

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 607

Representatives Gonzales, Wachtmann

Cosponsors: Representatives Blair, Johnson

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A B I L L

To amend sections 4715.30, 4723.28, 4725.19, 4725.53, 1
4729.16, 4730.02, 4730.25, 4731.22, 4732.17, 2
4734.31, 4753.10, 4755.11, 4755.47, 4755.64, 3
4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 4
4762.13, 4774.13, 4778.14, and 4779.28 and to 5
enact section 4745.04 of the Revised Code to 6
require certain health care professionals to wear, 7
when providing direct patient care, an 8
identification card, badge, or similar device that 9
includes a photograph of the professional and 10
specifies the license held by the professional and 11
to make certain changes regarding advertising for 12
health care services. 13

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

Section 1. That sections 4715.30, 4723.28, 4725.19, 4725.53, 14
4729.16, 4730.02, 4730.25, 4731.22, 4732.17, 4734.31, 4753.10, 15
4755.11, 4755.47, 4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 16
4761.09, 4762.13, 4774.13, 4778.14, and 4779.28 be amended and 17
section 4745.04 of the Revised Code be enacted to read as follows: 18
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Sec. 4715.30. (A) An applicant for or holder of a certificate	20
or license issued under this chapter is subject to disciplinary	21
action by the state dental board for any of the following reasons:	22
	23
(1) Employing or cooperating in fraud or material deception	24
in applying for or obtaining a license or certificate;	25
(2) Obtaining or attempting to obtain money or anything of	26
value by intentional misrepresentation or material deception in	27
the course of practice;	28
(3) Advertising services in a false or misleading manner or	29
violating the board's rules governing time, place, and manner of	30
advertising;	31
(4) Conviction of a misdemeanor committed in the course of	32
practice or of any felony;	33
(5) Engaging in lewd or immoral conduct in connection with	34
the provision of dental services;	35
(6) Selling, prescribing, giving away, or administering drugs	36
for other than legal and legitimate therapeutic purposes, or	37
conviction of violating any law of this state or the federal	38
government regulating the possession, distribution, or use of any	39
drug;	40
(7) Providing or allowing dental hygienists, expanded	41
function dental auxiliaries, or other practitioners of auxiliary	42
dental occupations working under the certificate or license	43
holder's supervision, or a dentist holding a temporary limited	44
continuing education license under division (C) of section 4715.16	45
of the Revised Code working under the certificate or license	46
holder's direct supervision, to provide dental care that departs	47
from or fails to conform to accepted standards for the profession,	48
whether or not injury to a patient results;	49

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

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

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

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

(12) Advertising that the certificate or license holder will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers dental services, would otherwise be required to pay;

(13) Failure to comply with 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;

(14) Failure to comply with the requirements of section 4745.04 of the Revised Code.

(B) A manager, proprietor, operator, or conductor of a dental facility shall be subject to disciplinary action if any dentist, dental hygienist, expanded function dental auxiliary, or qualified personnel providing services in the facility is found to have committed a violation listed in division (A) of this section and the manager, proprietor, operator, or conductor knew of the

violation and permitted it to occur on a recurring basis. 81

(C) Subject to Chapter 119. of the Revised Code, the board 82
may take one or more of the following disciplinary actions if one 83
or more of the grounds for discipline listed in divisions (A) and 84
(B) of this section exist: 85

(1) Censure the license or certificate holder; 86

(2) Place the license or certificate on probationary status 87
for such period of time the board determines necessary and require 88
the holder to: 89

(a) Report regularly to the board upon the matters which are 90
the basis of probation; 91

(b) Limit practice to those areas specified by the board; 92

(c) Continue or renew professional education until a 93
satisfactory degree of knowledge or clinical competency has been 94
attained in specified areas. 95

(3) Suspend the certificate or license; 96

(4) Revoke the certificate or license. 97

Where the board places a holder of a license or certificate 98
on probationary status pursuant to division (C)(2) of this 99
section, the board may subsequently suspend or revoke the license 100
or certificate if it determines that the holder has not met the 101
requirements of the probation or continues to engage in activities 102
that constitute grounds for discipline pursuant to division (A) or 103
(B) of this section. 104

Any order suspending a license or certificate shall state the 105
conditions under which the license or certificate will be 106
restored, which may include a conditional restoration during which 107
time the holder is in a probationary status pursuant to division 108
(C)(2) of this section. The board shall restore the license or 109
certificate unconditionally when such conditions are met. 110

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

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

(E) If the board has reason to believe that a license or certificate holder represents a clear and immediate danger to the public health and safety if the holder is allowed to continue to practice, or if the holder has failed to comply with an order under division (D) of this section, the board may apply to the court of common pleas of the county in which the holder resides for an order temporarily suspending the holder's license or certificate, without a prior hearing being afforded by the board, until the board conducts an adjudication hearing pursuant to Chapter 119. of the Revised Code. If the court temporarily suspends a holder's license or certificate, the board shall give written notice of the suspension personally or by certified mail to the license or certificate holder. Such notice shall include specific facts and reasons for finding a clear and immediate danger to the public health and safety and shall inform the license or certificate holder of the right to a hearing pursuant to Chapter 119. of the Revised Code.

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

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

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan

purchaser, payer, and third-party administrator. Such consent 175
shall be made available to the board upon request. 176

(2) For professional services rendered to any other person 177
licensed pursuant to this chapter to the extent allowed by this 178
chapter and the rules of the board. 179

(H) In no event shall the board consider or raise during a 180
hearing required by Chapter 119. of the Revised Code the 181
circumstances of, or the fact that the board has received, one or 182
more complaints about a person unless the one or more complaints 183
are the subject of the hearing or resulted in the board taking an 184
action authorized by this section against the person on a prior 185
occasion. 186

Sec. 4723.28. (A) The board of nursing, by a vote of a 187
quorum, may revoke or may refuse to grant a nursing license, 188
certificate of authority, or dialysis technician certificate to a 189
person found by the board to have committed fraud in passing an 190
examination required to obtain the license, certificate of 191
authority, or dialysis technician certificate or to have committed 192
fraud, misrepresentation, or deception in applying for or securing 193
any nursing license, certificate of authority, or dialysis 194
technician certificate issued by the board. 195

(B) Subject to division (N) of this section, the board of 196
nursing, by a vote of a quorum, may impose one or more of the 197
following sanctions: deny, revoke, suspend, or place restrictions 198
on any nursing license, certificate of authority, or dialysis 199
technician certificate issued by the board; reprimand or otherwise 200
discipline a holder of a nursing license, certificate of 201
authority, or dialysis technician certificate; or impose a fine of 202
not more than five hundred dollars per violation. The sanctions 203
may be imposed for any of the following: 204

(1) Denial, revocation, suspension, or restriction of 205

authority to practice a health care occupation, including nursing	206
or practice as a dialysis technician, for any reason other than a	207
failure to renew, in Ohio or another state or jurisdiction;	208
(2) Engaging in the practice of nursing or engaging in	209
practice as a dialysis technician, having failed to renew a	210
nursing license or dialysis technician certificate issued under	211
this chapter, or while a nursing license or dialysis technician	212
certificate is under suspension;	213
(3) Conviction of, a plea of guilty to, a judicial finding of	214
guilt of, a judicial finding of guilt resulting from a plea of no	215
contest to, or a judicial finding of eligibility for intervention	216
in lieu of conviction for, a misdemeanor committed in the course	217
of practice;	218
(4) Conviction of, a plea of guilty to, a judicial finding of	219
guilt of, a judicial finding of guilt resulting from a plea of no	220
contest to, or a judicial finding of eligibility for intervention	221
in lieu of conviction for, any felony or of any crime involving	222
gross immorality or moral turpitude;	223
(5) Selling, giving away, or administering drugs or	224
therapeutic devices for other than legal and legitimate	225
therapeutic purposes; or conviction of, a plea of guilty to, a	226
judicial finding of guilt of, a judicial finding of guilt	227
resulting from a plea of no contest to, or a judicial finding of	228
eligibility for intervention in lieu of conviction for, violating	229
any municipal, state, county, or federal drug law;	230
(6) Conviction of, a plea of guilty to, a judicial finding of	231
guilt of, a judicial finding of guilt resulting from a plea of no	232
contest to, or a judicial finding of eligibility for intervention	233
in lieu of conviction for, an act in another jurisdiction that	234
would constitute a felony or a crime of moral turpitude in Ohio;	235
(7) Conviction of, a plea of guilty to, a judicial finding of	236

guilt of, a judicial finding of guilt resulting from a plea of no	237
contest to, or a judicial finding of eligibility for intervention	238
in lieu of conviction for, an act in the course of practice in	239
another jurisdiction that would constitute a misdemeanor in Ohio;	240
(8) Self-administering or otherwise taking into the body any	241
dangerous drug, as defined in section 4729.01 of the Revised Code,	242
in any way not in accordance with a legal, valid prescription	243
issued for that individual, or self-administering or otherwise	244
taking into the body any drug that is a schedule I controlled	245
substance;	246
(9) Habitual indulgence in the use of controlled substances,	247
other habit-forming drugs, or alcohol or other chemical substances	248
to an extent that impairs ability to practice;	249
(10) Impairment of the ability to practice according to	250
acceptable and prevailing standards of safe nursing care because	251
of habitual or excessive use of drugs, alcohol, or other chemical	252
substances that impair the ability to practice;	253
(11) Impairment of the ability to practice according to	254
acceptable and prevailing standards of safe nursing care because	255
of a physical or mental disability;	256
(12) Assaulting or causing harm to a patient or depriving a	257
patient of the means to summon assistance;	258
(13) Obtaining or attempting to obtain money or anything of	259
value by intentional misrepresentation or material deception in	260
the course of practice;	261
(14) Adjudication by a probate court of being mentally ill or	262
mentally incompetent. The board may restore the person's nursing	263
license or dialysis technician certificate upon adjudication by a	264
probate court of the person's restoration to competency or upon	265
submission to the board of other proof of competency.	266

(15) The suspension or termination of employment by the	267
department of defense or the veterans administration of the United	268
States for any act that violates or would violate this chapter;	269
(16) Violation of this chapter or any rules adopted under it;	270
(17) Violation of any restrictions placed on a nursing	271
license or dialysis technician certificate by the board;	272
(18) Failure to use universal blood and body fluid	273
precautions established by rules adopted under section 4723.07 of	274
the Revised Code;	275
(19) Failure to practice in accordance with acceptable and	276
prevailing standards of safe nursing care or safe dialysis care;	277
(20) In the case of a registered nurse, engaging in	278
activities that exceed the practice of nursing as a registered	279
nurse;	280
(21) In the case of a licensed practical nurse, engaging in	281
activities that exceed the practice of nursing as a licensed	282
practical nurse;	283
(22) In the case of a dialysis technician, engaging in	284
activities that exceed those permitted under section 4723.72 of	285
the Revised Code;	286
(23) Aiding and abetting a person in that person's practice	287
of nursing without a license or practice as a dialysis technician	288
without a certificate issued under this chapter;	289
(24) In the case of a certified registered nurse anesthetist,	290
clinical nurse specialist, certified nurse-midwife, or certified	291
nurse practitioner, except as provided in division (M) of this	292
section, either of the following:	293
(a) Waiving the payment of all or any part of a deductible or	294
copayment that a patient, pursuant to a health insurance or health	295
care policy, contract, or plan that covers such nursing services,	296

would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	297 298 299
(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.	300 301 302 303 304
(25) Failure to comply with the terms and conditions of participation in the chemical dependency monitoring program established under section 4723.35 of the Revised Code;	305 306 307
(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;	308 309 310
(27) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:	311 312 313
(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	314 315 316
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	317 318
(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	319 320 321 322 323
(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the	324 325 326

Revised Code, failure to prescribe drugs and therapeutic devices	327
in accordance with section 4723.481 of the Revised Code;	328
(30) Prescribing any drug or device to perform or induce an	329
abortion, or otherwise performing or inducing an abortion;	330
(31) Failure to establish and maintain professional	331
boundaries with a patient, as specified in rules adopted under	332
section 4723.07 of the Revised Code;	333
(32) Regardless of whether the contact or verbal behavior is	334
consensual, engaging with a patient other than the spouse of the	335
registered nurse, licensed practical nurse, or dialysis technician	336
in any of the following:	337
(a) Sexual contact, as defined in section 2907.01 of the	338
Revised Code;	339
(b) Verbal behavior that is sexually demeaning to the patient	340
or may be reasonably interpreted by the patient as sexually	341
demeaning.	342
(33) Assisting suicide as defined in section 3795.01 of the	343
Revised Code;	344
<u>(34) Making a false, fraudulent, deceptive, or misleading</u>	345
<u>statement in the solicitation of or advertising for patients in</u>	346
<u>relation to the practice of nursing or the practice of a dialysis</u>	347
<u>technician;</u>	348
<u>(35) Failure to comply with the requirements of section</u>	349
<u>4745.04 of the Revised Code.</u>	350
(C) Disciplinary actions taken by the board under divisions	351
(A) and (B) of this section shall be taken pursuant to an	352
adjudication conducted under Chapter 119. of the Revised Code,	353
except that in lieu of a hearing, the board may enter into a	354
consent agreement with an individual to resolve an allegation of a	355
violation of this chapter or any rule adopted under it. A consent	356

agreement, when ratified by a vote of a quorum, shall constitute 357
the findings and order of the board with respect to the matter 358
addressed in the agreement. If the board refuses to ratify a 359
consent agreement, the admissions and findings contained in the 360
agreement shall be of no effect. 361

(D) The hearings of the board shall be conducted in 362
accordance with Chapter 119. of the Revised Code, the board may 363
appoint a hearing examiner, as provided in section 119.09 of the 364
Revised Code, to conduct any hearing the board is authorized to 365
hold under Chapter 119. of the Revised Code. 366

In any instance in which the board is required under Chapter 367
119. of the Revised Code to give notice of an opportunity for a 368
hearing and the applicant or license holder does not make a timely 369
request for a hearing in accordance with section 119.07 of the 370
Revised Code, the board is not required to hold a hearing, but may 371
adopt, by a vote of a quorum, a final order that contains the 372
board's findings. In the final order, the board may order any of 373
the sanctions listed in division (A) or (B) of this section. 374

(E) If a criminal action is brought against a registered 375
nurse, licensed practical nurse, or dialysis technician for an act 376
or crime described in divisions (B)(3) to (7) of this section and 377
the action is dismissed by the trial court other than on the 378
merits, the board shall conduct an adjudication to determine 379
whether the registered nurse, licensed practical nurse, or 380
dialysis technician committed the act on which the action was 381
based. If the board determines on the basis of the adjudication 382
that the registered nurse, licensed practical nurse, or dialysis 383
technician committed the act, or if the registered nurse, licensed 384
practical nurse, or dialysis technician fails to participate in 385
the adjudication, the board may take action as though the 386
registered nurse, licensed practical nurse, or dialysis technician 387
had been convicted of the act. 388

If the board takes action on the basis of a conviction, plea, 389
or a judicial finding as described in divisions (B)(3) to (7) of 390
this section that is overturned on appeal, the registered nurse, 391
licensed practical nurse, or dialysis technician may, on 392
exhaustion of the appeal process, petition the board for 393
reconsideration of its action. On receipt of the petition and 394
supporting court documents, the board shall temporarily rescind 395
its action. If the board determines that the decision on appeal 396
was a decision on the merits, it shall permanently rescind its 397
action. If the board determines that the decision on appeal was 398
not a decision on the merits, it shall conduct an adjudication to 399
determine whether the registered nurse, licensed practical nurse, 400
or dialysis technician committed the act on which the original 401
conviction, plea, or judicial finding was based. If the board 402
determines on the basis of the adjudication that the registered 403
nurse, licensed practical nurse, or dialysis technician committed 404
such act, or if the registered nurse, licensed practical nurse, or 405
dialysis technician does not request an adjudication, the board 406
shall reinstate its action; otherwise, the board shall permanently 407
rescind its action. 408

Notwithstanding the provision of division (C)(2) of section 409
2953.32 of the Revised Code specifying that if records pertaining 410
to a criminal case are sealed under that section the proceedings 411
in the case shall be deemed not to have occurred, sealing of the 412
records of a conviction on which the board has based an action 413
under this section shall have no effect on the board's action or 414
any sanction imposed by the board under this section. 415

The board shall not be required to seal, destroy, redact, or 416
otherwise modify its records to reflect the court's sealing of 417
conviction records. 418

(F) The board may investigate an individual's criminal 419
background in performing its duties under this section. 420

(G) During the course of an investigation conducted under 421
this section, the board may compel any registered nurse, licensed 422
practical nurse, or dialysis technician or applicant under this 423
chapter to submit to a mental or physical examination, or both, as 424
required by the board and at the expense of the individual, if the 425
board finds reason to believe that the individual under 426
investigation may have a physical or mental impairment that may 427
affect the individual's ability to provide safe nursing care. 428
Failure of any individual to submit to a mental or physical 429
examination when directed constitutes an admission of the 430
allegations, unless the failure is due to circumstances beyond the 431
individual's control, and a default and final order may be entered 432
without the taking of testimony or presentation of evidence. 433

If the board finds that an individual is impaired, the board 434
shall require the individual to submit to care, counseling, or 435
treatment approved or designated by the board, as a condition for 436
initial, continued, reinstated, or renewed authority to practice. 437
The individual shall be afforded an opportunity to demonstrate to 438
the board that the individual can begin or resume the individual's 439
occupation in compliance with acceptable and prevailing standards 440
of care under the provisions of the individual's authority to 441
practice. 442

For purposes of this division, any registered nurse, licensed 443
practical nurse, or dialysis technician or applicant under this 444
chapter shall be deemed to have given consent to submit to a 445
mental or physical examination when directed to do so in writing 446
by the board, and to have waived all objections to the 447
admissibility of testimony or examination reports that constitute 448
a privileged communication. 449

(H) The board shall investigate evidence that appears to show 450
that any person has violated any provision of this chapter or any 451
rule of the board. Any person may report to the board any 452

information the person may have that appears to show a violation 453
of any provision of this chapter or rule of the board. In the 454
absence of bad faith, any person who reports such information or 455
who testifies before the board in any adjudication conducted under 456
Chapter 119. of the Revised Code shall not be liable for civil 457
damages as a result of the report or testimony. 458

(I) All of the following apply under this chapter with 459
respect to the confidentiality of information: 460

(1) Information received by the board pursuant to an 461
investigation is confidential and not subject to discovery in any 462
civil action, except that the board may disclose information to 463
law enforcement officers and government entities investigating 464
either a licensed health care professional, including a registered 465
nurse, licensed practical nurse, or dialysis technician, or a 466
person who may have engaged in the unauthorized practice of 467
nursing. No law enforcement officer or government entity with 468
knowledge of any information disclosed by the board pursuant to 469
this division shall divulge the information to any other person or 470
government entity except for the purpose of a government 471
investigation, a prosecution, or an adjudication by a court or 472
government entity. 473

(2) If an investigation requires a review of patient records, 474
the investigation and proceeding shall be conducted in such a 475
manner as to protect patient confidentiality. 476

(3) All adjudications and investigations of the board shall 477
be considered civil actions for the purposes of section 2305.252 478
of the Revised Code. 479

(4) Any board activity that involves continued monitoring of 480
an individual as part of or following any disciplinary action 481
taken under this section shall be conducted in a manner that 482
maintains the individual's confidentiality. Information received 483

or maintained by the board with respect to the board's monitoring 484
activities is confidential and not subject to discovery in any 485
civil action. 486

(J) Any action taken by the board under this section 487
resulting in a suspension from practice shall be accompanied by a 488
written statement of the conditions under which the person may be 489
reinstated to practice. 490

(K) When the board refuses to grant a license or certificate 491
to an applicant, revokes a license or certificate, or refuses to 492
reinstate a license or certificate, the board may specify that its 493
action is permanent. An individual subject to permanent action 494
taken by the board is forever ineligible to hold a license or 495
certificate of the type that was refused or revoked and the board 496
shall not accept from the individual an application for 497
reinstatement of the license or certificate or for a new license 498
or certificate. 499

(L) No unilateral surrender of a nursing license, certificate 500
of authority, or dialysis technician certificate issued under this 501
chapter shall be effective unless accepted by majority vote of the 502
board. No application for a nursing license, certificate of 503
authority, or dialysis technician certificate issued under this 504
chapter may be withdrawn without a majority vote of the board. The 505
board's jurisdiction to take disciplinary action under this 506
section is not removed or limited when an individual has a license 507
or certificate classified as inactive or fails to renew a license 508
or certificate. 509

(M) Sanctions shall not be imposed under division (B)(24) of 510
this section against any licensee who waives deductibles and 511
copayments as follows: 512

(1) In compliance with the health benefit plan that expressly 513
allows such a practice. Waiver of the deductibles or copayments 514

shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

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

(N)(1) Any person who enters a prelicensure nursing education program on or after June 1, 2003, and who subsequently applies under division (A) of section 4723.09 of the Revised Code for licensure to practice as a registered nurse or as a licensed practical nurse and any person who applies under division (B) of that section for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall submit a request to the bureau of criminal identification and investigation for the bureau to conduct a criminal records check of the applicant and to send the results to the board, in accordance with section 4723.09 of the Revised Code.

