

As Introduced

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

S. B. No. 59

Senator Tavares

—

A BILL

To amend sections 109.572, 2929.12, 2929.22, 1
2951.041, 3719.121, 3719.70, 4715.30, 4717.05, 2
4717.14, 4723.28, 4730.14, 4730.25, 4730.31, 3
4730.48, 4731.22, 4731.223, 4731.281, 4734.31, 4
4760.06, 4760.13, 4760.15, 4761.09, 4762.06, 5
4762.13, 4762.15, 4765.112, 4774.06, 4774.13, 6
4774.15, 5111.032, 5111.033, and 5111.034 and to 7
enact sections 2951.042, 2951.043, 2951.044, and 8
2951.045 of the Revised Code relative to treatment 9
for certain drug offenders and to make an 10
appropriation. 11

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

Section 1. That sections 109.572, 2929.12, 2929.22, 2951.041, 12
3719.121, 3719.70, 4715.30, 4717.05, 4717.14, 4723.28, 4730.14, 13
4730.25, 4730.31, 4730.48, 4731.22, 4731.223, 4731.281, 4734.31, 14
4760.06, 4760.13, 4760.15, 4761.09, 4762.06, 4762.13, 4762.15, 15
4765.112, 4774.06, 4774.13, 4774.15, 5111.032, 5111.033, and 16
5111.034 be amended and sections 2951.042, 2951.043, 2951.044, and 17
2951.045 of the Revised Code be enacted to read as follows: 18

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 19
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 20
a completed form prescribed pursuant to division (C)(1) of this 21

section, and a set of fingerprint impressions obtained in the 22
manner described in division (C)(2) of this section, the 23
superintendent of the bureau of criminal identification and 24
investigation shall conduct a criminal records check in the manner 25
described in division (B) of this section to determine whether any 26
information exists that indicates that the person who is the 27
subject of the request previously has been convicted of or pleaded 28
guilty to any of the following: 29

(a) A violation of section 2903.01, 2903.02, 2903.03, 30
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 31
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 32
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 33
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 34
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 35
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 36
2925.06, or 3716.11 of the Revised Code, felonious sexual 37
penetration in violation of former section 2907.12 of the Revised 38
Code, a violation of section 2905.04 of the Revised Code as it 39
existed prior to July 1, 1996, a violation of section 2919.23 of 40
the Revised Code that would have been a violation of section 41
2905.04 of the Revised Code as it existed prior to July 1, 1996, 42
had the violation been committed prior to that date, or a 43
violation of section 2925.11 of the Revised Code that is not a 44
minor drug possession offense; 45

(b) A violation of an existing or former law of this state, 46
any other state, or the United States that is substantially 47
equivalent to any of the offenses listed in division (A)(1)(a) of 48
this section. 49

(2) On receipt of a request pursuant to section 5123.081 of 50
the Revised Code with respect to an applicant for employment in 51
any position with the department of developmental disabilities, 52
pursuant to section 5126.28 of the Revised Code with respect to an 53

applicant for employment in any position with a county board of 54
developmental disabilities, or pursuant to section 5126.281 of the 55
Revised Code with respect to an applicant for employment in a 56
direct services position with an entity contracting with a county 57
board for employment, a completed form prescribed pursuant to 58
division (C)(1) of this section, and a set of fingerprint 59
impressions obtained in the manner described in division (C)(2) of 60
this section, the superintendent of the bureau of criminal 61
identification and investigation shall conduct a criminal records 62
check. The superintendent shall conduct the criminal records check 63
in the manner described in division (B) of this section to 64
determine whether any information exists that indicates that the 65
person who is the subject of the request has been convicted of or 66
pleaded guilty to any of the following: 67

(a) A violation of section 2903.01, 2903.02, 2903.03, 68
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 69
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 70
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 71
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 72
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 73
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 74
2925.03, or 3716.11 of the Revised Code; 75

(b) An existing or former municipal ordinance or law of this 76
state, any other state, or the United States that is substantially 77
equivalent to any of the offenses listed in division (A)(2)(a) of 78
this section. 79

(3) On receipt of a request pursuant to section 173.27, 80
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 81
completed form prescribed pursuant to division (C)(1) of this 82
section, and a set of fingerprint impressions obtained in the 83
manner described in division (C)(2) of this section, the 84
superintendent of the bureau of criminal identification and 85

investigation shall conduct a criminal records check with respect 86
to any person who has applied for employment in a position for 87
which a criminal records check is required by those sections. The 88
superintendent shall conduct the criminal records check in the 89
manner described in division (B) of this section to determine 90
whether any information exists that indicates that the person who 91
is the subject of the request previously has been convicted of or 92
pleaded guilty to any of the following: 93

(a) A violation of section 2903.01, 2903.02, 2903.03, 94
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 95
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 96
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 97
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 98
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 99
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 100
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 101
2925.22, 2925.23, or 3716.11 of the Revised Code; 102

(b) An existing or former law of this state, any other state, 103
or the United States that is substantially equivalent to any of 104
the offenses listed in division (A)(3)(a) of this section. 105

(4) On receipt of a request pursuant to section 3701.881 of 106
the Revised Code with respect to an applicant for employment with 107
a home health agency as a person responsible for the care, 108
custody, or control of a child, a completed form prescribed 109
pursuant to division (C)(1) of this section, and a set of 110
fingerprint impressions obtained in the manner described in 111
division (C)(2) of this section, the superintendent of the bureau 112
of criminal identification and investigation shall conduct a 113
criminal records check. The superintendent shall conduct the 114
criminal records check in the manner described in division (B) of 115
this section to determine whether any information exists that 116
indicates that the person who is the subject of the request 117

previously has been convicted of or pleaded guilty to any of the 118
following: 119

(a) A violation of section 2903.01, 2903.02, 2903.03, 120
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 121
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 122
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 123
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 124
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 125
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 126
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 127
violation of section 2925.11 of the Revised Code that is not a 128
minor drug possession offense; 129

(b) An existing or former law of this state, any other state, 130
or the United States that is substantially equivalent to any of 131
the offenses listed in division (A)(4)(a) of this section. 132

(5) On receipt of a request pursuant to section 5111.032, 133
5111.033, or 5111.034 of the Revised Code, a completed form 134
prescribed pursuant to division (C)(1) of this section, and a set 135
of fingerprint impressions obtained in the manner described in 136
division (C)(2) of this section, the superintendent of the bureau 137
of criminal identification and investigation shall conduct a 138
criminal records check. The superintendent shall conduct the 139
criminal records check in the manner described in division (B) of 140
this section to determine whether any information exists that 141
indicates that the person who is the subject of the request 142
previously has been convicted of, has pleaded guilty to, or has 143
been found eligible for intervention in lieu of conviction under 144
section 2951.041 of the Revised Code for any of the following, 145
regardless of the date of the conviction, the date of entry of the 146
guilty plea, or the date the person was found eligible for 147
intervention in lieu of conviction: 148

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 149

2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,	150
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,	151
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,	152
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,	153
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,	154
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,	155
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,	156
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,	157
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47,	158
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11,	159
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,	160
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02,	161
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03,	162
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22,	163
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual	164
penetration in violation of former section 2907.12 of the Revised	165
Code, a violation of section 2905.04 of the Revised Code as it	166
existed prior to July 1, 1996, a violation of section 2919.23 of	167
the Revised Code that would have been a violation of section	168
2905.04 of the Revised Code as it existed prior to July 1, 1996,	169
had the violation been committed prior to that date;	170
(b) A violation of an existing or former municipal ordinance	171
or law of this state, any other state, or the United States that	172
is substantially equivalent to any of the offenses listed in	173
division (A)(5)(a) of this section.	174
(6) On receipt of a request pursuant to section 3701.881 of	175
the Revised Code with respect to an applicant for employment with	176
a home health agency in a position that involves providing direct	177
care to an older adult, a completed form prescribed pursuant to	178
division (C)(1) of this section, and a set of fingerprint	179
impressions obtained in the manner described in division (C)(2) of	180
this section, the superintendent of the bureau of criminal	181

identification and investigation shall conduct a criminal records 182
check. The superintendent shall conduct the criminal records check 183
in the manner described in division (B) of this section to 184
determine whether any information exists that indicates that the 185
person who is the subject of the request previously has been 186
convicted of or pleaded guilty to any of the following: 187

(a) A violation of section 2903.01, 2903.02, 2903.03, 188
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 189
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 190
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 191
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 192
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 193
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 194
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 195
2925.22, 2925.23, or 3716.11 of the Revised Code; 196

(b) An existing or former law of this state, any other state, 197
or the United States that is substantially equivalent to any of 198
the offenses listed in division (A)(6)(a) of this section. 199

(7) When conducting a criminal records check upon a request 200
pursuant to section 3319.39 of the Revised Code for an applicant 201
who is a teacher, in addition to the determination made under 202
division (A)(1) of this section, the superintendent shall 203
determine whether any information exists that indicates that the 204
person who is the subject of the request previously has been 205
convicted of or pleaded guilty to any offense specified in section 206
3319.31 of the Revised Code. 207

(8) On receipt of a request pursuant to section 2151.86 of 208
the Revised Code, a completed form prescribed pursuant to division 209
(C)(1) of this section, and a set of fingerprint impressions 210
obtained in the manner described in division (C)(2) of this 211
section, the superintendent of the bureau of criminal 212
identification and investigation shall conduct a criminal records 213

check in the manner described in division (B) of this section to 214
determine whether any information exists that indicates that the 215
person who is the subject of the request previously has been 216
convicted of or pleaded guilty to any of the following: 217

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 218
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 219
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 220
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 221
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 222
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 223
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 224
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 225
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 226
of the Revised Code, a violation of section 2905.04 of the Revised 227
Code as it existed prior to July 1, 1996, a violation of section 228
2919.23 of the Revised Code that would have been a violation of 229
section 2905.04 of the Revised Code as it existed prior to July 1, 230
1996, had the violation been committed prior to that date, a 231
violation of section 2925.11 of the Revised Code that is not a 232
minor drug possession offense, two or more OVI or OVUAC violations 233
committed within the three years immediately preceding the 234
submission of the application or petition that is the basis of the 235
request, or felonious sexual penetration in violation of former 236
section 2907.12 of the Revised Code; 237

(b) A violation of an existing or former law of this state, 238
any other state, or the United States that is substantially 239
equivalent to any of the offenses listed in division (A)(8)(a) of 240
this section. 241

(9) Upon receipt of a request pursuant to section 5104.012 or 242
5104.013 of the Revised Code, a completed form prescribed pursuant 243
to division (C)(1) of this section, and a set of fingerprint 244
impressions obtained in the manner described in division (C)(2) of 245

this section, the superintendent of the bureau of criminal 246
identification and investigation shall conduct a criminal records 247
check in the manner described in division (B) of this section to 248
determine whether any information exists that indicates that the 249
person who is the subject of the request has been convicted of or 250
pleaded guilty to any of the following: 251

(a) A violation of section 2903.01, 2903.02, 2903.03, 252
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 253
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 254
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 255
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 256
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 257
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 258
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 259
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 260
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 261
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 262
3716.11 of the Revised Code, felonious sexual penetration in 263
violation of former section 2907.12 of the Revised Code, a 264
violation of section 2905.04 of the Revised Code as it existed 265
prior to July 1, 1996, a violation of section 2919.23 of the 266
Revised Code that would have been a violation of section 2905.04 267
of the Revised Code as it existed prior to July 1, 1996, had the 268
violation been committed prior to that date, a violation of 269
section 2925.11 of the Revised Code that is not a minor drug 270
possession offense, a violation of section 2923.02 or 2923.03 of 271
the Revised Code that relates to a crime specified in this 272
division, or a second violation of section 4511.19 of the Revised 273
Code within five years of the date of application for licensure or 274
certification. 275

(b) A violation of an existing or former law of this state, 276
any other state, or the United States that is substantially 277

equivalent to any of the offenses or violations described in 278
division (A)(9)(a) of this section. 279

(10) Upon receipt of a request pursuant to section 5153.111 280
of the Revised Code, a completed form prescribed pursuant to 281
division (C)(1) of this section, and a set of fingerprint 282
impressions obtained in the manner described in division (C)(2) of 283
this section, the superintendent of the bureau of criminal 284
identification and investigation shall conduct a criminal records 285
check in the manner described in division (B) of this section to 286
determine whether any information exists that indicates that the 287
person who is the subject of the request previously has been 288
convicted of or pleaded guilty to any of the following: 289

(a) A violation of section 2903.01, 2903.02, 2903.03, 290
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 291
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 292
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 293
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 294
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 295
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 296
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 297
felonious sexual penetration in violation of former section 298
2907.12 of the Revised Code, a violation of section 2905.04 of the 299
Revised Code as it existed prior to July 1, 1996, a violation of 300
section 2919.23 of the Revised Code that would have been a 301
violation of section 2905.04 of the Revised Code as it existed 302
prior to July 1, 1996, had the violation been committed prior to 303
that date, or a violation of section 2925.11 of the Revised Code 304
that is not a minor drug possession offense; 305

(b) A violation of an existing or former law of this state, 306
any other state, or the United States that is substantially 307
equivalent to any of the offenses listed in division (A)(10)(a) of 308
this section. 309

