions of limitation placed by the	162
board upon a certificate to practice;	163
(16) Failure to pay license renewal fees specified in this	164
chapter;	165
(17) Except as authorized in section 4731.31 of the Revised	166

Code, engaging in the division of fees for referral of patients, 167
or the receiving of a thing of value in return for a specific 168
referral of a patient to utilize a particular service or business; 169

(18) Subject to section 4731.226 of the Revised Code, 170
violation of any provision of a code of ethics of the American 171
medical association, the American osteopathic association, the 172
American podiatric medical association, or any other national 173
professional organizations that the board specifies by rule. The 174
state medical board shall obtain and keep on file current copies 175
of the codes of ethics of the various national professional 176
organizations. The individual whose certificate is being suspended 177
or revoked shall not be found to have violated any provision of a 178
code of ethics of an organization not appropriate to the 179
individual's profession. 180

For purposes of this division, a "provision of a code of 181
ethics of a national professional organization" does not include 182
any provision that would preclude the making of a report by a 183
physician of an employee's use of a drug of abuse, or of a 184
condition of an employee other than one involving the use of a 185
drug of abuse, to the employer of the employee as described in 186
division (B) of section 2305.33 of the Revised Code. Nothing in 187
this division affects the immunity from civil liability conferred 188
by that section upon a physician who makes either type of report 189
in accordance with division (B) of that section. As used in this 190
division, "employee," "employer," and "physician" have the same 191
meanings as in section 2305.33 of the Revised Code. 192

(19) Inability to practice according to acceptable and 193
prevailing standards of care by reason of mental illness or 194
physical illness, including, but not limited to, physical 195
deterioration that adversely affects cognitive, motor, or 196
perceptive skills. 197

In enforcing this division, the board, upon a showing of a 198

possible violation, may compel any individual authorized to 199
practice by this chapter or who has submitted an application 200
pursuant to this chapter to submit to a mental examination, 201
physical examination, including an HIV test, or both a mental and 202
a physical examination. The expense of the examination is the 203
responsibility of the individual compelled to be examined. Failure 204
to submit to a mental or physical examination or consent to an HIV 205
test ordered by the board constitutes an admission of the 206
allegations against the individual unless the failure is due to 207
circumstances beyond the individual's control, and a default and 208
final order may be entered without the taking of testimony or 209
presentation of evidence. If the board finds an individual unable 210
to practice because of the reasons set forth in this division, the 211
board shall require the individual to submit to care, counseling, 212
or treatment by physicians approved or designated by the board, as 213
a condition for initial, continued, reinstated, or renewed 214
authority to practice. An individual affected under this division 215
shall be afforded an opportunity to demonstrate to the board the 216
ability to resume practice in compliance with acceptable and 217
prevailing standards under the provisions of the individual's 218
certificate. For the purpose of this division, any individual who 219
applies for or receives a certificate to practice under this 220
chapter accepts the privilege of practicing in this state and, by 221
so doing, shall be deemed to have given consent to submit to a 222
mental or physical examination when directed to do so in writing 223
by the board, and to have waived all objections to the 224
admissibility of testimony or examination reports that constitute 225
a privileged communication. 226

(20) Except when civil penalties are imposed under section 227
4731.225 or 4731.281 of the Revised Code, and subject to section 228
4731.226 of the Revised Code, violating or attempting to violate, 229
directly or indirectly, or assisting in or abetting the violation 230
of, or conspiring to violate, any provisions of this chapter or 231

any rule promulgated by the board. 232

This division does not apply to a violation or attempted 233
violation of, assisting in or abetting the violation of, or a 234
conspiracy to violate, any provision of this chapter or any rule 235
adopted by the board that would preclude the making of a report by 236
a physician of an employee's use of a drug of abuse, or of a 237
condition of an employee other than one involving the use of a 238
drug of abuse, to the employer of the employee as described in 239
division (B) of section 2305.33 of the Revised Code. Nothing in 240
this division affects the immunity from civil liability conferred 241
by that section upon a physician who makes either type of report 242
in accordance with division (B) of that section. As used in this 243
division, "employee," "employer," and "physician" have the same 244
meanings as in section 2305.33 of the Revised Code. 245

(21) The violation of section 3701.79 of the Revised Code or 246
of any abortion rule adopted by the public health council pursuant 247
to section 3701.341 of the Revised Code; 248

(22) Any of the following actions taken by an agency 249
responsible for authorizing, certifying, or regulating an 250
individual to practice a health care occupation or provide health 251
care services in this state or another jurisdiction, for any 252
reason other than the nonpayment of fees: the limitation, 253
revocation, or suspension of an individual's license to practice; 254
acceptance of an individual's license surrender; denial of a 255
license; refusal to renew or reinstate a license; imposition of 256
probation; or issuance of an order of censure or other reprimand; 257

(23) The violation of section 2919.12 of the Revised Code or 258
the performance or inducement of an abortion upon a pregnant woman 259
with actual knowledge that the conditions specified in division 260
(B) of section 2317.56 of the Revised Code have not been satisfied 261
or with a heedless indifference as to whether those conditions 262
have been satisfied, unless an affirmative defense as specified in 263

division (H)(2) of that section would apply in a civil action 264
authorized by division (H)(1) of that section; 265

(24) The revocation, suspension, restriction, reduction, or 266
termination of clinical privileges by the United States department 267
of defense or department of veterans affairs or the termination or 268
suspension of a certificate of registration to prescribe drugs by 269
the drug enforcement administration of the United States 270
department of justice; 271

(25) Termination or suspension from participation in the 272
medicare or medicaid programs by the department of health and 273
human services or other responsible agency for any act or acts 274
that also would constitute a violation of division (B)(2), (3), 275
(6), (8), or (19) of this section; 276

(26) Impairment of ability to practice according to 277
acceptable and prevailing standards of care because of habitual or 278
excessive use or abuse of drugs, alcohol, or other substances that 279
impair ability to practice. 280

For the purposes of this division, any individual authorized 281
to practice by this chapter accepts the privilege of practicing in 282
this state subject to supervision by the board. By filing an 283
application for or holding a certificate to practice under this 284
chapter, an individual shall be deemed to have given consent to 285
submit to a mental or physical examination when ordered to do so 286
by the board in writing, and to have waived all objections to the 287
admissibility of testimony or examination reports that constitute 288
privileged communications. 289

If it has reason to believe that any individual authorized to 290
practice by this chapter or any applicant for certification to 291
practice suffers such impairment, the board may compel the 292
individual to submit to a mental or physical examination, or both. 293
The expense of the examination is the responsibility of the 294

individual compelled to be examined. Any mental or physical 295
examination required under this division shall be undertaken by a 296
treatment provider or physician who is qualified to conduct the 297
examination and who is chosen by the board. 298

Failure to submit to a mental or physical examination ordered 299
by the board constitutes an admission of the allegations against 300
the individual unless the failure is due to circumstances beyond 301
the individual's control, and a default and final order may be 302
entered without the taking of testimony or presentation of 303
evidence. If the board determines that the individual's ability to 304
practice is impaired, the board shall suspend the individual's 305
certificate or deny the individual's application and shall require 306
the individual, as a condition for initial, continued, reinstated, 307
or renewed certification to practice, to submit to treatment. 308

Before being eligible to apply for reinstatement of a 309
certificate suspended under this division, the impaired 310
practitioner shall demonstrate to the board the ability to resume 311
practice in compliance with acceptable and prevailing standards of 312
care under the provisions of the practitioner's certificate. The 313
demonstration shall include, but shall not be limited to, the 314
following: 315

(a) Certification from a treatment provider approved under 316
section 4731.25 of the Revised Code that the individual has 317
successfully completed any required inpatient treatment; 318

(b) Evidence of continuing full compliance with an aftercare 319
contract or consent agreement; 320

(c) Two written reports indicating that the individual's 321
ability to practice has been assessed and that the individual has 322
been found capable of practicing according to acceptable and 323
prevailing standards of care. The reports shall be made by 324
individuals or providers approved by the board for making the 325

assessments and shall describe the basis for their determination. 326

The board may reinstate a certificate suspended under this 327
division after that demonstration and after the individual has 328
entered into a written consent agreement. 329

When the impaired practitioner resumes practice, the board 330
shall require continued monitoring of the individual. The 331
monitoring shall include, but not be limited to, compliance with 332
the written consent agreement entered into before reinstatement or 333
with conditions imposed by board order after a hearing, and, upon 334
termination of the consent agreement, submission to the board for 335
at least two years of annual written progress reports made under 336
penalty of perjury stating whether the individual has maintained 337
sobriety. 338

(27) A second or subsequent violation of section 4731.66 or 339
4731.69 of the Revised Code; 340

(28) Except as provided in division (N) of this section: 341

(a) Waiving the payment of all or any part of a deductible or 342
copayment that a patient, pursuant to a health insurance or health 343
care policy, contract, or plan that covers the individual's 344
services, otherwise would be required to pay if the waiver is used 345
as an enticement to a patient or group of patients to receive 346
health care services from that individual; 347

(b) Advertising that the individual will waive the payment of 348
all or any part of a deductible or copayment that a patient, 349
pursuant to a health insurance or health care policy, contract, or 350
plan that covers the individual's services, otherwise would be 351
required to pay. 352

(29) Failure to use universal blood and body fluid 353
precautions established by rules adopted under section 4731.051 of 354
the Revised Code; 355

(30) Failure to provide notice to, and receive acknowledgment 356
of the notice from, a patient when required by section 4731.143 of 357
the Revised Code prior to providing nonemergency professional 358
services, or failure to maintain that notice in the patient's 359
file; 360

(31) Failure of a physician supervising a physician assistant 361
to maintain supervision in accordance with the requirements of 362
Chapter 4730. of the Revised Code and the rules adopted under that 363
chapter; 364

(32) Failure of a physician or podiatrist to enter into a 365
standard care arrangement with a clinical nurse specialist, 366
certified nurse-midwife, or certified nurse practitioner with whom 367
the physician or podiatrist is in collaboration pursuant to 368
section 4731.27 of the Revised Code or failure to fulfill the 369
responsibilities of collaboration after entering into a standard 370
care arrangement; 371

(33) Failure to comply with the terms of a consult agreement 372
entered into with a pharmacist pursuant to section 4729.39 of the 373
Revised Code; 374

(34) Failure to cooperate in an investigation conducted by 375
the board under division (F) of this section, including failure to 376
comply with a subpoena or order issued by the board or failure to 377
answer truthfully a question presented by the board at a 378
deposition or in written interrogatories, except that failure to 379
cooperate with an investigation shall not constitute grounds for 380
discipline under this section if a court of competent jurisdiction 381
has issued an order that either quashes a subpoena or permits the 382
individual to withhold the testimony or evidence in issue; 383

(35) Failure to supervise an acupuncturist in accordance with 384
Chapter 4762. of the Revised Code and the board's rules for 385
supervision of an acupuncturist; 386

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	387 388 389
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	390 391
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	392 393
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	394 395 396
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	397 398 399
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	400 401 402 403
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	404 405 406 407
(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	408 409 410 411
(41) (44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code;	412 413 414 415
<u>(45) Failure to supervise a genetic counselor holding a</u>	416

supervised practice license in accordance with Chapter 4778. of 417
the Revised Code and the board's rules for supervision of the 418
genetic counselor; 419