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

(2) Any person who enters a dialysis training program on or

after June 1, 2003, and who subsequently applies for a certificate 547
to practice as a dialysis technician shall submit a request to the 548
bureau of criminal identification and investigation for the bureau 549
to conduct a criminal records check of the applicant and to send 550
the results to the board, in accordance with section 4723.75 of 551
the Revised Code. 552

The board shall refuse to issue a certificate to practice as 553
a dialysis technician under section 4723.75 of the Revised Code to 554
a person who entered a dialysis training program on or after June 555
1, 2003, and whose criminal records check performed in accordance 556
with division (C) of that section indicates that the person has 557
pleaded guilty to, been convicted of, or has had a judicial 558
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 559
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 560
2911.11 of the Revised Code or a substantially similar law of 561
another state, the United States, or another country. 562

Sec. 4725.19. (A) In accordance with Chapter 119. of the 563
Revised Code and by an affirmative vote of a majority of its 564
members, the state board of optometry, for any of the reasons 565
specified in division (B) of this section, shall refuse to grant a 566
certificate of licensure to an applicant and may, with respect to 567
a licensed optometrist, do one or more of the following: 568

(1) Suspend the operation of any certificate of licensure, 569
topical ocular pharmaceutical agents certificate, or therapeutic 570
pharmaceutical agents certificate, or all certificates granted by 571
it to the optometrist; 572

(2) Permanently revoke any or all of the certificates; 573

(3) Limit or otherwise place restrictions on any or all of 574
the certificates; 575

(4) Reprimand the optometrist; 576

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

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

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

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

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;

(4) Being at any time guilty of a felony, regardless of the jurisdiction in which the act was committed;

(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;

(6) Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board;

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

(8) Being denied a license to practice optometry in another state or country or being subject to any other sanction by the

optometric licensing authority of another state or country, other 607
than sanctions imposed for the nonpayment of fees; 608

(9) Departing from or failing to conform to acceptable and 609
prevailing standards of care in the practice of optometry as 610
followed by similar practitioners under the same or similar 611
circumstances, regardless of whether actual injury to a patient is 612
established; 613

(10) Failing to maintain comprehensive patient records; 614

(11) Advertising a price of optical accessories, eye 615
examinations, or other products or services by any means that 616
would deceive or mislead the public; 617

(12) Being addicted to the use of alcohol, stimulants, 618
narcotics, or any other substance which impairs the intellect and 619
judgment to such an extent as to hinder or diminish the 620
performance of the duties included in the person's practice of 621
optometry; 622

(13) Engaging in the practice of optometry as provided in 623
division (A)(2) or (3) of section 4725.01 of the Revised Code 624
without authority to do so or, if authorized, in a manner 625
inconsistent with the authority granted; 626

(14) Failing to make a report to the board as required by 627
division (A) of section 4725.21 or section 4725.31 of the Revised 628
Code; 629

(15) Soliciting patients from door to door or establishing 630
temporary offices, in which case the board shall suspend all 631
certificates held by the optometrist; 632

(16) Except as provided in division (D) of this section: 633

(a) Waiving the payment of all or any part of a deductible or 634
copayment that a patient, pursuant to a health insurance or health 635
care policy, contract, or plan that covers optometric services, 636

would otherwise be required to pay if the waiver is used as an 637
enticement to a patient or group of patients to receive health 638
care services from that optometrist. 639

(b) Advertising that the optometrist will waive the payment 640
of all or any part of a deductible or copayment that a patient, 641
pursuant to a health insurance or health care policy, contract, or 642
plan that covers optometric services, would otherwise be required 643
to pay*i* 644

(17) Failure to comply with the requirements of section 645
4745.04 of the Revised Code. 646

(C) Any person who is the holder of a certificate of 647
licensure, or who is an applicant for a certificate of licensure 648
against whom is preferred any charges, shall be furnished by the 649
board with a copy of the complaint and shall have a hearing before 650
the board in accordance with Chapter 119. of the Revised Code. 651

(D) Sanctions shall not be imposed under division (B)(16) of 652
this section against any optometrist who waives deductibles and 653
copayments: 654

(1) In compliance with the health benefit plan that expressly 655
allows such a practice. Waiver of the deductibles or copayments 656
shall be made only with the full knowledge and consent of the plan 657
purchaser, payer, and third-party administrator. Documentation of 658
the consent shall be made available to the board upon request. 659

(2) For professional services rendered to any other 660
optometrist licensed by the board, to the extent allowed by 661
sections 4725.01 to 4725.34 of the Revised Code and the rules of 662
the board. 663

Sec. 4725.53. (A) The Ohio optical dispensers board, by a 664
majority vote of its members, may refuse to grant a license and, 665
in accordance with Chapter 119. of the Revised Code, may suspend 666

or revoke the license of a licensed dispensing optician or impose 667
a fine or order restitution pursuant to division (B) of this 668
section on any of the following grounds: 669

(1) Conviction of a crime involving moral turpitude or a 670
disqualifying offense as those terms are defined in section 671
4776.10 of the Revised Code; 672

(2) Obtaining or attempting to obtain a license by fraud or 673
deception; 674

(3) Obtaining any fee or making any sale of an optical aid by 675
means of fraud or misrepresentation; 676

(4) Habitual indulgence in the use of controlled substances 677
or other habit-forming drugs, or in the use of alcoholic liquors 678
to an extent that affects professional competency; 679

(5) Finding by a court of competent jurisdiction that the 680
applicant or licensee is incompetent by reason of mental illness 681
and no subsequent finding by the court of competency; 682

(6) Finding by a court of law that the licensee is guilty of 683
incompetence or negligence in the dispensing of optical aids; 684

(7) Knowingly permitting or employing a person whose license 685
has been suspended or revoked or an unlicensed person to engage in 686
optical dispensing; 687

(8) Permitting another person to use the licensee's license; 688

(9) Engaging in optical dispensing not pursuant to the 689
prescription of a licensed physician or licensed optometrist, but 690
nothing in this section shall prohibit the duplication or 691
replacement of previously prepared optical aids, except contact 692
lenses shall not be duplicated or replaced without a written 693
prescription; 694

(10) Violation of sections 4725.40 to 4725.59 of the Revised 695
Code; 696

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

(12) Advertising that the licensee will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optical dispensing services, would otherwise be required to pay;

(13) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of a licensed dispensing optician;

(14) Failure to comply with the requirements of section 4745.04 of the Revised Code.

(B) The board may impose a fine of not more than five hundred dollars for a first occurrence of an action that is grounds for discipline under this section and of not less than five hundred nor more than one thousand dollars for a subsequent occurrence, or may order the licensee to make restitution to a person who has suffered a financial loss as a result of the licensee's failure to comply with sections 4725.40 to 4725.59 of the Revised Code.

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

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

(2) For professional services rendered to any other person 728
licensed pursuant to this chapter to the extent allowed by this 729
chapter and the rules of the board. 730

Sec. 4729.16. (A) The state board of pharmacy, after notice 731
and hearing in accordance with Chapter 119. of the Revised Code, 732
may revoke, suspend, limit, place on probation, or refuse to grant 733
or renew an identification card, or may impose a monetary penalty 734
or forfeiture not to exceed in severity any fine designated under 735
the Revised Code for a similar offense, or in the case of a 736
violation of a section of the Revised Code that does not bear a 737
penalty, a monetary penalty or forfeiture of not more than five 738
hundred dollars, if the board finds a pharmacist or pharmacy 739
intern: 740

(1) Guilty of a felony or gross immorality; 741

(2) Guilty of dishonesty or unprofessional conduct in the 742
practice of pharmacy; 743

(3) Addicted to or abusing liquor or drugs or impaired 744
physically or mentally to such a degree as to render the 745
pharmacist or pharmacy intern unfit to practice pharmacy; 746

(4) Has been convicted of a misdemeanor related to, or 747
committed in, the practice of pharmacy; 748

(5) Guilty of willfully violating, conspiring to violate, 749
attempting to violate, or aiding and abetting the violation of any 750
of the provisions of this chapter, sections 3715.52 to 3715.72 of 751
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 752
any rule adopted by the board under those provisions; 753

(6) Guilty of permitting anyone other than a pharmacist or 754
pharmacy intern to practice pharmacy; 755

(7) Guilty of knowingly lending the pharmacist's or pharmacy 756
intern's name to an illegal practitioner of pharmacy or having 757

professional connection with an illegal practitioner of pharmacy;	758
(8) Guilty of dividing or agreeing to divide remuneration	759
made in the practice of pharmacy with any other individual,	760
including, but not limited to, any licensed health professional	761
authorized to prescribe drugs or any owner, manager, or employee	762
of a health care facility, residential care facility, or nursing	763
home;	764
(9) Has violated the terms of a consult agreement entered	765
into pursuant to section 4729.39 of the Revised Code;	766
(10) Has committed fraud, misrepresentation, or deception in	767
applying for or securing a license or identification card issued	768
by the board under this chapter or under Chapter 3715. or 3719. of	769
the Revised Code;	770
<u>(11) Has made a false, fraudulent, deceptive, or misleading</u>	771
<u>statement in the solicitation of or advertising for patients in</u>	772
<u>relation to the practice of a pharmacist or a pharmacy intern;</u>	773
<u>(12) Has failed to comply with the requirements of section</u>	774
<u>4745.04 of the Revised Code.</u>	775
(B) Any individual whose identification card is revoked,	776
suspended, or refused, shall return the identification card and	777
license to the offices of the state board of pharmacy within ten	778
days after receipt of notice of such action.	779
(C) As used in this section:	780
"Unprofessional conduct in the practice of pharmacy" includes	781
any of the following:	782
(1) Advertising or displaying signs that promote dangerous	783
drugs to the public in a manner that is false or misleading;	784
(2) Except as provided in section 4729.281 of the Revised	785
Code, the sale of any drug for which a prescription is required,	786
without having received a prescription for the drug;	787

(3) Knowingly dispensing medication pursuant to false or forged prescriptions;	788 789
(4) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;	790 791 792
(5) Obtaining any remuneration by fraud, misrepresentation, or deception.	793 794
(D) The board may suspend a license or identification card under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.	795 796 797 798
(E) If, pursuant to an adjudication under Chapter 119. of the Revised Code, the board has reasonable cause to believe that a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the pharmacist or pharmacy intern to submit to a physical or mental examination, or both.	799 800 801 802 803
Sec. 4730.02. (A) No person shall hold that person out as being able to function as a physician assistant, or use any words or letters indicating or implying that the person is a physician assistant, without a current, valid certificate to practice as a physician assistant issued pursuant to this chapter.	804 805 806 807 808
(B) No person shall practice as a physician assistant without the supervision, control, and direction of a physician.	809 810
(C) No person shall act as the supervising physician of a physician assistant without having received the state medical board's approval of a supervision agreement entered into with the physician assistant.	811 812 813 814
(D) No person shall practice as a physician assistant without having entered into a supervision agreement that has been approved by the state medical board.	815 816 817

(E) No person acting as the supervising physician of a 818
physician assistant shall authorize the physician assistant to 819
perform services if either of the following is the case: 820

(1) The services are not within the physician's normal course 821
of practice and expertise; 822

(2) The services are inconsistent with the physician 823
supervisory plan approved by the state medical board for the 824
supervising physician or the policies of the health care facility 825
in which the physician and physician assistant are practicing. 826

(F) No person shall practice as a physician assistant in a 827
manner that is inconsistent with the physician supervisory plan 828
approved for the physician who is responsible for supervising the 829
physician assistant or the policies of the health care facility in 830
which the physician assistant is practicing. 831

(G) No person practicing as a physician assistant shall 832
prescribe any drug or device to perform or induce an abortion, or 833
otherwise perform or induce an abortion. 834

(H) No person shall advertise to provide services as a 835
physician assistant, except for the purpose of seeking employment. 836

~~(I) No person practicing as a physician assistant shall fail 837
to wear at all times when on duty a placard, plate, or other 838
device identifying that person as a "physician assistant."~~ 839

Sec. 4730.25. (A) The state medical board, by an affirmative 840
vote of not fewer than six members, may revoke or may refuse to 841
grant a certificate to practice as a physician assistant or a 842
certificate to prescribe to a person found by the board to have 843
committed fraud, misrepresentation, or deception in applying for 844
or securing the certificate. 845

(B) The board, by an affirmative vote of not fewer than six 846
members, shall, to the extent permitted by law, limit, revoke, or 847

suspend an individual's certificate to practice as a physician 848
assistant or certificate to prescribe, refuse to issue a 849
certificate to an applicant, refuse to reinstate a certificate, or 850
reprimand or place on probation the holder of a certificate for 851
any of the following reasons: 852

(1) Failure to practice in accordance with the conditions 853
under which the supervising physician's supervision agreement with 854
the physician assistant was approved, including the requirement 855
that when practicing under a particular supervising physician, the 856
physician assistant must practice only according to the physician 857
supervisory plan the board approved for that physician or the 858
policies of the health care facility in which the supervising 859
physician and physician assistant are practicing; 860

(2) Failure to comply with the requirements of this chapter, 861
Chapter 4731. of the Revised Code, or any rules adopted by the 862
board; 863

(3) Violating or attempting to violate, directly or 864
indirectly, or assisting in or abetting the violation of, or 865
conspiring to violate, any provision of this chapter, Chapter 866
4731. of the Revised Code, or the rules adopted by the board; 867

(4) Inability to practice according to acceptable and 868
prevailing standards of care by reason of mental illness or 869
physical illness, including physical deterioration that adversely 870
affects cognitive, motor, or perceptive skills; 871

(5) Impairment of ability to practice according to acceptable 872
and prevailing standards of care because of habitual or excessive 873
use or abuse of drugs, alcohol, or other substances that impair 874
ability to practice; 875

(6) Administering drugs for purposes other than those 876
authorized under this chapter; 877

(7) Willfully betraying a professional confidence; 878

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

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

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

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

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

(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(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 committed in the course of practice;	910
(14) A plea of guilty to, a judicial finding of guilt of, or	911
a judicial finding of eligibility for intervention in lieu of	912
conviction for, a misdemeanor involving moral turpitude;	913
(15) Commission of an act in the course of practice that	914
constitutes a misdemeanor in this state, regardless of the	915
jurisdiction in which the act was committed;	916
(16) Commission of an act involving moral turpitude that	917
constitutes a misdemeanor in this state, regardless of the	918
jurisdiction in which the act was committed;	919
(17) A plea of guilty to, a judicial finding of guilt of, or	920
a judicial finding of eligibility for intervention in lieu of	921
conviction for violating any state or federal law regulating the	922
possession, distribution, or use of any drug, including	923
trafficking in drugs;	924
(18) Any of the following actions taken by the state agency	925
responsible for regulating the practice of physician assistants in	926
another state, for any reason other than the nonpayment of fees:	927
the limitation, revocation, or suspension of an individual's	928
license to practice; acceptance of an individual's license	929
surrender; denial of a license; refusal to renew or reinstate a	930
license; imposition of probation; or issuance of an order of	931
censure or other reprimand;	932
(19) A departure from, or failure to conform to, minimal	933
standards of care of similar physician assistants under the same	934
or similar circumstances, regardless of whether actual injury to a	935
patient is established;	936
(20) Violation of the conditions placed by the board on a	937
certificate to practice as a physician assistant, a certificate to	938
prescribe, a physician supervisory plan, or supervision agreement;	939

(21) Failure to use universal blood and body fluid 940
precautions established by rules adopted under section 4731.051 of 941
the Revised Code; 942

(22) Failure to cooperate in an investigation conducted by 943
the board under section 4730.26 of the Revised Code, including 944
failure to comply with a subpoena or order issued by the board or 945
failure to answer truthfully a question presented by the board at 946
a deposition or in written interrogatories, except that failure to 947
cooperate with an investigation shall not constitute grounds for 948
discipline under this section if a court of competent jurisdiction 949
has issued an order that either quashes a subpoena or permits the 950
individual to withhold the testimony or evidence in issue; 951

(23) Assisting suicide as defined in section 3795.01 of the 952
Revised Code; 953

(24) Prescribing any drug or device to perform or induce an 954
abortion, or otherwise performing or inducing an abortion; 955

(25) Failure to comply with the requirements of section 956
4745.04 of the Revised Code. 957

(C) Disciplinary actions taken by the board under divisions 958
(A) and (B) of this section shall be taken pursuant to an 959
adjudication under Chapter 119. of the Revised Code, except that 960
in lieu of an adjudication, the board may enter into a consent 961
agreement with a physician assistant or applicant to resolve an 962
allegation of a violation of this chapter or any rule adopted 963
under it. A consent agreement, when ratified by an affirmative 964
vote of not fewer than six members of the board, shall constitute 965
the findings and order of the board with respect to the matter 966
addressed in the agreement. If the board refuses to ratify a 967
consent agreement, the admissions and findings contained in the 968
consent agreement shall be of no force or effect. 969

(D) For purposes of divisions (B)(12), (15), and (16) of this 970

section, the commission of the act may be established by a finding 971
by the board, pursuant to an adjudication under Chapter 119. of 972
the Revised Code, that the applicant or certificate holder 973
committed the act in question. The board shall have no 974
jurisdiction under these divisions in cases where the trial court 975
renders a final judgment in the certificate holder's favor and 976
that judgment is based upon an adjudication on the merits. The 977
board shall have jurisdiction under these divisions in cases where 978
the trial court issues an order of dismissal upon technical or 979
procedural grounds. 980

(E) The sealing of conviction records by any court shall have 981
no effect upon a prior board order entered under the provisions of 982
this section or upon the board's jurisdiction to take action under 983
the provisions of this section if, based upon a plea of guilty, a 984
judicial finding of guilt, or a judicial finding of eligibility 985
for intervention in lieu of conviction, the board issued a notice 986
of opportunity for a hearing prior to the court's order to seal 987
the records. The board shall not be required to seal, destroy, 988
redact, or otherwise modify its records to reflect the court's 989
sealing of conviction records. 990

(F) For purposes of this division, any individual who holds a 991
certificate issued under this chapter, or applies for a 992
certificate issued under this chapter, shall be deemed to have 993
given consent to submit to a mental or physical examination when 994
directed to do so in writing by the board and to have waived all 995
objections to the admissibility of testimony or examination 996
reports that constitute a privileged communication. 997

(1) In enforcing division (B)(4) of this section, the board, 998
upon a showing of a possible violation, may compel any individual 999
who holds a certificate issued under this chapter or who has 1000
applied for a certificate pursuant to this chapter to submit to a 1001
mental examination, physical examination, including an HIV test, 1002

or both a mental and physical examination. The expense of the 1003
examination is the responsibility of the individual compelled to 1004
be examined. Failure to submit to a mental or physical examination 1005
or consent to an HIV test ordered by the board constitutes an 1006
admission of the allegations against the individual unless the 1007
failure is due to circumstances beyond the individual's control, 1008
and a default and final order may be entered without the taking of 1009
testimony or presentation of evidence. If the board finds a 1010
physician assistant unable to practice because of the reasons set 1011
forth in division (B)(4) of this section, the board shall require 1012
the physician assistant to submit to care, counseling, or 1013
treatment by physicians approved or designated by the board, as a 1014
condition for an initial, continued, reinstated, or renewed 1015
certificate. An individual affected under this division shall be 1016
afforded an opportunity to demonstrate to the board the ability to 1017
resume practicing in compliance with acceptable and prevailing 1018
standards of care. 1019

(2) For purposes of division (B)(5) of this section, if the 1020
board has reason to believe that any individual who holds a 1021
certificate issued under this chapter or any applicant for a 1022
certificate suffers such impairment, the board may compel the 1023
individual to submit to a mental or physical examination, or both. 1024
The expense of the examination is the responsibility of the 1025
individual compelled to be examined. Any mental or physical 1026
examination required under this division shall be undertaken by a 1027
treatment provider or physician qualified to conduct such 1028
examination and chosen by the board. 1029

Failure to submit to a mental or physical examination ordered 1030
by the board constitutes an admission of the allegations against 1031
the individual unless the failure is due to circumstances beyond 1032
the individual's control, and a default and final order may be 1033
entered without the taking of testimony or presentation of 1034

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

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

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

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

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

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

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the physician assistant. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for

at least two years of annual written progress reports made under 1066
penalty of falsification stating whether the physician assistant 1067
has maintained sobriety. 1068

(G) If the secretary and supervising member determine that 1069
there is clear and convincing evidence that a physician assistant 1070
has violated division (B) of this section and that the 1071
individual's continued practice or prescribing presents a danger 1072
of immediate and serious harm to the public, they may recommend 1073
that the board suspend the individual's certificate to practice or 1074
prescribe without a prior hearing. Written allegations shall be 1075
prepared for consideration by the board. 1076

The board, upon review of those allegations and by an 1077
affirmative vote of not fewer than six of its members, excluding 1078
the secretary and supervising member, may suspend a certificate 1079
without a prior hearing. A telephone conference call may be 1080
utilized for reviewing the allegations and taking the vote on the 1081
summary suspension. 1082

The board shall issue a written order of suspension by 1083
certified mail or in person in accordance with section 119.07 of 1084
the Revised Code. The order shall not be subject to suspension by 1085
the court during pendency of any appeal filed under section 119.12 1086
of the Revised Code. If the physician assistant requests an 1087
adjudicatory hearing by the board, the date set for the hearing 1088
shall be within fifteen days, but not earlier than seven days, 1089
after the physician assistant requests the hearing, unless 1090
otherwise agreed to by both the board and the certificate holder. 1091

A summary suspension imposed under this division shall remain 1092
in effect, unless reversed on appeal, until a final adjudicative 1093
order issued by the board pursuant to this section and Chapter 1094
119. of the Revised Code becomes effective. The board shall issue 1095
its final adjudicative order within sixty days after completion of 1096
its hearing. Failure to issue the order within sixty days shall 1097

result in dissolution of the summary suspension order, but shall 1098
not invalidate any subsequent, final adjudicative order. 1099

(H) If the board takes action under division (B)(11), (13), 1100
or (14) of this section, and the judicial finding of guilt, guilty 1101
plea, or judicial finding of eligibility for intervention in lieu 1102
of conviction is overturned on appeal, upon exhaustion of the 1103
criminal appeal, a petition for reconsideration of the order may 1104
be filed with the board along with appropriate court documents. 1105
Upon receipt of a petition and supporting court documents, the 1106
board shall reinstate the certificate to practice or prescribe. 1107
The board may then hold an adjudication under Chapter 119. of the 1108
Revised Code to determine whether the individual committed the act 1109
in question. Notice of opportunity for hearing shall be given in 1110
accordance with Chapter 119. of the Revised Code. If the board 1111
finds, pursuant to an adjudication held under this division, that 1112
the individual committed the act, or if no hearing is requested, 1113
it may order any of the sanctions identified under division (B) of 1114
this section. 1115

(I) The certificate to practice issued to a physician 1116
assistant and the physician assistant's practice in this state are 1117
automatically suspended as of the date the physician assistant 1118
pleads guilty to, is found by a judge or jury to be guilty of, or 1119
is subject to a judicial finding of eligibility for intervention 1120
in lieu of conviction in this state or treatment or intervention 1121
in lieu of conviction in another state for any of the following 1122
criminal offenses in this state or a substantially equivalent 1123
criminal offense in another jurisdiction: aggravated murder, 1124
murder, voluntary manslaughter, felonious assault, kidnapping, 1125
rape, sexual battery, gross sexual imposition, aggravated arson, 1126
aggravated robbery, or aggravated burglary. Continued practice 1127
after the suspension shall be considered practicing without a 1128
certificate. 1129

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

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

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

(L) When the board refuses to grant to an applicant a certificate to practice as a physician assistant or a certificate to prescribe, revokes an individual's certificate, refuses to issue a certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the certificate and the

board shall not accept an application for reinstatement of the 1162
certificate or for issuance of a new certificate. 1163

(M) Notwithstanding any other provision of the Revised Code, 1164
all of the following apply: 1165

(1) The surrender of a certificate issued under this chapter 1166
is not effective unless or until accepted by the board. 1167
Reinstatement of a certificate surrendered to the board requires 1168
an affirmative vote of not fewer than six members of the board. 1169

(2) An application made under this chapter for a certificate, 1170
approval of a physician supervisory plan, or approval of a 1171
supervision agreement may not be withdrawn without approval of the 1172
board. 1173

(3) Failure by an individual to renew a certificate in 1174
accordance with section 4730.14 or section 4730.48 of the Revised 1175
Code shall not remove or limit the board's jurisdiction to take 1176
disciplinary action under this section against the individual. 1177

Sec. 4731.22. (A) The state medical board, by an affirmative 1178
vote of not fewer than six of its members, may revoke or may 1179
refuse to grant a certificate to a person found by the board to 1180
have committed fraud during the administration of the examination 1181
for a certificate to practice or to have committed fraud, 1182
misrepresentation, or deception in applying for or securing any 1183
certificate to practice or certificate of registration issued by 1184
the board. 1185

(B) The board, by an affirmative vote of not fewer than six 1186
members, shall, to the extent permitted by law, limit, revoke, or 1187
suspend an individual's certificate to practice, refuse to 1188
register an individual, refuse to reinstate a certificate, or 1189
reprimand or place on probation the holder of a certificate for 1190
one or more of the following reasons: 1191

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

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

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

(4) Willfully betraying a professional confidence.