(11) On receipt of a request for a criminal records check 310
from an individual pursuant to section 4749.03 or 4749.06 of the 311
Revised Code, accompanied by a completed copy of the form 312
prescribed in division (C)(1) of this section and a set of 313
fingerprint impressions obtained in a manner described in division 314
(C)(2) of this section, the superintendent of the bureau of 315
criminal identification and investigation shall conduct a criminal 316
records check in the manner described in division (B) of this 317
section to determine whether any information exists indicating 318
that the person who is the subject of the request has been 319
convicted of or pleaded guilty to a felony in this state or in any 320
other state. If the individual indicates that a firearm will be 321
carried in the course of business, the superintendent shall 322
require information from the federal bureau of investigation as 323
described in division (B)(2) of this section. The superintendent 324
shall report the findings of the criminal records check and any 325
information the federal bureau of investigation provides to the 326
director of public safety. 327

(12) On receipt of a request pursuant to section 1321.37, 328
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 329
Code, a completed form prescribed pursuant to division (C)(1) of 330
this section, and a set of fingerprint impressions obtained in the 331
manner described in division (C)(2) of this section, the 332
superintendent of the bureau of criminal identification and 333
investigation shall conduct a criminal records check with respect 334
to any person who has applied for a license, permit, or 335
certification from the department of commerce or a division in the 336
department. The superintendent shall conduct the criminal records 337
check in the manner described in division (B) of this section to 338
determine whether any information exists that indicates that the 339
person who is the subject of the request previously has been 340
convicted of or pleaded guilty to any of the following: a 341
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 342

2925.03 of the Revised Code; any other criminal offense involving 343
theft, receiving stolen property, embezzlement, forgery, fraud, 344
passing bad checks, money laundering, or drug trafficking, or any 345
criminal offense involving money or securities, as set forth in 346
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 347
the Revised Code; or any existing or former law of this state, any 348
other state, or the United States that is substantially equivalent 349
to those offenses. 350

(13) On receipt of a request for a criminal records check 351
from the treasurer of state under section 113.041 of the Revised 352
Code or from an individual under section 4701.08, 4715.101, 353
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 354
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 355
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 356
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 357
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 358
a completed form prescribed under division (C)(1) of this section 359
and a set of fingerprint impressions obtained in the manner 360
described in division (C)(2) of this section, the superintendent 361
of the bureau of criminal identification and investigation shall 362
conduct a criminal records check in the manner described in 363
division (B) of this section to determine whether any information 364
exists that indicates that the person who is the subject of the 365
request has been convicted of or pleaded guilty to any criminal 366
offense in this state or any other state. The superintendent shall 367
send the results of a check requested under section 113.041 of the 368
Revised Code to the treasurer of state and shall send the results 369
of a check requested under any of the other listed sections to the 370
licensing board specified by the individual in the request. 371

(14) On receipt of a request pursuant to section 1121.23, 372
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 373
Code, a completed form prescribed pursuant to division (C)(1) of 374

this section, and a set of fingerprint impressions obtained in the 375
manner described in division (C)(2) of this section, the 376
superintendent of the bureau of criminal identification and 377
investigation shall conduct a criminal records check in the manner 378
described in division (B) of this section to determine whether any 379
information exists that indicates that the person who is the 380
subject of the request previously has been convicted of or pleaded 381
guilty to any criminal offense under any existing or former law of 382
this state, any other state, or the United States. 383

(15) On receipt of a request for a criminal records check 384
from an appointing or licensing authority under section 3772.07 of 385
the Revised Code, a completed form prescribed under division 386
(C)(1) of this section, and a set of fingerprint impressions 387
obtained in the manner prescribed in division (C)(2) of this 388
section, the superintendent of the bureau of criminal 389
identification and investigation shall conduct a criminal records 390
check in the manner described in division (B) of this section to 391
determine whether any information exists that indicates that the 392
person who is the subject of the request previously has been 393
convicted of or pleaded guilty or no contest to any offense under 394
any existing or former law of this state, any other state, or the 395
United States that is a disqualifying offense as defined in 396
section 3772.07 of the Revised Code or substantially equivalent to 397
such an offense. 398

(16) Not later than thirty days after the date the 399
superintendent receives a request of a type described in division 400
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 401
(14), or (15) of this section, the completed form, and the 402
fingerprint impressions, the superintendent shall send the person, 403
board, or entity that made the request any information, other than 404
information the dissemination of which is prohibited by federal 405
law, the superintendent determines exists with respect to the 406

person who is the subject of the request that indicates that the 407
person previously has been convicted of or pleaded guilty to any 408
offense listed or described in division (A)(1), (2), (3), (4), 409
(5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this 410
section, as appropriate. The superintendent shall send the person, 411
board, or entity that made the request a copy of the list of 412
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 413
(7), (8), (9), (10), (11), (12), (14), or (15) of this section, as 414
appropriate. If the request was made under section 3701.881 of the 415
Revised Code with regard to an applicant who may be both 416
responsible for the care, custody, or control of a child and 417
involved in providing direct care to an older adult, the 418
superintendent shall provide a list of the offenses specified in 419
divisions (A)(4) and (6) of this section. 420

Not later than thirty days after the superintendent receives 421
a request for a criminal records check pursuant to section 113.041 422
of the Revised Code, the completed form, and the fingerprint 423
impressions, the superintendent shall send the treasurer of state 424
any information, other than information the dissemination of which 425
is prohibited by federal law, the superintendent determines exist 426
with respect to the person who is the subject of the request that 427
indicates that the person previously has been convicted of or 428
pleaded guilty to any criminal offense in this state or any other 429
state. 430

(B) The superintendent shall conduct any criminal records 431
check requested under section 113.041, 121.08, 173.27, 173.394, 432
1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 433
1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 434
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 3772.07, 4701.08, 435
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 436
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 437
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 438

4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 439
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 440
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 441
5126.281, or 5153.111 of the Revised Code as follows: 442

(1) The superintendent shall review or cause to be reviewed 443
any relevant information gathered and compiled by the bureau under 444
division (A) of section 109.57 of the Revised Code that relates to 445
the person who is the subject of the request, including, if the 446
criminal records check was requested under section 113.041, 447
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 448
1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 449
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 450
3722.151, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 451
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 452
5153.111 of the Revised Code, any relevant information contained 453
in records that have been sealed under section 2953.32 of the 454
Revised Code; 455

(2) If the request received by the superintendent asks for 456
information from the federal bureau of investigation, the 457
superintendent shall request from the federal bureau of 458
investigation any information it has with respect to the person 459
who is the subject of the request, including fingerprint-based 460
checks of national crime information databases as described in 42 461
U.S.C. 671 if the request is made pursuant to section 2151.86, 462
5104.012, or 5104.013 of the Revised Code or if any other Revised 463
Code section requires fingerprint-based checks of that nature, and 464
shall review or cause to be reviewed any information the 465
superintendent receives from that bureau. If a request under 466
section 3319.39 of the Revised Code asks only for information from 467
the federal bureau of investigation, the superintendent shall not 468
conduct the review prescribed by division (B)(1) of this section. 469

(3) The superintendent or the superintendent's designee may 470

request criminal history records from other states or the federal 471
government pursuant to the national crime prevention and privacy 472
compact set forth in section 109.571 of the Revised Code. 473

(C)(1) The superintendent shall prescribe a form to obtain 474
the information necessary to conduct a criminal records check from 475
any person for whom a criminal records check is requested under 476
section 113.041 of the Revised Code or required by section 121.08, 477
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 478
1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 479
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 3772.07, 480
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 481
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 482
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 483
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 484
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 485
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 486
5126.281, or 5153.111 of the Revised Code. The form that the 487
superintendent prescribes pursuant to this division may be in a 488
tangible format, in an electronic format, or in both tangible and 489
electronic formats. 490

(2) The superintendent shall prescribe standard impression 491
sheets to obtain the fingerprint impressions of any person for 492
whom a criminal records check is requested under section 113.041 493
of the Revised Code or required by section 121.08, 173.27, 494
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 495
1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 496
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 3772.07, 4701.08, 497
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 498
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 499
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 500
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 501
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 502

5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 503
5126.281, or 5153.111 of the Revised Code. Any person for whom a 504
records check is requested under or required by any of those 505
sections shall obtain the fingerprint impressions at a county 506
sheriff's office, municipal police department, or any other entity 507
with the ability to make fingerprint impressions on the standard 508
impression sheets prescribed by the superintendent. The office, 509
department, or entity may charge the person a reasonable fee for 510
making the impressions. The standard impression sheets the 511
superintendent prescribes pursuant to this division may be in a 512
tangible format, in an electronic format, or in both tangible and 513
electronic formats. 514

(3) Subject to division (D) of this section, the 515
superintendent shall prescribe and charge a reasonable fee for 516
providing a criminal records check requested under section 517
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 518
1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 519
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 520
3722.151, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 521
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 522
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 523
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 524
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 525
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 526
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 527
person making a criminal records request under any of those 528
sections shall pay the fee prescribed pursuant to this division. A 529
person making a request under section 3701.881 of the Revised Code 530
for a criminal records check for an applicant who may be both 531
responsible for the care, custody, or control of a child and 532
involved in providing direct care to an older adult shall pay one 533
fee for the request. In the case of a request under section 534
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 535

of the Revised Code, the fee shall be paid in the manner specified 536
in that section. 537

(4) The superintendent of the bureau of criminal 538
identification and investigation may prescribe methods of 539
forwarding fingerprint impressions and information necessary to 540
conduct a criminal records check, which methods shall include, but 541
not be limited to, an electronic method. 542

(D) A determination whether any information exists that 543
indicates that a person previously has been convicted of or 544
pleaded guilty to any offense listed or described in division 545
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 546
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 547
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) 548
of this section, or that indicates that a person previously has 549
been convicted of or pleaded guilty to any criminal offense in 550
this state or any other state regarding a criminal records check 551
of a type described in division (A)(13) of this section, and that 552
is made by the superintendent with respect to information 553
considered in a criminal records check in accordance with this 554
section is valid for the person who is the subject of the criminal 555
records check for a period of one year from the date upon which 556
the superintendent makes the determination. During the period in 557
which the determination in regard to a person is valid, if another 558
request under this section is made for a criminal records check 559
for that person, the superintendent shall provide the information 560
that is the basis for the superintendent's initial determination 561
at a lower fee than the fee prescribed for the initial criminal 562
records check. 563

(E) As used in this section: 564

(1) "Criminal records check" means any criminal records check 565
conducted by the superintendent of the bureau of criminal 566
identification and investigation in accordance with division (B) 567

of this section. 568

(2) "Minor drug possession offense" has the same meaning as 569
in section 2925.01 of the Revised Code. 570

(3) "Older adult" means a person age sixty or older. 571

(4) "OVI or OVUAC violation" means a violation of section 572
4511.19 of the Revised Code or a violation of an existing or 573
former law of this state, any other state, or the United States 574
that is substantially equivalent to section 4511.19 of the Revised 575
Code. 576

Sec. 2929.12. (A) Unless otherwise required by section 577
2929.13 or 2929.14 of the Revised Code or unless a specific 578
sanction is required to be imposed or is precluded from being 579
imposed by any provision of sections 2951.042 to 2951.045 of the 580
Revised Code, a court that imposes a sentence under this chapter 581
upon an offender for a felony has discretion to determine the most 582
effective way to comply with the purposes and principles of 583
sentencing set forth in section 2929.11 of the Revised Code. In 584
exercising that discretion, the court shall consider the factors 585
set forth in divisions (B) and (C) of this section relating to the 586
seriousness of the conduct and the factors provided in divisions 587
(D) and (E) of this section relating to the likelihood of the 588
offender's recidivism and, in addition, may consider any other 589
factors that are relevant to achieving those purposes and 590
principles of sentencing. 591

(B) The sentencing court shall consider all of the following 592
that apply regarding the offender, the offense, or the victim, and 593
any other relevant factors, as indicating that the offender's 594
conduct is more serious than conduct normally constituting the 595
offense: 596

(1) The physical or mental injury suffered by the victim of 597

the offense due to the conduct of the offender was exacerbated 598
because of the physical or mental condition or age of the victim. 599

(2) The victim of the offense suffered serious physical, 600
psychological, or economic harm as a result of the offense. 601

(3) The offender held a public office or position of trust in 602
the community, and the offense related to that office or position. 603

(4) The offender's occupation, elected office, or profession 604
obliged the offender to prevent the offense or bring others 605
committing it to justice. 606

(5) The offender's professional reputation or occupation, 607
elected office, or profession was used to facilitate the offense 608
or is likely to influence the future conduct of others. 609

(6) The offender's relationship with the victim facilitated 610
the offense. 611

(7) The offender committed the offense for hire or as a part 612
of an organized criminal activity. 613

(8) In committing the offense, the offender was motivated by 614
prejudice based on race, ethnic background, gender, sexual 615
orientation, or religion. 616

(9) If the offense is a violation of section 2919.25 or a 617
violation of section 2903.11, 2903.12, or 2903.13 of the Revised 618
Code involving a person who was a family or household member at 619
the time of the violation, the offender committed the offense in 620
the vicinity of one or more children who are not victims of the 621
offense, and the offender or the victim of the offense is a 622
parent, guardian, custodian, or person in loco parentis of one or 623
more of those children. 624

(C) The sentencing court shall consider all of the following 625
that apply regarding the offender, the offense, or the victim, and 626
any other relevant factors, as indicating that the offender's 627

conduct is less serious than conduct normally constituting the 628
offense: 629

(1) The victim induced or facilitated the offense. 630

(2) In committing the offense, the offender acted under 631
strong provocation. 632

(3) In committing the offense, the offender did not cause or 633
expect to cause physical harm to any person or property. 634

(4) There are substantial grounds to mitigate the offender's 635
conduct, although the grounds are not enough to constitute a 636
defense. 637