(46) Failure to fulfill the responsibilities of collaboration 420
after entering into a collaborative agreement with a genetic 421
counselor under division (B) of section 4778.11 of the Revised 422
Code or failure to comply with the board's rules regarding such 423
agreements. 424

(C) Disciplinary actions taken by the board under divisions 425
(A) and (B) of this section shall be taken pursuant to an 426
adjudication under Chapter 119. of the Revised Code, except that 427
in lieu of an adjudication, the board may enter into a consent 428
agreement with an individual to resolve an allegation of a 429
violation of this chapter or any rule adopted under it. A consent 430
agreement, when ratified by an affirmative vote of not fewer than 431
six members of the board, shall constitute the findings and order 432
of the board with respect to the matter addressed in the 433
agreement. If the board refuses to ratify a consent agreement, the 434
admissions and findings contained in the consent agreement shall 435
be of no force or effect. 436

A telephone conference call may be utilized for ratification 437
of a consent agreement that revokes or suspends an individual's 438
certificate to practice. The telephone conference call shall be 439
considered a special meeting under division (F) of section 121.22 440
of the Revised Code. 441

If the board takes disciplinary action against an individual 442
under division (B) of this section for a second or subsequent plea 443
of guilty to, or judicial finding of guilt of, a violation of 444
section 2919.123 of the Revised Code, the disciplinary action 445
shall consist of a suspension of the individual's certificate to 446
practice for a period of at least one year or, if determined 447
appropriate by the board, a more serious sanction involving the 448

individual's certificate to practice. Any consent agreement 449
entered into under this division with an individual that pertains 450
to a second or subsequent plea of guilty to, or judicial finding 451
of guilt of, a violation of that section shall provide for a 452
suspension of the individual's certificate to practice for a 453
period of at least one year or, if determined appropriate by the 454
board, a more serious sanction involving the individual's 455
certificate to practice. 456

(D) For purposes of divisions (B)(10), (12), and (14) of this 457
section, the commission of the act may be established by a finding 458
by the board, pursuant to an adjudication under Chapter 119. of 459
the Revised Code, that the individual committed the act. The board 460
does not have jurisdiction under those divisions if the trial 461
court renders a final judgment in the individual's favor and that 462
judgment is based upon an adjudication on the merits. The board 463
has jurisdiction under those divisions if the trial court issues 464
an order of dismissal upon technical or procedural grounds. 465

(E) The sealing of conviction records by any court shall have 466
no effect upon a prior board order entered under this section or 467
upon the board's jurisdiction to take action under this section 468
if, based upon a plea of guilty, a judicial finding of guilt, or a 469
judicial finding of eligibility for intervention in lieu of 470
conviction, the board issued a notice of opportunity for a hearing 471
prior to the court's order to seal the records. The board shall 472
not be required to seal, destroy, redact, or otherwise modify its 473
records to reflect the court's sealing of conviction records. 474

(F)(1) The board shall investigate evidence that appears to 475
show that a person has violated any provision of this chapter or 476
any rule adopted under it. Any person may report to the board in a 477
signed writing any information that the person may have that 478
appears to show a violation of any provision of this chapter or 479
any rule adopted under it. In the absence of bad faith, any person 480

who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

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

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

On failure to comply with any subpoena issued by the board 513
and after reasonable notice to the person being subpoenaed, the 514
board may move for an order compelling the production of persons 515
or records pursuant to the Rules of Civil Procedure. 516

A subpoena issued by the board may be served by a sheriff, 517
the sheriff's deputy, or a board employee designated by the board. 518
Service of a subpoena issued by the board may be made by 519
delivering a copy of the subpoena to the person named therein, 520
reading it to the person, or leaving it at the person's usual 521
place of residence. When the person being served is a person whose 522
practice is authorized by this chapter, service of the subpoena 523
may be made by certified mail, restricted delivery, return receipt 524
requested, and the subpoena shall be deemed served on the date 525
delivery is made or the date the person refuses to accept 526
delivery. 527

A sheriff's deputy who serves a subpoena shall receive the 528
same fees as a sheriff. Each witness who appears before the board 529
in obedience to a subpoena shall receive the fees and mileage 530
provided for under section 119.094 of the Revised Code. 531

(4) All hearings and investigations of the board shall be 532
considered civil actions for the purposes of section 2305.252 of 533
the Revised Code. 534

(5) Information received by the board pursuant to an 535
investigation is confidential and not subject to discovery in any 536
civil action. 537

The board shall conduct all investigations and proceedings in 538
a manner that protects the confidentiality of patients and persons 539
who file complaints with the board. The board shall not make 540
public the names or any other identifying information about 541
patients or complainants unless proper consent is given or, in the 542
case of a patient, a waiver of the patient privilege exists under 543

division (B) of section 2317.02 of the Revised Code, except that 544
consent or a waiver of that nature is not required if the board 545
possesses reliable and substantial evidence that no bona fide 546
physician-patient relationship exists. 547

The board may share any information it receives pursuant to 548
an investigation, including patient records and patient record 549
information, with law enforcement agencies, other licensing 550
boards, and other governmental agencies that are prosecuting, 551
adjudicating, or investigating alleged violations of statutes or 552
administrative rules. An agency or board that receives the 553
information shall comply with the same requirements regarding 554
confidentiality as those with which the state medical board must 555
comply, notwithstanding any conflicting provision of the Revised 556
Code or procedure of the agency or board that applies when it is 557
dealing with other information in its possession. In a judicial 558
proceeding, the information may be admitted into evidence only in 559
accordance with the Rules of Evidence, but the court shall require 560
that appropriate measures are taken to ensure that confidentiality 561
is maintained with respect to any part of the information that 562
contains names or other identifying information about patients or 563
complainants whose confidentiality was protected by the state 564
medical board when the information was in the board's possession. 565
Measures to ensure confidentiality that may be taken by the court 566
include sealing its records or deleting specific information from 567
its records. 568

(6) On a quarterly basis, the board shall prepare a report 569
that documents the disposition of all cases during the preceding 570
three months. The report shall contain the following information 571
for each case with which the board has completed its activities: 572

(a) The case number assigned to the complaint or alleged 573
violation; 574

(b) The type of certificate to practice, if any, held by the 575

individual against whom the complaint is directed; 576

(c) A description of the allegations contained in the 577
complaint; 578

(d) The disposition of the case. 579

The report shall state how many cases are still pending and 580
shall be prepared in a manner that protects the identity of each 581
person involved in each case. The report shall be a public record 582
under section 149.43 of the Revised Code. 583

(G) If the secretary and supervising member determine both of 584
the following, they may recommend that the board suspend an 585
individual's certificate to practice without a prior hearing: 586

(1) That there is clear and convincing evidence that an 587
individual has violated division (B) of this section; 588

(2) That the individual's continued practice presents a 589
danger of immediate and serious harm to the public. 590

Written allegations shall be prepared for consideration by 591
the board. The board, upon review of those allegations and by an 592
affirmative vote of not fewer than six of its members, excluding 593
the secretary and supervising member, may suspend a certificate 594
without a prior hearing. A telephone conference call may be 595
utilized for reviewing the allegations and taking the vote on the 596
summary suspension. 597

The board shall issue a written order of suspension by 598
certified mail or in person in accordance with section 119.07 of 599
the Revised Code. The order shall not be subject to suspension by 600
the court during pendency of any appeal filed under section 119.12 601
of the Revised Code. If the individual subject to the summary 602
suspension requests an adjudicatory hearing by the board, the date 603
set for the hearing shall be within fifteen days, but not earlier 604
than seven days, after the individual requests the hearing, unless 605

otherwise agreed to by both the board and the individual. 606

Any summary suspension imposed under this division shall 607
remain in effect, unless reversed on appeal, until a final 608
adjudicative order issued by the board pursuant to this section 609
and Chapter 119. of the Revised Code becomes effective. The board 610
shall issue its final adjudicative order within seventy-five days 611
after completion of its hearing. A failure to issue the order 612
within seventy-five days shall result in dissolution of the 613
summary suspension order but shall not invalidate any subsequent, 614
final adjudicative order. 615

(H) If the board takes action under division (B)(9), (11), or 616
(13) of this section and the judicial finding of guilt, guilty 617
plea, or judicial finding of eligibility for intervention in lieu 618
of conviction is overturned on appeal, upon exhaustion of the 619
criminal appeal, a petition for reconsideration of the order may 620
be filed with the board along with appropriate court documents. 621
Upon receipt of a petition of that nature and supporting court 622
documents, the board shall reinstate the individual's certificate 623
to practice. The board may then hold an adjudication under Chapter 624
119. of the Revised Code to determine whether the individual 625
committed the act in question. Notice of an opportunity for a 626
hearing shall be given in accordance with Chapter 119. of the 627
Revised Code. If the board finds, pursuant to an adjudication held 628
under this division, that the individual committed the act or if 629
no hearing is requested, the board may order any of the sanctions 630
identified under division (B) of this section. 631

(I) The certificate to practice issued to an individual under 632
this chapter and the individual's practice in this state are 633
automatically suspended as of the date of the individual's second 634
or subsequent plea of guilty to, or judicial finding of guilt of, 635
a violation of section 2919.123 of the Revised Code, or the date 636
the individual pleads guilty to, is found by a judge or jury to be 637

guilty of, or is subject to a judicial finding of eligibility for 638
intervention in lieu of conviction in this state or treatment or 639
intervention in lieu of conviction in another jurisdiction for any 640
of the following criminal offenses in this state or a 641
substantially equivalent criminal offense in another jurisdiction: 642
aggravated murder, murder, voluntary manslaughter, felonious 643
assault, kidnapping, rape, sexual battery, gross sexual 644
imposition, aggravated arson, aggravated robbery, or aggravated 645
burglary. Continued practice after suspension shall be considered 646
practicing without a certificate. 647

The board shall notify the individual subject to the 648
suspension by certified mail or in person in accordance with 649
section 119.07 of the Revised Code. If an individual whose 650
certificate is automatically suspended under this division fails 651
to make a timely request for an adjudication under Chapter 119. of 652
the Revised Code, the board shall do whichever of the following is 653
applicable: 654

(1) If the automatic suspension under this division is for a 655
second or subsequent plea of guilty to, or judicial finding of 656
guilt of, a violation of section 2919.123 of the Revised Code, the 657
board shall enter an order suspending the individual's certificate 658
to practice for a period of at least one year or, if determined 659
appropriate by the board, imposing a more serious sanction 660
involving the individual's certificate to practice. 661

(2) In all circumstances in which division (I)(1) of this 662
section does not apply, enter a final order permanently revoking 663
the individual's certificate to practice. 664

(J) If the board is required by Chapter 119. of the Revised 665
Code to give notice of an opportunity for a hearing and if the 666
individual subject to the notice does not timely request a hearing 667
in accordance with section 119.07 of the Revised Code, the board 668
is not required to hold a hearing, but may adopt, by an 669

affirmative vote of not fewer than six of its members, a final 670
order that contains the board's findings. In that final order, the 671
board may order any of the sanctions identified under division (A) 672
or (B) of this section. 673

(K) Any action taken by the board under division (B) of this 674
section resulting in a suspension from practice shall be 675
accompanied by a written statement of the conditions under which 676
the individual's certificate to practice may be reinstated. The 677
board shall adopt rules governing conditions to be imposed for 678
reinstatement. Reinstatement of a certificate suspended pursuant 679
to division (B) of this section requires an affirmative vote of 680
not fewer than six members of the board. 681