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

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in

relation to the practice of medicine and surgery, osteopathic 1223
medicine and surgery, podiatric medicine and surgery, or a limited 1224
branch of medicine; or in securing or attempting to secure any 1225
certificate to practice or certificate of registration issued by 1226
the board. 1227

As used in this division, "false, fraudulent, deceptive, or 1228
misleading statement" means a statement that includes a 1229
misrepresentation of fact, is likely to mislead or deceive because 1230
of a failure to disclose material facts, is intended or is likely 1231
to create false or unjustified expectations of favorable results, 1232
or includes representations or implications that in reasonable 1233
probability will cause an ordinarily prudent person to 1234
misunderstand or be deceived. 1235

(6) A departure from, or the failure to conform to, minimal 1236
standards of care of similar practitioners under the same or 1237
similar circumstances, whether or not actual injury to a patient 1238
is established; 1239

(7) Representing, with the purpose of obtaining compensation 1240
or other advantage as personal gain or for any other person, that 1241
an incurable disease or injury, or other incurable condition, can 1242
be permanently cured; 1243

(8) The obtaining of, or attempting to obtain, money or 1244
anything of value by fraudulent misrepresentations in the course 1245
of practice; 1246

(9) A plea of guilty to, a judicial finding of guilt of, or a 1247
judicial finding of eligibility for intervention in lieu of 1248
conviction for, a felony; 1249

(10) Commission of an act that constitutes a felony in this 1250
state, regardless of the jurisdiction in which the act was 1251
committed; 1252

(11) A plea of guilty to, a judicial finding of guilt of, or 1253

a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	1254 1255
(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	1256 1257 1258
(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;	1259 1260 1261
(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	1262 1263 1264
(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;	1265 1266
(16) Failure to pay license renewal fees specified in this chapter;	1267 1268
(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;	1269 1270 1271 1272
(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.	1273 1274 1275 1276 1277 1278 1279 1280 1281 1282 1283

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

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

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling,

or treatment by physicians approved or designated by the board, as 1316
a condition for initial, continued, reinstated, or renewed 1317
authority to practice. An individual affected under this division 1318
shall be afforded an opportunity to demonstrate to the board the 1319
ability to resume practice in compliance with acceptable and 1320
prevailing standards under the provisions of the individual's 1321
certificate. For the purpose of this division, any individual who 1322
applies for or receives a certificate to practice under this 1323
chapter accepts the privilege of practicing in this state and, by 1324
so doing, shall be deemed to have given consent to submit to a 1325
mental or physical examination when directed to do so in writing 1326
by the board, and to have waived all objections to the 1327
admissibility of testimony or examination reports that constitute 1328
a privileged communication. 1329

(20) Except when civil penalties are imposed under section 1330
4731.225 or 4731.281 of the Revised Code, and subject to section 1331
4731.226 of the Revised Code, violating or attempting to violate, 1332
directly or indirectly, or assisting in or abetting the violation 1333
of, or conspiring to violate, any provisions of this chapter or 1334
any rule promulgated by the board. 1335

This division does not apply to a violation or attempted 1336
violation of, assisting in or abetting the violation of, or a 1337
conspiracy to violate, any provision of this chapter or any rule 1338
adopted by the board that would preclude the making of a report by 1339
a physician of an employee's use of a drug of abuse, or of a 1340
condition of an employee other than one involving the use of a 1341
drug of abuse, to the employer of the employee as described in 1342
division (B) of section 2305.33 of the Revised Code. Nothing in 1343
this division affects the immunity from civil liability conferred 1344
by that section upon a physician who makes either type of report 1345
in accordance with division (B) of that section. As used in this 1346
division, "employee," "employer," and "physician" have the same 1347

meanings as in section 2305.33 of the Revised Code. 1348

(21) The violation of section 3701.79 of the Revised Code or 1349
of any abortion rule adopted by the director of health pursuant to 1350
section 3701.341 of the Revised Code; 1351

(22) Any of the following actions taken by an agency 1352
responsible for authorizing, certifying, or regulating an 1353
individual to practice a health care occupation or provide health 1354
care services in this state or another jurisdiction, for any 1355
reason other than the nonpayment of fees: the limitation, 1356
revocation, or suspension of an individual's license to practice; 1357
acceptance of an individual's license surrender; denial of a 1358
license; refusal to renew or reinstate a license; imposition of 1359
probation; or issuance of an order of censure or other reprimand; 1360

(23) The violation of section 2919.12 of the Revised Code or 1361
the performance or inducement of an abortion upon a pregnant woman 1362
with actual knowledge that the conditions specified in division 1363
(B) of section 2317.56 of the Revised Code have not been satisfied 1364
or with a heedless indifference as to whether those conditions 1365
have been satisfied, unless an affirmative defense as specified in 1366
division (H)(2) of that section would apply in a civil action 1367
authorized by division (H)(1) of that section; 1368

(24) The revocation, suspension, restriction, reduction, or 1369
termination of clinical privileges by the United States department 1370
of defense or department of veterans affairs or the termination or 1371
suspension of a certificate of registration to prescribe drugs by 1372
the drug enforcement administration of the United States 1373
department of justice; 1374

(25) Termination or suspension from participation in the 1375
medicare or medicaid programs by the department of health and 1376
human services or other responsible agency for any act or acts 1377
that also would constitute a violation of division (B)(2), (3), 1378

(6), (8), or (19) of this section; 1379

(26) Impairment of ability to practice according to 1380
acceptable and prevailing standards of care because of habitual or 1381
excessive use or abuse of drugs, alcohol, or other substances that 1382
impair ability to practice. 1383

For the purposes of this division, any individual authorized 1384
to practice by this chapter accepts the privilege of practicing in 1385
this state subject to supervision by the board. By filing an 1386
application for or holding a certificate to practice under this 1387
chapter, an individual shall be deemed to have given consent to 1388
submit to a mental or physical examination when ordered to do so 1389
by the board in writing, and to have waived all objections to the 1390
admissibility of testimony or examination reports that constitute 1391
privileged communications. 1392

If it has reason to believe that any individual authorized to 1393
practice by this chapter or any applicant for certification to 1394
practice suffers such impairment, the board may compel the 1395
individual to submit to a mental or physical examination, or both. 1396
The expense of the examination is the responsibility of the 1397
individual compelled to be examined. Any mental or physical 1398
examination required under this division shall be undertaken by a 1399
treatment provider or physician who is qualified to conduct the 1400
examination and who is chosen by the board. 1401

Failure to submit to a mental or physical examination ordered 1402
by the board constitutes an admission of the allegations against 1403
the individual unless the failure is due to circumstances beyond 1404
the individual's control, and a default and final order may be 1405
entered without the taking of testimony or presentation of 1406
evidence. If the board determines that the individual's ability to 1407
practice is impaired, the board shall suspend the individual's 1408
certificate or deny the individual's application and shall require 1409
the individual, as a condition for initial, continued, reinstated, 1410

or renewed certification to practice, to submit to treatment. 1411

Before being eligible to apply for reinstatement of a 1412
certificate suspended under this division, the impaired 1413
practitioner shall demonstrate to the board the ability to resume 1414
practice in compliance with acceptable and prevailing standards of 1415
care under the provisions of the practitioner's certificate. The 1416
demonstration shall include, but shall not be limited to, the 1417
following: 1418

(a) Certification from a treatment provider approved under 1419
section 4731.25 of the Revised Code that the individual has 1420
successfully completed any required inpatient treatment; 1421

(b) Evidence of continuing full compliance with an aftercare 1422
contract or consent agreement; 1423

(c) Two written reports indicating that the individual's 1424
ability to practice has been assessed and that the individual has 1425
been found capable of practicing according to acceptable and 1426
prevailing standards of care. The reports shall be made by 1427
individuals or providers approved by the board for making the 1428
assessments and shall describe the basis for their determination. 1429

The board may reinstate a certificate suspended under this 1430
division after that demonstration and after the individual has 1431
entered into a written consent agreement. 1432

When the impaired practitioner resumes practice, the board 1433
shall require continued monitoring of the individual. The 1434
monitoring shall include, but not be limited to, compliance with 1435
the written consent agreement entered into before reinstatement or 1436
with conditions imposed by board order after a hearing, and, upon 1437
termination of the consent agreement, submission to the board for 1438
at least two years of annual written progress reports made under 1439
penalty of perjury stating whether the individual has maintained 1440
sobriety. 1441

(27) A second or subsequent violation of section 4731.66 or	1442
4731.69 of the Revised Code;	1443
(28) Except as provided in division (N) of this section:	1444
(a) Waiving the payment of all or any part of a deductible or	1445
copayment that a patient, pursuant to a health insurance or health	1446
care policy, contract, or plan that covers the individual's	1447
services, otherwise would be required to pay if the waiver is used	1448
as an enticement to a patient or group of patients to receive	1449
health care services from that individual;	1450
(b) Advertising that the individual will waive the payment of	1451
all or any part of a deductible or copayment that a patient,	1452
pursuant to a health insurance or health care policy, contract, or	1453
plan that covers the individual's services, otherwise would be	1454
required to pay.	1455
(29) Failure to use universal blood and body fluid	1456
precautions established by rules adopted under section 4731.051 of	1457
the Revised Code;	1458
(30) Failure to provide notice to, and receive acknowledgment	1459
of the notice from, a patient when required by section 4731.143 of	1460
the Revised Code prior to providing nonemergency professional	1461
services, or failure to maintain that notice in the patient's	1462
file;	1463
(31) Failure of a physician supervising a physician assistant	1464
to maintain supervision in accordance with the requirements of	1465
Chapter 4730. of the Revised Code and the rules adopted under that	1466
chapter;	1467
(32) Failure of a physician or podiatrist to enter into a	1468
standard care arrangement with a clinical nurse specialist,	1469
certified nurse-midwife, or certified nurse practitioner with whom	1470
the physician or podiatrist is in collaboration pursuant to	1471
section 4731.27 of the Revised Code or failure to fulfill the	1472

responsibilities of collaboration after entering into a standard care arrangement;	1473 1474
(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;	1475 1476 1477
(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	1478 1479 1480 1481 1482 1483 1484 1485 1486
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	1487 1488 1489
(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;	1490 1491 1492
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	1493 1494
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1495 1496
(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;	1497 1498 1499
(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;	1500 1501 1502

(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;	1503 1504 1505 1506
(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;	1507 1508 1509 1510
(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;	1511 1512 1513 1514
(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;	1515 1516 1517 1518
(45) Failure to supervise a genetic counselor holding a supervised practice license in accordance with Chapter 4778. of the Revised Code and the board's rules for supervision of the genetic counselor;	1519 1520 1521 1522
(46) Failure to fulfill the responsibilities of collaboration after entering into a collaborative agreement with a genetic counselor under division (B) of section 4778.11 of the Revised Code or failure to comply with the board's rules regarding such agreements;	1523 1524 1525 1526 1527
<u>(47) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	1528 1529
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent	1530 1531 1532 1533

agreement with an individual to resolve an allegation of a 1534
violation of this chapter or any rule adopted under it. A consent 1535
agreement, when ratified by an affirmative vote of not fewer than 1536
six members of the board, shall constitute the findings and order 1537
of the board with respect to the matter addressed in the 1538
agreement. If the board refuses to ratify a consent agreement, the 1539
admissions and findings contained in the consent agreement shall 1540
be of no force or effect. 1541

A telephone conference call may be utilized for ratification 1542
of a consent agreement that revokes or suspends an individual's 1543
certificate to practice. The telephone conference call shall be 1544
considered a special meeting under division (F) of section 121.22 1545
of the Revised Code. 1546

If the board takes disciplinary action against an individual 1547
under division (B) of this section for a second or subsequent plea 1548
of guilty to, or judicial finding of guilt of, a violation of 1549
section 2919.123 of the Revised Code, the disciplinary action 1550
shall consist of a suspension of the individual's certificate to 1551
practice for a period of at least one year or, if determined 1552
appropriate by the board, a more serious sanction involving the 1553
individual's certificate to practice. Any consent agreement 1554
entered into under this division with an individual that pertains 1555
to a second or subsequent plea of guilty to, or judicial finding 1556
of guilt of, a violation of that section shall provide for a 1557
suspension of the individual's certificate to practice for a 1558
period of at least one year or, if determined appropriate by the 1559
board, a more serious sanction involving the individual's 1560
certificate to practice. 1561

(D) For purposes of divisions (B)(10), (12), and (14) of this 1562
section, the commission of the act may be established by a finding 1563
by the board, pursuant to an adjudication under Chapter 119. of 1564
the Revised Code, that the individual committed the act. The board 1565

does not have jurisdiction under those divisions if the trial 1566
court renders a final judgment in the individual's favor and that 1567
judgment is based upon an adjudication on the merits. The board 1568
has jurisdiction under those divisions if the trial court issues 1569
an order of dismissal upon technical or procedural grounds. 1570

(E) The sealing of conviction records by any court shall have 1571
no effect upon a prior board order entered under this section or 1572
upon the board's jurisdiction to take action under this section 1573
if, based upon a plea of guilty, a judicial finding of guilt, or a 1574
judicial finding of eligibility for intervention in lieu of 1575
conviction, the board issued a notice of opportunity for a hearing 1576
prior to the court's order to seal the records. The board shall 1577
not be required to seal, destroy, redact, or otherwise modify its 1578
records to reflect the court's sealing of conviction records. 1579

(F)(1) The board shall investigate evidence that appears to 1580
show that a person has violated any provision of this chapter or 1581
any rule adopted under it. Any person may report to the board in a 1582
signed writing any information that the person may have that 1583
appears to show a violation of any provision of this chapter or 1584
any rule adopted under it. In the absence of bad faith, any person 1585
who reports information of that nature or who testifies before the 1586
board in any adjudication conducted under Chapter 119. of the 1587
Revised Code shall not be liable in damages in a civil action as a 1588
result of the report or testimony. Each complaint or allegation of 1589
a violation received by the board shall be assigned a case number 1590
and shall be recorded by the board. 1591

(2) Investigations of alleged violations of this chapter or 1592
any rule adopted under it shall be supervised by the supervising 1593
member elected by the board in accordance with section 4731.02 of 1594
the Revised Code and by the secretary as provided in section 1595
4731.39 of the Revised Code. The president may designate another 1596
member of the board to supervise the investigation in place of the 1597

supervising member. No member of the board who supervises the 1598
investigation of a case shall participate in further adjudication 1599
of the case. 1600

(3) In investigating a possible violation of this chapter or 1601
any rule adopted under this chapter, the board may administer 1602
oaths, order the taking of depositions, inspect and copy any 1603
books, accounts, papers, records, or documents, issue subpoenas, 1604
and compel the attendance of witnesses and production of books, 1605
accounts, papers, records, documents, and testimony, except that a 1606
subpoena for patient record information shall not be issued 1607
without consultation with the attorney general's office and 1608
approval of the secretary and supervising member of the board. 1609
Before issuance of a subpoena for patient record information, the 1610
secretary and supervising member shall determine whether there is 1611
probable cause to believe that the complaint filed alleges a 1612
violation of this chapter or any rule adopted under it and that 1613
the records sought are relevant to the alleged violation and 1614
material to the investigation. The subpoena may apply only to 1615
records that cover a reasonable period of time surrounding the 1616
alleged violation. 1617

On failure to comply with any subpoena issued by the board 1618
and after reasonable notice to the person being subpoenaed, the 1619
board may move for an order compelling the production of persons 1620
or records pursuant to the Rules of Civil Procedure. 1621

A subpoena issued by the board may be served by a sheriff, 1622
the sheriff's deputy, or a board employee designated by the board. 1623
Service of a subpoena issued by the board may be made by 1624
delivering a copy of the subpoena to the person named therein, 1625
reading it to the person, or leaving it at the person's usual 1626
place of residence. When the person being served is a person whose 1627
practice is authorized by this chapter, service of the subpoena 1628
may be made by certified mail, restricted delivery, return receipt 1629

requested, and the subpoena shall be deemed served on the date 1630
delivery is made or the date the person refuses to accept 1631
delivery. 1632

A sheriff's deputy who serves a subpoena shall receive the 1633
same fees as a sheriff. Each witness who appears before the board 1634
in obedience to a subpoena shall receive the fees and mileage 1635
provided for under section 119.094 of the Revised Code. 1636

(4) All hearings and investigations of the board shall be 1637
considered civil actions for the purposes of section 2305.252 of 1638
the Revised Code. 1639

(5) Information received by the board pursuant to an 1640
investigation is confidential and not subject to discovery in any 1641
civil action. 1642

The board shall conduct all investigations and proceedings in 1643
a manner that protects the confidentiality of patients and persons 1644
who file complaints with the board. The board shall not make 1645
public the names or any other identifying information about 1646
patients or complainants unless proper consent is given or, in the 1647
case of a patient, a waiver of the patient privilege exists under 1648
division (B) of section 2317.02 of the Revised Code, except that 1649
consent or a waiver of that nature is not required if the board 1650
possesses reliable and substantial evidence that no bona fide 1651
physician-patient relationship exists. 1652

The board may share any information it receives pursuant to 1653
an investigation, including patient records and patient record 1654
information, with law enforcement agencies, other licensing 1655
boards, and other governmental agencies that are prosecuting, 1656
adjudicating, or investigating alleged violations of statutes or 1657
administrative rules. An agency or board that receives the 1658
information shall comply with the same requirements regarding 1659
confidentiality as those with which the state medical board must 1660

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

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

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

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

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

(d) The disposition of the case.

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

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

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

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

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

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

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

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty

plea, or judicial finding of eligibility for intervention in lieu 1723
of conviction is overturned on appeal, upon exhaustion of the 1724
criminal appeal, a petition for reconsideration of the order may 1725
be filed with the board along with appropriate court documents. 1726
Upon receipt of a petition of that nature and supporting court 1727
documents, the board shall reinstate the individual's certificate 1728
to practice. The board may then hold an adjudication under Chapter 1729
119. of the Revised Code to determine whether the individual 1730
committed the act in question. Notice of an opportunity for a 1731
hearing shall be given in accordance with Chapter 119. of the 1732
Revised Code. If the board finds, pursuant to an adjudication held 1733
under this division, that the individual committed the act or if 1734
no hearing is requested, the board may order any of the sanctions 1735
identified under division (B) of this section. 1736

(I) The certificate to practice issued to an individual under 1737
this chapter and the individual's practice in this state are 1738
automatically suspended as of the date of the individual's second 1739
or subsequent plea of guilty to, or judicial finding of guilt of, 1740
a violation of section 2919.123 of the Revised Code, or the date 1741
the individual pleads guilty to, is found by a judge or jury to be 1742
guilty of, or is subject to a judicial finding of eligibility for 1743
intervention in lieu of conviction in this state or treatment or 1744
intervention in lieu of conviction in another jurisdiction for any 1745
of the following criminal offenses in this state or a 1746
substantially equivalent criminal offense in another jurisdiction: 1747
aggravated murder, murder, voluntary manslaughter, felonious 1748
assault, kidnapping, rape, sexual battery, gross sexual 1749
imposition, aggravated arson, aggravated robbery, or aggravated 1750
burglary. Continued practice after suspension shall be considered 1751
practicing without a certificate. 1752

The board shall notify the individual subject to the 1753
suspension by certified mail or in person in accordance with 1754

section 119.07 of the Revised Code. If an individual whose
certificate is automatically suspended under this division fails
to make a timely request for an adjudication under Chapter 119. of
the Revised Code, the board shall do whichever of the following is
applicable:

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

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

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

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

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

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

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

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

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

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

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments

shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

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

(0) 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;

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

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

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

program. 1849

An individual who participates in an individual educational 1850
program pursuant to this division shall pay the financial 1851
obligations arising from that educational program. 1852

Sec. 4732.17. (A) The state board of psychology may refuse to 1853
issue a license to any applicant, may issue a reprimand, or 1854
suspend or revoke the license of any licensed psychologist or 1855
licensed school psychologist, on any of the following grounds: 1856

(1) Conviction of a felony, or of any offense involving moral 1857
turpitude, in a court of this or any other state or in a federal 1858
court; 1859

(2) Using fraud or deceit in the procurement of the license 1860
to practice psychology or school psychology or knowingly assisting 1861
another in the procurement of such a license through fraud or 1862
deceit; 1863

(3) Accepting commissions or rebates or other forms of 1864
remuneration for referring persons to other professionals; 1865

(4) Willful, unauthorized communication of information 1866
received in professional confidence; 1867

(5) Being negligent in the practice of psychology or school 1868
psychology; 1869

(6) Using any controlled substance or alcoholic beverage to 1870
an extent that such use impairs the person's ability to perform 1871
the work of a psychologist or school psychologist with safety to 1872
the public; 1873

(7) Subject to section 4732.28 of the Revised Code, violating 1874
any rule of professional conduct promulgated by the board; 1875

(8) Practicing in an area of psychology for which the person 1876
is clearly untrained or incompetent; 1877

(9) An adjudication by a court, as provided in section 1878
5122.301 of the Revised Code, that the person is incompetent for 1879
the purpose of holding the license. Such person may have the 1880
person's license issued or restored only upon determination by a 1881
court that the person is competent for the purpose of holding the 1882
license and upon the decision by the board that such license be 1883
issued or restored. The board may require an examination prior to 1884
such issuance or restoration. 1885

(10) Waiving the payment of all or any part of a deductible 1886
or copayment that a patient, pursuant to a health insurance or 1887
health care policy, contract, or plan that covers psychological 1888
services, would otherwise be required to pay if the waiver is used 1889
as an enticement to a patient or group of patients to receive 1890
health care services from that provider; 1891

(11) Advertising that the person will waive the payment of 1892
all or any part of a deductible or copayment that a patient, 1893
pursuant to a health insurance or health care policy, contract, or 1894
plan that covers psychological services, would otherwise be 1895
required to pay; 1896

(12) Making a false, fraudulent, deceptive, or misleading 1897
statement in the solicitation of or advertising for patients in 1898
relation to the practice of psychology or school psychology; 1899

(13) Failure to comply with the requirements of section 1900
4745.04 of the Revised Code. 1901

(B) Notwithstanding division (A)(10) and (11) of this 1902
section, sanctions shall not be imposed against any licensee who 1903
waives deductibles and copayments: 1904

~~(a)~~(1) In compliance with the health benefit plan that 1905
expressly allows such a practice. Waiver of the deductibles or 1906
copays shall be made only with the full knowledge and consent of 1907
the plan purchaser, payer, and third-party administrator. Such 1908

consent shall be made available to the board upon request. 1909

~~(b)~~(2) For professional services rendered to any other person 1910
licensed pursuant to this chapter to the extent allowed by this 1911
chapter and the rules of the board. 1912

~~(B)~~(C) Except as provided in section 4732.171 of the Revised 1913
Code, before the board may deny, suspend, or revoke a license 1914
under this section, or otherwise discipline the holder of a 1915
license, written charges shall be filed with the board by the 1916
secretary and a hearing shall be had thereon in accordance with 1917
Chapter 119. of the Revised Code. 1918

Sec. 4734.31. (A) The state chiropractic board may take any 1919
of the actions specified in division (B) of this section against 1920
an individual who has applied for or holds a license to practice 1921
chiropractic in this state if any of the reasons specified in 1922
division (C) of this section for taking action against an 1923
individual are applicable. Except as provided in division (D) of 1924
this section, actions taken against an individual shall be taken 1925
in accordance with Chapter 119. of the Revised Code. The board may 1926
specify that any action it takes is a permanent action. The 1927
board's authority to take action against an individual is not 1928
removed or limited by the individual's failure to renew a license. 1929

(B) In its imposition of sanctions against an individual, the 1930
board may do any of the following: 1931

(1) Refuse to issue, renew, restore, or reinstate a license 1932
to practice chiropractic or a certificate to practice acupuncture; 1933

(2) Reprimand or censure a license holder; 1934

(3) Place limits, restrictions, or probationary conditions on 1935
a license holder's practice; 1936

(4) Impose a civil fine of not more than five thousand 1937
dollars according to a schedule of fines specified in rules that 1938

the board shall adopt in accordance with Chapter 119. of the Revised Code.