(D) The sentencing court shall consider all of the following 638
that apply regarding the offender, and any other relevant factors, 639
as factors indicating that the offender is likely to commit future 640
crimes: 641

(1) At the time of committing the offense, the offender was 642
under release from confinement before trial or sentencing, under a 643
sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 644
of the Revised Code, or under post-release control pursuant to 645
section 2967.28 or any other provision of the Revised Code for an 646
earlier offense or had been unfavorably terminated from 647
post-release control for a prior offense pursuant to division (B) 648
of section 2967.16 or section 2929.141 of the Revised Code. 649

(2) The offender previously was adjudicated a delinquent 650
child pursuant to Chapter 2151. of the Revised Code prior to 651
January 1, 2002, or pursuant to Chapter 2152. of the Revised Code, 652
or the offender has a history of criminal convictions. 653

(3) The offender has not been rehabilitated to a satisfactory 654
degree after previously being adjudicated a delinquent child 655
pursuant to Chapter 2151. of the Revised Code prior to January 1, 656
2002, or pursuant to Chapter 2152. of the Revised Code, or the 657

offender has not responded favorably to sanctions previously 658
imposed for criminal convictions. 659

(4) The offender has demonstrated a pattern of drug or 660
alcohol abuse that is related to the offense, and the offender 661
refuses to acknowledge that the offender has demonstrated that 662
pattern, or the offender refuses treatment for the drug or alcohol 663
abuse. 664

(5) The offender shows no genuine remorse for the offense. 665

(E) The sentencing court shall consider all of the following 666
that apply regarding the offender, and any other relevant factors, 667
as factors indicating that the offender is not likely to commit 668
future crimes: 669

(1) Prior to committing the offense, the offender had not 670
been adjudicated a delinquent child. 671

(2) Prior to committing the offense, the offender had not 672
been convicted of or pleaded guilty to a criminal offense. 673

(3) Prior to committing the offense, the offender had led a 674
law-abiding life for a significant number of years. 675

(4) The offense was committed under circumstances not likely 676
to recur. 677

(5) The offender shows genuine remorse for the offense. 678

Sec. 2929.22. (A) Unless a mandatory jail term is required to 679
be imposed by division (G) of section 1547.99, division (B) of 680
section 4510.14, division (G) of section 4511.19 of the Revised 681
Code, or any other provision of the Revised Code or unless a 682
specific sanction is required to be imposed or is precluded from 683
being imposed by any provision of sections 2951.042 to 2951.045 of 684
the Revised Code, a court that imposes a sentence under this 685
chapter upon an offender for a misdemeanor or minor misdemeanor 686
has discretion to determine the most effective way to achieve the 687

purposes and principles of sentencing set forth in section 2929.21 688
of the Revised Code. 689

Unless a specific sanction is required to be imposed or is 690
precluded from being imposed by the section setting forth an 691
offense or the penalty for an offense ~~or~~, by any provision of 692
sections 2929.23 to 2929.28 of the Revised Code, or by any 693
provision of sections 2951.042 to 2951.045 of the Revised Code, a 694
court that imposes a sentence upon an offender for a misdemeanor 695
may impose on the offender any sanction or combination of 696
sanctions under sections 2929.24 to 2929.28 of the Revised Code. 697
The court shall not impose a sentence that imposes an unnecessary 698
burden on local government resources. 699

(B)(1) In determining the appropriate sentence for a 700
misdemeanor, the court shall consider all of the following 701
factors: 702

(a) The nature and circumstances of the offense or offenses; 703

(b) Whether the circumstances regarding the offender and the 704
offense or offenses indicate that the offender has a history of 705
persistent criminal activity and that the offender's character and 706
condition reveal a substantial risk that the offender will commit 707
another offense; 708

(c) Whether the circumstances regarding the offender and the 709
offense or offenses indicate that the offender's history, 710
character, and condition reveal a substantial risk that the 711
offender will be a danger to others and that the offender's 712
conduct has been characterized by a pattern of repetitive, 713
compulsive, or aggressive behavior with heedless indifference to 714
the consequences; 715

(d) Whether the victim's youth, age, disability, or other 716
factor made the victim particularly vulnerable to the offense or 717
made the impact of the offense more serious; 718

(e) Whether the offender is likely to commit future crimes in 719
general, in addition to the circumstances described in divisions 720
(B)(1)(b) and (c) of this section. 721

(2) In determining the appropriate sentence for a 722
misdemeanor, in addition to complying with division (B)(1) of this 723
section, the court may consider any other factors that are 724
relevant to achieving the purposes and principles of sentencing 725
set forth in section 2929.21 of the Revised Code. 726

(C) Before imposing a jail term as a sentence for a 727
misdemeanor, a court shall consider the appropriateness of 728
imposing a community control sanction or a combination of 729
community control sanctions under sections 2929.25, 2929.26, 730
2929.27, and 2929.28 of the Revised Code. A court may impose the 731
longest jail term authorized under section 2929.24 of the Revised 732
Code only upon offenders who commit the worst forms of the offense 733
or upon offenders whose conduct and response to prior sanctions 734
for prior offenses demonstrate that the imposition of the longest 735
jail term is necessary to deter the offender from committing a 736
future crime. 737

(D)(1) A sentencing court shall consider any relevant oral or 738
written statement made by the victim, the defendant, the defense 739
attorney, or the prosecuting authority regarding sentencing for a 740
misdemeanor. This division does not create any rights to notice 741
other than those rights authorized by Chapter 2930. of the Revised 742
Code. 743

(2) At the time of sentencing for a misdemeanor or as soon as 744
possible after sentencing, the court shall notify the victim of 745
the offense of the victim's right to file an application for an 746
award of reparations pursuant to sections 2743.51 to 2743.72 of 747
the Revised Code. 748

Sec. 2951.041. (A)(1) If an offender is charged with a 749

criminal offense and the court has reason to believe that drug or 750
alcohol usage by the offender was a factor leading to the 751
offender's criminal behavior, the court may accept, prior to the 752
entry of a guilty plea, the offender's request for intervention in 753
lieu of conviction. The request shall include a waiver of the 754
defendant's right to a speedy trial, the preliminary hearing, the 755
time period within which the grand jury may consider an indictment 756
against the offender, and arraignment, unless the hearing, 757
indictment, or arraignment has already occurred. The court may 758
reject an offender's request without a hearing. If the court 759
elects to consider an offender's request, the court shall conduct 760
a hearing to determine whether the offender is eligible under this 761
section for intervention in lieu of conviction and shall stay all 762
criminal proceedings pending the outcome of the hearing. If the 763
court schedules a hearing, the court shall order an assessment of 764
the offender for the purpose of determining the offender's 765
eligibility for intervention in lieu of conviction and 766
recommending an appropriate intervention plan. Intervention in 767
lieu of conviction under this section is separate from, and 768
independent of, drug treatment intervention under sections 769
2951.042 to 2951.045 of the Revised Code. 770

(2) The victim notification provisions of division (C) of 771
section 2930.08 of the Revised Code apply in relation to any 772
hearing held under division (A)(1) of this section. 773

(B) An offender is eligible for intervention in lieu of 774
conviction under this section if the court finds all of the 775
following: 776

(1) The offender previously has not been convicted of or 777
pleaded guilty to a felony, previously has not been through 778
intervention in lieu of conviction under this section or any 779
similar regimen, and is charged with a felony for which the court, 780
upon conviction, would impose sentence under division (B)(2)(b) of 781

section 2929.13 of the Revised Code or with a misdemeanor. 782

(2) The offense is not a felony of the first, second, or 783
third degree, is not an offense of violence, is not a violation of 784
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 785
not a violation of division (A)(1) of section 2903.08 of the 786
Revised Code, is not a violation of division (A) of section 787
4511.19 of the Revised Code or a municipal ordinance that is 788
substantially similar to that division, and is not an offense for 789
which a sentencing court is required to impose a mandatory prison 790
term, a mandatory term of local incarceration, or a mandatory term 791
of imprisonment in a jail. 792

(3) The offender is not charged with a violation of section 793
2925.02, 2925.03, 2925.04, or 2925.06 of the Revised Code and is 794
not charged with a violation of section 2925.11 of the Revised 795
Code that is a felony of the first, second, or third degree. 796

(4) The offender is not charged with a violation of section 797
2925.11 of the Revised Code that is a felony of the fourth degree, 798
or the offender is charged with a violation of that section that 799
is a felony of the fourth degree and the prosecutor in the case 800
has recommended that the offender be classified as being eligible 801
for intervention in lieu of conviction under this section. 802

(5) The offender has been assessed by an appropriately 803
licensed provider, certified facility, or licensed and 804
credentialed professional, including, but not limited to, a 805
program licensed by the department of alcohol and drug addiction 806
services pursuant to section 3793.11 of the Revised Code, a 807
program certified by that department pursuant to section 3793.06 808
of the Revised Code, a public or private hospital, the United 809
States department of veterans affairs, another appropriate agency 810
of the government of the United States, or a licensed physician, 811
psychiatrist, psychologist, independent social worker, 812
professional counselor, or chemical dependency counselor for the 813

purpose of determining the offender's eligibility for intervention 814
in lieu of conviction under this section and recommending an 815
appropriate intervention plan. 816

(6) The offender's drug or alcohol usage was a factor leading 817
to the criminal offense with which the offender is charged, 818
intervention in lieu of conviction under this section would not 819
demean the seriousness of the offense, and intervention would 820
substantially reduce the likelihood of any future criminal 821
activity. 822

(7) The alleged victim of the offense was not sixty-five 823
years of age or older, permanently and totally disabled, under 824
thirteen years of age, or a peace officer engaged in the officer's 825
official duties at the time of the alleged offense. 826

(8) If the offender is charged with a violation of section 827
2925.24 of the Revised Code, the alleged violation did not result 828
in physical harm to any person, and the offender previously has 829
not been treated for drug abuse. 830

(9) The offender is willing to comply with all terms and 831
conditions imposed by the court pursuant to division (D) of this 832
section. 833

(10) If the offender is charged with an illegal possession or 834
use of a controlled substance offense, as defined in section 835
2951.042 of the Revised Code, the offender has not made a request 836
for drug treatment intervention under that section regarding that 837
offense. 838

(C) At the conclusion of a hearing held pursuant to division 839
(A) of this section, the court shall enter its determination as to 840
whether the offender is eligible for intervention in lieu of 841
conviction under this section and as to whether to grant the 842
offender's request. If the court finds under division (B) of this 843
section that the offender is eligible for intervention in lieu of 844

conviction under this section and grants the offender's request, 845
the court shall accept the offender's plea of guilty and waiver of 846
the defendant's right to a speedy trial, the preliminary hearing, 847
the time period within which the grand jury may consider an 848
indictment against the offender, and arraignment, unless the 849
hearing, indictment, or arraignment has already occurred. In 850
addition, the court then may stay all criminal proceedings and 851
order the offender to comply with all terms and conditions imposed 852
by the court pursuant to division (D) of this section. If the 853
court finds that the offender is not eligible or does not grant 854
the offender's request, the criminal proceedings against the 855
offender shall proceed as if the offender's request for 856
intervention in lieu of conviction under this section had not been 857
made. 858

(D) If the court grants an offender's request for 859
intervention in lieu of conviction under this section, the court 860
shall place the offender under the general control and supervision 861
of the county probation department, the adult parole authority, or 862
another appropriate local probation or court services agency, if 863
one exists, as if the offender was subject to a community control 864
sanction imposed under section 2929.15, 2929.18, or 2929.25 of the 865
Revised Code. The court shall establish an intervention plan for 866
the offender. The terms and conditions of the intervention plan 867
shall require the offender, for at least one year from the date on 868
which the court grants the order of intervention in lieu of 869
conviction under this section, to abstain from the use of illegal 870
drugs and alcohol, to participate in treatment and recovery 871
support services, and to submit to regular random testing for drug 872
and alcohol use and may include any other treatment terms and 873
conditions, or terms and conditions similar to community control 874
sanctions, which may include community service or restitution, 875
that are ordered by the court. 876

(E) If the court grants an offender's request for 877
intervention in lieu of conviction under this section and the 878
court finds that the offender has successfully completed the 879
intervention plan for the offender, including the requirement that 880
the offender abstain from using drugs and alcohol for a period of 881
at least one year from the date on which the court granted the 882
order of intervention in lieu of conviction and all other terms 883
and conditions ordered by the court, the court shall dismiss the 884
proceedings against the offender. Successful completion of the 885
intervention plan and period of abstinence under this section 886
shall be without adjudication of guilt and is not a criminal 887
conviction for purposes of any disqualification or disability 888
imposed by law and upon conviction of a crime, and the court may 889
order the sealing of records related to the offense in question in 890
the manner provided in sections 2953.31 to 2953.36 of the Revised 891
Code. 892

(F) If the court grants an offender's request for 893
intervention in lieu of conviction under this section and the 894
offender fails to comply with any term or condition imposed as 895
part of the intervention plan for the offender, the supervising 896
authority for the offender promptly shall advise the court of this 897
failure, and the court shall hold a hearing to determine whether 898
the offender failed to comply with any term or condition imposed 899
as part of the plan. If the court determines that the offender has 900
failed to comply with any of those terms and conditions, it shall 901
enter a finding of guilty and shall impose an appropriate sanction 902
under Chapter 2929. of the Revised Code. If the court sentences 903
the offender to a prison term, the court, after consulting with 904
the department of rehabilitation and correction regarding the 905
availability of services, may order continued court-supervised 906
activity and treatment of the offender during the prison term and, 907
upon consideration of reports received from the department 908
concerning the offender's progress in the program of activity and 909

treatment, may consider judicial release under section 2929.20 of
the Revised Code. 910
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(G) As used in this section: 912