(L) When the board refuses to grant a certificate to an 682
applicant, revokes an individual's certificate to practice, 683
refuses to register an applicant, or refuses to reinstate an 684
individual's certificate to practice, the board may specify that 685
its action is permanent. An individual subject to a permanent 686
action taken by the board is forever thereafter ineligible to hold 687
a certificate to practice and the board shall not accept an 688
application for reinstatement of the certificate or for issuance 689
of a new certificate. 690

(M) Notwithstanding any other provision of the Revised Code, 691
all of the following apply: 692

(1) The surrender of a certificate issued under this chapter 693
shall not be effective unless or until accepted by the board. A 694
telephone conference call may be utilized for acceptance of the 695
surrender of an individual's certificate to practice. The 696
telephone conference call shall be considered a special meeting 697
under division (F) of section 121.22 of the Revised Code. 698
Reinstatement of a certificate surrendered to the board requires 699
an affirmative vote of not fewer than six members of the board. 700

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

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

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

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

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

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

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

(2) Select providers of educational and assessment services,

including a quality intervention program panel of case reviewers; 732

(3) Make referrals to educational and assessment service 733
providers and approve individual educational programs recommended 734
by those providers. The board shall monitor the progress of each 735
individual undertaking a recommended individual educational 736
program. 737

(4) Determine what constitutes successful completion of an 738
individual educational program and require further monitoring of 739
the individual who completed the program or other action that the 740
board determines to be appropriate; 741

(5) Adopt rules in accordance with Chapter 119. of the 742
Revised Code to further implement the quality intervention 743
program. 744

An individual who participates in an individual educational 745
program pursuant to this division shall pay the financial 746
obligations arising from that educational program. 747

Sec. 4731.222. ~~Before restoring to good standing~~ (A) This 748
section applies to both of the following: 749

(1) An applicant seeking restoration of a certificate issued 750
under this chapter that has been in a suspended or inactive state 751
for any cause for more than two years, ~~or before issuing;~~ 752

(2) An applicant seeking issuance of a certificate pursuant 753
to section 4731.29, 4731.295, 4731.57, or 4731.571 of the Revised 754
Code ~~to an applicant~~ who for more than two years has not been 755
engaged in the practice of medicine and surgery, osteopathic 756
medicine and surgery, podiatric medicine and surgery, or a limited 757
branch of medicine as ~~an~~ any of the following: 758

(a) An active practitioner, ~~as a;~~ 759

(b) A participant in a program of graduate medical education, 760
as defined in section 4731.091 of the Revised Code, ~~as a;~~ 761

(c) A student in a college of podiatry determined by the 762
state medical board to be in good standing, ~~or as a~~ 763

(d) A student in a school, college, or institution giving 764
instruction in a limited branch of medicine determined by the 765
board to be in good standing under section ~~4731.19~~ 4731.16 of the 766
Revised Code, ~~the state medical board may require the applicant to~~ 767
~~pass an oral or written examination, or both, to determine the~~ 768
~~applicant's present fitness to resume practice.~~ 769

~~The authority of (B) Before restoring a certificate to good~~ 770
~~standing for or issuing a certificate to an applicant subject to~~ 771
~~this section, the state medical board ~~to~~ may impose terms and~~ 772
~~conditions ~~includes~~ including the following:~~ 773

~~(A)(1) Requiring the applicant to pass an oral or written~~ 774
~~examination, or both, to determine the applicant's present fitness~~ 775
~~to resume practice;~~ 776

(2) Requiring the applicant to obtain additional training and 777
to pass an examination upon completion of such training; 778

~~(B)(3) Restricting or limiting the extent, scope, or type of~~ 779
~~practice of the applicant.~~ 780

The board shall consider the moral background and the 781
activities of the applicant during the period of suspension or 782
inactivity, in accordance with section 4731.08 of the Revised 783
Code. The board shall not restore a certificate under this section 784
unless the applicant complies with sections 4776.01 to 4776.04 of 785
the Revised Code. 786

Sec. 4731.224. (A) Within sixty days after the imposition of 787
any formal disciplinary action taken by any health care facility, 788
including a hospital, health care facility operated by a health 789
insuring corporation, ambulatory surgical center, or similar 790
facility, against any individual holding a valid certificate to 791

practice issued pursuant to this chapter, the chief administrator 792
or executive officer of the facility shall report to the state 793
medical board the name of the individual, the action taken by the 794
facility, and a summary of the underlying facts leading to the 795
action taken. Upon request, the board shall be provided certified 796
copies of the patient records that were the basis for the 797
facility's action. Prior to release to the board, the summary 798
shall be approved by the peer review committee that reviewed the 799
case or by the governing board of the facility. As used in this 800
division, "formal disciplinary action" means any action resulting 801
in the revocation, restriction, reduction, or termination of 802
clinical privileges for violations of professional ethics, or for 803
reasons of medical incompetence, medical malpractice, or drug or 804
alcohol abuse. "Formal disciplinary action" includes a summary 805
action, an action that takes effect notwithstanding any appeal 806
rights that may exist, and an action that results in an individual 807
surrendering clinical privileges while under investigation and 808
during proceedings regarding the action being taken or in return 809
for not being investigated or having proceedings held. "Formal 810
disciplinary action" does not include any action taken for the 811
sole reason of failure to maintain records on a timely basis or 812
failure to attend staff or section meetings. 813

The filing or nonfiling of a report with the board, 814
investigation by the board, or any disciplinary action taken by 815
the board, shall not preclude any action by a health care facility 816
to suspend, restrict, or revoke the individual's clinical 817
privileges. 818

In the absence of fraud or bad faith, no individual or entity 819
that provides patient records to the board shall be liable in 820
damages to any person as a result of providing the records. 821

(B) If any individual authorized to practice under this 822

chapter or any professional association or society of such 823
individuals believes that a violation of any provision of this 824
chapter, Chapter 4730., 4760., 4762., ~~or 4774.~~ or 4778. of the 825
Revised Code, or any rule of the board has occurred, the 826
individual, association, or society shall report to the board the 827
information upon which the belief is based. This division does not 828
require any treatment provider approved by the board under section 829
4731.25 of the Revised Code or any employee, agent, or 830
representative of such a provider to make reports with respect to 831
an impaired practitioner participating in treatment or aftercare 832
for substance abuse as long as the practitioner maintains 833
participation in accordance with the requirements of section 834
4731.25 of the Revised Code, and as long as the treatment provider 835
or employee, agent, or representative of the provider has no 836
reason to believe that the practitioner has violated any provision 837
of this chapter or any rule adopted under it, other than the 838
provisions of division (B)(26) of section 4731.22 of the Revised 839
Code. This division does not require reporting by any member of an 840
impaired practitioner committee established by a health care 841
facility or by any representative or agent of a committee or 842
program sponsored by a professional association or society of 843
individuals authorized to practice under this chapter to provide 844
peer assistance to practitioners with substance abuse problems 845
with respect to a practitioner who has been referred for 846
examination to a treatment program approved by the board under 847
section 4731.25 of the Revised Code if the practitioner cooperates 848
with the referral for examination and with any determination that 849
the practitioner should enter treatment and as long as the 850
committee member, representative, or agent has no reason to 851
believe that the practitioner has ceased to participate in the 852
treatment program in accordance with section 4731.25 of the 853
Revised Code or has violated any provision of this chapter or any 854
rule adopted under it, other than the provisions of division 855

(B)(26) of section 4731.22 of the Revised Code. 856

(C) Any professional association or society composed 857
primarily of doctors of medicine and surgery, doctors of 858
osteopathic medicine and surgery, doctors of podiatric medicine 859
and surgery, or practitioners of limited branches of medicine that 860
suspends or revokes an individual's membership for violations of 861
professional ethics, or for reasons of professional incompetence 862
or professional malpractice, within sixty days after a final 863
decision shall report to the board, on forms prescribed and 864
provided by the board, the name of the individual, the action 865
taken by the professional organization, and a summary of the 866
underlying facts leading to the action taken. 867

The filing of a report with the board or decision not to file 868
a report, investigation by the board, or any disciplinary action 869
taken by the board, does not preclude a professional organization 870
from taking disciplinary action against an individual. 871

(D) Any insurer providing professional liability insurance to 872
an individual authorized to practice under this chapter, or any 873
other entity that seeks to indemnify the professional liability of 874
such an individual, shall notify the board within thirty days 875
after the final disposition of any written claim for damages where 876
such disposition results in a payment exceeding twenty-five 877
thousand dollars. The notice shall contain the following 878
information: 879

(1) The name and address of the person submitting the 880
notification; 881

(2) The name and address of the insured who is the subject of 882
the claim; 883

(3) The name of the person filing the written claim; 884

(4) The date of final disposition; 885

(5) If applicable, the identity of the court in which the 886
final disposition of the claim took place. 887

(E) The board may investigate possible violations of this 888
chapter or the rules adopted under it that are brought to its 889
attention as a result of the reporting requirements of this 890
section, except that the board shall conduct an investigation if a 891
possible violation involves repeated malpractice. As used in this 892
division, "repeated malpractice" means three or more claims for 893
medical malpractice within the previous five-year period, each 894
resulting in a judgment or settlement in excess of twenty-five 895
thousand dollars in favor of the claimant, and each involving 896
negligent conduct by the practicing individual. 897

(F) All summaries, reports, and records received and 898
maintained by the board pursuant to this section shall be held in 899
confidence and shall not be subject to discovery or introduction 900
in evidence in any federal or state civil action involving a 901
health care professional or facility arising out of matters that 902
are the subject of the reporting required by this section. The 903
board may use the information obtained only as the basis for an 904
investigation, as evidence in a disciplinary hearing against an 905
individual whose practice is regulated under this chapter, or in 906
any subsequent trial or appeal of a board action or order. 907

The board may disclose the summaries and reports it receives 908
under this section only to health care facility committees within 909
or outside this state that are involved in credentialing or 910
recredentialing the individual or in reviewing the individual's 911
clinical privileges. The board shall indicate whether or not the 912
information has been verified. Information transmitted by the 913
board shall be subject to the same confidentiality provisions as 914
when maintained by the board. 915

(G) Except for reports filed by an individual pursuant to 916
division (B) of this section, the board shall send a copy of any 917

reports or summaries it receives pursuant to this section to the 918
individual who is the subject of the reports or summaries. The 919
individual shall have the right to file a statement with the board 920
concerning the correctness or relevance of the information. The 921
statement shall at all times accompany that part of the record in 922
contention. 923

(H) An individual or entity that, pursuant to this section, 924
reports to the board or refers an impaired practitioner to a 925
treatment provider approved by the board under section 4731.25 of 926
the Revised Code shall not be subject to suit for civil damages as 927
a result of the report, referral, or provision of the information. 928

(I) In the absence of fraud or bad faith, no professional 929
association or society of individuals authorized to practice under 930
this chapter that sponsors a committee or program to provide peer 931
assistance to practitioners with substance abuse problems, no 932
representative or agent of such a committee or program, and no 933
member of the state medical board shall be held liable in damages 934
to any person by reason of actions taken to refer a practitioner 935
to a treatment provider approved under section 4731.25 of the 936
Revised Code for examination or treatment. 937

Sec. 4731.24. Except as provided in sections 4731.281 and 938
4731.40 of the Revised Code, all receipts of the state medical 939
board, from any source, shall be deposited in the state treasury. 940
Until July 1, 1998, the funds shall be deposited to the credit of 941
the occupational licensing and regulatory fund. On and after July 942
1, 1998, the funds shall be deposited to the credit of the state 943
medical board operating fund, which is hereby created on July 1, 944
1998. All funds deposited into the state treasury under this 945
section shall be used solely for the administration and 946
enforcement of this chapter and Chapters 4730., 4760., 4762., ~~and~~ 947
4774., and 4778. of the Revised Code by the board. 948