(5) Suspend a license to practice chiropractic or a certificate to practice acupuncture for a limited or indefinite period;

(6) Revoke a license to practice chiropractic or a certificate to practice acupuncture.

(C) The board may take the actions specified in division (B) of this section for any of the following reasons:

(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony in any jurisdiction, in which case a certified copy of the court record shall be conclusive evidence of the conviction;

(2) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter;

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

(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(6) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	1969 1970 1971
(7) A violation or attempted violation of this chapter or the rules adopted under it governing the practice of chiropractic and the practice of acupuncture by a chiropractor licensed under this chapter;	1972 1973 1974 1975
(8) Failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if the board or a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	1976 1977 1978 1979 1980 1981 1982 1983 1984
(9) Engaging in an ongoing professional relationship with a person or entity that violates any provision of this chapter or the rules adopted under it, unless the chiropractor makes a good faith effort to have the person or entity comply with the provisions;	1985 1986 1987 1988 1989
(10) Retaliating against a chiropractor for the chiropractor's reporting to the board or any other agency with jurisdiction any violation of the law or for cooperating with the board of another agency in the investigation of any violation of the law;	1990 1991 1992 1993 1994
(11) Aiding, abetting, assisting, counseling, or conspiring with any person in that person's violation of any provision of this chapter or the rules adopted under it, including the practice of chiropractic without a license, the practice of acupuncture without a certificate, or aiding, abetting, assisting, counseling,	1995 1996 1997 1998 1999

or conspiring with any person in that person's unlicensed practice 2000
of any other health care profession that has licensing 2001
requirements; 2002

(12) With respect to a report or record that is made, filed, 2003
or signed in connection with the practice of chiropractic or 2004
acupuncture, knowingly making or filing a report or record that is 2005
false, intentionally or negligently failing to file a report or 2006
record required by federal, state, or local law or willfully 2007
impeding or obstructing the required filing, or inducing another 2008
person to engage in any such acts; 2009

(13) Making a false, fraudulent, or deceitful statement to 2010
the board or any agent of the board during any investigation or 2011
other official proceeding conducted by the board under this 2012
chapter or in any filing that must be submitted to the board; 2013

(14) Attempting to secure a license to practice chiropractic 2014
or certificate to practice acupuncture or to corrupt the outcome 2015
of an official board proceeding through bribery or any other 2016
improper means; 2017

(15) Willfully obstructing or hindering the board or any 2018
agent of the board in the discharge of the board's duties; 2019

(16) Habitually using drugs or intoxicants to the extent that 2020
the person is rendered unfit for the practice of chiropractic or 2021
acupuncture; 2022

(17) Inability to practice chiropractic or acupuncture 2023
according to acceptable and prevailing standards of care by reason 2024
of chemical dependency, mental illness, or physical illness, 2025
including conditions in which physical deterioration has adversely 2026
affected the person's cognitive, motor, or perceptive skills and 2027
conditions in which a chiropractor's continued practice may pose a 2028
danger to the chiropractor or the public; 2029

(18) Any act constituting gross immorality relative to the 2030

person's practice of chiropractic or acupuncture, including acts	2031
involving sexual abuse, sexual misconduct, or sexual exploitation;	2032
(19) Exploiting a patient for personal or financial gain;	2033
(20) Failing to maintain proper, accurate, and legible	2034
records in the English language documenting each patient's care,	2035
including, as appropriate, records of the following: dates of	2036
treatment, services rendered, examinations, tests, x-ray reports,	2037
referrals, and the diagnosis or clinical impression and clinical	2038
treatment plan provided to the patient;	2039
(21) Except as otherwise required by the board or by law,	2040
disclosing patient information gained during the chiropractor's	2041
professional relationship with a patient without obtaining the	2042
patient's authorization for the disclosure;	2043
(22) Commission of willful or gross malpractice, or willful	2044
or gross neglect, in the practice of chiropractic or acupuncture;	2045
(23) Failing to perform or negligently performing an act	2046
recognized by the board as a general duty or the exercise of due	2047
care in the practice of chiropractic or acupuncture, regardless of	2048
whether injury results to a patient from the failure to perform or	2049
negligent performance of the act;	2050
(24) Engaging in any conduct or practice that impairs or may	2051
impair the ability to practice chiropractic or acupuncture safely	2052
and skillfully;	2053
(25) Practicing, or claiming to be capable of practicing,	2054
beyond the scope of the practice of chiropractic or acupuncture as	2055
established under this chapter and the rules adopted under this	2056
chapter;	2057
(26) Accepting and performing professional responsibilities	2058
as a chiropractor or chiropractor with a certificate to practice	2059
acupuncture when not qualified to perform those responsibilities,	2060

if the person knew or had reason to know that the person was not 2061
qualified to perform them; 2062

(27) Delegating any of the professional responsibilities of a 2063
chiropractor or chiropractor with a certificate to practice 2064
acupuncture to an employee or other individual when the delegating 2065
chiropractor knows or had reason to know that the employee or 2066
other individual is not qualified by training, experience, or 2067
professional licensure to perform the responsibilities; 2068

(28) Delegating any of the professional responsibilities of a 2069
chiropractor or chiropractor with a certificate to practice 2070
acupuncture to an employee or other individual in a negligent 2071
manner or failing to provide proper supervision of the employee or 2072
other individual to whom the responsibilities are delegated; 2073

(29) Failing to refer a patient to another health care 2074
practitioner for consultation or treatment when the chiropractor 2075
knows or has reason to know that the referral is in the best 2076
interest of the patient; 2077

(30) Obtaining or attempting to obtain any fee or other 2078
advantage by fraud or misrepresentation; 2079

(31) Making misleading, deceptive, false, or fraudulent 2080
representations in the practice of chiropractic or acupuncture; 2081

(32) Being guilty of false, fraudulent, deceptive, or 2082
misleading advertising or other solicitations for patients or 2083
knowingly having professional connection with any person that 2084
advertises or solicits for patients in such a manner; 2085

(33) Violation of a provision of any code of ethics 2086
established or adopted by the board under section 4734.16 of the 2087
Revised Code; 2088

(34) Failing to meet the examination requirements for receipt 2089
of a license specified under section 4734.20 of the Revised Code; 2090

(35) Actions taken for any reason, other than nonpayment of fees, by the chiropractic or acupuncture licensing authority of another state or country;	2091 2092 2093
(36) Failing to maintain clean and sanitary conditions at the clinic, office, or other place in which chiropractic services or acupuncture services are provided;	2094 2095 2096
(37) Except as provided in division (G) of this section:	2097
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that chiropractor;	2098 2099 2100 2101 2102 2103
(b) Advertising that the chiropractor will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay.	2104 2105 2106 2107 2108
(38) Failure to supervise an acupuncturist in accordance with the provisions of section 4762.11 of the Revised Code that are applicable to the supervising chiropractor of an acupuncturist;	2109 2110 2111
<u>(39) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	2112 2113
(D) The adjudication requirements of Chapter 119. of the Revised Code apply to the board when taking actions against an individual under this section, except as follows:	2114 2115 2116
(1) An applicant is not entitled to an adjudication for failing to meet the conditions specified under section 4734.20 of the Revised Code for receipt of a license that involve the board's examination on jurisprudence or the examinations of the national	2117 2118 2119 2120

board of chiropractic examiners. 2121

(2) A person is not entitled to an adjudication if the person 2122
fails to make a timely request for a hearing, in accordance with 2123
Chapter 119. of the Revised Code. 2124

(3) In lieu of an adjudication, the board may accept the 2125
surrender of a license to practice chiropractic or certificate to 2126
practice acupuncture from a chiropractor. 2127

(4) In lieu of an adjudication, the board may enter into a 2128
consent agreement with an individual to resolve an allegation of a 2129
violation of this chapter or any rule adopted under it. A consent 2130
agreement, when ratified by the board, shall constitute the 2131
findings and order of the board with respect to the matter 2132
addressed in the agreement. If the board refuses to ratify a 2133
consent agreement, the admissions and findings contained in the 2134
consent agreement shall be of no force or effect. 2135

(E) This section does not require the board to hire, contract 2136
with, or retain the services of an expert witness when the board 2137
takes action against a chiropractor concerning compliance with 2138
acceptable and prevailing standards of care in the practice of 2139
chiropractic or acupuncture. As part of an action taken concerning 2140
compliance with acceptable and prevailing standards of care, the 2141
board may rely on the knowledge of its members for purposes of 2142
making a determination of compliance, notwithstanding any expert 2143
testimony presented by the chiropractor that contradicts the 2144
knowledge and opinions of the members of the board. 2145

(F) The sealing of conviction records by a court shall have 2146
no effect on a prior board order entered under this section or on 2147
the board's jurisdiction to take action under this section if, 2148
based on a plea of guilty, a judicial finding of guilt, or a 2149
judicial finding of eligibility for intervention in lieu of 2150
conviction, the board issued a notice of opportunity for a hearing 2151

prior to the court's order to seal the records. The board shall 2152
not be required to seal, destroy, redact, or otherwise modify its 2153
records to reflect the court's sealing of conviction records. 2154

(G) Actions shall not be taken pursuant to division (C)(37) 2155
of this section against any chiropractor who waives deductibles 2156
and copayments as follows: 2157

(1) In compliance with the health benefit plan that expressly 2158
allows a practice of that nature. Waiver of the deductibles or 2159
copayments shall be made only with the full knowledge and consent 2160
of the plan purchaser, payer, and third-party administrator. 2161
Documentation of the consent shall be made available to the board 2162
upon request. 2163

(2) For professional services rendered to any other person 2164
licensed pursuant to this chapter, to the extent allowed by this 2165
chapter and the rules of the board. 2166

Sec. 4745.04. (A) As used in this section: 2167

(1) "Advertisement" means any communication or statement, 2168
whether printed, electronic, or oral, that names a health care 2169
professional in connection with the professional's practice, 2170
profession, or institution in which the professional is employed, 2171
volunteers, or otherwise provides health care services. 2172
"Advertisement" includes circulars, signs, newspaper or magazine 2173
publications, business cards, letterhead, patient brochures, and 2174
other oral or written communications. 2175

(2) "Health care professional" means an individual licensed 2176
to provide medical, dental, or other health-related diagnosis, 2177
care, or treatment under Chapter 4715., 4723., 4725., 4729., 2178
4730., 4731., 4732., 4734., 4753., 4755., 4757., 4758., 4759., 2179
4760., 4761., 4762., 4765., 4773., 4774., 4778., or 4779. of the 2180
Revised Code. 2181

(B)(1) Except as provided in division (B)(3) of this section, 2182
at all times when providing direct patient care, a health care 2183
professional shall wear an identification card, badge, or similar 2184
device that includes all of the following: 2185

(a) A recent photograph of the professional; 2186

(b) The professional's name; 2187

(c) The type of license held by the professional; 2188

(d) The expiration date of the professional's license. 2189

(2) The identification card, badge, or similar device that is 2190
worn pursuant to division (B)(1) of this section shall be of 2191
sufficient size and shall be worn in a conspicuous place so as to 2192
be visible to patients and other individuals. 2193

(3) A health care professional is not subject to division 2194
(B)(1) of this section if a safety or health risk to the health 2195
care professional or a patient would be created as a result of the 2196
professional wearing the identification card, badge, or similar 2197
device. 2198

(C)(1) Except as provided in division (C)(2) of this section, 2199
all advertisements for health care services that name a health 2200
care professional who provides direct patient care shall identify 2201
the type of license held by the professional. 2202

(2) Division (C)(1) of this section does not permit a 2203
physician assistant to advertise to provide services as a 2204
physician assistant in violation of division (H) of section 2205
4730.02 of the Revised Code. 2206

(D) Divisions (B) and (C) of this section do not apply to a 2207
health care professional who practices at a location where direct 2208
patient care is not provided. 2209

Sec. 4753.10. In accordance with Chapter 119. of the Revised 2210

Code, the board of speech-language pathology and audiology may 2211
reprimand or place on probation a speech-language pathologist or 2212
audiologist or suspend, revoke, or refuse to issue or renew the 2213
license of a speech-language pathologist or audiologist. 2214
Disciplinary actions may be taken by the board for conduct that 2215
may result from but not necessarily be limited to: 2216

(A) Fraud, deception, or misrepresentation in obtaining or 2217
attempting to obtain a license; 2218

(B) Fraud, deception, or misrepresentation in using a 2219
license; 2220

(C) Altering a license; 2221

(D) Aiding or abetting unlicensed practice; 2222

(E) Committing fraud, deception, or misrepresentation in the 2223
practice of speech-language pathology or audiology including: 2224

(1) Making or filing a false report or record in the practice 2225
of speech-language pathology or audiology; 2226

(2) Submitting a false statement to collect a fee; 2227

(3) Obtaining a fee through fraud, deception, or 2228
misrepresentation, or accepting commissions or rebates or other 2229
forms of remuneration for referring persons to others. 2230

(F) Using or promoting or causing the use of any misleading, 2231
deceiving, improbable, or untruthful advertising matter, 2232
promotional literature, testimonial, guarantee, warranty, label, 2233
brand, insignia, or any other representation; 2234

(G) Falsely representing the use or availability of services 2235
or advice of a physician; 2236

(H) Misrepresenting the applicant, licensee, or holder by 2237
using the word "doctor" or any similar word, abbreviation, or 2238
symbol if the use is not accurate or if the degree was not 2239
obtained from an accredited institution; 2240

(I) Committing any act of dishonorable, immoral, or unprofessional conduct while engaging in the practice of speech-language pathology or audiology;	2241 2242 2243
(J) Engaging in illegal, incompetent, or habitually negligent practice;	2244 2245
(K) Providing professional services while:	2246
(1) Mentally incompetent;	2247
(2) Under the influence of alcohol;	2248
(3) Using any narcotic or controlled substance or other drug that is in excess of therapeutic amounts or without valid medical indication.	2249 2250 2251
(L) Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from such services, devices, appliances, or products in accordance with results obtained utilizing appropriate assessment procedures and instruments;	2252 2253 2254 2255 2256
(M) Violating this chapter or any lawful order given or rule adopted by the board;	2257 2258
(N) Being convicted of or pleading guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;	2259 2260 2261 2262
(O) Being disciplined by a licensing or disciplinary authority of this or any other state or country or convicted or disciplined by a court of this or any other state or country for an act that would be grounds for disciplinary action under this section;	2263 2264 2265 2266 2267
<u>(P) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	2268 2269
After revocation of a license under this section, application	2270

may be made to the board for reinstatement. The board, in 2271
accordance with an order of revocation as issued under Chapter 2272
119. of the Revised Code, may require an examination for such 2273
reinstatement. 2274

If any person has engaged in any practice which constitutes 2275
an offense under the provisions of this chapter or rules 2276
promulgated thereunder by the board, the board may apply to the 2277
court of common pleas of the county for an injunction or other 2278
appropriate order restraining such conduct, and the court may 2279
issue such order. 2280

Any person who wishes to make a complaint against any person 2281
licensed pursuant to this chapter shall submit the complaint in 2282
writing to the board within one year from the date of the action 2283
or event upon which the complaint is based. The board shall 2284
determine whether the allegations in the complaint are of a 2285
sufficiently serious nature to warrant formal disciplinary charges 2286
against the licensee pursuant to this section. If the board 2287
determines that formal disciplinary charges are warranted, it 2288
shall proceed in accordance with the procedures established in 2289
Chapter 119. of the Revised Code. 2290

Sec. 4755.11. (A) In accordance with Chapter 119. of the 2291
Revised Code, the occupational therapy section of the Ohio 2292
occupational therapy, physical therapy, and athletic trainers 2293
board may suspend, revoke, or refuse to issue or renew an 2294
occupational therapist license, occupational therapy assistant 2295
license, occupational therapist limited permit, occupational 2296
therapy assistant limited permit, or reprimand, fine, or place a 2297
license or limited permit holder on probation, for any of the 2298
following: 2299

(1) Conviction of an offense involving moral turpitude or a 2300
felony, regardless of the state or country in which the conviction 2301

occurred;	2302
(2) Violation of any provision of sections 4755.04 to 4755.13 of the Revised Code;	2303 2304
(3) Violation of any lawful order or rule of the occupational therapy section;	2305 2306
(4) Obtaining or attempting to obtain a license or limited permit issued by the occupational therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statements in relation to these activities;	2307 2308 2309 2310
(5) Negligence, unprofessional conduct, or gross misconduct in the practice of the profession of occupational therapy;	2311 2312
(6) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;	2313 2314
(7) Communicating, without authorization, information received in professional confidence;	2315 2316
(8) Using controlled substances, habit forming drugs, or alcohol to an extent that it impairs the ability to perform the work of an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder;	2317 2318 2319 2320 2321
(9) Practicing in an area of occupational therapy for which the individual is untrained or incompetent;	2322 2323
(10) Failing the licensing or Ohio jurisprudence examination;	2324
(11) Aiding, abetting, directing, or supervising the unlicensed practice of occupational therapy;	2325 2326
(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including occupational therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;	2327 2328 2329 2330

(13) Except as provided in division (B) of this section:	2331
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	2332 2333 2334 2335 2336 2337
(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.	2338 2339 2340 2341 2342
(14) Working or representing oneself as an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder without a current and valid license or limited permit issued by the occupational therapy section;	2343 2344 2345 2346 2347
(15) Engaging in a deceptive trade practice, as defined in section 4165.02 of the Revised Code;	2348 2349
(16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;	2350 2351 2352
(17) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders, whether or not actual injury to a patient is established;	2353 2354 2355
(18) An adjudication by a court that the applicant, licensee, or limited permit holder is incompetent for the purpose of holding a license or limited permit and has not thereafter been restored to legal capacity for that purpose;	2356 2357 2358 2359
(19)(a) Except as provided in division (A)(19)(b) of this	2360

section, failure to cooperate with an investigation conducted by 2361
the occupational therapy section, including failure to comply with 2362
a subpoena or orders issued by the section or failure to answer 2363
truthfully a question presented by the section at a deposition or 2364
in written interrogatories. 2365

(b) Failure to cooperate with an investigation does not 2366
constitute grounds for discipline under this section if a court of 2367
competent jurisdiction issues an order that either quashes a 2368
subpoena or permits the individual to withhold the testimony or 2369
evidence at issue. 2370

(20) Conviction of a misdemeanor reasonably related to the 2371
practice of occupational therapy, regardless of the state or 2372
country in which the conviction occurred; 2373

(21) Inability to practice according to acceptable and 2374
prevailing standards of care because of mental or physical 2375
illness, including physical deterioration that adversely affects 2376
cognitive, motor, or perception skills; 2377

(22) Violation of conditions, limitations, or agreements 2378
placed by the occupational therapy section on a license or limited 2379
permit to practice; 2380

(23) Making a false, fraudulent, deceptive, or misleading 2381
statement in the solicitation of or advertising for patients in 2382
relation to the practice of occupational therapy; 2383

(24) Failure to complete continuing education requirements as 2384
prescribed in rules adopted by the occupational therapy section 2385
under section 4755.06 of the Revised Code; 2386

(25) Failure to comply with the requirements of section 2387
4745.04 of the Revised Code. 2388

(B) Sanctions shall not be imposed under division (A)(13) of 2389
this section against any individual who waives deductibles and 2390

copayments as follows: 2391

(1) In compliance with the health benefit plan that expressly 2392
allows such a practice. Waiver of the deductibles or copayments 2393
shall be made only with the full knowledge and consent of the plan 2394
purchaser, payer, and third-party administrator. Documentation of 2395
the consent shall be made available to the section upon request. 2396

(2) For professional services rendered to any other person 2397
licensed pursuant to sections 4755.04 to 4755.13 of the Revised 2398
Code to the extent allowed by those sections and the rules of the 2399
occupational therapy section. 2400

(C) Except as provided in division (D) of this section, the 2401
suspension or revocation of a license or limited permit under this 2402
section is not effective until either the order for suspension or 2403
revocation has been affirmed following an adjudication hearing, or 2404
the time for requesting a hearing has elapsed. 2405