(1) "Community control sanction" has the same meaning as in
section 2929.01 of the Revised Code. 913
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(2) "Intervention in lieu of conviction" means any
court-supervised activity that complies with this section. 915
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(3) "Peace officer" has the same meaning as in section
2935.01 of the Revised Code. 917
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Sec. 2951.042. (A) As used in sections 2951.042 to 2951.045
of the Revised Code: 919
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(1) "Controlled substance" has the same meaning as in section
3719.01 of the Revised Code. 921
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(2) "First- or second-time offender" means any of the
following: 923
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(a) A person who, on or after the effective date of this
section, is charged with, has been convicted of, or has pleaded
guilty to an illegal possession or use of a controlled substance
offense and who is not a repeat offender; 925
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(b) A person who, on the effective date of this section, is
out of custody and on probation or under a community control
sanction for an illegal possession or use of a controlled
substance offense, who is not a repeat offender as determined in
relation to that illegal possession or use of a controlled
substance offense, and who, on or after the effective date of this
section, commits a drug-related violation of the terms or
conditions of the probation or sanction. 929
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(3) "Illegal possession or use of a controlled substance
offense" means a violation of a provision of the Revised Code or a 937
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municipal ordinance that prohibits any of the following: 939

(a) Having, holding, controlling, obtaining, or storing a 940
quantity of a controlled substance that the court with 941
jurisdiction over the charge of the violation determines to be 942
consistent with personal consumption or use; 943

(b) Consuming, using, or being under the influence of a 944
controlled substance; 945

(c) Any other act not described in division (A)(3)(a) or (b) 946
of this section that is incidental to drug possession or use and 947
that does not involve causing or threatening to cause physical 948
harm to another, including possession of drug paraphernalia, 949
purchase of a controlled substance, or transportation of a 950
controlled substance, when the other act is merely an extension of 951
possession for personal use. 952

(4) "Not amenable to treatment" means that one or more of the 953
following apply to a person: 954

(a) The person has repeatedly committed serious violations of 955
treatment program rules that inhibit the person's ability to 956
function in the treatment program. 957

(b) The person has continually refused to participate in a 958
treatment program. 959

(c) The person has asked to be removed from a treatment plan 960
adopted by the court. 961

(5) "Objective data" means confidential drug and alcohol 962
treatment information that is specific and quantified, such as 963
attendance records, drug test results, and progress reports. 964
"Objective data" does not include confidential communications made 965
by a patient to a treatment provider or program in the course of 966
diagnosis, treatment, or referral for treatment for drug or 967
alcohol abuse. 968

<u>(6) "Offender" means any of the following:</u>	969
<u>(a) A person who has been convicted of or pleaded guilty to</u>	970
<u>an illegal possession or use of a controlled substance offense;</u>	971
<u>(b) A person who has been charged with an illegal possession</u>	972
<u>or use of a controlled substance offense, but who has not been</u>	973
<u>convicted of or pleaded guilty to that offense;</u>	974
<u>(c) A person who is out of custody and on probation or under</u>	975
<u>a community control sanction for an illegal possession or use of a</u>	976
<u>controlled substance offense and who commits a drug-related</u>	977
<u>violation of the terms or conditions of the probation or sanction.</u>	978
<u>(7) "Preliminary confidentiality waiver" means an offender's</u>	979
<u>written consent for limited disclosure of information to the</u>	980
<u>involved court by a qualified treatment professional to be</u>	981
<u>designated by the court, as necessary to and as provided for in</u>	982
<u>(C)(4) of this section for the assessment of the offender and the</u>	983
<u>creation of a treatment plan for the offender, which written</u>	984
<u>consent shall be governed by, and in a form that satisfies the</u>	985
<u>requirements of, federal and state laws and regulations protecting</u>	986
<u>the confidentiality of drug and alcohol abuse treatment</u>	987
<u>information.</u>	988
<u>(8) "Qualified treatment professional" means an individual</u>	989
<u>who is appropriately credentialed by certification or licensing,</u>	990
<u>who has specialized knowledge, skill, experience, training, or</u>	991
<u>education in the areas of mental health, substance abuse, or</u>	992
<u>addiction therapy, and who has the expertise needed to conduct the</u>	993
<u>addiction and life skills assessments necessary to determine an</u>	994
<u>offender's suitability to one or more forms of treatment and to</u>	995
<u>recommend an appropriate treatment plan or serve as an independent</u>	996
<u>monitor of an offender's treatment plan.</u>	997
<u>(9) "Repeat offender" means a person who, on or after the</u>	998
<u>effective date of this section, is charged with, has been</u>	999

convicted of, or has pleaded guilty to an illegal possession or 1000
use of a controlled substance offense and to whom one or both of 1001
the following apply: 1002

(a) Within five years of the offense, the person previously 1003
has been convicted of or pleaded guilty to two or more illegal 1004
possession or use of a controlled substance offenses. 1005

(b) Within five years of the offense, the person previously 1006
has participated in two or more courses of treatment under this 1007
section and sections 2951.043 to 2951.045 of the Revised Code. 1008

(10) "Request for drug treatment intervention" or "request" 1009
means a motion filed by an offender under this section that 1010
satisfies all of the criteria specified in division (C) of this 1011
section. 1012

(11) "Treatment program" and "treatment" mean a treatment 1013
program, rehabilitation program, or treatment and rehabilitation 1014
program, or set of programs, designed to reduce or eliminate 1015
substance abuse or drug dependency and to increase employability 1016
and that is appropriately licensed, certified, or licensed and 1017
certified. The program or set of programs may include outpatient 1018
treatment, half-way house treatment, sober living environments, 1019
narcotic replacement therapy, drug education or prevention 1020
courses, or limited inpatient or residential drug treatment as 1021
needed to address special detoxification or relapse situations or 1022
severe dependence. The program or set of programs shall include, 1023
as the involved court determines appropriate, access to vocational 1024
training, literacy training, family counseling, mental health 1025
services, or similar support services. A United States veterans' 1026
administration treatment facility may serve as a treatment program 1027
for an appropriate offender, irrespective of state licensure or 1028
certification. "Treatment program" and "treatment" do not include 1029
programs offered to a person in a prison or jail facility or in 1030
another form of incarceration. 1031

(12) "Treatment provider" means an appropriately licensed, certified, or licensed and certified provider or facility, or an appropriately licensed and credentialed professional, that is recognized by the lead agency and that provides a treatment program or treatment.

(13) "Violent felony" means any felony that includes as one or more elements of the offense that the offender has caused or threatened to cause physical harm to any person.

(14) "Community-based correctional facility," "community control sanction," "halfway house," "jail," "jail term," "prison," and "prison term" have the same meanings as in section 2929.01 of the Revised Code.

(15) "Municipal OVI offense" has the same meaning as in section 4511.181 of the Revised Code.

(B)(1) A first- or second-time offender is eligible for drug treatment intervention under this section if the court finds all of the following:

(a) The offender is charged with an illegal possession or use of a controlled substance offense.

(b) The offender has not been convicted of, pleaded guilty to, or served a jail term or prison term for a violent felony within five years of committing the current offense.

(c) The offender has not been sentenced to a jail term, prison term, or community control sanction that would interfere with the offender's participation in the treatment plan.

(d) In the same proceeding in which the offender requests the drug treatment intervention under this section, the offender is not charged with, is not convicted of, and does not plead guilty to any of the following:

(i) Any felony other than an illegal possession or use of a

controlled substance offense, any misdemeanor offense involving 1062
theft, or any misdemeanor offense that involved causing or 1063
threatening to cause physical harm to another; 1064

(ii) A violation of a section of the Revised Code or a 1065
municipal ordinance that involved the trafficking, sale, or 1066
manufacture of a controlled substance; 1067

(iii) A violation of a section of the Revised Code or a 1068
municipal ordinance that involved the possession of a controlled 1069
substance and either the intent to traffic in, sell, or 1070
manufacture a controlled substance or the purpose of trafficking 1071
in, selling, or manufacturing a controlled substance; 1072

(iv) A violation of section 4511.19 of the Revised Code or a 1073
municipal OVI offense. 1074

(2) A repeat offender is eligible for drug treatment 1075
intervention under this section if the court finds both of the 1076
following: 1077

(a) The offender satisfies all of the eligibility 1078
requirements of division (B)(1) of this section. 1079

(b) Treatment is in the best interests of the offender and 1080
the public. 1081

(3) If an offender does not qualify under division (B)(1) or 1082
(2) of this section for drug treatment intervention under this 1083
section solely due to the offender's failure to satisfy the 1084
eligibility requirement of division (B)(1)(d)(i) of this section, 1085
the court nonetheless may find the offender eligible for drug 1086
treatment intervention under this section if the court finds all 1087
of the following: 1088

(a) The offense or offenses that disqualify the offender 1089
under division (B)(1)(d)(i) of this section do not include a 1090
violent felony or a misdemeanor offense that involved causing or 1091

threatening to cause physical harm to another. 1092

(b) The offense or offenses that disqualify the offender 1093
under division (B)(1)(d)(i) of this section resulted from the 1094
offender's drug abuse or addiction. 1095

(c) Treatment of the offender is in the best interests of the 1096
offender and the public. 1097

(d) The prosecuting attorney has not proved that the offender 1098
poses a danger to the safety of others. 1099

(C)(1) An offender who is charged with an illegal possession 1100
or use of a controlled substance offense may file a request for 1101
drug treatment intervention under this section. An offender who 1102
has been convicted of or pleaded guilty to an illegal possession 1103
or use of a controlled substance offense, but upon whom sentence 1104
has not yet been imposed, also may file a request for drug 1105
treatment intervention under this section. The request shall 1106
include a waiver of the offender's right to a speedy trial and a 1107
waiver of the offender's right to a preliminary hearing, the time 1108
period within which the grand jury may consider an indictment 1109
against the offender, and arraignment unless the hearing, 1110
indictment, or arraignment already has occurred. 1111

(2) Upon receiving from an offender a request for drug 1112
treatment intervention under this section, the court shall stay 1113
all criminal proceedings related to the involved illegal 1114
possession or use of a controlled substance offense pending the 1115
court's entry of its final determination as to whether the 1116
offender is eligible under this section for treatment. The court 1117
shall make an initial determination as to whether the offender is 1118
eligible for drug treatment intervention under this section within 1119
three days of receiving the request. The court may make this 1120
initial determination with or without a hearing. 1121

(3) If the court makes an initial determination under 1122

division (C)(2) of this section that an offender is not eligible 1123
for drug treatment intervention under this section and makes the 1124
determination without a hearing, the offender, within three days 1125
of that initial determination, may request a hearing to be 1126
conducted before the determination becomes final. If the offender 1127
requests a hearing, the court shall conduct a hearing within seven 1128
days of the request and within three days after the conclusion of 1129
the hearing shall enter its final determination as to whether the 1130
offender is eligible for drug treatment intervention under this 1131
section. If the offender does not request a hearing within three 1132
days of the initial determination, the initial determination 1133
becomes final. 1134

(4) If the court makes a final determination under division 1135
(C)(3) of this section that an offender is eligible for drug 1136
treatment intervention under this section, the court shall demand 1137
from the offender a written commitment to proceed with an 1138
assessment by a qualified treatment professional and a preliminary 1139
confidentiality waiver executed by the offender. A preliminary 1140
confidentiality document executed by an offender is nonrevocable. 1141
After the court makes the demand, one of the following applies: 1142

(a) If the offender provides the documents demanded by the 1143
court, the court shall do all of the following: 1144

(i) Accept the offender's request; 1145

(ii) Stay all criminal proceedings, including sentencing, 1146
that relate to the illegal possession or use of a controlled 1147
substance offense; 1148

(iii) Order the release of the offender if the offender is in 1149
custody due to the stayed criminal proceedings, provided that the 1150
court may order this release into a residential treatment facility 1151
for a period not to exceed seven days for the purpose of 1152
conducting the assessment of the offender under division 1153

(C)(4)(a)(iv) of this section. No court that accepts an offender's request for drug treatment intervention under this section shall sentence the offender to a jail term, prison term, residential community control sanction, or term of incarceration unless the offender is removed from treatment under division (B) of section 2951.044 of the Revised Code. 1154
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(iv) Designate a qualified treatment professional and order that designated professional to assess the offender for the purposes of determining the offender's addiction severity and treatment needs, determining the types of drug treatment and social services that might be appropriate for the offender, and recommending an appropriate treatment plan. The qualified treatment professional shall report the results of the assessment and make the recommendations to the court within seven days of the order, except that, if the qualified treatment professional notifies the court that additional time is required, the court may grant the qualified treatment professional additional time to report the results and make the recommendations. 1160
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(b) If the offender fails to provide the documents demanded by the court within a reasonable period of time as determined by the court, the offender's request for drug treatment intervention under this section may be deemed withdrawn, and the criminal proceedings against the offender may resume. If an offender is determined to be eligible for drug treatment intervention under this section but the offender's request is withdrawn pursuant to this division, and if the offender is convicted of or pleads guilty to the illegal possession or use of a controlled substance offense, the offender shall be sentenced for that offense, notwithstanding the provisions of sections 2929.11 to 2929.28 of the Revised Code, to a jail term or term in a community-based correctional facility of not more than ninety days. 1172
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(5) If the court makes a final determination under division 1185