Sec. 4731.25. The state medical board, in accordance with 949
Chapter 119. of the Revised Code, shall adopt and may amend and 950
rescind rules establishing standards for approval of physicians 951
and facilities as treatment providers for impaired practitioners 952
who are regulated under this chapter or Chapter 4730., 4760., 953
4762., ~~or 4774.~~ or 4778. of the Revised Code. The rules shall 954
include standards for both inpatient and outpatient treatment. The 955
rules shall provide that in order to be approved, a treatment 956
provider must have the capability of making an initial examination 957
to determine what type of treatment an impaired practitioner 958
requires. Subject to the rules, the board shall review and approve 959
treatment providers on a regular basis. The board, at its 960
discretion, may withdraw or deny approval subject to the rules. 961

An approved impaired practitioner treatment provider shall: 962

(A) Report to the board the name of any practitioner 963
suffering or showing evidence of suffering impairment as described 964
in division (B)(5) of section 4730.25 of the Revised Code, 965
division (B)(26) of section 4731.22 of the Revised Code, division 966
(B)(6) of section 4760.13 of the Revised Code, division (B)(6) of 967
section 4762.13 of the Revised Code, ~~or division (B)(6) of section~~ 968
4774.13 of the Revised Code, or division (B)(6) of section 4778.14 969
of the Revised Code who fails to comply within one week with a 970
referral for examination; 971

(B) Report to the board the name of any impaired practitioner 972
who fails to enter treatment within forty-eight hours following 973
the provider's determination that the practitioner needs 974
treatment; 975

(C) Require every practitioner who enters treatment to agree 976
to a treatment contract establishing the terms of treatment and 977
aftercare, including any required supervision or restrictions of 978
practice during treatment or aftercare; 979

(D) Require a practitioner to suspend practice upon entry	980
into any required inpatient treatment;	981
(E) Report to the board any failure by an impaired	982
practitioner to comply with the terms of the treatment contract	983
during inpatient or outpatient treatment or aftercare;	984
(F) Report to the board the resumption of practice of any	985
impaired practitioner before the treatment provider has made a	986
clear determination that the practitioner is capable of practicing	987
according to acceptable and prevailing standards of care;	988
(G) Require a practitioner who resumes practice after	989
completion of treatment to comply with an aftercare contract that	990
meets the requirements of rules adopted by the board for approval	991
of treatment providers;	992
(H) Report the identity of any practitioner practicing under	993
the terms of an aftercare contract to hospital administrators,	994
medical chiefs of staff, and chairpersons of impaired practitioner	995
committees of all health care institutions at which the	996
practitioner holds clinical privileges or otherwise practices. If	997
the practitioner does not hold clinical privileges at any health	998
care institution, the treatment provider shall report the	999
practitioner's identity to the impaired practitioner committee of	1000
the county medical society, osteopathic academy, or podiatric	1001
medical association in every county in which the practitioner	1002
practices. If there are no impaired practitioner committees in the	1003
county, the treatment provider shall report the practitioner's	1004
identity to the president or other designated member of the county	1005
medical society, osteopathic academy, or podiatric medical	1006
association.	1007
(I) Report to the board the identity of any practitioner who	1008
suffers a relapse at any time during or following aftercare.	1009
Any individual authorized to practice under this chapter who	1010

enters into treatment by an approved treatment provider shall be 1011
deemed to have waived any confidentiality requirements that would 1012
otherwise prevent the treatment provider from making reports 1013
required under this section. 1014

In the absence of fraud or bad faith, no person or 1015
organization that conducts an approved impaired practitioner 1016
treatment program, no member of such an organization, and no 1017
employee, representative, or agent of the treatment provider shall 1018
be held liable in damages to any person by reason of actions taken 1019
or recommendations made by the treatment provider or its 1020
employees, representatives, or agents. 1021

Sec. 4731.293. (A) The state medical board may issue, without 1022
examination, a ~~visiting medical~~ clinical research faculty 1023
certificate to any person who applies for the certificate and 1024
provides to the board all of the following: 1025

(1) Evidence satisfactory to the board of all of the 1026
following: 1027

(a) That the applicant holds a current, unrestricted license 1028
to practice medicine and surgery or osteopathic medicine and 1029
surgery issued by another state or country ~~and;~~ 1030

(b) That the applicant has been appointed to serve in this 1031
state on the academic staff of a medical school accredited by the 1032
liaison committee on medical education or an osteopathic medical 1033
school accredited by the American osteopathic association; 1034

(c) That the applicant is an international medical graduate 1035
who holds a medical degree from an educational institution listed 1036
in the international medical education directory. 1037

(2) An affidavit and supporting documentation from the dean 1038
of the medical school or the department director or chairperson of 1039
a teaching hospital affiliated with the school that the applicant 1040

is qualified to perform teaching and research activities and will 1041
be permitted to work only under the authority of the department 1042
director or chairperson of a teaching hospital affiliated with the 1043
medical school where the applicant's teaching and research 1044
activities will occur; 1045

(3) A description from the medical school or teaching 1046
hospital of the scope of practice in which the applicant will be 1047
involved, including the types of teaching, research, and 1048
procedures in which the applicant will be engaged; 1049

(4) A description from the medical school or teaching 1050
hospital of the type and amount of patient contact that will occur 1051
in connection with the applicant's teaching and research 1052
activities. Except as provided in division (E) of this section, 1053
the board shall not issue more than one visiting medical faculty 1054
certificate to any particular person. 1055

(B) An applicant for a visiting medical an initial clinical 1056
research faculty certificate shall submit evidence satisfactory to 1057
the board that the applicant meets the requirements of division 1058
(A) of this section. The applicant shall pay a fee of three 1059
hundred seventy-five dollars. The board shall maintain a register 1060
of all persons who hold a visiting medical faculty certificate. 1061

(C) The holder of a visiting medical clinical research 1062
faculty certificate may practice medicine and surgery or 1063
osteopathic medicine and surgery only as is incidental to the 1064
certificate holder's teaching or research duties at the medical 1065
school or the a teaching hospitals hospital affiliated with the 1066
school. The board may revoke a certificate on receiving proof 1067
satisfactory to the board that the certificate holder of the 1068
certificate has engaged in practice in this state outside the 1069
scope of the certificate or that there are grounds for action 1070
against the certificate holder under section 4731.22 of the 1071
Revised Code. 1072

(D) A ~~visiting medical~~ clinical research faculty certificate 1073
is valid for the ~~shorter of three years or the duration of, except~~ 1074
that the certificate ceases to be valid if the holder's 1075
appointment to the academic staff of the school is no longer valid 1076
or the certificate is revoked pursuant to division (C) of this 1077
section. The certificate may not be renewed. 1078

(E) ~~If a person was granted a visiting medical faculty~~ 1079
~~certificate before the effective date of this amendment, the~~ 1080
~~person may apply for a second visiting medical faculty~~ 1081
~~certificate, unless the person's first certificate was revoked.~~ 1082
~~The board may issue the second certificate if the applicant~~ 1083
~~complies with division (B) of this section (1) Three months before~~ 1084
a clinical research faculty certificate expires, the board shall 1085
mail or cause to be mailed to the certificate holder a notice of 1086
renewal addressed to the certificate holder's last known address. 1087
Failure of a certificate holder to receive a notice of renewal 1088
from the board shall not excuse the certificate holder from the 1089
requirements contained in this section. The notice shall inform 1090
the certificate holder of the renewal procedure. The notice also 1091
shall inform the certificate holder of the reporting requirement 1092
established by division (H) of section 3701.79 of the Revised 1093
Code. At the discretion of the board, the information may be 1094
included on the application for renewal or on an accompanying 1095
page. 1096

(2) A clinical research faculty certificate may be renewed 1097
for an additional three-year period. There is no limit on the 1098
number of times a certificate may be renewed. A person seeking 1099
renewal of a certificate shall apply to the board. The board shall 1100
provide the application for renewal in a form determined by the 1101
board. 1102

(3) An applicant is eligible for renewal if the applicant 1103
does all of the following: 1104

- (a) Pays a renewal fee of three hundred seventy-five dollars; 1105
- (b) Reports any criminal offense to which the applicant has 1106
pleaded guilty, of which the applicant has been found guilty, or 1107
for which the applicant has been found eligible for intervention 1108
in lieu of conviction, since last filing an application for a 1109
clinical research faculty certificate; 1110
- (c) Provides to the board an affidavit and supporting 1111
documentation from the dean of the medical school or the 1112
department director or chairperson of a teaching hospital 1113
affiliated with the school that the applicant is in compliance 1114
with the applicant's current clinical research faculty 1115
certificate; 1116
- (d) Provides evidence satisfactory to the board of all of the 1117
following: 1118
- (i) That the applicant continues to maintain a current, 1119
unrestricted license to practice medicine and surgery or 1120
osteopathic medicine and surgery issued by another state or 1121
country; 1122
- (ii) That the applicant's initial appointment to serve in 1123
this state on the academic staff of a medical school is still 1124
valid or has been renewed; 1125
- (iii) That the applicant has completed one hundred fifty 1126
hours of continuing medical education that meet the requirements 1127
set forth in section 4731.281 of the Revised Code. 1128
- (4) Regardless of whether the certificate has expired, a 1129
person who was granted a visiting medical faculty certificate 1130
under this section as it existed immediately prior to the 1131
effective date of this amendment may apply for a clinical research 1132
faculty certificate as a renewal. The board may issue the clinical 1133
research faculty certificate if the applicant meets the 1134
requirements of division (E)(3) of this section. The board may not 1135

issue a clinical research faculty certificate if the visiting 1136
medical faculty certificate was revoked. 1137

(F) The board shall maintain a register of all persons who 1138
hold clinical research faculty certificates. 1139

(G) The board may adopt any rules it considers necessary to 1140
implement this section. The rules shall be adopted in accordance 1141
with Chapter 119. of the Revised Code. 1142

Sec. 4731.297. (A) The state medical board shall issue, 1143
without examination, to an applicant who meets the requirements of 1144
this section a visiting clinical professional development 1145
certificate authorizing the practice of medicine and surgery or 1146
osteopathic medicine and surgery as part of the applicant's 1147
participation in a clinical professional development program. 1148

(B) To be eligible for a visiting clinical professional 1149
development certificate, an applicant shall provide to the board 1150
both of the following: 1151

(1) Documentation satisfactory to the board of all of the 1152
following: 1153

(a) Verification from the school or hospital conducting the 1154
program that the applicant has sufficient financial resources to 1155
support the applicant and any dependents based on the cost of 1156
living in the geographic area of the school or hospital conducting 1157
the program, including room, board, transportation, and related 1158
living expenses; 1159

(b) Valid health and evacuation insurance for the duration of 1160
the applicant's stay in the United States; 1161

(c) Professional liability insurance provided by the program 1162
or the school or hospital conducting the program for the duration 1163
of the applicant's participation in the program; 1164