When a license or limited permit is revoked under this 2406
section, application for reinstatement may not be made sooner than 2407
one year after the date of revocation. The occupational therapy 2408
section may accept or refuse an application for reinstatement and 2409
may require that the applicant pass an examination as a condition 2410
of reinstatement. 2411

When a license or limited permit holder is placed on 2412
probation under this section, the occupational therapy section's 2413
probation order shall be accompanied by a statement of the 2414
conditions under which the individual may be removed from 2415
probation and restored to unrestricted practice. 2416

(D) On receipt of a complaint that a person who holds a 2417
license or limited permit issued by the occupational therapy 2418
section has committed any of the prohibited actions listed in 2419
division (A) of this section, the section may immediately suspend 2420
the license or limited permit prior to holding a hearing in 2421

accordance with Chapter 119. of the Revised Code if it determines, 2422
based on the complaint, that the licensee or limited permit holder 2423
poses an immediate threat to the public. The section shall notify 2424
the licensee or limited permit holder of the suspension in 2425
accordance with section 119.07 of the Revised Code. If the 2426
individual whose license or limited permit is suspended fails to 2427
make a timely request for an adjudication under Chapter 119. of 2428
the Revised Code, the section shall enter a final order 2429
permanently revoking the individual's license or limited permit. 2430

(E) If any person other than a person who holds a license or 2431
limited permit issued under section 4755.08 of the Revised Code 2432
has engaged in any practice that is prohibited under sections 2433
4755.04 to 4755.13 of the Revised Code or the rules of the 2434
occupational therapy section, the section may apply to the court 2435
of common pleas of the county in which the violation occurred, for 2436
an injunction or other appropriate order restraining this conduct, 2437
and the court shall issue this order. 2438

Sec. 4755.47. (A) In accordance with Chapter 119. of the 2439
Revised Code, the physical therapy section of the Ohio 2440
occupational therapy, physical therapy, and athletic trainers 2441
board may refuse to grant a license to an applicant for an initial 2442
or renewed license as a physical therapist or physical therapist 2443
assistant or, by an affirmative vote of not less than five 2444
members, may limit, suspend, or revoke the license of a physical 2445
therapist or physical therapist assistant or reprimand, fine, or 2446
place a license holder on probation, on any of the following 2447
grounds: 2448

(1) Habitual indulgence in the use of controlled substances, 2449
other habit-forming drugs, or alcohol to an extent that affects 2450
the individual's professional competency; 2451

(2) Conviction of a felony or a crime involving moral 2452

turpitude, regardless of the state or country in which the conviction occurred;	2453 2454
(3) Obtaining or attempting to obtain a license issued by the physical therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statement;	2455 2456 2457
(4) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the applicant or licensee is incompetent for the purpose of holding the license and has not thereafter been restored to legal capacity for that purpose;	2458 2459 2460 2461
(5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics adopted by the physical therapy section;	2462 2463 2464
(6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections 4755.40 to 4755.56 of the Revised Code or any order issued or rule adopted under those sections;	2465 2466 2467 2468
(7) Failure of one or both of the examinations required under section 4755.43 or 4755.431 of the Revised Code;	2469 2470
(8) Permitting the use of one's name or license by a person, group, or corporation when the one permitting the use is not directing the treatment given;	2471 2472 2473
(9) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including physical therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;	2474 2475 2476 2477
(10) Failure to maintain minimal standards of practice in the administration or handling of drugs, as defined in section 4729.01 of the Revised Code, or failure to employ acceptable scientific methods in the selection of drugs, as defined in section 4729.01 of the Revised Code, or other modalities for treatment;	2478 2479 2480 2481 2482

(11) Willful betrayal of a professional confidence;	2483
(12) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of physical therapy;	2484 2485 2486
(13) A departure from, or the failure to conform to, minimal standards of care required of licensees when under the same or similar circumstances, whether or not actual injury to a patient is established;	2487 2488 2489 2490
(14) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	2491 2492
(15) Violation of the conditions of limitation or agreements placed by the physical therapy section on a license to practice;	2493 2494
(16) Failure to renew a license in accordance with section 4755.46 of the Revised Code;	2495 2496
(17) Except as provided in section 4755.471 of the Revised Code, engaging in the division of fees for referral of patients or receiving anything of value in return for a specific referral of a patient to utilize a particular service or business;	2497 2498 2499 2500
(18) Inability to practice according to acceptable and prevailing standards of care because of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;	2501 2502 2503 2504
(19) The revocation, suspension, restriction, or termination of clinical privileges by the United States department of defense or department of veterans affairs;	2505 2506 2507
(20) Termination or suspension from participation in the medicare or medicaid program established under Title XVIII and Title XIX, respectively, of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for an act or acts that constitute a violation of sections 4755.40 to 4755.56 of the	2508 2509 2510 2511 2512

Revised Code;	2513
(21) Failure of a physical therapist to maintain supervision	2514
of a student, physical therapist assistant, unlicensed support	2515
personnel, other assistant personnel, or a license applicant in	2516
accordance with the requirements of sections 4755.40 to 4755.56 of	2517
the Revised Code and rules adopted under those sections;	2518
(22) Failure to complete continuing education requirements as	2519
prescribed in section 4755.51 or 4755.511 of the Revised Code or	2520
to satisfy any rules applicable to continuing education	2521
requirements that are adopted by the physical therapy section;	2522
(23) Conviction of a misdemeanor when the act that	2523
constitutes the misdemeanor occurs during the practice of physical	2524
therapy;	2525
(24)(a) Except as provided in division (A)(24)(b) of this	2526
section, failure to cooperate with an investigation conducted by	2527
the physical therapy section, including failure to comply with a	2528
subpoena or orders issued by the section or failure to answer	2529
truthfully a question presented by the section at a deposition or	2530
in written interrogatories.	2531
(b) Failure to cooperate with an investigation does not	2532
constitute grounds for discipline under this section if a court of	2533
competent jurisdiction issues an order that either quashes a	2534
subpoena or permits the individual to withhold the testimony or	2535
evidence at issue.	2536
(25) Regardless of whether the contact or verbal behavior is	2537
consensual, engaging with a patient other than the spouse of the	2538
physical therapist or physical therapist assistant, in any of the	2539
following:	2540
(a) Sexual contact, as defined in section 2907.01 of the	2541
Revised Code;	2542

(b) Verbal behavior that is sexually demeaning to the patient	2543
or may be reasonably interpreted by the patient as sexually	2544
demeaning.	2545
(26) Failure to notify the physical therapy section of a	2546
change in name, business address, or home address within thirty	2547
days after the date of change;	2548
(27) Except as provided in division (B) of this section:	2549
(a) Waiving the payment of all or any part of a deductible or	2550
copayment that a patient, pursuant to a health insurance or health	2551
care policy, contract, or plan that covers physical therapy, would	2552
otherwise be required to pay if the waiver is used as an	2553
enticement to a patient or group of patients to receive health	2554
care services from that provider;	2555
(b) Advertising that the individual will waive the payment of	2556
all or any part of a deductible or copayment that a patient,	2557
pursuant to a health insurance or health care policy, contract, or	2558
plan that covers physical therapy, would otherwise be required to	2559
pay;	2560
(28) Violation of any section of this chapter or rule adopted	2561
under it;	2562
<u>(29) Failure to comply with the requirements of section</u>	2563
<u>4745.04 of the Revised Code.</u>	2564
(B) Sanctions shall not be imposed under division (A)(27) of	2565
this section against any individual who waives deductibles and	2566
copayments as follows:	2567
(1) In compliance with the health benefit plan that expressly	2568
allows such a practice. Waiver of the deductibles or copayments	2569
shall be made only with the full knowledge and consent of the plan	2570
purchaser, payer, and third-party administrator. Documentation of	2571
the consent shall be made available to the physical therapy	2572

section upon request. 2573

(2) For professional services rendered to any other person 2574
licensed pursuant to sections 4755.40 to 4755.56 of the Revised 2575
Code to the extent allowed by those sections and the rules of the 2576
physical therapy section. 2577

(C) When a license is revoked under this section, application 2578
for reinstatement may not be made sooner than one year after the 2579
date of revocation. The physical therapy section may accept or 2580
refuse an application for reinstatement and may require that the 2581
applicant pass an examination as a condition for reinstatement. 2582

When a license holder is placed on probation under this 2583
section, the physical therapy section's order for placement on 2584
probation shall be accompanied by a statement of the conditions 2585
under which the individual may be removed from probation and 2586
restored to unrestricted practice. 2587

(D) When an application for an initial or renewed license is 2588
refused under this section, the physical therapy section shall 2589
notify the applicant in writing of the section's decision to 2590
refuse issuance of a license and the reason for its decision. 2591

(E) On receipt of a complaint that a person licensed by the 2592
physical therapy section has committed any of the actions listed 2593
in division (A) of this section, the physical therapy section may 2594
immediately suspend the license of the physical therapist or 2595
physical therapist assistant prior to holding a hearing in 2596
accordance with Chapter 119. of the Revised Code if it determines, 2597
based on the complaint, that the person poses an immediate threat 2598
to the public. The physical therapy section shall notify the 2599
person of the suspension in accordance with section 119.07 of the 2600
Revised Code. If the person fails to make a timely request for an 2601
adjudication under Chapter 119. of the Revised Code, the physical 2602
therapy section shall enter a final order permanently revoking the 2603

person's license. 2604

Sec. 4755.64. (A) In accordance with Chapter 119. of the 2605
Revised Code, the athletic trainers section of the Ohio 2606
occupational therapy, physical therapy, and athletic trainers 2607
board may suspend, revoke, or refuse to issue or renew an athletic 2608
trainers license, or reprimand, fine, or place a licensee on 2609
probation, for any of the following: 2610

(1) Conviction of a felony or offense involving moral 2611
turpitude, regardless of the state or country in which the 2612
conviction occurred; 2613

(2) Violation of sections 4755.61 to 4755.65 of the Revised 2614
Code or any order issued or rule adopted thereunder; 2615

(3) Obtaining a license through fraud, false or misleading 2616
representation, or concealment of material facts; 2617

(4) Negligence or gross misconduct in the practice of 2618
athletic training; 2619

(5) Violating the standards of ethical conduct in the 2620
practice of athletic training as adopted by the athletic trainers 2621
section under section 4755.61 of the Revised Code; 2622

(6) Using any controlled substance or alcohol to the extent 2623
that the ability to practice athletic training at a level of 2624
competency is impaired; 2625

(7) Practicing in an area of athletic training for which the 2626
individual is untrained, incompetent, or practicing without the 2627
referral of a practitioner licensed under Chapter 4731. of the 2628
Revised Code, a dentist licensed under Chapter 4715. of the 2629
Revised Code, a chiropractor licensed under Chapter 4734. of the 2630
Revised Code, or a physical therapist licensed under this chapter; 2631

(8) Employing, directing, or supervising a person in the 2632
performance of athletic training procedures who is not authorized 2633

to practice as a licensed athletic trainer under this chapter;	2634
(9) Misrepresenting educational attainments or the functions the individual is authorized to perform for the purpose of obtaining some benefit related to the individual's athletic training practice;	2635 2636 2637 2638
(10) Failing the licensing examination;	2639
(11) Aiding or abetting the unlicensed practice of athletic training;	2640 2641
(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;	2642 2643 2644 2645
<u>(13) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of athletic training;</u>	2646 2647 2648
<u>(14) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	2649 2650
(B) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed from probation and restored to unrestricted practice.	2651 2652 2653 2654 2655
(C) A licensee whose license has been revoked under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of revocation. The athletic trainers section may accept or deny the application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.	2656 2657 2658 2659 2660 2661
(D) On receipt of a complaint that a person licensed by the athletic trainers section has committed any of the prohibited	2662 2663

actions listed in division (A) of this section, the section may 2664
immediately suspend the license of a licensed athletic trainer 2665
prior to holding a hearing in accordance with Chapter 119. of the 2666
Revised Code if it determines, based on the complaint, that the 2667
licensee poses an immediate threat to the public. The section 2668
shall notify the licensed athletic trainer of the suspension in 2669
accordance with section 119.07 of the Revised Code. If the 2670
individual whose license is suspended fails to make a timely 2671
request for an adjudication under Chapter 119. of the Revised 2672
Code, the section shall enter a final order permanently revoking 2673
the individual's license. 2674

Sec. 4757.36. (A) The appropriate professional standards 2675
committee of the counselor, social worker, and marriage and family 2676
therapist board may, in accordance with Chapter 119. of the 2677
Revised Code, take any action specified in division (B) of this 2678
section against an individual who has applied for or holds a 2679
license to practice as a professional clinical counselor, 2680
professional counselor, independent marriage and family therapist, 2681
marriage and family therapist, social worker, or independent 2682
social worker, or a certificate of registration to practice as a 2683
social work assistant, for any reason described in division (C) of 2684
this section. 2685

(B) In its imposition of sanctions against an individual, the 2686
board may do any of the following: 2687

(1) Refuse to issue or refuse to renew a license or 2688
certificate of registration; 2689

(2) Suspend, revoke, or otherwise restrict a license or 2690
certificate of registration; 2691

(3) Reprimand an individual holding a license or certificate 2692
of registration; 2693

(4) Impose a fine in accordance with the graduated system of fines established by the board in rules adopted under section 4757.10 of the Revised Code.	2694 2695 2696
(C) The appropriate professional standards committee of the board may take an action specified in division (B) of this section for any of the following reasons:	2697 2698 2699
(1) Commission of an act that violates any provision of this chapter or rules adopted under it;	2700 2701
(2) Knowingly making a false statement on an application for licensure or registration, or for renewal of a license or certificate of registration;	2702 2703 2704
(3) Accepting a commission or rebate for referring persons to any professionals licensed, certified, or registered by any court or board, commission, department, division, or other agency of the state, including, but not limited to, individuals practicing counseling, social work, or marriage and family therapy or practicing in fields related to counseling, social work, or marriage and family therapy;	2705 2706 2707 2708 2709 2710 2711
(4) A failure to comply with section 4757.12 of the Revised Code;	2712 2713
(5) A conviction in this or any other state of a crime that is a felony in this state;	2714 2715
(6) A failure to perform properly as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker due to the use of alcohol or other drugs or any other physical or mental condition;	2716 2717 2718 2719 2720
(7) A conviction in this state or in any other state of a misdemeanor committed in the course of practice as a professional clinical counselor, professional counselor, independent marriage	2721 2722 2723

and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker;	2724 2725
(8) Practicing outside the scope of practice applicable to that person;	2726 2727
(9) Practicing in violation of the supervision requirements specified under sections 4757.21 and 4757.26, and division (E) of section 4757.30, of the Revised Code;	2728 2729 2730
(10) A violation of the person's code of ethical practice adopted by rule of the board pursuant to section 4757.11 of the Revised Code;	2731 2732 2733
(11) Revocation or suspension of a license or certificate of registration, or the voluntary surrender of a license or certificate of registration in another state or jurisdiction for an offense that would be a violation of this chapter;	2734 2735 2736 2737
<u>(12) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker;</u>	2738 2739 2740 2741 2742 2743
<u>(13) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	2744 2745
(D) One year or more after the date of suspension or revocation of a license or certificate of registration under this section, application may be made to the appropriate professional standards committee for reinstatement. The committee may accept or refuse an application for reinstatement. If a license has been suspended or revoked, the committee may require an examination for reinstatement.	2746 2747 2748 2749 2750 2751 2752
(E) On request of the board, the attorney general shall bring	2753

and prosecute to judgment a civil action to collect any fine 2754
imposed under division (B)(4) of this section that remains unpaid. 2755

(F) All fines collected under division (B)(4) of this section 2756
shall be deposited into the state treasury to the credit of the 2757
occupational licensing and regulatory fund. 2758

Sec. 4758.30. (A) The chemical dependency professionals 2759
board, in accordance with Chapter 119. of the Revised Code, may 2760
refuse to issue a license or certificate applied for under this 2761
chapter; refuse to renew a license or certificate issued under 2762
this chapter; suspend, revoke, or otherwise restrict a license or 2763
certificate issued under this chapter; or reprimand an individual 2764
holding a license or certificate issued under this chapter. These 2765
actions may be taken by the board regarding the applicant for a 2766
license or certificate or the individual holding a license or 2767
certificate for one or more of the following reasons: 2768

(1) Violation of any provision of this chapter or rules 2769
adopted under it; 2770

(2) Knowingly making a false statement on an application for 2771
a license or certificate or for renewal, restoration, or 2772
reinstatement of a license or certificate; 2773

(3) Acceptance of a commission or rebate for referring an 2774
individual to a person who holds a license or certificate issued 2775
by, or who is registered with, an entity of state government, 2776
including persons practicing chemical dependency counseling, 2777
alcohol and other drug prevention services, or fields related to 2778
chemical dependency counseling or alcohol and other drug 2779
prevention services; 2780

(4) Conviction in this or any other state of any crime that 2781
is a felony in this state; 2782

(5) Conviction in this or any other state of a misdemeanor 2783

committed in the course of practice as an independent chemical 2784
dependency counselor, chemical dependency counselor III, chemical 2785
dependency counselor II, chemical dependency counselor I, chemical 2786
dependency counselor assistant, prevention specialist II, 2787
prevention specialist I, or registered applicant; 2788

(6) Inability to practice as an independent chemical 2789
dependency counselor, chemical dependency counselor III, chemical 2790
dependency counselor II, chemical dependency counselor I, chemical 2791
dependency counselor assistant, prevention specialist II, 2792
prevention specialist I, or registered applicant due to abuse of 2793
or dependency on alcohol or other drugs or other physical or 2794
mental condition; 2795

(7) Practicing outside the individual's scope of practice; 2796

(8) Practicing without complying with the supervision 2797
requirements specified under section 4758.56, 4758.59, or 4758.61 2798
of the Revised Code; 2799

(9) Violation of the code of ethical practice and 2800
professional conduct for chemical dependency counseling or alcohol 2801
and other drug prevention services adopted by the board pursuant 2802
to section 4758.23 of the Revised Code; 2803

(10) Revocation of a license or certificate or voluntary 2804
surrender of a license or certificate in another state or 2805
jurisdiction for an offense that would be a violation of this 2806
chapter; 2807

(11) Making a false, fraudulent, deceptive, or misleading 2808
statement in the solicitation of or advertising for patients in 2809
relation to the practice of an independent chemical dependency 2810
counselor, chemical dependency counselor III, chemical dependency 2811
counselor II, chemical dependency counselor I, chemical dependency 2812
counselor assistant, prevention specialist II, prevention 2813
specialist I, or registered applicant; 2814

<u>(12) Failure to comply with the requirements of section</u>	2815
<u>4745.04 of the Revised Code.</u>	2816
(B) An individual whose license or certificate has been	2817
suspended or revoked under this section may apply to the board for	2818
reinstatement after an amount of time the board shall determine in	2819
accordance with rules adopted under section 4758.20 of the Revised	2820
Code. The board may accept or refuse an application for	2821
reinstatement. The board may require an examination for	2822
reinstatement of a license or certificate that has been suspended	2823
or revoked.	2824
Sec. 4759.07. (A) The Ohio board of dietetics may, in	2825
accordance with Chapter 119. of the Revised Code, refuse to issue,	2826
review, or renew, or may suspend, revoke, or impose probationary	2827
conditions upon any license or permit to practice dietetics, if	2828
the applicant has:	2829
(1) Violated sections 4759.02 to 4759.10 of the Revised Code	2830
or rules adopted under those sections;	2831
(2) Knowingly made a false statement in his <u>an</u> application	2832
for licensure or license renewal;	2833
(3) Been convicted of any crime constituting a felony in this	2834
or any other state;	2835
(4) Been impaired in his ability to perform as a licensed	2836
dietitian due to the use of a controlled substance or alcoholic	2837
beverage;	2838
(5) Been convicted of a misdemeanor committed in the course	2839
of his work as a dietitian in this or any other state;	2840
(6) A record of incompetent or negligent conduct in his <u>the</u>	2841
practice of dietetics;	2842
<u>(7) Making a false, fraudulent, deceptive, or misleading</u>	2843
<u>statement in the solicitation of or advertising for patients in</u>	2844

relation to the practice of dietetics; 2845

(8) Failure to comply with the requirements of section 2846
4745.04 of the Revised Code. 2847

(B) One year or more after the date of suspension or 2848
revocation of a license or permit, an application for 2849
reinstatement of the license or permit may be made to the board. 2850
The board shall grant or deny reinstatement with a hearing, at the 2851
request of the applicant, in accordance with Chapter 119. of the 2852
Revised Code and may impose conditions upon the reinstatement, 2853
including the requirement of passing an examination approved by 2854
the board. 2855

Sec. 4760.13. (A) The state medical board, by an affirmative 2856
vote of not fewer than six members, may revoke or may refuse to 2857
grant a certificate of registration as an anesthesiologist 2858
assistant to a person found by the board to have committed fraud, 2859
misrepresentation, or deception in applying for or securing the 2860
certificate. 2861

(B) The board, by an affirmative vote of not fewer than six 2862
members, shall, to the extent permitted by law, limit, revoke, or 2863
suspend an individual's certificate of registration as an 2864
anesthesiologist assistant, refuse to issue a certificate to an 2865
applicant, refuse to reinstate a certificate, or reprimand or 2866
place on probation the holder of a certificate for any of the 2867
following reasons: 2868

(1) Permitting the holder's name or certificate to be used by 2869
another person; 2870

(2) Failure to comply with the requirements of this chapter, 2871
Chapter 4731. of the Revised Code, or any rules adopted by the 2872
board; 2873

(3) Violating or attempting to violate, directly or 2874

indirectly, or assisting in or abetting the violation of, or 2875
conspiring to violate, any provision of this chapter, Chapter 2876
4731. of the Revised Code, or the rules adopted by the board; 2877

(4) A departure from, or failure to conform to, minimal 2878
standards of care of similar practitioners under the same or 2879
similar circumstances whether or not actual injury to the patient 2880
is established; 2881

(5) Inability to practice according to acceptable and 2882
prevailing standards of care by reason of mental illness or 2883
physical illness, including physical deterioration that adversely 2884
affects cognitive, motor, or perceptive skills; 2885

(6) Impairment of ability to practice according to acceptable 2886
and prevailing standards of care because of habitual or excessive 2887
use or abuse of drugs, alcohol, or other substances that impair 2888
ability to practice; 2889

(7) Willfully betraying a professional confidence; 2890

(8) Making a false, fraudulent, deceptive, or misleading 2891
statement in soliciting or advertising for patients or in securing 2892
or attempting to secure a certificate of registration to practice 2893
as an anesthesiologist assistant. 2894