(C)(3) of this section that the offender is not eligible for drug treatment intervention under this section, the court shall resume the criminal proceedings against the offender as if the offender's request for drug treatment intervention had not been made, except that both of the following shall apply: 1186
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(a) The time within which the trial must be conducted is tolled for a number of days equal to the number of days between the day the request was made and the day the court's determination that the offender is not eligible becomes final. 1191
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(b) If the offender is a repeat offender who satisfies all of the eligibility requirements of division (B)(1) of this section and if the offender is convicted of or pleads guilty to the illegal possession or use of a controlled substance offense, notwithstanding the provisions of sections 2929.11 to 2929.28 of the Revised Code, the court shall not sentence the offender to a prison term for that offense and may sentence the offender for that offense to a jail term or term in a community-based corrections facility that shall not exceed ninety days. 1195
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(D)(1) Nothing in this section or in sections 2951.043 to 2951.045 of the Revised Code limits or prohibits the application of any other provision of law regarding treatment, treatment in lieu of conviction, or intervention in lieu of conviction for persons who are not otherwise eligible for drug treatment intervention under this section. 1204
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(2) If a person who files a request for drug treatment intervention under this section has been convicted of or pleaded guilty to, or subsequently is convicted of or pleads guilty to, an illegal possession or use of a controlled substance offense that is the basis of the request, nothing in this section or in sections 2951.043 to 2951.045 of the Revised Code limits or prohibits a court that is sentencing the person for that offense from imposing upon the person a financial sanction or a 1210
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nonresidential community control sanction under sections 2929.11 1218
to 2929.28 of the Revised Code, unless the sanction clearly is 1219
inconsistent with the provisions of this section or sections 1220
2951.043 to 2951.045 of the Revised Code. 1221

(E) There is hereby created in the state treasury the 1222
substance abuse treatment fund. The fund shall be used for 1223
carrying out the purposes of sections 2951.042 to 2951.045 of the 1224
Revised Code. 1225

Sec. 2951.043. If the court grants an offender's request for 1226
drug treatment intervention under section 2951.042 of the Revised 1227
Code, all of the following apply: 1228

(A) The qualified treatment professional designated by the 1229
court under division (C)(4) of section 2951.042 of the Revised 1230
Code, after conducting an assessment of the offender, shall do all 1231
of the following: 1232

(1) Prepare and submit to the court a treatment plan that 1233
does all of the following: 1234

(a) Proposes the type and duration of the treatment program 1235
or programs that the offender shall receive, which duration shall 1236
not exceed twelve months; 1237

(b) Proposes methods of monitoring the offender's progress 1238
while in treatment. 1239

(2) Submit to the court, along with the treatment plan 1240
submitted under division (A)(1) of this section, a list of 1241
treatment providers capable of administering the proposed 1242
treatment program or programs. 1243

(B) The court shall review the treatment plan submitted under 1244
division (A) of this section and shall adopt the treatment plan as 1245
submitted if the court finds that the plan complies with this 1246
section and otherwise is satisfactory. If the treatment plan as 1247

submitted is found to not comply with this section or to be 1248
otherwise unsatisfactory, the court shall request the designated 1249
qualified treatment professional to submit to the court a revised 1250
treatment plan. 1251

(C) From the list of treatment providers submitted by the 1252
qualified treatment professional under division (A)(2) of this 1253
section, the court shall designate an appropriate treatment 1254
provider to administer the treatment plan. The treatment provider 1255
so designated shall provide all services called for in the 1256
treatment plan, or ensure access to any such services that the 1257
provider does not offer. The court may appoint the qualified 1258
treatment professional who submitted the treatment plan as the 1259
treatment provider only if no other treatment provider is 1260
available to administer the treatment plan. 1261

(D) The court shall designate a qualified treatment 1262
professional to serve in a continuing role as an independent 1263
monitor of the offender's progress in treatment. The independent 1264
monitor designated under this division may be the same qualified 1265
treatment professional who assessed the offender. The independent 1266
monitor so designated shall communicate with the offender, the 1267
treatment provider designated under division (C) of this section, 1268
and the court as necessary to do all of the following: 1269

(1) Ensure that the offender is receiving treatment and 1270
rehabilitation services called for in the treatment plan; 1271

(2) Evaluate progress; 1272

(3) Make recommendations to the court on possible changes to 1273
the treatment plan for the offender; 1274

(4) Ensure the appropriate and effective implementation of 1275
the treatment plan. 1276

(E) The court may add reasonable conditions to the offender's 1277
terms of release to ensure compliance with the treatment plan and 1278

other court orders. 1279

(F) The court may require an offender to pay the portion of 1280
the cost of the offender's participation in a treatment plan that 1281
the offender is reasonably able to pay. But, no payment required 1282
under this division shall be so burdensome as to make 1283
participation in a treatment plan inaccessible or be excessive or 1284
punitive in nature. 1285

(G) Except as otherwise provided in this division, the court 1286
shall not require an offender to waive confidentiality of medical 1287
or treatment information as a condition for participating in a 1288
treatment plan. The court may require the offender to give written 1289
consent for the treatment provider to disclose to the court drug 1290
and alcohol abuse treatment information, including objective data 1291
generated during treatment but not including confidential 1292
communications. This written consent is in addition to the 1293
preliminary confidentiality waiver given by the offender under 1294
division (C) of section 2951.042 of the Revised Code regarding the 1295
assessment of the offender under that division and the creation of 1296
a treatment plan for the offender. Any written consent given under 1297
this division is irrevocable and shall be in a form that complies 1298
with the requirements of all applicable federal and state laws and 1299
regulations governing the confidentiality of drug and alcohol 1300
abuse treatment information. 1301

(H) If the offender does not agree to the treatment plan and 1302
the terms and conditions imposed by the court or if, during the 1303
course of the treatment plan, the offender requests to be 1304
withdrawn from the treatment plan, the court may consider the 1305
offender's request for drug treatment intervention under section 1306
2951.042 of the Revised Code withdrawn and may resume the criminal 1307
proceedings against the offender as if the offender's request had 1308
not been made, except that all of the following shall apply: 1309

(1) The time within which the trial must be conducted is 1310

tolled for a number of days equal to the number of days between 1311
the day the request was made and the day the offender's request is 1312
considered to be withdrawn. 1313

(2) No person may use otherwise confidential drug or alcohol 1314
abuse treatment information made available to the court under 1315
division (C) of section 2951.042 of the Revised Code and this 1316
section in any civil or criminal proceeding without the offender's 1317
prior written consent. 1318

(3) If an offender's request for drug treatment intervention 1319
is withdrawn pursuant to this division, and if the offender is 1320
convicted of or pleads guilty to the illegal possession or use of 1321
a controlled substance offense, the court shall sentence the 1322
offender for that offense, notwithstanding the provisions of 1323
sections 2929.11 to 2929.28 of the Revised Code, to a jail term or 1324
term in a community-based correctional facility of not more than 1325
ninety days. 1326

(I) The court shall order the offender to participate in and 1327
cooperate with the treatment program or programs of the designated 1328
treatment provider for the period of time designated in the 1329
treatment plan. The court may extend this period of time only if, 1330
based on information provided by a qualified treatment 1331
professional who has assessed the individual, the court finds by 1332
clear and convincing evidence that an extension of the period is 1333
necessary for treatment to be successful. The court shall not 1334
extend the period of time designated for the treatment plan more 1335
than six months. In no case shall the total length of treatment 1336
required under an extended treatment plan exceed a total of 1337
eighteen months, and in no case shall court supervision of any 1338
offender extend more than ninety days after the end of treatment. 1339

(J) Except as otherwise provided in this division, the court 1340
shall order the offender to appear for treatment according to the 1341
treatment plan not later than fourteen days after the court has 1342

determined the offender to be eligible for drug treatment 1343
intervention under section 2951.042 of the Revised Code. Because 1344
of lack of space or other good cause shown, the court may 1345
authorize an extension of the date for entry into treatment. 1346

Sec. 2951.044. (A)(1)(a) If the court grants an offender's 1347
request for drug treatment intervention under section 2951.042 of 1348
the Revised Code, the treatment provider designated under division 1349
(C) of section 2951.043 of the Revised Code or division (A)(1) or 1350
(2) of this section shall notify the court and the qualified 1351
treatment professional designated as the independent monitor of 1352
the offender's treatment plan under division (D) of section 1353
2951.043 of the Revised Code if the treatment provider determines 1354
either of the following at any time during the course of the 1355
offender's treatment: 1356

(i) That the treatment being provided is unsuitable for the 1357
offender; 1358

(ii) That it is impractical for the treatment provider to 1359
continue to administer the treatment plan. 1360

(b) Upon receiving the notice described in division (A)(1)(a) 1361
of this section at any time during the course of treatment, the 1362
court, after notice and an opportunity for a hearing, and subject 1363
to the recommendation of a qualified treatment professional, may 1364
modify the terms of the treatment plan, designate a new or 1365
additional treatment provider, or modify the terms and designate a 1366
new or additional provider to ensure that the offender receives an 1367
alternative treatment program or related programs. If the court 1368
does not modify the treatment plan, the court may request that the 1369
originally designated treatment provider resume care for the 1370
offender. 1371

(2)(a) If the court grants an offender's request for drug 1372
treatment intervention under section 2951.042 of the Revised Code, 1373

the qualified treatment professional designated as the independent monitor of the offender's treatment plan under division (D) of section 2951.043 of the Revised Code shall notify the court if the qualified treatment professional so designated determines either of the following at any time during the course of the offender's treatment:

(i) That the treatment being provided is unsuitable for the offender;

(ii) That necessary services are not being provided or will not be provided as called for in the treatment plan.

(b) Upon receiving the notice described in division (A)(2)(a) of this section at any time during the course of treatment, the court, after notice and an opportunity for a hearing, and subject to the recommendation of a qualified treatment professional, may modify the terms of the treatment plan, designate a new or additional treatment provider, or modify the terms and designate a new or additional treatment provider to ensure that the offender receives an alternative treatment program or related programs as necessary to address the problems or deficiencies reported by the qualified treatment professional designated as the independent monitor. If the court does not modify the treatment plan, the court may order the originally designated treatment provider to resume care for the offender.

(3) Nothing in sections 2951.042 to 2951.045 of the Revised Code requires, or shall be construed as requiring, a treatment provider to retain in the treatment program an offender who commits a major violation of the program's rules or who repeatedly fails to make required payments. If a treatment provider expels an offender, the treatment provider shall notify the court of the expulsion.

(B) If an offender participates in a treatment plan under

this section and violates the terms of that treatment plan either 1405
by committing an offense that is not an illegal possession or use 1406
of a controlled substance offense or by violating a condition for 1407
that treatment set by the court that is not drug-related, the 1408
court shall conduct a hearing to consider evidence of the offense 1409
or violation and to determine whether the offender should be 1410
removed from treatment, have the level of care increased, or 1411
otherwise be sanctioned. In making its determination under this 1412
division, all of the following apply to the court: 1413

(1) If the offender has been convicted of a new offense that 1414
is not an illegal possession or use of a controlled substance 1415
offense, the court may remove the offender from the treatment plan 1416
if the court also finds by a preponderance of the evidence either 1417
or both of the following: 1418

(a) The severity of the offense justifies removal. 1419

(b) The offense indicates that the individual poses a danger 1420
to the safety of others. 1421

(2) If the court finds by clear and convincing evidence that 1422
the offender violated a condition of the treatment plan set by the 1423
court that is not drug-related, the court may remove the offender 1424
from the treatment plan if the court also finds by clear and 1425
convincing evidence either or both of the following: 1426

(a) The severity of the offense justifies removal. 1427

(b) The offense indicates that the individual poses a danger 1428
to the safety of others. 1429

(3) If the court does not remove the offender from treatment 1430
after finding that an offense or violation occurred, the court may 1431
amend the offender's treatment plan to modify or intensify the 1432
form of treatment and to extend the period of treatment, subject 1433
to the recommendations of a qualified treatment professional. The 1434
court also may impose proportionate sanctions for the offense or 1435

violation. 1436

(C) If an offender participates in a treatment plan under 1437
this section and is alleged to have committed a severe 1438
drug-related violation or multiple drug-related violations of the 1439
plan, the court may hold a hearing to consider evidence of the 1440
violation or violations and necessary responses, including 1441
sanctions, amendment of the treatment plan to modify or increase 1442
the level of care, or removal of the offender from treatment. If, 1443
at the hearing, the court finds by clear and convincing evidence 1444
that the offender committed the violation or violations alleged, 1445
and the court finds this conduct to be a serious disruption of the 1446
treatment plan, the court shall proceed as follows: 1447

(1) If the court has not previously found the offender to 1448
have committed a serious disruption of the treatment plan during 1449
the current course of treatment, the court shall consider evidence 1450
that the offender poses a danger to the safety of others. If the 1451
court finds by clear and convincing evidence that the offender 1452
poses a danger to the safety of others, the court may remove the 1453
offender from treatment. If the court does not find by clear and 1454
convincing evidence that the offender poses a danger to the safety 1455
of others, the court may amend the offender's treatment plan to 1456
modify or intensify the form of treatment and to extend the period 1457
of treatment, subject to the recommendations of a qualified 1458
treatment professional, and may impose proportionate sanctions for 1459
the serious disruption of the treatment plan. These sanctions 1460
shall not include a jail term, prison term, residential community 1461
control sanction, or term of incarceration. 1462

(2) If the court once previously found the offender to have 1463
committed a serious disruption of the treatment plan during the 1464
current course of treatment, the court shall consider evidence 1465
that the offender poses a danger to the safety of others or is not 1466
amenable to treatment. If the court finds by clear and convincing 1467

evidence that the offender either poses a danger to the safety of others or is not amenable to treatment, the court may remove the offender from treatment. If the court does not find by clear and convincing evidence that the offender either poses a danger to the safety of others or is not amenable to treatment, the court may amend the offender's treatment plan to modify or intensify the form of treatment and to extend the period of treatment, subject to the recommendations of a qualified treatment professional, and may impose proportionate sanctions for the serious disruption of the treatment plan. These sanctions shall not include a jail term, prison term, residential community control sanction, or term of incarceration.