(d) Proficiency in spoken English as demonstrated by passing 1165

<u>the examination described in section 4731.142 of the Revised Code;</u>	1166
<u>(e) A description from the school or hospital conducting the</u>	1167
<u>program of the scope of medical or surgical activities permitted</u>	1168
<u>during the applicant's participation in the program that includes</u>	1169
<u>all of the following:</u>	1170
<u>(i) The type of practice in which the applicant will be</u>	1171
<u>involved;</u>	1172
<u>(ii) The type of patient contact that will occur;</u>	1173
<u>(iii) The type of supervision the applicant will experience;</u>	1174
<u>(iv) A list of procedures the applicant will learn;</u>	1175
<u>(v) A list of any patient-based research projects in which</u>	1176
<u>the applicant will be involved;</u>	1177
<u>(vi) Whether the applicant will act as a consultant to a</u>	1178
<u>person who holds a certificate to practice medicine and surgery or</u>	1179
<u>osteopathic medicine and surgery issued under this chapter;</u>	1180
<u>(vii) Any other details of the applicant's participation in</u>	1181
<u>the program.</u>	1182
<u>(f) A statement from the school or hospital conducting the</u>	1183
<u>program regarding why the applicant needs advanced training and</u>	1184
<u>the benefits to the applicant's home country of the applicant</u>	1185
<u>receiving the training.</u>	1186
<u>(2) Evidence satisfactory to the board that the applicant</u>	1187
<u>meets all of the following requirements:</u>	1188
<u>(a) Has been accepted for participation in a clinical</u>	1189
<u>professional development program of a medical school or</u>	1190
<u>osteopathic medical school in this state that is accredited by the</u>	1191
<u>liaison committee on medical education or the American osteopathic</u>	1192
<u>association or of a teaching hospital affiliated with such a</u>	1193
<u>medical school;</u>	1194

(b) Is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory; 1195
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(c) Has practiced medicine and surgery or osteopathic medicine and surgery for at least five years after completing graduate medical education, including postgraduate residency and advanced training; 1198
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(d) Has credentials that are primary-source verified by the educational commission for foreign medical graduates or the federation credentials verification service; 1202
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(e) Holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued in another country; 1205
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(f) Agrees to comply with all state and federal laws regarding health, health care, and patient privacy; 1208
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(g) Agrees to return to the applicant's home state or country at the conclusion of the clinical professional development program. 1210
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(C) The applicant shall pay a fee of three hundred seventy-five dollars. The board shall maintain a register of all persons who hold visiting clinical professional development certificates. 1213
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(D) The holder of a visiting clinical professional development certificate may practice medicine and surgery or osteopathic medicine and surgery only as part of the clinical professional development program in which the certificate holder participates. The certificate holder's practice must be under the direct supervision of a qualified faculty member of the medical school, osteopathic medical school, or teaching hospital conducting the program who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued 1217
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<u>under this chapter.</u>	1226
<u>The program in which the certificate holder participates</u>	1227
<u>shall ensure that the certificate holder does not do any of the</u>	1228
<u>following:</u>	1229
<u>(1) Write orders or prescribe medication;</u>	1230
<u>(2) Bill for services performed;</u>	1231
<u>(3) Occupy a residency or fellowship position approved by the</u>	1232
<u>accreditation council for graduate medical education;</u>	1233
<u>(4) Attempt to have participation in a clinical professional</u>	1234
<u>development program pursuant to this section counted toward</u>	1235
<u>meeting the graduate medical education requirements specified in</u>	1236
<u>section 4731.091 of the Revised Code.</u>	1237
<u>(E) The board may revoke a certificate issued under this</u>	1238
<u>section on receiving proof satisfactory to the board that the</u>	1239
<u>certificate holder has engaged in practice in this state outside</u>	1240
<u>the scope of the certificate or that there are grounds for action</u>	1241
<u>against the certificate holder under section 4731.22 of the</u>	1242
<u>Revised Code.</u>	1243
<u>(F) A visiting clinical professional development certificate</u>	1244
<u>is valid for the shorter of one year or the duration of the</u>	1245
<u>program in which the holder is participating. The certificate</u>	1246
<u>ceases to be valid if the holder resigns or is otherwise</u>	1247
<u>terminated from the program. The certificate may not be extended.</u>	1248
<u>(G) The program in which a certificate holder participates</u>	1249
<u>shall obtain from each patient or patient's parent or legal</u>	1250
<u>guardian written consent to any medical or surgical procedure or</u>	1251
<u>course of procedures in which the certificate holder participates.</u>	1252
<u>(H) The board may adopt any rules it considers necessary to</u>	1253
<u>implement this section. The rules shall be adopted in accordance</u>	1254
<u>with Chapter 119. of the Revised Code.</u>	1255

<u>Sec. 4778.01. As used in this chapter:</u>	1256
<u>(A) "American board of genetic counseling" means the organization known by that name, its successor organization, or an equivalent organization recognized by the state medical board.</u>	1257 1258 1259
<u>(B) "American board of medical genetics" means the organization known by that name, its successor organization, or an equivalent organization recognized by the state medical board.</u>	1260 1261 1262
<u>(C) "Certified genetic counselor" means either of the following:</u>	1263 1264
<u>(1) An individual who possesses the certified genetic counselor credential from the American board of genetic counseling;</u>	1265 1266 1267
<u>(2) An individual who is a diplomate of the American board of medical genetics.</u>	1268 1269
<u>(D) "Collaborating physician" means a physician who has entered into a collaborative agreement with a genetic counselor under division (B) of section 4778.11 of the Revised Code.</u>	1270 1271 1272
<u>(E) "Collaborative agreement" means the document that is established under division (B) of section 4778.11 of the Revised Code by a genetic counselor and the genetic counselor's collaborating physician.</u>	1273 1274 1275 1276
<u>(F) "Genetic counselor" means an individual who engages in any of the activities authorized under section 4778.11 of the Revised Code.</u>	1277 1278 1279
<u>(G) "National society of genetic counselors" means the organization known by that name, its successor organization, or an equivalent organization recognized by the state medical board.</u>	1280 1281 1282
<u>(H) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or</u>	1283 1284

osteopathic medicine and surgery. 1285

Sec. 4778.02. (A)(1) Except as provided in division (B) of 1286
this section, no person shall practice as a genetic counselor 1287
unless the person holds a current, valid license to practice as a 1288
genetic counselor issued under this chapter. 1289

(2) No person shall use the title "genetic counselor," or 1290
otherwise hold the person out as a genetic counselor, unless the 1291
person holds a current, valid license to practice as a genetic 1292
counselor issued under this chapter. 1293

(B) Division (A)(1) of this section does not apply to either 1294
of the following: 1295

(1) A student performing an activity as part of a genetic 1296
counseling graduate program described in division (B)(2) of 1297
section 4778.03 of the Revised Code; 1298

(2) A person who is authorized pursuant to another provision 1299
of the Revised Code to perform any of the activities that a 1300
genetic counselor is authorized to perform. 1301

Sec. 4778.03. (A) An individual seeking a license to practice 1302
as a genetic counselor shall file with the state medical board an 1303
application in a manner prescribed by the board. The application 1304
shall include all the information the board considers necessary to 1305
process the application, including evidence satisfactory to the 1306
board that the applicant meets the requirements specified in 1307
division (B) of this section. 1308

At the time an application is submitted, the applicant shall 1309
pay the board an application fee of two hundred dollars. No part 1310
of the fee shall be returned to the applicant or transferred for 1311
purposes of another application. 1312

(B) To be eligible to receive a license to practice as a 1313

genetic counselor, an applicant shall demonstrate to the board 1314
that the applicant meets all of the following requirements: 1315

(1) Is at least eighteen years of age and of good moral 1316
character; 1317

(2) Has attained a master's degree or higher degree from a 1318
genetic counseling graduate program accredited by the American 1319
board of genetic counseling, inc.; 1320

(3) Is a certified genetic counselor; 1321

(4) Has satisfied any other requirements established by the 1322
board in rules adopted under section 4778.12 of the Revised Code. 1323

(C) The board shall review all applications received under 1324
this section. Not later than sixty days after receiving an 1325
application it considers complete, the board shall determine 1326
whether the applicant meets the requirements for a license to 1327
practice as a genetic counselor. The affirmative vote of not fewer 1328
than six members of the board is required to determine that the 1329
applicant meets the requirements for the license. 1330

Sec. 4778.04. In addition to any other eligibility 1331
requirement set forth in this chapter, each applicant for a 1332
license to practice as a genetic counselor shall comply with 1333
sections 4776.01 to 4776.04 of the Revised Code. The state medical 1334
board shall not grant to an applicant a license to practice as a 1335
genetic counselor unless the board, in its discretion, decides 1336
that the results of the criminal records check do not make the 1337
applicant ineligible for a license issued pursuant to section 1338
4778.05 of the Revised Code. 1339

Sec. 4778.05. If the state medical board determines under 1340
section 4778.03 of the Revised Code that an applicant meets the 1341
requirements for a license to practice as a genetic counselor, the 1342
secretary of the board shall issue the license to the applicant. 1343

The license shall expire biennially and may be renewed in 1344
accordance with section 4778.06 of the Revised Code. 1345

Sec. 4778.06. (A) An individual seeking to renew a license to 1346
practice as a genetic counselor shall, on or before the 1347
thirty-first day of January of each even-numbered year, apply for 1348
renewal of the license. The state medical board shall send renewal 1349
notices at least one month prior to the expiration date. 1350

Renewal applications shall be submitted to the board in a 1351
manner prescribed by the board. Each application shall be 1352
accompanied by a biennial renewal fee of one hundred fifty 1353
dollars. 1354

The applicant shall report any criminal offense to which the 1355
applicant has pleaded guilty, of which the applicant has been 1356
found guilty, or for which the applicant has been found eligible 1357
for intervention in lieu of conviction, since last signing an 1358
application for a license to practice as a genetic counselor. 1359

(B) To be eligible for renewal, a genetic counselor shall 1360
certify to the board that the counselor has done both of the 1361
following: 1362

(1) Maintained the counselor's status as a certified genetic 1363
counselor; 1364

(2) Completed at least thirty hours of continuing education 1365
in genetic counseling that has been approved by the national 1366
society of genetic counselors or American board of genetic 1367
counseling. 1368

(C) If an applicant submits a renewal application that the 1369
board considers to be complete and qualifies for renewal pursuant 1370
to division (B) of this section, the board shall issue to the 1371
applicant a renewed license to practice as a genetic counselor. 1372

(D) The board may require a random sample of genetic counselors to submit materials documenting that their status as certified genetic counselors has been maintained and that the number of hours of continuing education required under division (B)(2) of this section has been completed. 1373
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If a genetic counselor certifies that the genetic counselor has completed the number of hours and type of continuing education required for renewal of a license, and the board finds through the random sample or any other means that the genetic counselor did not complete the requisite continuing education, the board may impose a civil penalty of not more than five thousand dollars. The board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members. A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4778.14 of the Revised Code. 1378
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Sec. 4778.07. (A) A license to practice as a genetic counselor issued under section 4778.05 of the Revised Code that is not renewed on or before its expiration date is automatically suspended on its expiration date. Continued practice after suspension shall be considered as practicing in violation of section 4778.02 of the Revised Code. 1389
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(B) If a license has been suspended pursuant to this section for two years or less, the board shall reinstate the license upon an applicant's submission of a complete renewal application, the biennial renewal fee, and a monetary penalty of twenty-five dollars. 1395
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(C)(1) If a license has been suspended pursuant to this section for more than two years, it may be restored upon an applicant's submission of a complete restoration application, the biennial renewal fee, and a monetary penalty of fifty dollars and 1400
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compliance with sections 4776.01 to 4776.04 of the Revised Code. 1404
The board shall not restore a license unless the board, in its 1405
discretion, decides that the results of the criminal records check 1406
do not make the applicant ineligible for a license issued pursuant 1407
to section 4778.05 of the Revised Code. 1408