As used in this division, "false, fraudulent, deceptive, or 2895
misleading statement" means a statement that includes a 2896
misrepresentation of fact, is likely to mislead or deceive because 2897
of a failure to disclose material facts, is intended or is likely 2898
to create false or unjustified expectations of favorable results, 2899
or includes representations or implications that in reasonable 2900
probability will cause an ordinarily prudent person to 2901
misunderstand or be deceived. 2902

(9) The obtaining of, or attempting to obtain, money or a 2903
thing of value by fraudulent misrepresentations in the course of 2904
practice; 2905

(10) A plea of guilty to, a judicial finding of guilt of, or	2906
a judicial finding of eligibility for intervention in lieu of	2907
conviction for, a felony;	2908
(11) Commission of an act that constitutes a felony in this	2909
state, regardless of the jurisdiction in which the act was	2910
committed;	2911
(12) A plea of guilty to, a judicial finding of guilt of, or	2912
a judicial finding of eligibility for intervention in lieu of	2913
conviction for, a misdemeanor committed in the course of practice;	2914
(13) A plea of guilty to, a judicial finding of guilt of, or	2915
a judicial finding of eligibility for intervention in lieu of	2916
conviction for, a misdemeanor involving moral turpitude;	2917
(14) Commission of an act in the course of practice that	2918
constitutes a misdemeanor in this state, regardless of the	2919
jurisdiction in which the act was committed;	2920
(15) Commission of an act involving moral turpitude that	2921
constitutes a misdemeanor in this state, regardless of the	2922
jurisdiction in which the act was committed;	2923
(16) A plea of guilty to, a judicial finding of guilt of, or	2924
a judicial finding of eligibility for intervention in lieu of	2925
conviction for violating any state or federal law regulating the	2926
possession, distribution, or use of any drug, including	2927
trafficking in drugs;	2928
(17) Any of the following actions taken by the state agency	2929
responsible for regulating the practice of anesthesiologist	2930
assistants in another jurisdiction, for any reason other than the	2931
nonpayment of fees: the limitation, revocation, or suspension of	2932
an individual's license to practice; acceptance of an individual's	2933
license surrender; denial of a license; refusal to renew or	2934
reinstate a license; imposition of probation; or issuance of an	2935
order of censure or other reprimand;	2936

(18) Violation of the conditions placed by the board on a certificate of registration;	2937 2938
(19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;	2939 2940 2941
(20) Failure to cooperate in an investigation conducted by the board under section 4760.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	2942 2943 2944 2945 2946 2947 2948 2949 2950
(21) Failure to comply with any code of ethics established by the national commission for the certification of anesthesiologist assistants;	2951 2952 2953
(22) Failure to notify the state medical board of the revocation or failure to maintain certification from the national commission for certification of anesthesiologist assistants;	2954 2955 2956
<u>(23) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	2957 2958
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an anesthesiologist assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the	2959 2960 2961 2962 2963 2964 2965 2966 2967

matter addressed in the agreement. If the board refuses to ratify 2968
a consent agreement, the admissions and findings contained in the 2969
consent agreement shall be of no force or effect. 2970

(D) For purposes of divisions (B)(11), (14), and (15) of this 2971
section, the commission of the act may be established by a finding 2972
by the board, pursuant to an adjudication under Chapter 119. of 2973
the Revised Code, that the applicant or certificate holder 2974
committed the act in question. The board shall have no 2975
jurisdiction under these divisions in cases where the trial court 2976
renders a final judgment in the certificate holder's favor and 2977
that judgment is based upon an adjudication on the merits. The 2978
board shall have jurisdiction under these divisions in cases where 2979
the trial court issues an order of dismissal on technical or 2980
procedural grounds. 2981

(E) The sealing of conviction records by any court shall have 2982
no effect on a prior board order entered under the provisions of 2983
this section or on the board's jurisdiction to take action under 2984
the provisions of this section if, based upon a plea of guilty, a 2985
judicial finding of guilt, or a judicial finding of eligibility 2986
for intervention in lieu of conviction, the board issued a notice 2987
of opportunity for a hearing prior to the court's order to seal 2988
the records. The board shall not be required to seal, destroy, 2989
redact, or otherwise modify its records to reflect the court's 2990
sealing of conviction records. 2991

(F) For purposes of this division, any individual who holds a 2992
certificate of registration issued under this chapter, or applies 2993
for a certificate of registration, shall be deemed to have given 2994
consent to submit to a mental or physical examination when 2995
directed to do so in writing by the board and to have waived all 2996
objections to the admissibility of testimony or examination 2997
reports that constitute a privileged communication. 2998

(1) In enforcing division (B)(5) of this section, the board, 2999

on a showing of a possible violation, may compel any individual 3000
who holds a certificate of registration issued under this chapter 3001
or who has applied for a certificate of registration pursuant to 3002
this chapter to submit to a mental or physical examination, or 3003
both. A physical examination may include an HIV test. The expense 3004
of the examination is the responsibility of the individual 3005
compelled to be examined. Failure to submit to a mental or 3006
physical examination or consent to an HIV test ordered by the 3007
board constitutes an admission of the allegations against the 3008
individual unless the failure is due to circumstances beyond the 3009
individual's control, and a default and final order may be entered 3010
without the taking of testimony or presentation of evidence. If 3011
the board finds an anesthesiologist assistant unable to practice 3012
because of the reasons set forth in division (B)(5) of this 3013
section, the board shall require the anesthesiologist assistant to 3014
submit to care, counseling, or treatment by physicians approved or 3015
designated by the board, as a condition for an initial, continued, 3016
reinstated, or renewed certificate of registration. An individual 3017
affected by this division shall be afforded an opportunity to 3018
demonstrate to the board the ability to resume practicing in 3019
compliance with acceptable and prevailing standards of care. 3020

(2) For purposes of division (B)(6) of this section, if the 3021
board has reason to believe that any individual who holds a 3022
certificate of registration issued under this chapter or any 3023
applicant for a certificate of registration suffers such 3024
impairment, the board may compel the individual to submit to a 3025
mental or physical examination, or both. The expense of the 3026
examination is the responsibility of the individual compelled to 3027
be examined. Any mental or physical examination required under 3028
this division shall be undertaken by a treatment provider or 3029
physician qualified to conduct such examination and chosen by the 3030
board. 3031

Failure to submit to a mental or physical examination ordered 3032
by the board constitutes an admission of the allegations against 3033
the individual unless the failure is due to circumstances beyond 3034
the individual's control, and a default and final order may be 3035
entered without the taking of testimony or presentation of 3036
evidence. If the board determines that the individual's ability to 3037
practice is impaired, the board shall suspend the individual's 3038
certificate or deny the individual's application and shall require 3039
the individual, as a condition for an initial, continued, 3040
reinstated, or renewed certificate of registration, to submit to 3041
treatment. 3042

Before being eligible to apply for reinstatement of a 3043
certificate suspended under this division, the anesthesiologist 3044
assistant shall demonstrate to the board the ability to resume 3045
practice in compliance with acceptable and prevailing standards of 3046
care. The demonstration shall include the following: 3047

(a) Certification from a treatment provider approved under 3048
section 4731.25 of the Revised Code that the individual has 3049
successfully completed any required inpatient treatment; 3050

(b) Evidence of continuing full compliance with an aftercare 3051
contract or consent agreement; 3052

(c) Two written reports indicating that the individual's 3053
ability to practice has been assessed and that the individual has 3054
been found capable of practicing according to acceptable and 3055
prevailing standards of care. The reports shall be made by 3056
individuals or providers approved by the board for making such 3057
assessments and shall describe the basis for their determination. 3058

The board may reinstate a certificate suspended under this 3059
division after such demonstration and after the individual has 3060
entered into a written consent agreement. 3061

When the impaired anesthesiologist assistant resumes 3062

practice, the board shall require continued monitoring of the 3063
anesthesiologist assistant. The monitoring shall include 3064
monitoring of compliance with the written consent agreement 3065
entered into before reinstatement or with conditions imposed by 3066
board order after a hearing, and, on termination of the consent 3067
agreement, submission to the board for at least two years of 3068
annual written progress reports made under penalty of 3069
falsification stating whether the anesthesiologist assistant has 3070
maintained sobriety. 3071

(G) If the secretary and supervising member determine that 3072
there is clear and convincing evidence that an anesthesiologist 3073
assistant has violated division (B) of this section and that the 3074
individual's continued practice presents a danger of immediate and 3075
serious harm to the public, they may recommend that the board 3076
suspend the individual's certificate or registration without a 3077
prior hearing. Written allegations shall be prepared for 3078
consideration by the board. 3079

The board, on review of the allegations and by an affirmative 3080
vote of not fewer than six of its members, excluding the secretary 3081
and supervising member, may suspend a certificate without a prior 3082
hearing. A telephone conference call may be utilized for reviewing 3083
the allegations and taking the vote on the summary suspension. 3084

The board shall issue a written order of suspension by 3085
certified mail or in person in accordance with section 119.07 of 3086
the Revised Code. The order shall not be subject to suspension by 3087
the court during pendency of any appeal filed under section 119.12 3088
of the Revised Code. If the anesthesiologist assistant requests an 3089
adjudicatory hearing by the board, the date set for the hearing 3090
shall be within fifteen days, but not earlier than seven days, 3091
after the anesthesiologist assistant requests the hearing, unless 3092
otherwise agreed to by both the board and the certificate holder. 3093

A summary suspension imposed under this division shall remain 3094

in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the certificate of registration. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(I) The certificate of registration of an anesthesiologist assistant and the assistant's practice in this state are automatically suspended as of the date the anesthesiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction:

aggravated murder, murder, voluntary manslaughter, felonious 3127
assault, kidnapping, rape, sexual battery, gross sexual 3128
imposition, aggravated arson, aggravated robbery, or aggravated 3129
burglary. Continued practice after the suspension shall be 3130
considered practicing without a certificate. 3131

The board shall notify the individual subject to the 3132
suspension by certified mail or in person in accordance with 3133
section 119.07 of the Revised Code. If an individual whose 3134
certificate is suspended under this division fails to make a 3135
timely request for an adjudication under Chapter 119. of the 3136
Revised Code, the board shall enter a final order permanently 3137
revoking the individual's certificate of registration. 3138

(J) In any instance in which the board is required by Chapter 3139
119. of the Revised Code to give notice of opportunity for hearing 3140
and the individual subject to the notice does not timely request a 3141
hearing in accordance with section 119.07 of the Revised Code, the 3142
board is not required to hold a hearing, but may adopt, by an 3143
affirmative vote of not fewer than six of its members, a final 3144
order that contains the board's findings. In the final order, the 3145
board may order any of the sanctions identified under division (A) 3146
or (B) of this section. 3147

(K) Any action taken by the board under division (B) of this 3148
section resulting in a suspension shall be accompanied by a 3149
written statement of the conditions under which the 3150
anesthesiologist assistant's certificate may be reinstated. The 3151
board shall adopt rules in accordance with Chapter 119. of the 3152
Revised Code governing conditions to be imposed for reinstatement. 3153
Reinstatement of a certificate suspended pursuant to division (B) 3154
of this section requires an affirmative vote of not fewer than six 3155
members of the board. 3156

(L) When the board refuses to grant a certificate of 3157
registration as an anesthesiologist assistant to an applicant, 3158

revokes an individual's certificate of registration, refuses to 3159
renew a certificate of registration, or refuses to reinstate an 3160
individual's certificate of registration, the board may specify 3161
that its action is permanent. An individual subject to a permanent 3162
action taken by the board is forever thereafter ineligible to hold 3163
a certificate of registration as an anesthesiologist assistant and 3164
the board shall not accept an application for reinstatement of the 3165
certificate or for issuance of a new certificate. 3166

(M) Notwithstanding any other provision of the Revised Code, 3167
all of the following apply: 3168

(1) The surrender of a certificate of registration issued 3169
under this chapter is not effective unless or until accepted by 3170
the board. Reinstatement of a certificate surrendered to the board 3171
requires an affirmative vote of not fewer than six members of the 3172
board. 3173

(2) An application made under this chapter for a certificate 3174
of registration may not be withdrawn without approval of the 3175
board. 3176

(3) Failure by an individual to renew a certificate of 3177
registration in accordance with section 4760.06 of the Revised 3178
Code shall not remove or limit the board's jurisdiction to take 3179
disciplinary action under this section against the individual. 3180

Sec. 4761.09. (A) The Ohio respiratory care board may refuse 3181
to issue or renew a license or a limited permit, may issue a 3182
reprimand, may suspend or permanently revoke a license or limited 3183
permit, or may place a license or limited permit holder on 3184
probation, on any of the following grounds: 3185

(1) A plea of guilty to, a judicial finding of guilt of, or a 3186
judicial finding of eligibility for intervention in lieu of 3187
conviction for an offense involving moral turpitude or of a 3188

felony, in which case a certified copy of the court record shall	3189
be conclusive evidence of the matter;	3190
(2) Violating any provision of this chapter or an order or	3191
rule of the board;	3192
(3) Assisting another person in that person's violation of	3193
any provision of this chapter or an order or rule of the board;	3194
(4) Obtaining a license or limited permit by means of fraud,	3195
false or misleading representation, or concealment of material	3196
facts or making any other material misrepresentation to the board;	3197
(5) Being guilty of negligence or gross misconduct in the	3198
practice of respiratory care;	3199
(6) Violating the standards of ethical conduct adopted by the	3200
board, in the practice of respiratory care;	3201
(7) Engaging in dishonorable, unethical, or unprofessional	3202
conduct of a character likely to deceive, defraud, or harm the	3203
public;	3204
(8) Using any dangerous drug, as defined in section 4729.01	3205
of the Revised Code, or alcohol to the extent that the use impairs	3206
the ability to practice respiratory care at an acceptable level of	3207
competency;	3208
(9) Practicing respiratory care while mentally incompetent;	3209
(10) Accepting commissions, rebates, or other forms of	3210
remuneration for patient referrals;	3211
(11) Practicing in an area of respiratory care for which the	3212
person is clearly untrained or incompetent or practicing in a	3213
manner that conflicts with section 4761.17 of the Revised Code;	3214
(12) Employing, directing, or supervising a person who is not	3215
authorized to practice respiratory care under this chapter in the	3216
performance of respiratory care procedures;	3217

(13) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care;

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

(15) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of respiratory care;

(16) Failure to comply with the requirements of section 4745.04 of the Revised Code.

Before the board may take any action under this section, other than issuance of a summary suspension order under division (C) of this section, the executive director of the board shall prepare and file written charges with the board. Disciplinary actions taken by the board under this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect.

(B) If the board orders a license or limited permit holder placed on probation, the order shall be accompanied by a written statement of the conditions under which the person may be restored to practice.

The person may reapply to the board for original issuance of a license after one year following the date the license was denied.

A person may apply to the board for the reinstatement of a license or limited permit after one year following the date of suspension or refusal to renew. The board may accept or refuse the application for reinstatement and may require that the applicant pass a reexamination as a condition of eligibility for reinstatement.

(C) If the president and secretary of the board determine that there is clear and convincing evidence that a license or limited permit holder has committed an act that is grounds for board action under division (A) of this section and that continued practice by the license or permit holder presents a danger of immediate and serious harm to the public, the president and secretary may recommend that the board suspend the license or limited permit without a prior hearing. The president and secretary shall submit in writing to the board the allegations causing them to recommend the suspension.

On review of the allegations, the board, by a vote of not less than seven of its members, may suspend a license or limited permit without a prior hearing. The board may review the allegations and vote on the suspension by a telephone conference call.

If the board votes to suspend a license or limited permit under this division, the board shall issue a written order of summary suspension to the license or limited permit holder in accordance with section 119.07 of the Revised Code. If the license or limited permit holder requests a hearing by the board, the board shall conduct the hearing in accordance with Chapter 119. of the Revised Code. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the board's order of summary suspension pending determination of an appeal filed under that section.

Any order of summary suspension issued under this division

shall remain in effect until a final adjudication order issued by 3281
the board pursuant to division (A) of this section becomes 3282
effective. The board shall issue its final adjudication order 3283
regarding an order of summary suspension issued under this 3284
division not later than sixty days after completion of its 3285
hearing. Failure to issue the order within sixty days shall result 3286
in immediate dissolution of the suspension order, but shall not 3287
invalidate any subsequent, final adjudication order. 3288

Sec. 4762.13. (A) The state medical board, by an affirmative 3289
vote of not fewer than six members, may revoke or may refuse to 3290
grant a certificate to practice as an acupuncturist to a person 3291
found by the board to have committed fraud, misrepresentation, or 3292
deception in applying for or securing the certificate. 3293

(B) The board, by an affirmative vote of not fewer than six 3294
members, shall, to the extent permitted by law, limit, revoke, or 3295
suspend an individual's certificate to practice as an 3296
acupuncturist, refuse to issue a certificate to an applicant, 3297
refuse to reinstate a certificate, or reprimand or place on 3298
probation the holder of a certificate for any of the following 3299
reasons: 3300

(1) Permitting the holder's name or certificate to be used by 3301
another person; 3302

(2) Failure to comply with the requirements of this chapter, 3303
Chapter 4731. of the Revised Code, or any rules adopted by the 3304
board; 3305

(3) Violating or attempting to violate, directly or 3306
indirectly, or assisting in or abetting the violation of, or 3307
conspiring to violate, any provision of this chapter, Chapter 3308
4731. of the Revised Code, or the rules adopted by the board; 3309

(4) A departure from, or failure to conform to, minimal 3310

standards of care of similar practitioners under the same or 3311
similar circumstances whether or not actual injury to the patient 3312
is established; 3313

(5) Inability to practice according to acceptable and 3314
prevailing standards of care by reason of mental illness or 3315
physical illness, including physical deterioration that adversely 3316
affects cognitive, motor, or perceptive skills; 3317

(6) Impairment of ability to practice according to acceptable 3318
and prevailing standards of care because of habitual or excessive 3319
use or abuse of drugs, alcohol, or other substances that impair 3320
ability to practice; 3321

(7) Willfully betraying a professional confidence; 3322

(8) Making a false, fraudulent, deceptive, or misleading 3323
statement in soliciting or advertising for patients or in securing 3324
or attempting to secure a certificate to practice as an 3325
acupuncturist. 3326

As used in this division, "false, fraudulent, deceptive, or 3327
misleading statement" means a statement that includes a 3328
misrepresentation of fact, is likely to mislead or deceive because 3329
of a failure to disclose material facts, is intended or is likely 3330
to create false or unjustified expectations of favorable results, 3331
or includes representations or implications that in reasonable 3332
probability will cause an ordinarily prudent person to 3333
misunderstand or be deceived. 3334

(9) Representing, with the purpose of obtaining compensation 3335
or other advantage personally or for any other person, that an 3336
incurable disease or injury, or other incurable condition, can be 3337
permanently cured; 3338

(10) The obtaining of, or attempting to obtain, money or a 3339
thing of value by fraudulent misrepresentations in the course of 3340
practice; 3341

- (11) A plea of guilty to, a judicial finding of guilt of, or 3342
a judicial finding of eligibility for intervention in lieu of 3343
conviction for, a felony; 3344
- (12) Commission of an act that constitutes a felony in this 3345
state, regardless of the jurisdiction in which the act was 3346
committed; 3347
- (13) A plea of guilty to, a judicial finding of guilt of, or 3348
a judicial finding of eligibility for intervention in lieu of 3349
conviction for, a misdemeanor committed in the course of practice; 3350
- (14) A plea of guilty to, a judicial finding of guilt of, or 3351
a judicial finding of eligibility for intervention in lieu of 3352
conviction for, a misdemeanor involving moral turpitude; 3353
- (15) Commission of an act in the course of practice that 3354
constitutes a misdemeanor in this state, regardless of the 3355
jurisdiction in which the act was committed; 3356
- (16) Commission of an act involving moral turpitude that 3357
constitutes a misdemeanor in this state, regardless of the 3358
jurisdiction in which the act was committed; 3359
- (17) A plea of guilty to, a judicial finding of guilt of, or 3360
a judicial finding of eligibility for intervention in lieu of 3361
conviction for violating any state or federal law regulating the 3362
possession, distribution, or use of any drug, including 3363
trafficking in drugs; 3364
- (18) Any of the following actions taken by the state agency 3365
responsible for regulating the practice of acupuncture in another 3366
jurisdiction, for any reason other than the nonpayment of fees: 3367
the limitation, revocation, or suspension of an individual's 3368
license to practice; acceptance of an individual's license 3369
surrender; denial of a license; refusal to renew or reinstate a 3370
license; imposition of probation; or issuance of an order of 3371
censure or other reprimand; 3372

(19) Violation of the conditions placed by the board on a certificate to practice as an acupuncturist;	3373 3374
(20) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;	3375 3376 3377
(21) Failure to cooperate in an investigation conducted by the board under section 4762.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	3378 3379 3380 3381 3382 3383 3384 3385 3386
(22) Failure to comply with the standards of the national certification commission for acupuncture and oriental medicine regarding professional ethics, commitment to patients, commitment to the profession, and commitment to the public;	3387 3388 3389 3390
(23) Failure to have adequate professional liability insurance coverage in accordance with section 4762.22 of the Revised Code;	3391 3392 3393
<u>(24) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	3394 3395
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an acupuncturist or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute	3396 3397 3398 3399 3400 3401 3402 3403

the findings and order of the board with respect to the matter 3404
addressed in the agreement. If the board refuses to ratify a 3405
consent agreement, the admissions and findings contained in the 3406
consent agreement shall be of no force or effect. 3407

(D) For purposes of divisions (B)(12), (15), and (16) of this 3408
section, the commission of the act may be established by a finding 3409
by the board, pursuant to an adjudication under Chapter 119. of 3410
the Revised Code, that the applicant or certificate holder 3411
committed the act in question. The board shall have no 3412
jurisdiction under these divisions in cases where the trial court 3413
renders a final judgment in the certificate holder's favor and 3414
that judgment is based upon an adjudication on the merits. The 3415
board shall have jurisdiction under these divisions in cases where 3416
the trial court issues an order of dismissal upon technical or 3417
procedural grounds. 3418

(E) The sealing of conviction records by any court shall have 3419
no effect upon a prior board order entered under the provisions of 3420
this section or upon the board's jurisdiction to take action under 3421
the provisions of this section if, based upon a plea of guilty, a 3422
judicial finding of guilt, or a judicial finding of eligibility 3423
for intervention in lieu of conviction, the board issued a notice 3424
of opportunity for a hearing prior to the court's order to seal 3425
the records. The board shall not be required to seal, destroy, 3426
redact, or otherwise modify its records to reflect the court's 3427
sealing of conviction records. 3428