(3) If the court two or more times previously found the offender to have committed a serious disruption of the treatment plan during the current course of treatment, the court may remove the offender from treatment. If the court does not remove the offender from treatment, the court may amend the offender's treatment plan to modify or intensify the form of treatment and to extend the period of treatment, subject to the recommendations of a qualified treatment professional, and may impose proportionate sanctions for the serious disruption of the treatment plan.

(4) If the court extends the period of treatment pursuant to division (C)(1), (2), or (3) of this section, the total period of treatment required shall not exceed eighteen months.

(D)(1) If an offender who has not been convicted of or pleaded guilty to the illegal possession or use of a controlled substance offense that gave rise to the request for drug treatment intervention under section 2951.042 of the Revised Code is removed from a treatment plan pursuant to division (B) or (C) of this section, the court may continue with the criminal proceedings against the offender. If the offender is convicted of or pleads guilty to that offense, notwithstanding the provisions of sections

2929.11 to 2929.28 of the Revised Code, the court may sentence the offender for the offense to a jail term or a term in a community-based correctional facility or halfway house that shall not exceed ninety days.

(2) If an offender who has been convicted of or pleaded guilty to the illegal possession or use of a controlled substance offense that gave rise to the request for drug treatment intervention under section 2951.042 of the Revised Code is removed from a treatment plan pursuant to division (B) or (C) of this section, notwithstanding the provisions of sections 2929.11 to 2929.28 of the Revised Code, the court may sentence the offender for that offense to a jail term or a term in a community-based correctional facility or halfway house that shall not exceed ninety days.

(3) If an offender is removed from a treatment plan pursuant to division (B) or (C) of this section and has had criminal charges or proceedings stayed by the court, other than the charges of the illegal possession or use of a controlled substance offense that gave rise to the request for drug treatment intervention under section 2951.042 of the Revised Code, the court may continue with the proceedings related to those other charges, without limitation by the provisions of sections 2951.042 to 2951.045 of the Revised Code.

Sec. 2951.045. (A) Subject to division (B) of this section, if the court grants an offender's request for drug treatment intervention under section 2951.042 of the Revised Code and the treatment provider appointed under division (C) of section 2951.043 or division (A)(1) or (2) of section 2951.044 of the Revised Code notifies the court that the offender has successfully completed the treatment plan or the treatment plan as modified, the court shall do one of the following:

(1) If the offender had not been convicted of or pleaded guilty to the illegal possession or use of a controlled substance offense, the court shall dismiss the stayed proceedings against the offender. The successful completion and the dismissal shall be without an adjudication of guilt and are not a criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime. Notwithstanding the dismissal, the court may order continued supervision of the offender for up to ninety days. Court supervision shall not extend more than ninety days. 1531
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(2) If the offender had been convicted of or pleaded guilty to the illegal possession or use of a controlled substance offense, the court shall dismiss the stayed proceedings against the offender without imposing sentence. Notwithstanding the dismissal, the court may order continued supervision of the offender for up to ninety days. Court supervision shall not extend more than ninety days. 1541
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(B) If the court grants an offender's request for drug treatment intervention under section 2951.042 of the Revised Code and the treatment provider notifies the court that the period of time designated in the treatment plan, or the treatment plan as modified, has expired, but that, in the opinion of the treatment provider, the offender has not successfully completed the treatment plan, the court, after consulting the treatment provider and the qualified treatment professional who has served as the independent monitor of the offender's treatment plan, may do any of the following: 1548
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(1) Issue an order that modifies the treatment plan and extends the period of treatment, provided that the total required treatment period, including any extension, shall not exceed eighteen months; 1558
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(2) Issue an order that dismisses the stayed proceedings, 1562

terminates the treatment plan, and continues supervision of the 1563
offender for a period of up to ninety days. The continued 1564
supervision shall not extend more than ninety days and shall not 1565
include a jail term, prison term, or community residential 1566
sanction. 1567

(3) Issue an order that dismisses the stayed proceedings and 1568
terminates the treatment plan with a finding that the offender 1569
either has successfully completed the treatment plan or has 1570
completed the treatment plan without a determination of successful 1571
completion. 1572

(C)(1) Notwithstanding section 2953.32 of the Revised Code, 1573
any person who is the subject of an order described in division 1574
(A) of this section may apply to the court that issued the order 1575
for the sealing of records pertaining to the illegal possession or 1576
use of a controlled substance offense. The application may be 1577
filed at any time after ninety days subsequent to the date the 1578
court issues the order described in division (A) of this section. 1579
Upon receiving the motion, the court shall consult with the 1580
treatment provider designated under division (C) of section 1581
2951.043 or division (A)(1) or (2) of section 2951.044 of the 1582
Revised Code and, in the court's discretion, the qualified 1583
treatment professional who served as the independent monitor of 1584
the offender's treatment plan, to determine whether the offender 1585
has successfully completed treatment. If the court finds by a 1586
preponderance of the evidence that the offender successfully 1587
completed treatment, the court shall order all official records 1588
pertaining to the illegal possession or use of a controlled 1589
substance offense sealed. Subject to division (C)(2) of this 1590
section, the court shall order the sealing of records in the 1591
manner provided in sections 2953.31 to 2953.36 of the Revised 1592
Code. Subject to division (C)(2) of this section, all law 1593
enforcement records of sealed records of illegal possession or use 1594

offenses shall be confidential and not subject to any disclosure. 1595

(2) Notwithstanding the sealing of records related to the 1596
offense in question, law enforcement agencies shall keep records 1597
of offenders' arrests, convictions, and referrals to treatment for 1598
any illegal possession or use of a controlled substance offense. 1599
The records shall be maintained exclusively for the following 1600
purposes: 1601

(a) Enabling prosecutors and the courts to have information 1602
about the number of prior illegal possession or use of a 1603
controlled substance offenses for a person who subsequently is 1604
charged with, or is convicted of or pleads guilty to, an illegal 1605
possession or use of a controlled substance offense; 1606

(b) To conduct criminal record checks for persons applying 1607
for a position as a law enforcement officer. 1608

(3) Neither the successful completion of the treatment plan 1609
nor the sealing of records under this section relieve an offender 1610
of the obligation to disclose the arrest and any sealed or 1611
expunged conviction in response to any direct question contained 1612
in any questionnaire or application for a position as a law 1613
enforcement officer. 1614

Sec. 3719.121. (A) Except as otherwise provided in section 1615
4723.28, 4723.35, 4730.25, 4731.22, 4734.39, or 4734.41 of the 1616
Revised Code, the license, certificate, or registration of any 1617
dentist, chiropractor, physician, podiatrist, registered nurse, 1618
licensed practical nurse, physician assistant, pharmacist, 1619
pharmacy intern, optometrist, or veterinarian who is or becomes 1620
addicted to the use of controlled substances shall be suspended by 1621
the board that authorized the person's license, certificate, or 1622
registration until the person offers satisfactory proof to the 1623
board that the person no longer is addicted to the use of 1624
controlled substances. 1625

(B) If the board under which a person has been issued a license, certificate, or evidence of registration determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, certificate, or registration without a hearing. Except as otherwise provided in sections 4715.30, 4723.281, 4729.16, 4730.25, 4731.22, and 4734.36 of the Revised Code, the board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the hearing.

(C) On receiving notification pursuant to section 2929.42 or 3719.12 of the Revised Code, the board under which a person has been issued a license, certificate, or evidence of registration immediately shall suspend the license, certificate, or registration of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense; a finding by a court of the person's eligibility for intervention in lieu of conviction under section 2951.041 of the Revised Code; a plea of guilty to, ~~or~~ a finding by a jury or court of the person's guilt of, or the person's conviction of an offense in another jurisdiction that is essentially the same as a felony drug abuse offense; or a finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction under a provision similar to section 2951.041 of the Revised Code. The board shall notify the holder of the license, certificate, or registration of the suspension, which shall remain in effect until

the board holds an adjudicatory hearing under Chapter 119. of the 1659
Revised Code. 1660

Sec. 3719.70. (A) When testimony, information, or other 1661
evidence in the possession of a person who uses, possesses, or 1662
trafficks in any drug of abuse appears necessary to an 1663
investigation by law enforcement authorities into illicit sources 1664
of any drug of abuse, or appears necessary to successfully 1665
institute, maintain, or conclude a prosecution for any drug abuse 1666
offense, as defined in section 2925.01 of the Revised Code, a 1667
judge of the court of common pleas may grant to that person 1668
immunity from prosecution for any offense based upon the 1669
testimony, information, or other evidence furnished by that 1670
person, other than a prosecution of that person for giving false 1671
testimony, information, or other evidence. 1672

(B)(1) When a person is convicted of any misdemeanor drug 1673
abuse offense, the court, in determining whether to place the 1674
person under a community control sanction pursuant to section 1675
2929.25 of the Revised Code, shall take into consideration whether 1676
the person truthfully has revealed all information within the 1677
person's knowledge concerning illicit traffic in or use of drugs 1678
of abuse and, when required, has testified as to that information 1679
in any proceeding to obtain a search or arrest warrant against 1680
another or to prosecute another for any offense involving a drug 1681
of abuse. The information shall include, but is not limited to, 1682
the identity and whereabouts of accomplices, accessories, aiders, 1683
and abettors, if any, of the person or persons from whom any drug 1684
of abuse was obtained or to whom any drug of abuse was 1685
distributed, and of persons known or believed to be drug dependent 1686
persons, together with the location of any place or places where 1687
and the manner in which any drug of abuse is illegally cultivated, 1688
manufactured, sold, possessed, or used. The information also shall 1689
include all facts and circumstances surrounding any illicit 1690

traffic in or use of drugs of abuse of that nature. 1691

(2) If a person otherwise is eligible for intervention in 1692
lieu of conviction ~~and being ordered to a period of rehabilitation~~ 1693
under section 2951.041 of the Revised Code but the person has 1694
failed to cooperate with law enforcement authorities by providing 1695
them with the types of information described in division (B)(1) of 1696
this section, the person's lack of cooperation may be considered 1697
by the court under section 2951.041 of the Revised Code in 1698
determining whether to stay all criminal proceedings and order the 1699
person to a requested period of intervention. 1700

(C) In the absence of a competent and voluntary waiver of the 1701
right against self-incrimination, no information or testimony 1702
furnished pursuant to division (B) of this section shall be used 1703
in a prosecution of the person furnishing it for any offense other 1704
than a prosecution of that person for giving false testimony, 1705
information, or other evidence. 1706

Sec. 4715.30. (A) An applicant for or holder of a certificate 1707
or license issued under this chapter is subject to disciplinary 1708
action by the state dental board for any of the following reasons: 1709
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(1) Employing or cooperating in fraud or material deception 1711
in applying for or obtaining a license or certificate; 1712

(2) Obtaining or attempting to obtain money or anything of 1713
value by intentional misrepresentation or material deception in 1714
the course of practice; 1715

(3) Advertising services in a false or misleading manner or 1716
violating the board's rules governing time, place, and manner of 1717
advertising; 1718

(4) Conviction of a misdemeanor committed in the course of 1719
practice or of any felony; 1720

(5) Engaging in lewd or immoral conduct in connection with	1721
the provision of dental services;	1722
(6) Selling, prescribing, giving away, or administering drugs	1723
for other than legal and legitimate therapeutic purposes, or	1724
conviction of violating any law of this state or the federal	1725
government regulating the possession, distribution, or use of any	1726
drug;	1727
(7) Providing or allowing dental hygienists, expanded	1728
function dental auxiliaries, or other practitioners of auxiliary	1729
dental occupations working under the certificate or license	1730
holder's supervision, or a dentist holding a temporary limited	1731
continuing education license under division (C) of section 4715.16	1732
of the Revised Code working under the certificate or license	1733
holder's direct supervision, to provide dental care that departs	1734
from or fails to conform to accepted standards for the profession,	1735
whether or not injury to a patient results;	1736
(8) Inability to practice under accepted standards of the	1737
profession because of physical or mental disability, dependence on	1738
alcohol or other drugs, or excessive use of alcohol or other	1739
drugs;	1740
(9) Violation of any provision of this chapter or any rule	1741
adopted thereunder;	1742
(10) Failure to use universal blood and body fluid	1743
precautions established by rules adopted under section 4715.03 of	1744
the Revised Code;	1745
(11) Waiving the payment of all or any part of a deductible	1746
or copayment that a patient, pursuant to a health insurance or	1747
health care policy, contract, or plan that covers dental services,	1748
would otherwise be required to pay if the waiver is used as an	1749
enticement to a patient or group of patients to receive health	1750
care services from that provider.	1751

(12) Advertising that the certificate or license holder will 1752
waive the payment of all or any part of a deductible or copayment 1753
that a patient, pursuant to a health insurance or health care 1754
policy, contract, or plan that covers dental services, would 1755
otherwise be required to pay. 1756

(B) A manager, proprietor, operator, or conductor of a dental 1757
facility shall be subject to disciplinary action if any dentist, 1758
dental hygienist, expanded function dental auxiliary, or qualified 1759
personnel providing services in the facility is found to have 1760
committed a violation listed in division (A) of this section and 1761
the manager, proprietor, operator, or conductor knew of the 1762
violation and permitted it to occur on a recurring basis. 1763