(2) The board may impose terms and conditions for the 1409
restoration, including the following: 1410

(a) Requiring the applicant to pass an oral or written 1411
examination, or both, to determine the applicant's present fitness 1412
to resume practice; 1413

(b) Requiring the applicant to obtain additional training and 1414
to pass an examination upon completion of such training; 1415

(c) Restricting or limiting the extent, scope, or type of 1416
practice of the applicant. 1417

Sec. 4778.08. (A) The state medical board may issue to an 1418
applicant under section 4778.03 of the Revised Code a license to 1419
practice as a genetic counselor, designated as a supervised 1420
practice license, if both of the following apply: 1421

(1) The applicant meets the requirements specified in section 1422
4778.03 of the Revised Code other than being a certified genetic 1423
counselor; 1424

(2) The applicant is in active candidate status with the 1425
American board of genetic counseling. 1426

(B) A supervised practice license authorizes the holder to 1427
engage in the activities authorized by section 4778.11 of the 1428
Revised Code while the holder is under the general supervision of 1429
a genetic counselor licensed under section 4778.05 of the Revised 1430
Code or a physician. General supervision does not require the 1431
supervising licensed genetic counselor or physician to be present 1432
while the holder engages in such activities, but does require the 1433

licensed genetic counselor or physician to have professional 1434
responsibility for the holder and be readily accessible to the 1435
holder for professional consultation and assistance. 1436

A supervised practice license is valid from the date of 1437
issuance until the earlier of one year from that date or the date 1438
a license is issued under section 4778.05 of the Revised Code. A 1439
supervised practice license may not be renewed. 1440

Sec. 4778.09. (A) The state medical board may issue a license 1441
to practice as a genetic counselor, designated as a special 1442
activity license, to an individual from another state seeking to 1443
practice in this state genetic counseling associated with a rare 1444
disease. 1445

(B) An applicant for a special activity license shall submit 1446
to the board all of the following information: 1447

(1) Evidence that the applicant holds a current, unrestricted 1448
license to practice genetic counseling issued by another state or, 1449
if the applicant practices genetic counseling in another state 1450
that does not license genetic counselors, evidence that the 1451
applicant is a certified genetic counselor; 1452

(2) Evidence that the applicant has actively practiced 1453
genetic counseling within the two-year period immediately 1454
preceding application; 1455

(3) The name of the applicant's sponsoring institution or 1456
organization, a statement of need for genetic counseling from the 1457
sponsoring institution or organization, and the name of the rare 1458
disease for which the applicant will be practicing genetic 1459
counseling in this state. 1460

(C) At the time an application is submitted, the applicant 1461
shall pay a fee of twenty-five dollars. No part of the fee shall 1462
be returned to the applicant or transferred for purposes of 1463

another application. 1464

(D) A special activity license is valid for the shorter of 1465
thirty days or the duration of the genetic counseling associated 1466
with the rare disease for which the license was issued. The 1467
license may not be renewed. 1468

(E) The holder of a special activity license may practice 1469
genetic counseling only to the extent that it is associated with 1470
the rare disease for which the license was issued. The license 1471
holder shall not bill a patient or any third party payer for 1472
genetic counseling provided in this state. 1473

(F) The board may revoke a special activity license on 1474
receiving proof satisfactory to the board that the holder of the 1475
license has engaged in practice in this state outside the scope of 1476
the license or that there are grounds for action against the 1477
license holder under section 4778.14 of the Revised Code. 1478

Sec. 4778.10. On application by the holder of a license to 1479
practice as a genetic counselor, the state medical board shall 1480
issue a duplicate license to replace one that is missing or 1481
damaged, to reflect a name change, or for any other reasonable 1482
cause. The fee for a duplicate license is thirty-five dollars. 1483

Sec. 4778.11. (A) An individual who holds a valid license to 1484
practice as a genetic counselor may engage in all of the following 1485
activities: 1486

(1) Obtain and evaluate the medical histories of a patient 1487
and the patient's family members to determine the risk for genetic 1488
or medical conditions and diseases in the patient, the patient's 1489
offspring, or the patient's family members; 1490

(2) Discuss with a patient and the patient's family the 1491
features, natural history, means of diagnosis, genetic and 1492
environmental factors, and management of risk for genetic or 1493

<u>medical conditions and diseases;</u>	1494
<u>(3) Identify and coordinate genetic laboratory tests and</u>	1495
<u>other diagnostic studies as appropriate for genetic assessment;</u>	1496
<u>(4) Integrate the results of genetic laboratory tests and</u>	1497
<u>other diagnostic tests with individual and family medical</u>	1498
<u>histories;</u>	1499
<u>(5) Explain to a patient and the patient's family the</u>	1500
<u>clinical implications of the results of genetic laboratory tests</u>	1501
<u>and other diagnostic tests;</u>	1502
<u>(6) Evaluate the response of a patient or the patient's</u>	1503
<u>family members to one or more genetic conditions or the risk of</u>	1504
<u>reoccurrence and provide patient-centered counseling and guidance;</u>	1505
<u>(7) Identify and use community resources that provide</u>	1506
<u>medical, educational, financial, and psychosocial support and</u>	1507
<u>advocacy;</u>	1508
<u>(8) Provide medical, genetic, and counseling information to</u>	1509
<u>patients, their families, and other health care professionals;</u>	1510
<u>(9) Pursuant to a collaborative agreement, perform the</u>	1511
<u>activities specified in division (B) of this section.</u>	1512
<u>(B) A genetic counselor may enter into a collaborative</u>	1513
<u>agreement with a physician who agrees to work with and provide</u>	1514
<u>medical support to the genetic counselor. The agreement shall be</u>	1515
<u>established as a written, formal document that memorializes the</u>	1516
<u>relationship between the genetic counselor and the physician and</u>	1517
<u>establishes the criteria governing the genetic counselor's</u>	1518
<u>performance of both of the following:</u>	1519
<u>(1) Order genetic or other tests for the purpose of</u>	1520
<u>diagnosing a medical condition or inherited disorder or</u>	1521
<u>determining the carrier status of one or more of the patient's</u>	1522
<u>family members;</u>	1523

(2) Select the most appropriate, accurate, and cost-effective 1524
methods of diagnosis. 1525

Sec. 4778.12. The state medical board shall adopt rules in 1526
accordance with Chapter 119. of the Revised Code to implement and 1527
administer this chapter. The rules shall include the following: 1528

(A) Any standards and procedures not addressed in this 1529
chapter that the board considers necessary for issuing and 1530
renewing licenses under this chapter; 1531

(B) Any standards and procedures the board considers 1532
necessary to govern the practice of genetic counselors, the 1533
collaborative agreements between genetic counselors and 1534
collaborating physicians, and the supervision of genetic 1535
counselors holding supervised practice licenses; 1536

(C) Any other standards and procedures the board considers 1537
necessary for the administration and enforcement of this chapter. 1538

Sec. 4778.14. (A) The state medical board, by an affirmative 1539
vote of not fewer than six members, may revoke or may refuse to 1540
grant a license to practice as a genetic counselor to an 1541
individual found by the board to have committed fraud, 1542
misrepresentation, or deception in applying for or securing the 1543
license. 1544

(B) The board, by an affirmative vote of not fewer than six 1545
members, shall, to the extent permitted by law, limit, revoke, or 1546
suspend an individual's license to practice as a genetic 1547
counselor, refuse to issue a license to an applicant, refuse to 1548
reinstate a license, or reprimand or place on probation the holder 1549
of a license for any of the following reasons: 1550

(1) Permitting the holder's name or license to be used by 1551
another person; 1552

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board; 1553
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(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; 1556
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(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; 1560
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(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; 1564
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(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; 1568
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(7) Willfully betraying a professional confidence; 1572

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a genetic counselor. 1573
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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. 1576
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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; 1584
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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; 1587
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(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 1590
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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; 1593
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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; 1596
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(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 1599
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(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 1602
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(16) 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; 1605
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(17) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or in another jurisdiction, for any 1610
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1613

reason other than the nonpayment of fees: the limitation, 1614
revocation, or suspension of an individual's license to practice; 1615
acceptance of an individual's license surrender; denial of a 1616
license; refusal to renew or reinstate a license; imposition of 1617
probation; or issuance of an order of censure or other reprimand; 1618

(18) Violation of the conditions placed by the board on a 1619
license to practice as a genetic counselor; 1620

(19) Failure to cooperate in an investigation conducted by 1621
the board under section 4778.18 of the Revised Code, including 1622
failure to comply with a subpoena or order issued by the board or 1623
failure to answer truthfully a question presented by the board at 1624
a deposition or in written interrogatories, except that failure to 1625
cooperate with an investigation shall not constitute grounds for 1626
discipline under this section if a court of competent jurisdiction 1627
has issued an order that either quashes a subpoena or permits the 1628
individual to withhold the testimony or evidence in issue; 1629

(20) Failure to maintain the individual's status as a 1630
certified genetic counselor; 1631

(21) Failure to comply with the code of ethics established by 1632
the national society of genetic counselors. 1633

(C) Disciplinary actions taken by the board under divisions 1634
(A) and (B) of this section shall be taken pursuant to an 1635
adjudication under Chapter 119. of the Revised Code, except that 1636
in lieu of an adjudication, the board may enter into a consent 1637
agreement with a genetic counselor or applicant to resolve an 1638
allegation of a violation of this chapter or any rule adopted 1639
under it. A consent agreement, when ratified by an affirmative 1640
vote of not fewer than six members of the board, shall constitute 1641
the findings and order of the board with respect to the matter 1642
addressed in the agreement. If the board refuses to ratify a 1643
consent agreement, the admissions and findings contained in the 1644

consent agreement shall be of no force or effect. 1645

A telephone conference call may be utilized for ratification 1646
of a consent agreement that revokes or suspends an individual's 1647
license. The telephone conference call shall be considered a 1648
special meeting under division (F) of section 121.22 of the 1649
Revised Code. 1650

(D) For purposes of divisions (B)(11), (14), and (15) of this 1651
section, the commission of the act may be established by a finding 1652
by the board, pursuant to an adjudication under Chapter 119. of 1653
the Revised Code, that the applicant or license holder committed 1654
the act in question. The board shall have no jurisdiction under 1655
these divisions in cases where the trial court renders a final 1656
judgment in the license holder's favor and that judgment is based 1657
upon an adjudication on the merits. The board shall have 1658
jurisdiction under these divisions in cases where the trial court 1659
issues an order of dismissal on technical or procedural grounds. 1660

(E) The sealing of conviction records by any court shall have 1661
no effect on a prior board order entered under the provisions of 1662
this section or on the board's jurisdiction to take action under 1663
the provisions of this section if, based upon a plea of guilty, a 1664
judicial finding of guilt, or a judicial finding of eligibility 1665
for intervention in lieu of conviction, the board issued a notice 1666
of opportunity for a hearing or took other formal action under 1667
Chapter 119. of the Revised Code prior to the court's order to 1668
seal the records. The board shall not be required to seal, 1669
destroy, redact, or otherwise modify its records to reflect the 1670
court's sealing of conviction records. 1671