(F) For purposes of this division, any individual who holds a 3429
certificate to practice issued under this chapter, or applies for 3430
a certificate to practice, shall be deemed to have given consent 3431
to submit to a mental or physical examination when directed to do 3432
so in writing by the board and to have waived all objections to 3433
the admissibility of testimony or examination reports that 3434
constitute a privileged communication. 3435

(1) In enforcing division (B)(5) of this section, the board, 3436
upon a showing of a possible violation, may compel any individual 3437
who holds a certificate to practice issued under this chapter or 3438
who has applied for a certificate pursuant to this chapter to 3439
submit to a mental examination, physical examination, including an 3440
HIV test, or both a mental and physical examination. The expense 3441
of the examination is the responsibility of the individual 3442
compelled to be examined. Failure to submit to a mental or 3443
physical examination or consent to an HIV test ordered by the 3444
board constitutes an admission of the allegations against the 3445
individual unless the failure is due to circumstances beyond the 3446
individual's control, and a default and final order may be entered 3447
without the taking of testimony or presentation of evidence. If 3448
the board finds an acupuncturist unable to practice because of the 3449
reasons set forth in division (B)(5) of this section, the board 3450
shall require the acupuncturist to submit to care, counseling, or 3451
treatment by physicians approved or designated by the board, as a 3452
condition for an initial, continued, reinstated, or renewed 3453
certificate to practice. An individual affected by this division 3454
shall be afforded an opportunity to demonstrate to the board the 3455
ability to resume practicing in compliance with acceptable and 3456
prevailing standards of care. 3457

(2) For purposes of division (B)(6) of this section, if the 3458
board has reason to believe that any individual who holds a 3459
certificate to practice issued under this chapter or any applicant 3460
for a certificate suffers such impairment, the board may compel 3461
the individual to submit to a mental or physical examination, or 3462
both. The expense of the examination is the responsibility of the 3463
individual compelled to be examined. Any mental or physical 3464
examination required under this division shall be undertaken by a 3465
treatment provider or physician qualified to conduct such 3466
examination and chosen by the board. 3467

Failure to submit to a mental or physical examination ordered 3468
by the board constitutes an admission of the allegations against 3469
the individual unless the failure is due to circumstances beyond 3470
the individual's control, and a default and final order may be 3471
entered without the taking of testimony or presentation of 3472
evidence. If the board determines that the individual's ability to 3473
practice is impaired, the board shall suspend the individual's 3474
certificate or deny the individual's application and shall require 3475
the individual, as a condition for an initial, continued, 3476
reinstated, or renewed certificate, to submit to treatment. 3477

Before being eligible to apply for reinstatement of a 3478
certificate suspended under this division, the acupuncturist shall 3479
demonstrate to the board the ability to resume practice in 3480
compliance with acceptable and prevailing standards of care. The 3481
demonstration shall include the following: 3482

(a) Certification from a treatment provider approved under 3483
section 4731.25 of the Revised Code that the individual has 3484
successfully completed any required inpatient treatment; 3485

(b) Evidence of continuing full compliance with an aftercare 3486
contract or consent agreement; 3487

(c) Two written reports indicating that the individual's 3488
ability to practice has been assessed and that the individual has 3489
been found capable of practicing according to acceptable and 3490
prevailing standards of care. The reports shall be made by 3491
individuals or providers approved by the board for making such 3492
assessments and shall describe the basis for their determination. 3493

The board may reinstate a certificate suspended under this 3494
division after such demonstration and after the individual has 3495
entered into a written consent agreement. 3496

When the impaired acupuncturist resumes practice, the board 3497
shall require continued monitoring of the acupuncturist. The 3498

monitoring shall include monitoring of compliance with the written 3499
consent agreement entered into before reinstatement or with 3500
conditions imposed by board order after a hearing, and, upon 3501
termination of the consent agreement, submission to the board for 3502
at least two years of annual written progress reports made under 3503
penalty of falsification stating whether the acupuncturist has 3504
maintained sobriety. 3505

(G) If the secretary and supervising member determine that 3506
there is clear and convincing evidence that an acupuncturist has 3507
violated division (B) of this section and that the individual's 3508
continued practice presents a danger of immediate and serious harm 3509
to the public, they may recommend that the board suspend the 3510
individual's certificate to practice without a prior hearing. 3511
Written allegations shall be prepared for consideration by the 3512
board. 3513

The board, upon review of the allegations and by an 3514
affirmative vote of not fewer than six of its members, excluding 3515
the secretary and supervising member, may suspend a certificate 3516
without a prior hearing. A telephone conference call may be 3517
utilized for reviewing the allegations and taking the vote on the 3518
summary suspension. 3519

The board shall issue a written order of suspension by 3520
certified mail or in person in accordance with section 119.07 of 3521
the Revised Code. The order shall not be subject to suspension by 3522
the court during pendency of any appeal filed under section 119.12 3523
of the Revised Code. If the acupuncturist requests an adjudicatory 3524
hearing by the board, the date set for the hearing shall be within 3525
fifteen days, but not earlier than seven days, after the 3526
acupuncturist requests the hearing, unless otherwise agreed to by 3527
both the board and the certificate holder. 3528

A summary suspension imposed under this division shall remain 3529
in effect, unless reversed on appeal, until a final adjudicative 3530

order issued by the board pursuant to this section and Chapter 3531
119. of the Revised Code becomes effective. The board shall issue 3532
its final adjudicative order within sixty days after completion of 3533
its hearing. Failure to issue the order within sixty days shall 3534
result in dissolution of the summary suspension order, but shall 3535
not invalidate any subsequent, final adjudicative order. 3536

(H) If the board takes action under division (B)(11), (13), 3537
or (14) of this section, and the judicial finding of guilt, guilty 3538
plea, or judicial finding of eligibility for intervention in lieu 3539
of conviction is overturned on appeal, upon exhaustion of the 3540
criminal appeal, a petition for reconsideration of the order may 3541
be filed with the board along with appropriate court documents. 3542
Upon receipt of a petition and supporting court documents, the 3543
board shall reinstate the certificate to practice. The board may 3544
then hold an adjudication under Chapter 119. of the Revised Code 3545
to determine whether the individual committed the act in question. 3546
Notice of opportunity for hearing shall be given in accordance 3547
with Chapter 119. of the Revised Code. If the board finds, 3548
pursuant to an adjudication held under this division, that the 3549
individual committed the act, or if no hearing is requested, it 3550
may order any of the sanctions specified in division (B) of this 3551
section. 3552

(I) The certificate to practice of an acupuncturist and the 3553
acupuncturist's practice in this state are automatically suspended 3554
as of the date the acupuncturist pleads guilty to, is found by a 3555
judge or jury to be guilty of, or is subject to a judicial finding 3556
of eligibility for intervention in lieu of conviction in this 3557
state or treatment or intervention in lieu of conviction in 3558
another jurisdiction for any of the following criminal offenses in 3559
this state or a substantially equivalent criminal offense in 3560
another jurisdiction: aggravated murder, murder, voluntary 3561
manslaughter, felonious assault, kidnapping, rape, sexual battery, 3562

gross sexual imposition, aggravated arson, aggravated robbery, or 3563
aggravated burglary. Continued practice after the suspension shall 3564
be considered practicing without a certificate. 3565

The board shall notify the individual subject to the 3566
suspension by certified mail or in person in accordance with 3567
section 119.07 of the Revised Code. If an individual whose 3568
certificate is suspended under this division fails to make a 3569
timely request for an adjudication under Chapter 119. of the 3570
Revised Code, the board shall enter a final order permanently 3571
revoking the individual's certificate to practice. 3572

(J) In any instance in which the board is required by Chapter 3573
119. of the Revised Code to give notice of opportunity for hearing 3574
and the individual subject to the notice does not timely request a 3575
hearing in accordance with section 119.07 of the Revised Code, the 3576
board is not required to hold a hearing, but may adopt, by an 3577
affirmative vote of not fewer than six of its members, a final 3578
order that contains the board's findings. In the final order, the 3579
board may order any of the sanctions identified under division (A) 3580
or (B) of this section. 3581

(K) Any action taken by the board under division (B) of this 3582
section resulting in a suspension shall be accompanied by a 3583
written statement of the conditions under which the 3584
acupuncturist's certificate to practice may be reinstated. The 3585
board shall adopt rules in accordance with Chapter 119. of the 3586
Revised Code governing conditions to be imposed for reinstatement. 3587
Reinstatement of a certificate suspended pursuant to division (B) 3588
of this section requires an affirmative vote of not fewer than six 3589
members of the board. 3590

(L) When the board refuses to grant a certificate to practice 3591
as an acupuncturist to an applicant, revokes an individual's 3592
certificate, refuses to renew a certificate, or refuses to 3593
reinstate an individual's certificate, the board may specify that 3594

its action is permanent. An individual subject to a permanent 3595
action taken by the board is forever thereafter ineligible to hold 3596
a certificate to practice as an acupuncturist and the board shall 3597
not accept an application for reinstatement of the certificate or 3598
for issuance of a new certificate. 3599

(M) Notwithstanding any other provision of the Revised Code, 3600
all of the following apply: 3601

(1) The surrender of a certificate to practice as an 3602
acupuncturist issued under this chapter is not effective unless or 3603
until accepted by the board. Reinstatement of a certificate 3604
surrendered to the board requires an affirmative vote of not fewer 3605
than six members of the board. 3606

(2) An application made under this chapter for a certificate 3607
may not be withdrawn without approval of the board. 3608

(3) Failure by an individual to renew a certificate in 3609
accordance with section 4762.06 of the Revised Code shall not 3610
remove or limit the board's jurisdiction to take disciplinary 3611
action under this section against the individual. 3612

Sec. 4774.13. (A) The state medical board, by an affirmative 3613
vote of not fewer than six members, may revoke or may refuse to 3614
grant a certificate to practice as a radiologist assistant to an 3615
individual found by the board to have committed fraud, 3616
misrepresentation, or deception in applying for or securing the 3617
certificate. 3618

(B) The board, by an affirmative vote of not fewer than six 3619
members, shall, to the extent permitted by law, limit, revoke, or 3620
suspend an individual's certificate to practice as a radiologist 3621
assistant, refuse to issue a certificate to an applicant, refuse 3622
to reinstate a certificate, or reprimand or place on probation the 3623
holder of a certificate for any of the following reasons: 3624

(1) Permitting the holder's name or certificate to be used by another person;	3625 3626
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	3627 3628 3629
(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;	3630 3631 3632 3633
(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;	3634 3635 3636 3637
(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;	3638 3639 3640 3641
(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;	3642 3643 3644 3645
(7) Willfully betraying a professional confidence;	3646
(8) Making a false, fraudulent, deceptive, or misleading statement in <u>soliciting or advertising for patients or in</u> securing or attempting to secure a certificate to practice as a radiologist assistant.	3647 3648 3649 3650
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	3651 3652 3653 3654

to create false or unjustified expectations of favorable results, 3655
or includes representations or implications that in reasonable 3656
probability will cause an ordinarily prudent person to 3657
misunderstand or be deceived. 3658

(9) The obtaining of, or attempting to obtain, money or a 3659
thing of value by fraudulent misrepresentations in the course of 3660
practice; 3661

(10) A plea of guilty to, a judicial finding of guilt of, or 3662
a judicial finding of eligibility for intervention in lieu of 3663
conviction for, a felony; 3664

(11) Commission of an act that constitutes a felony in this 3665
state, regardless of the jurisdiction in which the act was 3666
committed; 3667

(12) A plea of guilty to, a judicial finding of guilt of, or 3668
a judicial finding of eligibility for intervention in lieu of 3669
conviction for, a misdemeanor committed in the course of practice; 3670

(13) A plea of guilty to, a judicial finding of guilt of, or 3671
a judicial finding of eligibility for intervention in lieu of 3672
conviction for, a misdemeanor involving moral turpitude; 3673

(14) Commission of an act in the course of practice that 3674
constitutes a misdemeanor in this state, regardless of the 3675
jurisdiction in which the act was committed; 3676

(15) Commission of an act involving moral turpitude that 3677
constitutes a misdemeanor in this state, regardless of the 3678
jurisdiction in which the act was committed; 3679

(16) A plea of guilty to, a judicial finding of guilt of, or 3680
a judicial finding of eligibility for intervention in lieu of 3681
conviction for violating any state or federal law regulating the 3682
possession, distribution, or use of any drug, including 3683
trafficking in drugs; 3684

(17) Any of the following actions taken by the state agency	3685
responsible for regulating the practice of radiologist assistants	3686
in another jurisdiction, for any reason other than the nonpayment	3687
of fees: the limitation, revocation, or suspension of an	3688
individual's license to practice; acceptance of an individual's	3689
license surrender; denial of a license; refusal to renew or	3690
reinstate a license; imposition of probation; or issuance of an	3691
order of censure or other reprimand;	3692
(18) Violation of the conditions placed by the board on a	3693
certificate to practice as a radiologist assistant;	3694
(19) Failure to use universal blood and body fluid	3695
precautions established by rules adopted under section 4731.051 of	3696
the Revised Code;	3697
(20) Failure to cooperate in an investigation conducted by	3698
the board under section 4774.14 of the Revised Code, including	3699
failure to comply with a subpoena or order issued by the board or	3700
failure to answer truthfully a question presented by the board at	3701
a deposition or in written interrogatories, except that failure to	3702
cooperate with an investigation shall not constitute grounds for	3703
discipline under this section if a court of competent jurisdiction	3704
has issued an order that either quashes a subpoena or permits the	3705
individual to withhold the testimony or evidence in issue;	3706
(21) Failure to maintain a license as a radiographer under	3707
Chapter 4773. of the Revised Code;	3708
(22) Failure to maintain certification as a registered	3709
radiologist assistant from the American registry of radiologic	3710
technologists, including revocation by the registry of the	3711
assistant's certification or failure by the assistant to meet the	3712
registry's requirements for annual registration, or failure to	3713
notify the board that the certification as a registered	3714
radiologist assistant has not been maintained;	3715

(23) Failure to comply with any of the rules of ethics 3716
included in the standards of ethics established by the American 3717
registry of radiologic technologists, as those rules apply to an 3718
individual who holds the registry's certification as a registered 3719
radiologist assistant; 3720

(24) Failure to comply with the requirements of section 3721
4745.04 of the Revised Code. 3722

(C) Disciplinary actions taken by the board under divisions 3723
(A) and (B) of this section shall be taken pursuant to an 3724
adjudication under Chapter 119. of the Revised Code, except that 3725
in lieu of an adjudication, the board may enter into a consent 3726
agreement with a radiologist assistant or applicant to resolve an 3727
allegation of a violation of this chapter or any rule adopted 3728
under it. A consent agreement, when ratified by an affirmative 3729
vote of not fewer than six members of the board, shall constitute 3730
the findings and order of the board with respect to the matter 3731
addressed in the agreement. If the board refuses to ratify a 3732
consent agreement, the admissions and findings contained in the 3733
consent agreement shall be of no force or effect. 3734

(D) For purposes of divisions (B)(11), (14), and (15) of this 3735
section, the commission of the act may be established by a finding 3736
by the board, pursuant to an adjudication under Chapter 119. of 3737
the Revised Code, that the applicant or certificate holder 3738
committed the act in question. The board shall have no 3739
jurisdiction under these divisions in cases where the trial court 3740
renders a final judgment in the certificate holder's favor and 3741
that judgment is based upon an adjudication on the merits. The 3742
board shall have jurisdiction under these divisions in cases where 3743
the trial court issues an order of dismissal on technical or 3744
procedural grounds. 3745

(E) The sealing of conviction records by any court shall have 3746
no effect on a prior board order entered under the provisions of 3747

this section or on the board's jurisdiction to take action under 3748
the provisions of this section if, based upon a plea of guilty, a 3749
judicial finding of guilt, or a judicial finding of eligibility 3750
for intervention in lieu of conviction, the board issued a notice 3751
of opportunity for a hearing prior to the court's order to seal 3752
the records. The board shall not be required to seal, destroy, 3753
redact, or otherwise modify its records to reflect the court's 3754
sealing of conviction records. 3755

(F) For purposes of this division, any individual who holds a 3756
certificate to practice as a radiologist assistant issued under 3757
this chapter, or applies for a certificate to practice, shall be 3758
deemed to have given consent to submit to a mental or physical 3759
examination when directed to do so in writing by the board and to 3760
have waived all objections to the admissibility of testimony or 3761
examination reports that constitute a privileged communication. 3762

(1) In enforcing division (B)(5) of this section, the board, 3763
on a showing of a possible violation, may compel any individual 3764
who holds a certificate to practice as a radiologist assistant 3765
issued under this chapter or who has applied for a certificate to 3766
practice to submit to a mental or physical examination, or both. A 3767
physical examination may include an HIV test. The expense of the 3768
examination is the responsibility of the individual compelled to 3769
be examined. Failure to submit to a mental or physical examination 3770
or consent to an HIV test ordered by the board constitutes an 3771
admission of the allegations against the individual unless the 3772
failure is due to circumstances beyond the individual's control, 3773
and a default and final order may be entered without the taking of 3774
testimony or presentation of evidence. If the board finds a 3775
radiologist assistant unable to practice because of the reasons 3776
set forth in division (B)(5) of this section, the board shall 3777
require the radiologist assistant to submit to care, counseling, 3778
or treatment by physicians approved or designated by the board, as 3779

a condition for an initial, continued, reinstated, or renewed 3780
certificate to practice. An individual affected by this division 3781
shall be afforded an opportunity to demonstrate to the board the 3782
ability to resume practicing in compliance with acceptable and 3783
prevailing standards of care. 3784

(2) For purposes of division (B)(6) of this section, if the 3785
board has reason to believe that any individual who holds a 3786
certificate to practice as a radiologist assistant issued under 3787
this chapter or any applicant for a certificate to practice 3788
suffers such impairment, the board may compel the individual to 3789
submit to a mental or physical examination, or both. The expense 3790
of the examination is the responsibility of the individual 3791
compelled to be examined. Any mental or physical examination 3792
required under this division shall be undertaken by a treatment 3793
provider or physician qualified to conduct such examination and 3794
chosen by the board. 3795

Failure to submit to a mental or physical examination ordered 3796
by the board constitutes an admission of the allegations against 3797
the individual unless the failure is due to circumstances beyond 3798
the individual's control, and a default and final order may be 3799
entered without the taking of testimony or presentation of 3800
evidence. If the board determines that the individual's ability to 3801
practice is impaired, the board shall suspend the individual's 3802
certificate or deny the individual's application and shall require 3803
the individual, as a condition for an initial, continued, 3804
reinstated, or renewed certificate to practice, to submit to 3805
treatment. 3806

Before being eligible to apply for reinstatement of a 3807
certificate suspended under this division, the radiologist 3808
assistant shall demonstrate to the board the ability to resume 3809
practice in compliance with acceptable and prevailing standards of 3810
care. The demonstration shall include the following: 3811

(a) Certification from a treatment provider approved under 3812
section 4731.25 of the Revised Code that the individual has 3813
successfully completed any required inpatient treatment; 3814

(b) Evidence of continuing full compliance with an aftercare 3815
contract or consent agreement; 3816

(c) Two written reports indicating that the individual's 3817
ability to practice has been assessed and that the individual has 3818
been found capable of practicing according to acceptable and 3819
prevailing standards of care. The reports shall be made by 3820
individuals or providers approved by the board for making such 3821
assessments and shall describe the basis for their determination. 3822

The board may reinstate a certificate suspended under this 3823
division after such demonstration and after the individual has 3824
entered into a written consent agreement. 3825

When the impaired radiologist assistant resumes practice, the 3826
board shall require continued monitoring of the radiologist 3827
assistant. The monitoring shall include monitoring of compliance 3828
with the written consent agreement entered into before 3829
reinstatement or with conditions imposed by board order after a 3830
hearing, and, on termination of the consent agreement, submission 3831
to the board for at least two years of annual written progress 3832
reports made under penalty of falsification stating whether the 3833
radiologist assistant has maintained sobriety. 3834

(G) If the secretary and supervising member determine that 3835
there is clear and convincing evidence that a radiologist 3836
assistant has violated division (B) of this section and that the 3837
individual's continued practice presents a danger of immediate and 3838
serious harm to the public, they may recommend that the board 3839
suspend the individual's certificate to practice without a prior 3840
hearing. Written allegations shall be prepared for consideration 3841
by the board. 3842

The board, on review of the allegations and by an affirmative 3843
vote of not fewer than six of its members, excluding the secretary 3844
and supervising member, may suspend a certificate without a prior 3845
hearing. A telephone conference call may be utilized for reviewing 3846
the allegations and taking the vote on the summary suspension. 3847

The board shall issue a written order of suspension by 3848
certified mail or in person in accordance with section 119.07 of 3849
the Revised Code. The order shall not be subject to suspension by 3850
the court during pendency of any appeal filed under section 119.12 3851
of the Revised Code. If the radiologist assistant requests an 3852
adjudicatory hearing by the board, the date set for the hearing 3853
shall be within fifteen days, but not earlier than seven days, 3854
after the radiologist assistant requests the hearing, unless 3855
otherwise agreed to by both the board and the certificate holder. 3856

A summary suspension imposed under this division shall remain 3857
in effect, unless reversed on appeal, until a final adjudicative 3858
order issued by the board pursuant to this section and Chapter 3859
119. of the Revised Code becomes effective. The board shall issue 3860
its final adjudicative order within sixty days after completion of 3861
its hearing. Failure to issue the order within sixty days shall 3862
result in dissolution of the summary suspension order, but shall 3863
not invalidate any subsequent, final adjudicative order. 3864

(H) If the board takes action under division (B)(10), (12), 3865
or (13) of this section, and the judicial finding of guilt, guilty 3866
plea, or judicial finding of eligibility for intervention in lieu 3867
of conviction is overturned on appeal, on exhaustion of the 3868
criminal appeal, a petition for reconsideration of the order may 3869
be filed with the board along with appropriate court documents. On 3870
receipt of a petition and supporting court documents, the board 3871
shall reinstate the certificate to practice as a radiologist 3872
assistant. The board may then hold an adjudication under Chapter 3873
119. of the Revised Code to determine whether the individual 3874

committed the act in question. Notice of opportunity for hearing 3875
shall be given in accordance with Chapter 119. of the Revised 3876
Code. If the board finds, pursuant to an adjudication held under 3877
this division, that the individual committed the act, or if no 3878
hearing is requested, it may order any of the sanctions specified 3879
in division (B) of this section. 3880