(C) Subject to Chapter 119. of the Revised Code, the board 1764
may take one or more of the following disciplinary actions if one 1765
or more of the grounds for discipline listed in divisions (A) and 1766
(B) of this section exist: 1767

(1) Censure the license or certificate holder; 1768

(2) Place the license or certificate on probationary status 1769
for such period of time the board determines necessary and require 1770
the holder to: 1771

(a) Report regularly to the board upon the matters which are 1772
the basis of probation; 1773

(b) Limit practice to those areas specified by the board; 1774

(c) Continue or renew professional education until a 1775
satisfactory degree of knowledge or clinical competency has been 1776
attained in specified areas. 1777

(3) Suspend the certificate or license; 1778

(4) Revoke the certificate or license. 1779

Where the board places a holder of a license or certificate 1780
on probationary status pursuant to division (C)(2) of this 1781

section, the board may subsequently suspend or revoke the license 1782
or certificate if it determines that the holder has not met the 1783
requirements of the probation or continues to engage in activities 1784
that constitute grounds for discipline pursuant to division (A) or 1785
(B) of this section. 1786

Any order suspending a license or certificate shall state the 1787
conditions under which the license or certificate will be 1788
restored, which may include a conditional restoration during which 1789
time the holder is in a probationary status pursuant to division 1790
(C)(2) of this section. The board shall restore the license or 1791
certificate unconditionally when such conditions are met. 1792

(D) If the physical or mental condition of an applicant or a 1793
license or certificate holder is at issue in a disciplinary 1794
proceeding, the board may order the license or certificate holder 1795
to submit to reasonable examinations by an individual designated 1796
or approved by the board and at the board's expense. The physical 1797
examination may be conducted by any individual authorized by the 1798
Revised Code to do so, including a physician assistant, a clinical 1799
nurse specialist, a certified nurse practitioner, or a certified 1800
nurse-midwife. Any written documentation of the physical 1801
examination shall be completed by the individual who conducted the 1802
examination. 1803

Failure to comply with an order for an examination shall be 1804
grounds for refusal of a license or certificate or summary 1805
suspension of a license or certificate under division (E) of this 1806
section. 1807

(E) If the board has reason to believe that a license or 1808
certificate holder represents a clear and immediate danger to the 1809
public health and safety if the holder is allowed to continue to 1810
practice, or if the holder has failed to comply with an order 1811
under division (D) of this section, the board may apply to the 1812
court of common pleas of the county in which the holder resides 1813

for an order temporarily suspending the holder's license or 1814
certificate, without a prior hearing being afforded by the board, 1815
until the board conducts an adjudication hearing pursuant to 1816
Chapter 119. of the Revised Code. If the court temporarily 1817
suspends a holder's license or certificate, the board shall give 1818
written notice of the suspension personally or by certified mail 1819
to the license or certificate holder. Such notice shall include 1820
specific facts and reasons for finding a clear and immediate 1821
danger to the public health and safety and shall inform the 1822
license or certificate holder of the right to a hearing pursuant 1823
to Chapter 119. of the Revised Code. 1824

(F) Any holder of a certificate or license issued under this 1825
chapter who has pleaded guilty to, has been convicted of, or has 1826
had a judicial finding of eligibility for intervention in lieu of 1827
conviction entered against the holder in this state under section 1828
2951.041 of the Revised Code for aggravated murder, murder, 1829
voluntary manslaughter, felonious assault, kidnapping, rape, 1830
sexual battery, gross sexual imposition, aggravated arson, 1831
aggravated robbery, or aggravated burglary, or who has pleaded 1832
guilty to, has been convicted of, or has had a judicial finding of 1833
eligibility for something similar to treatment or intervention in 1834
lieu of conviction entered against the holder in another 1835
jurisdiction for any substantially equivalent criminal offense, is 1836
automatically suspended from practice under this chapter in this 1837
state and any certificate or license issued to the holder under 1838
this chapter is automatically suspended, as of the date of the 1839
guilty plea, conviction, or judicial finding, whether the 1840
proceedings are brought in this state or another jurisdiction. 1841
Continued practice by an individual after the suspension of the 1842
individual's certificate or license under this division shall be 1843
considered practicing without a certificate or license. The board 1844
shall notify the suspended individual of the suspension of the 1845
individual's certificate or license under this division by 1846

certified mail or in person in accordance with section 119.07 of 1847
the Revised Code. If an individual whose certificate or license is 1848
suspended under this division fails to make a timely request for 1849
an adjudicatory hearing, the board shall enter a final order 1850
revoking the individual's certificate or license. 1851

(G) Notwithstanding divisions (A)(11) and (12) of this 1852
section, sanctions shall not be imposed against any licensee who 1853
waives deductibles and copayments: 1854

(1) In compliance with the health benefit plan that expressly 1855
allows such a practice. Waiver of the deductibles or copayments 1856
shall be made only with the full knowledge and consent of the plan 1857
purchaser, payer, and third-party administrator. Such consent 1858
shall be made available to the board upon request. 1859

(2) For professional services rendered to any other person 1860
licensed pursuant to this chapter to the extent allowed by this 1861
chapter and the rules of the board. 1862

(H) In no event shall the board consider or raise during a 1863
hearing required by Chapter 119. of the Revised Code the 1864
circumstances of, or the fact that the board has received, one or 1865
more complaints about a person unless the one or more complaints 1866
are the subject of the hearing or resulted in the board taking an 1867
action authorized by this section against the person on a prior 1868
occasion. 1869

Sec. 4717.05. (A) Any person who desires to be licensed as an 1870
embalmer shall apply to the board of embalmers and funeral 1871
directors on a form provided by the board. The applicant shall 1872
include with the application an initial license fee as set forth 1873
in section 4717.07 of the Revised Code and evidence, verified by 1874
oath and satisfactory to the board, that the applicant meets all 1875
of the following requirements: 1876

(1) The applicant is at least eighteen years of age and of 1877
good moral character. 1878

(2) If the applicant has pleaded guilty to, has been found by 1879
a judge or jury to be guilty of, or has had a judicial finding of 1880
eligibility for ~~treatment~~ intervention in lieu of conviction 1881
entered against the applicant in this state for aggravated murder, 1882
murder, voluntary manslaughter, felonious assault, kidnapping, 1883
rape, sexual battery, gross sexual imposition, aggravated arson, 1884
aggravated robbery, or aggravated burglary, or has pleaded guilty 1885
to, has been found by a judge or jury to be guilty of, or has had 1886
a judicial finding of eligibility for something similar to 1887
intervention or treatment in lieu of conviction entered against 1888
the applicant in another jurisdiction for a substantially 1889
equivalent offense, at least five years has elapsed since the 1890
applicant was released from incarceration, a community control 1891
sanction, a post-release control sanction, parole, or treatment in 1892
connection with the offense. 1893

(3) The applicant holds at least a bachelor's degree from a 1894
college or university authorized to confer degrees by the Ohio 1895
board of regents or the comparable legal agency of another state 1896
in which the college or university is located and submits an 1897
official transcript from that college or university with the 1898
application. 1899

(4) The applicant has satisfactorily completed at least 1900
twelve months of instruction in a prescribed course in mortuary 1901
science as approved by the board and has presented to the board a 1902
certificate showing successful completion of the course. The 1903
course of mortuary science college training may be completed 1904
either before or after the completion of the educational standard 1905
set forth in division (A)(3) of this section. 1906

(5) The applicant has registered with the board prior to 1907
beginning an embalmer apprenticeship. 1908

(6) The applicant has satisfactorily completed at least one year of apprenticeship under an embalmer licensed in this state and has assisted that person in embalming at least twenty-five dead human bodies.

(7) The applicant, upon meeting the educational standards provided for in divisions (A)(3) and (4) of this section and completing the apprenticeship required in division (A)(6) of this section, has completed the examination for an embalmer's license required by the board.

(B) Upon receiving satisfactory evidence verified by oath that the applicant meets all the requirements of division (A) of this section, the board shall issue the applicant an embalmer's license.

(C) Any person who desires to be licensed as a funeral director shall apply to the board on a form provided by the board. The application shall include an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) Except as otherwise provided in division (D) of this section, the applicant has satisfactorily met all the requirements for an embalmer's license as described in divisions (A)(1) to (4) of this section.

(2) The applicant has registered with the board prior to beginning a funeral director apprenticeship.

(3) The applicant, following mortuary science college training described in division (A)(4) of this section, has satisfactorily completed a one-year apprenticeship under a licensed funeral director in this state and has assisted that person in directing at least twenty-five funerals.

(4) The applicant has satisfactorily completed the

examination for a funeral director's license as required by the board. 1940
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(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a satisfactorily completed two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals. 1942
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(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue to the applicant a funeral director's license. 1947
1948
1949

(F) As used in this section: 1950

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 1951
1952

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 1953
1954

(3) "Intervention in lieu of conviction" means intervention in lieu of conviction under section 2950.041 of the Revised Code. 1955
1956

Sec. 4717.14. (A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license issued under this chapter for any of the following reasons: 1957
1958
1959
1960

(1) The license was obtained by fraud or misrepresentation either in the application or in passing the examination. 1961
1962

(2) The applicant or licensee has been convicted of or has pleaded guilty to a felony or of any crime involving moral turpitude. 1963
1964
1965

(3) The applicant or licensee has purposely violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; 1966
1967
1968

division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 1969
or divisions (H) to (K) of section 4717.26; division (D)(1) of 1970
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 1971
Revised Code; any rule or order of the department of health or a 1972
board of health of a health district governing the disposition of 1973
dead human bodies; or any other rule or order applicable to the 1974
applicant or licensee. 1975

(4) The applicant or licensee has committed immoral or 1976
unprofessional conduct. 1977

(5) The applicant or licensee knowingly permitted an 1978
unlicensed person, other than a person serving an apprenticeship, 1979
to engage in the profession or business of embalming or funeral 1980
directing under the applicant's or licensee's supervision. 1981

(6) The applicant or licensee has been habitually 1982
intoxicated, or is addicted to the use of morphine, cocaine, or 1983
other habit-forming or illegal drugs. 1984

(7) The applicant or licensee has refused to promptly submit 1985
the custody of a dead human body upon the express order of the 1986
person legally entitled to the body. 1987

(8) The licensee loaned the licensee's own license, or the 1988
applicant or licensee borrowed or used the license of another 1989
person, or knowingly aided or abetted the granting of an improper 1990
license. 1991

(9) The applicant or licensee transferred a license to 1992
operate a funeral home, embalming facility, or crematory from one 1993
owner or operator to another, or from one location to another, 1994
without notifying the board. 1995

(10) The applicant or licensee ~~mislead~~ misled the public by 1996
using false or deceptive advertising. 1997

(B)(1) The board of embalmers and funeral directors shall 1998

refuse to grant or renew, or shall suspend or revoke, an 1999
embalmer's, funeral director's, funeral home, or embalming 2000
facility license only in accordance with Chapter 119. of the 2001
Revised Code. 2002

(2) The board shall send to the crematory review board 2003
written notice that it proposes to refuse to issue or renew, or 2004
proposes to suspend or revoke, a license to operate a crematory 2005
facility. If, after the conclusion of the adjudicatory hearing on 2006
the matter conducted under division (E) of section 4717.03 of the 2007
Revised Code, the board of embalmers and funeral directors finds 2008
that any of the circumstances described in divisions (A)(1) to 2009
(10) of this section apply to the person named in its proposed 2010
action, the board may issue a final order under division (E) of 2011
section 4717.03 of the Revised Code refusing to issue or renew, or 2012
suspending or revoking, the person's license to operate a 2013
crematory facility. 2014

(C) If the board of embalmers and funeral directors 2015
determines that there is clear and convincing evidence that any of 2016
the circumstances described in divisions (A)(1) to (10) of this 2017
section apply to the holder of a license issued under this chapter 2018
and that the licensee's continued practice presents a danger of 2019
immediate and serious harm to the public, the board may suspend 2020
the licensee's license without a prior adjudicatory hearing. The 2021
executive director of the board shall prepare written allegations 2022
for consideration by the board. 2023

The board, after reviewing the written allegations, may 2024
suspend a license without a prior hearing. 2025

The board shall issue a written order of suspension by 2026
certified mail or in person in accordance with section 119.07 of 2027
the Revised Code. Such an order is not subject to suspension by 2028
the court during the pendency of any appeal filed under section 2029
119.12 of the Revised Code. If the holder of an embalmer's, 2030

funeral director's, funeral home, or embalming facility license 2031
requests an adjudicatory hearing by the board, the date set for 2032
the hearing shall be within fifteen days, but not earlier than 2033
seven days, after the licensee has requested a hearing, unless the 2034
board and the licensee agree to a different time for holding the 2035
hearing. 2036

Upon issuing a written order of suspension to the holder of a 2037
license to operate a crematory facility, the board of embalmers 2038
and funeral directors shall send written notice of the issuance of 2039
the order to the crematory review board. The crematory review 2040
board shall hold an adjudicatory hearing on the order under 2041
division (E) of section 4717.03 of the Revised Code within fifteen 2042
days, but not earlier than seven days, after the issuance of the 2043
order, unless the crematory review board and the licensee agree to 2044
a different time for holding the adjudicatory hearing. 2045