(F) For purposes of this division, any individual who holds a 1672
license to practice as a genetic counselor, or applies for a 1673
license, shall be deemed to have given consent to submit to a 1674
mental or physical examination when directed to do so in writing 1675
by the board and to have waived all objections to the 1676

admissibility of testimony or examination reports that constitute 1677
a privileged communication. 1678

(1) In enforcing division (B)(5) of this section, the board, 1679
on a showing of a possible violation, may compel any individual 1680
who holds a license to practice as a genetic counselor or who has 1681
applied for a license to practice as a genetic counselor to submit 1682
to a mental or physical examination, or both. A physical 1683
examination may include an HIV test. The expense of the 1684
examination is the responsibility of the individual compelled to 1685
be examined. Failure to submit to a mental or physical examination 1686
or consent to an HIV test ordered by the board constitutes an 1687
admission of the allegations against the individual unless the 1688
failure is due to circumstances beyond the individual's control, 1689
and a default and final order may be entered without the taking of 1690
testimony or presentation of evidence. If the board finds a 1691
genetic counselor unable to practice because of the reasons set 1692
forth in division (B)(5) of this section, the board shall require 1693
the genetic counselor to submit to care, counseling, or treatment 1694
by physicians approved or designated by the board, as a condition 1695
for an initial, continued, reinstated, or renewed license to 1696
practice. An individual affected by this division shall be 1697
afforded an opportunity to demonstrate to the board the ability to 1698
resume practicing in compliance with acceptable and prevailing 1699
standards of care. 1700

(2) For purposes of division (B)(6) of this section, if the 1701
board has reason to believe that any individual who holds a 1702
license to practice as a genetic counselor or any applicant for a 1703
license suffers such impairment, the board may compel the 1704
individual to submit to a mental or physical examination, or both. 1705
The expense of the examination is the responsibility of the 1706
individual compelled to be examined. Any mental or physical 1707
examination required under this division shall be undertaken by a 1708

treatment provider or physician qualified to conduct such 1709
examination and chosen by the board. 1710

Failure to submit to a mental or physical examination ordered 1711
by the board constitutes an admission of the allegations against 1712
the individual unless the failure is due to circumstances beyond 1713
the individual's control, and a default and final order may be 1714
entered without the taking of testimony or presentation of 1715
evidence. If the board determines that the individual's ability to 1716
practice is impaired, the board shall suspend the individual's 1717
license or deny the individual's application and shall require the 1718
individual, as a condition for an initial, continued, reinstated, 1719
or renewed license, to submit to treatment. 1720

Before being eligible to apply for reinstatement of a license 1721
suspended under this division, the genetic counselor shall 1722
demonstrate to the board the ability to resume practice in 1723
compliance with acceptable and prevailing standards of care. The 1724
demonstration shall include the following: 1725

(a) Certification from a treatment provider approved under 1726
section 4731.25 of the Revised Code that the individual has 1727
successfully completed any required inpatient treatment; 1728

(b) Evidence of continuing full compliance with an aftercare 1729
contract or consent agreement; 1730

(c) Two written reports indicating that the individual's 1731
ability to practice has been assessed and that the individual has 1732
been found capable of practicing according to acceptable and 1733
prevailing standards of care. The reports shall be made by 1734
individuals or providers approved by the board for making such 1735
assessments and shall describe the basis for their determination. 1736

The board may reinstate a license suspended under this 1737
division after such demonstration and after the individual has 1738
entered into a written consent agreement. 1739

When the impaired genetic counselor resumes practice, the 1740
board shall require continued monitoring of the genetic counselor. 1741
The monitoring shall include monitoring of compliance with the 1742
written consent agreement entered into before reinstatement or 1743
with conditions imposed by board order after a hearing, and, on 1744
termination of the consent agreement, submission to the board for 1745
at least two years of annual written progress reports made under 1746
penalty of falsification stating whether the genetic counselor has 1747
maintained sobriety. 1748

(G) If the secretary and supervising member determine both of 1749
the following, they may recommend that the board suspend an 1750
individual's license to practice without a prior hearing: 1751

(1) That there is clear and convincing evidence that a 1752
genetic counselor has violated division (B) of this section; 1753

(2) That the individual's continued practice presents a 1754
danger of immediate and serious harm to the public. 1755

Written allegations shall be prepared for consideration by 1756
the board. The board, on review of the allegations and by an 1757
affirmative vote of not fewer than six of its members, excluding 1758
the secretary and supervising member, may suspend a license 1759
without a prior hearing. A telephone conference call may be 1760
utilized for reviewing the allegations and taking the vote on the 1761
summary suspension. 1762

The board shall issue a written order of suspension by 1763
certified mail or in person in accordance with section 119.07 of 1764
the Revised Code. The order shall not be subject to suspension by 1765
the court during pendency of any appeal filed under section 119.12 1766
of the Revised Code. If the genetic counselor requests an 1767
adjudicatory hearing by the board, the date set for the hearing 1768
shall be within fifteen days, but not earlier than seven days, 1769
after the genetic counselor requests the hearing, unless otherwise 1770

agreed to by both the board and the genetic counselor. 1771

A summary suspension imposed under this division shall remain 1772
in effect, unless reversed on appeal, until a final adjudicative 1773
order issued by the board pursuant to this section and Chapter 1774
119. of the Revised Code becomes effective. The board shall issue 1775
its final adjudicative order within sixty days after completion of 1776
its hearing. Failure to issue the order within sixty days shall 1777
result in dissolution of the summary suspension order, but shall 1778
not invalidate any subsequent, final adjudicative order. 1779

(H) If the board takes action under division (B)(10), (12), 1780
or (13) of this section, and the judicial finding of guilt, guilty 1781
plea, or judicial finding of eligibility for intervention in lieu 1782
of conviction is overturned on appeal, on exhaustion of the 1783
criminal appeal, a petition for reconsideration of the order may 1784
be filed with the board along with appropriate court documents. On 1785
receipt of a petition and supporting court documents, the board 1786
shall reinstate the license to practice as a genetic counselor. 1787
The board may then hold an adjudication under Chapter 119. of the 1788
Revised Code to determine whether the individual committed the act 1789
in question. Notice of opportunity for hearing shall be given in 1790
accordance with Chapter 119. of the Revised Code. If the board 1791
finds, pursuant to an adjudication held under this division, that 1792
the individual committed the act, or if no hearing is requested, 1793
it may order any of the sanctions specified in division (B) of 1794
this section. 1795

(I) The license to practice as a genetic counselor and the 1796
counselor's practice in this state are automatically suspended as 1797
of the date the genetic counselor pleads guilty to, is found by a 1798
judge or jury to be guilty of, or is subject to a judicial finding 1799
of eligibility for intervention in lieu of conviction in this 1800
state or treatment of intervention in lieu of conviction in 1801
another jurisdiction for any of the following criminal offenses in 1802

this state or a substantially equivalent criminal offense in 1803
another jurisdiction: aggravated murder, murder, voluntary 1804
manslaughter, felonious assault, kidnapping, rape, sexual battery, 1805
gross sexual imposition, aggravated arson, aggravated robbery, or 1806
aggravated burglary. Continued practice after the suspension shall 1807
be considered practicing without a license. 1808

The board shall notify the individual subject to the 1809
suspension by certified mail or in person in accordance with 1810
section 119.07 of the Revised Code. If an individual whose license 1811
is suspended under this division fails to make a timely request 1812
for an adjudication under Chapter 119. of the Revised Code, the 1813
board shall enter a final order permanently revoking the 1814
individual's license to practice. 1815

(J) In any instance in which the board is required by Chapter 1816
119. of the Revised Code to give notice of opportunity for hearing 1817
and the individual subject to the notice does not timely request a 1818
hearing in accordance with section 119.07 of the Revised Code, the 1819
board is not required to hold a hearing, but may adopt, by an 1820
affirmative vote of not fewer than six of its members, a final 1821
order that contains the board's findings. In the final order, the 1822
board may order any of the sanctions identified under division (A) 1823
or (B) of this section. 1824

(K) Any action taken by the board under division (B) of this 1825
section resulting in a suspension shall be accompanied by a 1826
written statement of the conditions under which the license of the 1827
genetic counselor may be reinstated. The board shall adopt rules 1828
in accordance with Chapter 119. of the Revised Code governing 1829
conditions to be imposed for reinstatement. Reinstatement of a 1830
license suspended pursuant to division (B) of this section 1831
requires an affirmative vote of not fewer than six members of the 1832
board. 1833

(L) When the board refuses to grant a license to practice as 1834

a genetic counselor to an applicant, revokes an individual's 1835
license, refuses to renew a license, or refuses to reinstate an 1836
individual's license, the board may specify that its action is 1837
permanent. An individual subject to a permanent action taken by 1838
the board is forever thereafter ineligible to hold a license to 1839
practice as a genetic counselor and the board shall not accept an 1840
application for reinstatement of the license or for issuance of a 1841
new license. 1842

(M) Notwithstanding any other provision of the Revised Code, 1843
all of the following apply: 1844

(1) The surrender of a license to practice as a genetic 1845
counselor is not effective unless or until accepted by the board. 1846
A telephone conference call may be utilized for acceptance of the 1847
surrender of an individual's license. The telephone conference 1848
call shall be considered a special meeting under division (F) of 1849
section 121.22 of the Revised Code. Reinstatement of a license 1850
surrendered to the board requires an affirmative vote of not fewer 1851
than six members of the board. 1852

(2) An application made under this chapter for a license to 1853
practice may not be withdrawn without approval of the board. 1854

(3) Failure by an individual to renew a license in accordance 1855
with section 4778.06 of the Revised Code shall not remove or limit 1856
the board's jurisdiction to take disciplinary action under this 1857
section against the individual. 1858

Sec. 4778.15. On receipt of a notice pursuant to section 1859
3123.43 of the Revised Code, the state medical board shall comply 1860
with sections 3123.41 to 3123.50 of the Revised Code and any 1861
applicable rules adopted under section 3123.63 of the Revised Code 1862
with respect to a license issued under this chapter. 1863

Sec. 4778.16. If the state medical board has reason to 1864

believe that any person who has been granted a license to practice 1865
as a genetic counselor under this chapter is mentally ill or 1866
mentally incompetent, it may file in the probate court of the 1867
county in which the person has a legal residence an affidavit in 1868
the form prescribed in section 5122.11 of the Revised Code and 1869
signed by the board secretary or a member of the board secretary's 1870
staff, whereupon the same proceedings shall be had as provided in 1871
Chapter 5122. of the Revised Code. The attorney general may 1872
represent the board in any proceeding commenced under this 1873
section. 1874

If any person who has been granted a license to practice is 1875
adjudged by a probate court to be mentally ill or mentally 1876
incompetent, the person's license shall be automatically suspended 1877
until the person has filed with the state medical board a 1878
certified copy of an adjudication by a probate court of the 1879
person's subsequent restoration to competency or has submitted to 1880
the board proof, satisfactory to the board, that the person has 1881
been discharged as having a restoration to competency in the 1882
manner and form provided in section 5122.38 of the Revised Code. 1883
The judge of the probate court shall forthwith notify the state 1884
medical board of an adjudication of mental illness or mental 1885
incompetence, and shall note any suspension of a license in the 1886
margin of the court's record of such license. 1887