(I) The certificate to practice of a radiologist assistant 3881
and the assistant's practice in this state are automatically 3882
suspended as of the date the radiologist assistant pleads guilty 3883
to, is found by a judge or jury to be guilty of, or is subject to 3884
a judicial finding of eligibility for intervention in lieu of 3885
conviction in this state or treatment of intervention in lieu of 3886
conviction in another jurisdiction for any of the following 3887
criminal offenses in this state or a substantially equivalent 3888
criminal offense in another jurisdiction: aggravated murder, 3889
murder, voluntary manslaughter, felonious assault, kidnapping, 3890
rape, sexual battery, gross sexual imposition, aggravated arson, 3891
aggravated robbery, or aggravated burglary. Continued practice 3892
after the suspension shall be considered practicing without a 3893
certificate. 3894

The board shall notify the individual subject to the 3895
suspension by certified mail or in person in accordance with 3896
section 119.07 of the Revised Code. If an individual whose 3897
certificate is suspended under this division fails to make a 3898
timely request for an adjudication under Chapter 119. of the 3899
Revised Code, the board shall enter a final order permanently 3900
revoking the individual's certificate to practice. 3901

(J) In any instance in which the board is required by Chapter 3902
119. of the Revised Code to give notice of opportunity for hearing 3903
and the individual subject to the notice does not timely request a 3904
hearing in accordance with section 119.07 of the Revised Code, the 3905
board is not required to hold a hearing, but may adopt, by an 3906

affirmative vote of not fewer than six of its members, a final 3907
order that contains the board's findings. In the final order, the 3908
board may order any of the sanctions identified under division (A) 3909
or (B) of this section. 3910

(K) Any action taken by the board under division (B) of this 3911
section resulting in a suspension shall be accompanied by a 3912
written statement of the conditions under which the radiologist 3913
assistant's certificate may be reinstated. The board shall adopt 3914
rules in accordance with Chapter 119. of the Revised Code 3915
governing conditions to be imposed for reinstatement. 3916
Reinstatement of a certificate suspended pursuant to division (B) 3917
of this section requires an affirmative vote of not fewer than six 3918
members of the board. 3919

(L) When the board refuses to grant a certificate to practice 3920
as a radiologist assistant to an applicant, revokes an 3921
individual's certificate, refuses to renew a certificate, or 3922
refuses to reinstate an individual's certificate, the board may 3923
specify that its action is permanent. An individual subject to a 3924
permanent action taken by the board is forever thereafter 3925
ineligible to hold a certificate to practice as a radiologist 3926
assistant and the board shall not accept an application for 3927
reinstatement of the certificate or for issuance of a new 3928
certificate. 3929

(M) Notwithstanding any other provision of the Revised Code, 3930
all of the following apply: 3931

(1) The surrender of a certificate to practice as a 3932
radiologist assistant issued under this chapter is not effective 3933
unless or until accepted by the board. Reinstatement of a 3934
certificate surrendered to the board requires an affirmative vote 3935
of not fewer than six members of the board. 3936

(2) An application made under this chapter for a certificate 3937

to practice may not be withdrawn without approval of the board. 3938

(3) Failure by an individual to renew a certificate to 3939
practice in accordance with section 4774.06 of the Revised Code 3940
shall not remove or limit the board's jurisdiction to take 3941
disciplinary action under this section against the individual. 3942

Sec. 4778.14. (A) The state medical board, by an affirmative 3943
vote of not fewer than six members, may revoke or may refuse to 3944
grant a license to practice as a genetic counselor to an 3945
individual found by the board to have committed fraud, 3946
misrepresentation, or deception in applying for or securing the 3947
license. 3948

(B) The board, by an affirmative vote of not fewer than six 3949
members, shall, to the extent permitted by law, limit, revoke, or 3950
suspend an individual's license to practice as a genetic 3951
counselor, refuse to issue a license to an applicant, refuse to 3952
reinstate a license, or reprimand or place on probation the holder 3953
of a license for any of the following reasons: 3954

(1) Permitting the holder's name or license to be used by 3955
another person; 3956

(2) Failure to comply with the requirements of this chapter, 3957
Chapter 4731. of the Revised Code, or any rules adopted by the 3958
board; 3959

(3) Violating or attempting to violate, directly or 3960
indirectly, or assisting in or abetting the violation of, or 3961
conspiring to violate, any provision of this chapter, Chapter 3962
4731. of the Revised Code, or the rules adopted by the board; 3963

(4) A departure from, or failure to conform to, minimal 3964
standards of care of similar practitioners under the same or 3965
similar circumstances whether or not actual injury to the patient 3966
is established; 3967

(5) Inability to practice according to acceptable and 3968
prevailing standards of care by reason of mental illness or 3969
physical illness, including physical deterioration that adversely 3970
affects cognitive, motor, or perceptive skills; 3971

(6) Impairment of ability to practice according to acceptable 3972
and prevailing standards of care because of habitual or excessive 3973
use or abuse of drugs, alcohol, or other substances that impair 3974
ability to practice; 3975

(7) Willfully betraying a professional confidence; 3976

(8) Making a false, fraudulent, deceptive, or misleading 3977
statement in soliciting or advertising for patients or in securing 3978
or attempting to secure a license to practice as a genetic 3979
counselor. 3980

As used in this division, "false, fraudulent, deceptive, or 3981
misleading statement" means a statement that includes a 3982
misrepresentation of fact, is likely to mislead or deceive because 3983
of a failure to disclose material facts, is intended or is likely 3984
to create false or unjustified expectations of favorable results, 3985
or includes representations or implications that in reasonable 3986
probability will cause an ordinarily prudent person to 3987
misunderstand or be deceived. 3988

(9) The obtaining of, or attempting to obtain, money or a 3989
thing of value by fraudulent misrepresentations in the course of 3990
practice; 3991

(10) A plea of guilty to, a judicial finding of guilt of, or 3992
a judicial finding of eligibility for intervention in lieu of 3993
conviction for, a felony; 3994

(11) Commission of an act that constitutes a felony in this 3995
state, regardless of the jurisdiction in which the act was 3996
committed; 3997

(12) A plea of guilty to, a judicial finding of guilt of, or	3998
a judicial finding of eligibility for intervention in lieu of	3999
conviction for, a misdemeanor committed in the course of practice;	4000
(13) A plea of guilty to, a judicial finding of guilt of, or	4001
a judicial finding of eligibility for intervention in lieu of	4002
conviction for, a misdemeanor involving moral turpitude;	4003
(14) Commission of an act in the course of practice that	4004
constitutes a misdemeanor in this state, regardless of the	4005
jurisdiction in which the act was committed;	4006
(15) Commission of an act involving moral turpitude that	4007
constitutes a misdemeanor in this state, regardless of the	4008
jurisdiction in which the act was committed;	4009
(16) A plea of guilty to, a judicial finding of guilt of, or	4010
a judicial finding of eligibility for intervention in lieu of	4011
conviction for violating any state or federal law regulating the	4012
possession, distribution, or use of any drug, including	4013
trafficking in drugs;	4014
(17) Any of the following actions taken by an agency	4015
responsible for authorizing, certifying, or regulating an	4016
individual to practice a health care occupation or provide health	4017
care services in this state or in another jurisdiction, for any	4018
reason other than the nonpayment of fees: the limitation,	4019
revocation, or suspension of an individual's license to practice;	4020
acceptance of an individual's license surrender; denial of a	4021
license; refusal to renew or reinstate a license; imposition of	4022
probation; or issuance of an order of censure or other reprimand;	4023
(18) Violation of the conditions placed by the board on a	4024
license to practice as a genetic counselor;	4025
(19) Failure to cooperate in an investigation conducted by	4026
the board under section 4778.18 of the Revised Code, including	4027
failure to comply with a subpoena or order issued by the board or	4028

failure to answer truthfully a question presented by the board at 4029
a deposition or in written interrogatories, except that failure to 4030
cooperate with an investigation shall not constitute grounds for 4031
discipline under this section if a court of competent jurisdiction 4032
has issued an order that either quashes a subpoena or permits the 4033
individual to withhold the testimony or evidence in issue; 4034

(20) Failure to maintain the individual's status as a 4035
certified genetic counselor; 4036

(21) Failure to comply with the code of ethics established by 4037
the national society of genetic counselors; 4038

(22) Failure to comply with the requirements of section 4039
4745.04 of the Revised Code. 4040

(C) Disciplinary actions taken by the board under divisions 4041
(A) and (B) of this section shall be taken pursuant to an 4042
adjudication under Chapter 119. of the Revised Code, except that 4043
in lieu of an adjudication, the board may enter into a consent 4044
agreement with a genetic counselor or applicant to resolve an 4045
allegation of a violation of this chapter or any rule adopted 4046
under it. A consent agreement, when ratified by an affirmative 4047
vote of not fewer than six members of the board, shall constitute 4048
the findings and order of the board with respect to the matter 4049
addressed in the agreement. If the board refuses to ratify a 4050
consent agreement, the admissions and findings contained in the 4051
consent agreement shall be of no force or effect. 4052

A telephone conference call may be utilized for ratification 4053
of a consent agreement that revokes or suspends an individual's 4054
license. The telephone conference call shall be considered a 4055
special meeting under division (F) of section 121.22 of the 4056
Revised Code. 4057

(D) For purposes of divisions (B)(11), (14), and (15) of this 4058
section, the commission of the act may be established by a finding 4059

by the board, pursuant to an adjudication under Chapter 119. of 4060
the Revised Code, that the applicant or license holder committed 4061
the act in question. The board shall have no jurisdiction under 4062
these divisions in cases where the trial court renders a final 4063
judgment in the license holder's favor and that judgment is based 4064
upon an adjudication on the merits. The board shall have 4065
jurisdiction under these divisions in cases where the trial court 4066
issues an order of dismissal on technical or procedural grounds. 4067

(E) The sealing of conviction records by any court shall have 4068
no effect on a prior board order entered under the provisions of 4069
this section or on the board's jurisdiction to take action under 4070
the provisions of this section if, based upon a plea of guilty, a 4071
judicial finding of guilt, or a judicial finding of eligibility 4072
for intervention in lieu of conviction, the board issued a notice 4073
of opportunity for a hearing or took other formal action under 4074
Chapter 119. of the Revised Code prior to the court's order to 4075
seal the records. The board shall not be required to seal, 4076
destroy, redact, or otherwise modify its records to reflect the 4077
court's sealing of conviction records. 4078

(F) For purposes of this division, any individual who holds a 4079
license to practice as a genetic counselor, or applies for a 4080
license, shall be deemed to have given consent to submit to a 4081
mental or physical examination when directed to do so in writing 4082
by the board and to have waived all objections to the 4083
admissibility of testimony or examination reports that constitute 4084
a privileged communication. 4085

(1) In enforcing division (B)(5) of this section, the board, 4086
on a showing of a possible violation, may compel any individual 4087
who holds a license to practice as a genetic counselor or who has 4088
applied for a license to practice as a genetic counselor to submit 4089
to a mental or physical examination, or both. A physical 4090
examination may include an HIV test. The expense of the 4091

examination is the responsibility of the individual compelled to 4092
be examined. Failure to submit to a mental or physical examination 4093
or consent to an HIV test ordered by the board constitutes an 4094
admission of the allegations against the individual unless the 4095
failure is due to circumstances beyond the individual's control, 4096
and a default and final order may be entered without the taking of 4097
testimony or presentation of evidence. If the board finds a 4098
genetic counselor unable to practice because of the reasons set 4099
forth in division (B)(5) of this section, the board shall require 4100
the genetic counselor to submit to care, counseling, or treatment 4101
by physicians approved or designated by the board, as a condition 4102
for an initial, continued, reinstated, or renewed license to 4103
practice. An individual affected by this division shall be 4104
afforded an opportunity to demonstrate to the board the ability to 4105
resume practicing in compliance with acceptable and prevailing 4106
standards of care. 4107

(2) For purposes of division (B)(6) of this section, if the 4108
board has reason to believe that any individual who holds a 4109
license to practice as a genetic counselor or any applicant for a 4110
license suffers such impairment, the board may compel the 4111
individual to submit to a mental or physical examination, or both. 4112
The expense of the examination is the responsibility of the 4113
individual compelled to be examined. Any mental or physical 4114
examination required under this division shall be undertaken by a 4115
treatment provider or physician qualified to conduct such 4116
examination and chosen by the board. 4117

Failure to submit to a mental or physical examination ordered 4118
by the board constitutes an admission of the allegations against 4119
the individual unless the failure is due to circumstances beyond 4120
the individual's control, and a default and final order may be 4121
entered without the taking of testimony or presentation of 4122
evidence. If the board determines that the individual's ability to 4123

practice is impaired, the board shall suspend the individual's 4124
license or deny the individual's application and shall require the 4125
individual, as a condition for an initial, continued, reinstated, 4126
or renewed license, to submit to treatment. 4127

Before being eligible to apply for reinstatement of a license 4128
suspended under this division, the genetic counselor shall 4129
demonstrate to the board the ability to resume practice in 4130
compliance with acceptable and prevailing standards of care. The 4131
demonstration shall include the following: 4132

(a) Certification from a treatment provider approved under 4133
section 4731.25 of the Revised Code that the individual has 4134
successfully completed any required inpatient treatment; 4135

(b) Evidence of continuing full compliance with an aftercare 4136
contract or consent agreement; 4137

(c) Two written reports indicating that the individual's 4138
ability to practice has been assessed and that the individual has 4139
been found capable of practicing according to acceptable and 4140
prevailing standards of care. The reports shall be made by 4141
individuals or providers approved by the board for making such 4142
assessments and shall describe the basis for their determination. 4143

The board may reinstate a license suspended under this 4144
division after such demonstration and after the individual has 4145
entered into a written consent agreement. 4146

When the impaired genetic counselor resumes practice, the 4147
board shall require continued monitoring of the genetic counselor. 4148
The monitoring shall include monitoring of compliance with the 4149
written consent agreement entered into before reinstatement or 4150
with conditions imposed by board order after a hearing, and, on 4151
termination of the consent agreement, submission to the board for 4152
at least two years of annual written progress reports made under 4153
penalty of falsification stating whether the genetic counselor has 4154

maintained sobriety. 4155

(G) If the secretary and supervising member determine both of 4156
the following, they may recommend that the board suspend an 4157
individual's license to practice without a prior hearing: 4158

(1) That there is clear and convincing evidence that a 4159
genetic counselor has violated division (B) of this section; 4160

(2) That the individual's continued practice presents a 4161
danger of immediate and serious harm to the public. 4162

Written allegations shall be prepared for consideration by 4163
the board. The board, on review of the allegations and by an 4164
affirmative vote of not fewer than six of its members, excluding 4165
the secretary and supervising member, may suspend a license 4166
without a prior hearing. A telephone conference call may be 4167
utilized for reviewing the allegations and taking the vote on the 4168
summary suspension. 4169

The board shall issue a written order of suspension by 4170
certified mail or in person in accordance with section 119.07 of 4171
the Revised Code. The order shall not be subject to suspension by 4172
the court during pendency of any appeal filed under section 119.12 4173
of the Revised Code. If the genetic counselor requests an 4174
adjudicatory hearing by the board, the date set for the hearing 4175
shall be within fifteen days, but not earlier than seven days, 4176
after the genetic counselor requests the hearing, unless otherwise 4177
agreed to by both the board and the genetic counselor. 4178

A summary suspension imposed under this division shall remain 4179
in effect, unless reversed on appeal, until a final adjudicative 4180
order issued by the board pursuant to this section and Chapter 4181
119. of the Revised Code becomes effective. The board shall issue 4182
its final adjudicative order within sixty days after completion of 4183
its hearing. Failure to issue the order within sixty days shall 4184
result in dissolution of the summary suspension order, but shall 4185

not invalidate any subsequent, final adjudicative order. 4186

(H) If the board takes action under division (B)(10), (12), 4187
or (13) of this section, and the judicial finding of guilt, guilty 4188
plea, or judicial finding of eligibility for intervention in lieu 4189
of conviction is overturned on appeal, on exhaustion of the 4190
criminal appeal, a petition for reconsideration of the order may 4191
be filed with the board along with appropriate court documents. On 4192
receipt of a petition and supporting court documents, the board 4193
shall reinstate the license to practice as a genetic counselor. 4194
The board may then hold an adjudication under Chapter 119. of the 4195
Revised Code to determine whether the individual committed the act 4196
in question. Notice of opportunity for hearing shall be given in 4197
accordance with Chapter 119. of the Revised Code. If the board 4198
finds, pursuant to an adjudication held under this division, that 4199
the individual committed the act, or if no hearing is requested, 4200
it may order any of the sanctions specified in division (B) of 4201
this section. 4202

(I) The license to practice as a genetic counselor and the 4203
counselor's practice in this state are automatically suspended as 4204
of the date the genetic counselor pleads guilty to, is found by a 4205
judge or jury to be guilty of, or is subject to a judicial finding 4206
of eligibility for intervention in lieu of conviction in this 4207
state or treatment of intervention in lieu of conviction in 4208
another jurisdiction for any of the following criminal offenses in 4209
this state or a substantially equivalent criminal offense in 4210
another jurisdiction: aggravated murder, murder, voluntary 4211
manslaughter, felonious assault, kidnapping, rape, sexual battery, 4212
gross sexual imposition, aggravated arson, aggravated robbery, or 4213
aggravated burglary. Continued practice after the suspension shall 4214
be considered practicing without a license. 4215

The board shall notify the individual subject to the 4216
suspension by certified mail or in person in accordance with 4217

section 119.07 of the Revised Code. If an individual whose license 4218
is suspended under this division fails to make a timely request 4219
for an adjudication under Chapter 119. of the Revised Code, the 4220
board shall enter a final order permanently revoking the 4221
individual's license to practice. 4222

(J) In any instance in which the board is required by Chapter 4223
119. of the Revised Code to give notice of opportunity for hearing 4224
and the individual subject to the notice does not timely request a 4225
hearing in accordance with section 119.07 of the Revised Code, the 4226
board is not required to hold a hearing, but may adopt, by an 4227
affirmative vote of not fewer than six of its members, a final 4228
order that contains the board's findings. In the final order, the 4229
board may order any of the sanctions identified under division (A) 4230
or (B) of this section. 4231

(K) Any action taken by the board under division (B) of this 4232
section resulting in a suspension shall be accompanied by a 4233
written statement of the conditions under which the license of the 4234
genetic counselor may be reinstated. The board shall adopt rules 4235
in accordance with Chapter 119. of the Revised Code governing 4236
conditions to be imposed for reinstatement. Reinstatement of a 4237
license suspended pursuant to division (B) of this section 4238
requires an affirmative vote of not fewer than six members of the 4239
board. 4240

(L) When the board refuses to grant a license to practice as 4241
a genetic counselor to an applicant, revokes an individual's 4242
license, refuses to renew a license, or refuses to reinstate an 4243
individual's license, the board may specify that its action is 4244
permanent. An individual subject to a permanent action taken by 4245
the board is forever thereafter ineligible to hold a license to 4246
practice as a genetic counselor and the board shall not accept an 4247
application for reinstatement of the license or for issuance of a 4248
new license. 4249

(M) Notwithstanding any other provision of the Revised Code, 4250
all of the following apply: 4251

(1) The surrender of a license to practice as a genetic 4252
counselor is not effective unless or until accepted by the board. 4253
A telephone conference call may be utilized for acceptance of the 4254
surrender of an individual's license. The telephone conference 4255
call shall be considered a special meeting under division (F) of 4256
section 121.22 of the Revised Code. Reinstatement of a license 4257
surrendered to the board requires an affirmative vote of not fewer 4258
than six members of the board. 4259

(2) An application made under this chapter for a license to 4260
practice may not be withdrawn without approval of the board. 4261

(3) Failure by an individual to renew a license in accordance 4262
with section 4778.06 of the Revised Code shall not remove or limit 4263
the board's jurisdiction to take disciplinary action under this 4264
section against the individual. 4265

Sec. 4779.28. (A) The board may, pursuant to an adjudication 4266
under Chapter 119. of the Revised Code and by a vote of not fewer 4267
than four of its members, limit, revoke, or suspend a license 4268
issued under this chapter, refuse to issue a license to an 4269
applicant, or reprimand or place on probation a license holder for 4270
any of the following reasons: 4271

(1) Conviction of, or a plea of guilty to, a misdemeanor or 4272
felony involving moral turpitude; 4273

(2) Any violation of this chapter; 4274

(3) Committing fraud, misrepresentation, or deception in 4275
applying for or securing a license issued under this chapter; 4276

(4) Habitual use of drugs or intoxicants to the extent that 4277
it renders the person unfit to practice; 4278

(5) Violation of any rule adopted by the board under section 4279

4779.08 of the Revised Code;	4280
(6) A departure from, or failure to conform to, minimal standards of care of similar orthotists, prosthetists, orthotists-prosthetists, or pedorthists under the same or similar circumstances, regardless of whether actual injury to a patient is established;	4281 4282 4283 4284 4285
(7) Obtaining or attempting to obtain money or anything of value by fraudulent misrepresentation in the course of practice;	4286 4287
(8) Publishing a false, fraudulent, deceptive, or misleading statement;	4288 4289
(9) Waiving the payment of all or part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan, would otherwise be required to pay, if the waiver is used as an enticement to a patient or group of patients to receive health care services from a person who holds a license issued under this chapter;	4290 4291 4292 4293 4294 4295
(10) Advertising that a person who holds a license issued under this chapter will waive the payment of all or part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan, that covers the person's services, would otherwise be required to pay;	4296 4297 4298 4299 4300
<u>(11) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of an orthotist, prosthetist, orthotist-prosthetist, or pedorthist;</u>	4301 4302 4303 4304
<u>(12) Failure to comply with the requirements of section 4745.04 of the Revised Code.</u>	4305 4306
(B) For the purpose of investigating whether a person is engaging or has engaged in conduct described in division (A) of this section, the board may administer oaths, order the taking of	4307 4308 4309

depositions, issue subpoenas, examine witnesses, and compel the 4310
attendance of witnesses and production of books, accounts, papers, 4311
records, documents, and testimony. 4312

Section 2. That existing sections 4715.30, 4723.28, 4725.19, 4313
4725.53, 4729.16, 4730.02, 4730.25, 4731.22, 4732.17, 4734.31, 4314
4753.10, 4755.11, 4755.47, 4755.64, 4757.36, 4758.30, 4759.07, 4315
4760.13, 4761.09, 4762.13, 4774.13, 4778.14, and 4779.28 of the 4316
Revised Code are hereby repealed. 4317

Section 3. Section 4731.22 of the Revised Code is presented 4318
in this act as a composite of the section as amended by both Am. 4319
Sub. H.B. 292 and Am. Sub. H.B. 487 of the 129th General Assembly. 4320
The General Assembly, applying the principle stated in division 4321
(B) of section 1.52 of the Revised Code that amendments are to be 4322
harmonized if reasonably capable of simultaneous operation, finds 4323
that the composite is the resulting version of the section in 4324
effect prior to the effective date of the section as presented in 4325
this act. 4326