Sec. 4778.18. (A) The state medical board shall investigate 1888
evidence that appears to show that any individual has violated 1889
this chapter or the rules adopted under it. Any person may report 1890
to the board in a signed writing any information the person has 1891
that appears to show a violation of this chapter or rules adopted 1892
under it. In the absence of bad faith, a person who reports such 1893
information or testifies before the board in an adjudication 1894
conducted under Chapter 119. of the Revised Code shall not be 1895
liable for civil damages as a result of reporting the information 1896

or providing testimony. Each complaint or allegation of a 1897
violation received by the board shall be assigned a case number 1898
and be recorded by the board. 1899

(B) Investigations of alleged violations of this chapter or 1900
rules adopted under it shall be supervised by the supervising 1901
member elected by the board in accordance with section 4731.02 of 1902
the Revised Code and by the board's secretary, pursuant to section 1903
4778.20 of the Revised Code. The board's president may designate 1904
another member of the board to supervise the investigation in 1905
place of the supervising member. A member of the board who 1906
supervises the investigation of a case shall not participate in 1907
further adjudication of the case. 1908

(C) In investigating a possible violation of this chapter or 1909
the rules adopted under it, the board may administer oaths, order 1910
the taking of depositions, inspect and copy any books, accounts, 1911
papers, records, or documents, issue subpoenas, and compel the 1912
attendance of witnesses and production of books, accounts, papers, 1913
records, documents, and testimony, except that a subpoena for 1914
patient record information shall not be issued without 1915
consultation with the attorney general's office and approval of 1916
the secretary and supervising member of the board. Before issuance 1917
of a subpoena for patient record information, the secretary and 1918
supervising member shall determine whether there is probable cause 1919
to believe that the complaint filed alleges a violation of this 1920
chapter or the rules adopted under it and that the records sought 1921
are relevant to the alleged violation and material to the 1922
investigation. The subpoena may apply only to records that cover a 1923
reasonable period of time surrounding the alleged violation. 1924

On failure to comply with any subpoena issued by the board 1925
and after reasonable notice to the person being subpoenaed, the 1926
board may move for an order compelling the production of persons 1927

or records pursuant to the Rules of Civil Procedure. 1928

A subpoena issued by the board may be served by a sheriff, 1929
the sheriff's deputy, or a board employee designated by the board. 1930
Service of a subpoena issued by the board may be made by 1931
delivering a copy of the subpoena to the person named therein, 1932
reading it to the person, or leaving it at the person's usual 1933
place of residence. When the person being served is a genetic 1934
counselor, service of the subpoena may be made by certified mail, 1935
restricted delivery, return receipt requested, and the subpoena 1936
shall be deemed served on the date delivery is made or the date 1937
the person refuses to accept delivery. 1938

A sheriff's deputy who serves a subpoena shall receive the 1939
same fees as a sheriff. Each witness who appears before the board 1940
in obedience to a subpoena shall receive the fees and mileage 1941
provided for witnesses in civil cases in the courts of common 1942
pleas. 1943

(D) All hearings and investigations of the board shall be 1944
considered civil actions for the purposes of section 2305.252 of 1945
the Revised Code. 1946

(E) Information received by the board pursuant to an 1947
investigation is confidential and not subject to discovery in any 1948
civil action. 1949

The board shall conduct all investigations and proceedings in 1950
a manner that protects the confidentiality of patients and persons 1951
who file complaints with the board. The board shall not make 1952
public the names or any other identifying information about 1953
patients or complainants unless proper consent is given. 1954

The board may share any information it receives pursuant to 1955
an investigation, including patient records and patient record 1956
information, with law enforcement agencies, other licensing 1957
boards, and other governmental agencies that are prosecuting, 1958

adjudicating, or investigating alleged violations of statutes or 1959
administrative rules. An agency or board that receives the 1960
information shall comply with the same requirements regarding 1961
confidentiality as those with which the state medical board must 1962
comply, notwithstanding any conflicting provision of the Revised 1963
Code or procedure of the agency or board that applies when it is 1964
dealing with other information in its possession. In a judicial 1965
proceeding, the information may be admitted into evidence only in 1966
accordance with the Rules of Evidence, but the court shall require 1967
that appropriate measures are taken to ensure that confidentiality 1968
is maintained with respect to any part of the information that 1969
contains names or other identifying information about patients or 1970
complainants whose confidentiality was protected by the state 1971
medical board when the information was in the board's possession. 1972
Measures to ensure confidentiality that may be taken by the court 1973
include sealing its records or deleting specific information from 1974
its records. 1975

(F) The state medical board shall develop requirements for 1976
and provide appropriate initial training and continuing education 1977
for investigators employed by the board to carry out its duties 1978
under this chapter. The training and continuing education may 1979
include enrollment in courses operated or approved by the Ohio 1980
peace officer training commission that the board considers 1981
appropriate under conditions set forth in section 109.79 of the 1982
Revised Code. 1983

(G) On a quarterly basis, the board shall prepare a report 1984
that documents the disposition of all cases during the preceding 1985
three months. The report shall contain the following information 1986
for each case with which the board has completed its activities: 1987

(1) The case number assigned to the complaint or alleged 1988
violation; 1989

(2) The type of license, if any, held by the individual 1990

<u>against whom the complaint is directed;</u>	1991
<u>(3) A description of the allegations contained in the</u>	1992
<u>complaint;</u>	1993
<u>(4) The disposition of the case.</u>	1994
<u>The report shall state how many cases are still pending, and</u>	1995
<u>shall be prepared in a manner that protects the identity of each</u>	1996
<u>individual involved in each case. The report is a public record</u>	1997
<u>for purposes of section 149.43 of the Revised Code.</u>	1998
<u>Sec. 4778.19.</u> (A) <u>As used in this section, "prosecutor" has</u>	1999
<u>the same meaning as in section 2935.01 of the Revised Code.</u>	2000
<u>(B) Whenever any individual holding a valid license to</u>	2001
<u>practice as a genetic counselor pleads guilty to, is subject to a</u>	2002
<u>judicial finding of guilt of, or is subject to a judicial finding</u>	2003
<u>of eligibility for intervention in lieu of conviction for a</u>	2004
<u>violation of Chapter 2907., 2925., or 3719. of the Revised Code or</u>	2005
<u>of any substantively comparable ordinance of a municipal</u>	2006
<u>corporation in connection with the person's practice, the</u>	2007
<u>prosecutor in the case, on forms prescribed and provided by the</u>	2008
<u>state medical board, shall promptly notify the board of the</u>	2009
<u>conviction. Within thirty days of receipt of that information, the</u>	2010
<u>board shall initiate action in accordance with Chapter 119. of the</u>	2011
<u>Revised Code to determine whether to suspend or revoke the license</u>	2012
<u>under section 4778.16 of the Revised Code.</u>	2013
<u>(C) The prosecutor in any case against any person holding a</u>	2014
<u>valid license to practice as a genetic counselor, on forms</u>	2015
<u>prescribed and provided by the state medical board, shall notify</u>	2016
<u>the board of any of the following:</u>	2017
<u>(1) A plea of guilty to, a finding of guilt by a jury or</u>	2018
<u>court of, or judicial finding of eligibility for intervention in</u>	2019
<u>lieu of conviction for a felony, or a case in which the trial</u>	2020

court issues an order of dismissal upon technical or procedural grounds of a felony charge; 2021
2022

(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; 2023
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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. 2030
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The report shall include the name and address of the license holder, the nature of the offense for which the action was taken, and the certified court documents recording the action. 2036
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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. 2039
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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 knowledge of a person engaged either directly or by complicity in 2047
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practicing as a genetic counselor without having first obtained 2051
under this chapter a license to practice as a genetic counselor, 2052
may, in accordance with provisions of the Revised Code governing 2053
injunctions, maintain an action in the name of the state to enjoin 2054
any person from engaging either directly or by complicity in 2055
unlawfully practicing as a genetic counselor by applying for an 2056
injunction in any court of competent jurisdiction. 2057

Prior to application for an injunction, the secretary of the 2058
state medical board shall notify the individual allegedly engaged 2059
either directly or by complicity in the unlawful practice by 2060
registered mail that the secretary has received information 2061
indicating that this individual is so engaged. The individual 2062
shall answer the secretary within thirty days showing that the 2063
individual is either properly licensed for the stated activity or 2064
that the individual is not in violation of this chapter. If the 2065
answer is not forthcoming within thirty days after notice by the 2066
secretary, the secretary shall request that the attorney general, 2067
the prosecuting attorney of the county in which the offense was 2068
committed or the offender resides, or the state medical board 2069
proceed as authorized in this section. 2070

Upon the filing of a verified petition in court, the court 2071
shall conduct a hearing on the petition and shall give the same 2072
preference to this proceeding as is given all proceedings under 2073
Chapter 119. of the Revised Code, irrespective of the position of 2074
the proceeding on the calendar of the court. 2075

Injunction proceedings shall be in addition to, and not in 2076
lieu of, all penalties and other remedies provided in this 2077
chapter. 2078

Sec. 4778.22. All fees, penalties, and other funds received 2079
by the state medical board under this chapter shall be deposited 2080

in accordance with section 4731.24 of the Revised Code. 2081

Sec. 4778.24. In the absence of fraud or bad faith, the 2082
state medical board, a current or former board member, an agent of 2083
the board, a person formally requested by the board to be the 2084
board's representative, or an employee of the board shall not be 2085
held liable in damages to any person as the result of any act, 2086
omission, proceeding, conduct, or decision related to official 2087
duties undertaken or performed pursuant to this chapter. If any 2088
such person asks to be defended by the state against any claim or 2089
action arising out of any act, omission, proceeding, conduct, or 2090
decision related to the person's official duties, and if the 2091
request is made in writing at a reasonable time before trial and 2092
the person requesting defense cooperates in good faith in the 2093
defense of the claim or action, the state shall provide and pay 2094
for the person's defense and shall pay any resulting judgment, 2095
compromise, or settlement. At no time shall the state pay any part 2096
of a claim or judgment that is for punitive or exemplary damages. 2097

Sec. 4778.99. Whoever violates section 4778.02 of the Revised 2098
Code is guilty of a misdemeanor of the first degree on a first 2099
offense and felony of the fifth degree on each subsequent offense. 2100
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Section 2. That existing sections 4731.07, 4731.19, 4731.22, 2102
4731.222, 4731.224, 4731.24, 4731.25, and 4731.293 of the Revised 2103
Code are hereby repealed. 2104

Section 3. Section 4731.22 of the Revised Code is presented 2105
in this act as a composite of the section as amended by both H.B. 2106
78 and Am. Sub. H.B. 93 of the 129th General Assembly. The General 2107
Assembly, applying the principle stated in division (B) of section 2108
1.52 of the Revised Code that amendments are to be harmonized if 2109

reasonably capable of simultaneous operation, finds that the 2110
composite is the resulting version of the section in effect prior 2111
to the effective date of the section as presented in this act. 2112

Section 4. The amendments to section 4731.293 of the Revised 2113
Code made by this act are hereby declared to be an emergency 2114
measure necessary for the immediate preservation of the public 2115
peace, health, and safety. The reason for this necessity is that 2116
swift enactment will allow several extraordinary doctors to renew 2117
their certificates and continue their work in Ohio without 2118
interruption. Otherwise, these doctors will not be permitted to 2119
work in Ohio and will leave the state. Therefore, the amendments 2120
to section 4731.293 of the Revised Code made by this act shall go 2121
into immediate effect. 2122

Section 5. Section 4778.02 of the Revised Code, as enacted by 2123
this act, shall take effect one year after the effective date of 2124
this act. 2125