Any summary suspension imposed under this division shall 2046
remain in effect, unless reversed on appeal, until a final 2047
adjudicatory order issued by the board of embalmers and funeral 2048
directors pursuant to this division and Chapter 119. of the 2049
Revised Code, or division (E) of section 4717.03 of the Revised 2050
Code, as applicable, becomes effective. The board of embalmers and 2051
funeral directors shall issue its final adjudicatory order within 2052
sixty days after the completion of its hearing or, in the case of 2053
the summary suspension of a license to operate a crematory 2054
facility, within sixty days after completion of the adjudicatory 2055
hearing by the crematory review board. A failure to issue the 2056
order within that time results in the dissolution of the summary 2057
suspension order, but does not invalidate any subsequent final 2058
adjudicatory order. 2059

(D) If the board of embalmers and funeral directors suspends 2060
or revokes a license held by a funeral director or a funeral home 2061
for any reason identified in division (A) of this section, the 2062

board may file a complaint with the court of common pleas in the 2063
county where the violation occurred requesting appointment of a 2064
receiver and the sequestration of the assets of the funeral home 2065
that held the suspended or revoked license or the licensed funeral 2066
home that employs the funeral director that held the suspended or 2067
revoked license. If the court of common pleas is satisfied with 2068
the application for a receivership, the court may appoint a 2069
receiver. 2070

The board or a receiver may employ and procure whatever 2071
assistance or advice is necessary in the receivership or 2072
liquidation and distribution of the assets of the funeral home, 2073
and, for that purpose, may retain officers or employees of the 2074
funeral home as needed. All expenses of the receivership or 2075
liquidation shall be paid from the assets of the funeral home and 2076
shall be a lien on those assets, and that lien shall be a priority 2077
to any other lien. 2078

(E) Any holder of a license issued under this chapter who has 2079
pleaded guilty to, has been found by a judge or jury to be guilty 2080
of, or has had a judicial finding of eligibility for ~~treatment~~ 2081
intervention in lieu of conviction entered against the individual 2082
in this state for aggravated murder, murder, voluntary 2083
manslaughter, felonious assault, kidnapping, rape, sexual battery, 2084
gross sexual imposition, aggravated arson, aggravated robbery, or 2085
aggravated burglary, or who has pleaded guilty to, has been found 2086
by a judge or jury to be guilty of, or has had a judicial finding 2087
of eligibility for something similar to treatment or intervention 2088
in lieu of conviction entered against the individual in another 2089
jurisdiction for any substantially equivalent criminal offense, is 2090
hereby suspended from practice under this chapter by operation of 2091
law, and any license issued to the individual under this chapter 2092
is hereby suspended by operation of law as of the date of the 2093
guilty plea, verdict or finding of guilt, or judicial finding of 2094

eligibility for ~~treatment~~ intervention in lieu of conviction or 2095
for something similar to treatment or intervention in lieu of 2096
conviction in the other jurisdiction, regardless of whether the 2097
proceedings are brought in this state or another jurisdiction. The 2098
board shall notify the suspended individual of the suspension of 2099
the individual's license by the operation of this division by 2100
certified mail or in person in accordance with section 119.07 of 2101
the Revised Code. If an individual whose license is suspended 2102
under this division fails to make a timely request for an 2103
adjudicatory hearing, the board shall enter a final order revoking 2104
the license. 2105

(F) No person whose license has been suspended or revoked 2106
under or by the operation of this section shall practice embalming 2107
or funeral directing or operate a funeral home, embalming 2108
facility, or crematory facility until the board has reinstated the 2109
person's license. 2110

(G) As used in this section, "intervention in lieu of 2111
conviction" means intervention in lieu of conviction under section 2112
2951.041 of the Revised Code. 2113

Sec. 4723.28. (A) The board of nursing, by a vote of a 2114
quorum, may revoke or may refuse to grant a nursing license, 2115
certificate of authority, or dialysis technician certificate to a 2116
person found by the board to have committed fraud in passing an 2117
examination required to obtain the license, certificate of 2118
authority, or dialysis technician certificate or to have committed 2119
fraud, misrepresentation, or deception in applying for or securing 2120
any nursing license, certificate of authority, or dialysis 2121
technician certificate issued by the board. 2122

(B) Subject to division (N) of this section, the board of 2123
nursing, by a vote of a quorum, may impose one or more of the 2124
following sanctions: deny, revoke, suspend, or place restrictions 2125

on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

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

(2) Engaging in the practice of nursing or engaging in practice as a dialysis technician, having failed to renew a nursing license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;

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

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, violating

any municipal, state, county, or federal drug law;	2157
(6) Conviction of, a plea of guilty to, a judicial finding of	2158
guilt of, a judicial finding of guilt resulting from a plea of no	2159
contest to, or a judicial finding of eligibility for intervention	2160
in lieu of conviction for, an act in another jurisdiction that	2161
would constitute a felony or a crime of moral turpitude in Ohio;	2162
(7) Conviction of, a plea of guilty to, a judicial finding of	2163
guilt of, a judicial finding of guilt resulting from a plea of no	2164
contest to, or a judicial finding of eligibility for intervention	2165
in lieu of conviction for, an act in the course of practice in	2166
another jurisdiction that would constitute a misdemeanor in Ohio;	2167
(8) Self-administering or otherwise taking into the body any	2168
dangerous drug, as defined in section 4729.01 of the Revised Code,	2169
in any way not in accordance with a legal, valid prescription	2170
issued for that individual;	2171
(9) Habitual indulgence in the use of controlled substances,	2172
other habit-forming drugs, or alcohol or other chemical substances	2173
to an extent that impairs ability to practice;	2174
(10) Impairment of the ability to practice according to	2175
acceptable and prevailing standards of safe nursing care because	2176
of habitual or excessive use of drugs, alcohol, or other chemical	2177
substances that impair the ability to practice;	2178
(11) Impairment of the ability to practice according to	2179
acceptable and prevailing standards of safe nursing care because	2180
of a physical or mental disability;	2181
(12) Assaulting or causing harm to a patient or depriving a	2182
patient of the means to summon assistance;	2183
(13) Obtaining or attempting to obtain money or anything of	2184
value by intentional misrepresentation or material deception in	2185
the course of practice;	2186

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	2187 2188 2189 2190 2191
(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	2192 2193 2194
(16) Violation of this chapter or any rules adopted under it;	2195
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	2196 2197
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	2198 2199 2200
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	2201 2202
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	2203 2204 2205
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	2206 2207 2208
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	2209 2210 2211
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	2212 2213 2214
(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified	2215 2216

nurse practitioner, except as provided in division (M) of this 2217
section, either of the following: 2218

(a) Waiving the payment of all or any part of a deductible or 2219
copayment that a patient, pursuant to a health insurance or health 2220
care policy, contract, or plan that covers such nursing services, 2221
would otherwise be required to pay if the waiver is used as an 2222
enticement to a patient or group of patients to receive health 2223
care services from that provider; 2224

(b) Advertising that the nurse will waive the payment of all 2225
or any part of a deductible or copayment that a patient, pursuant 2226
to a health insurance or health care policy, contract, or plan 2227
that covers such nursing services, would otherwise be required to 2228
pay. 2229

(25) Failure to comply with the terms and conditions of 2230
participation in the chemical dependency monitoring program 2231
established under section 4723.35 of the Revised Code; 2232

(26) Failure to comply with the terms and conditions required 2233
under the practice intervention and improvement program 2234
established under section 4723.282 of the Revised Code; 2235

(27) In the case of a certified registered nurse anesthetist, 2236
clinical nurse specialist, certified nurse-midwife, or certified 2237
nurse practitioner: 2238

(a) Engaging in activities that exceed those permitted for 2239
the nurse's nursing specialty under section 4723.43 of the Revised 2240
Code; 2241

(b) Failure to meet the quality assurance standards 2242
established under section 4723.07 of the Revised Code. 2243

(28) In the case of a clinical nurse specialist, certified 2244
nurse-midwife, or certified nurse practitioner, failure to 2245
maintain a standard care arrangement in accordance with section 2246

4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	2247 2248
(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 Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	2249 2250 2251 2252 2253
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	2254 2255
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	2256 2257 2258
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	2259 2260 2261 2262
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	2263 2264
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	2265 2266 2267
(33) Assisting suicide as defined in section 3795.01 of the Revised Code.	2268 2269
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute	2270 2271 2272 2273 2274 2275 2276

the findings and order of the board with respect to the matter 2277
addressed in the agreement. If the board refuses to ratify a 2278
consent agreement, the admissions and findings contained in the 2279
agreement shall be of no effect. 2280

(D) The hearings of the board shall be conducted in 2281
accordance with Chapter 119. of the Revised Code, the board may 2282
appoint a hearing examiner, as provided in section 119.09 of the 2283
Revised Code, to conduct any hearing the board is authorized to 2284
hold under Chapter 119. of the Revised Code. 2285

In any instance in which the board is required under Chapter 2286
119. of the Revised Code to give notice of an opportunity for a 2287
hearing and the applicant or license holder does not make a timely 2288
request for a hearing in accordance with section 119.07 of the 2289
Revised Code, the board is not required to hold a hearing, but may 2290
adopt, by a vote of a quorum, a final order that contains the 2291
board's findings. In the final order, the board may order any of 2292
the sanctions listed in division (A) or (B) of this section. 2293

(E) If a criminal action is brought against a registered 2294
nurse, licensed practical nurse, or dialysis technician for an act 2295
or crime described in divisions (B)(3) to (7) of this section and 2296
the action is dismissed by the trial court other than on the 2297
merits, the board shall conduct an adjudication to determine 2298
whether the registered nurse, licensed practical nurse, or 2299
dialysis technician committed the act on which the action was 2300
based. If the board determines on the basis of the adjudication 2301
that the registered nurse, licensed practical nurse, or dialysis 2302
technician committed the act, or if the registered nurse, licensed 2303
practical nurse, or dialysis technician fails to participate in 2304
the adjudication, the board may take action as though the 2305
registered nurse, licensed practical nurse, or dialysis technician 2306
had been convicted of the act. 2307

If the board takes action on the basis of a conviction, plea, 2308

or a judicial finding as described in divisions (B)(3) to (7) of 2309
this section that is overturned on appeal, the registered nurse, 2310
licensed practical nurse, or dialysis technician may, on 2311
exhaustion of the appeal process, petition the board for 2312
reconsideration of its action. On receipt of the petition and 2313
supporting court documents, the board shall temporarily rescind 2314
its action. If the board determines that the decision on appeal 2315
was a decision on the merits, it shall permanently rescind its 2316
action. If the board determines that the decision on appeal was 2317
not a decision on the merits, it shall conduct an adjudication to 2318
determine whether the registered nurse, licensed practical nurse, 2319
or dialysis technician committed the act on which the original 2320
conviction, plea, or judicial finding was based. If the board 2321
determines on the basis of the adjudication that the registered 2322
nurse, licensed practical nurse, or dialysis technician committed 2323
such act, or if the registered nurse, licensed practical nurse, or 2324
dialysis technician does not request an adjudication, the board 2325
shall reinstate its action; otherwise, the board shall permanently 2326
rescind its action. 2327

Notwithstanding the provision of division (C)(2) of section 2328
2953.32 of the Revised Code specifying that if records pertaining 2329
to a criminal case are sealed under that section the proceedings 2330
in the case shall be deemed not to have occurred, sealing of the 2331
records of a conviction on which the board has based an action 2332
under this section shall have no effect on the board's action or 2333
any sanction imposed by the board under this section. 2334

The board shall not be required to seal, destroy, redact, or 2335
otherwise modify its records to reflect the court's sealing of 2336
conviction records. 2337

(F) The board may investigate an individual's criminal 2338
background in performing its duties under this section. 2339

(G) During the course of an investigation conducted under 2340

this section, the board may compel any registered nurse, licensed 2341
practical nurse, or dialysis technician or applicant under this 2342
chapter to submit to a mental or physical examination, or both, as 2343
required by the board and at the expense of the individual, if the 2344
board finds reason to believe that the individual under 2345
investigation may have a physical or mental impairment that may 2346
affect the individual's ability to provide safe nursing care. 2347
Failure of any individual to submit to a mental or physical 2348
examination when directed constitutes an admission of the 2349
allegations, unless the failure is due to circumstances beyond the 2350
individual's control, and a default and final order may be entered 2351
without the taking of testimony or presentation of evidence. 2352

If the board finds that an individual is impaired, the board 2353
shall require the individual to submit to care, counseling, or 2354
treatment approved or designated by the board, as a condition for 2355
initial, continued, reinstated, or renewed authority to practice. 2356
The individual shall be afforded an opportunity to demonstrate to 2357
the board that the individual can begin or resume the individual's 2358
occupation in compliance with acceptable and prevailing standards 2359
of care under the provisions of the individual's authority to 2360
practice. 2361

For purposes of this division, any registered nurse, licensed 2362
practical nurse, or dialysis technician or applicant under this 2363
chapter shall be deemed to have given consent to submit to a 2364
mental or physical examination when directed to do so in writing 2365
by the board, and to have waived all objections to the 2366
admissibility of testimony or examination reports that constitute 2367
a privileged communication. 2368

(H) The board shall investigate evidence that appears to show 2369
that any person has violated any provision of this chapter or any 2370
rule of the board. Any person may report to the board any 2371
information the person may have that appears to show a violation 2372

of any provision of this chapter or rule of the board. In the 2373
absence of bad faith, any person who reports such information or 2374
who testifies before the board in any adjudication conducted under 2375
Chapter 119. of the Revised Code shall not be liable for civil 2376
damages as a result of the report or testimony. 2377

(I) All of the following apply under this chapter with 2378
respect to the confidentiality of information: 2379

(1) Information received by the board pursuant to an 2380
investigation is confidential and not subject to discovery in any 2381
civil action, except that the board may disclose information to 2382
law enforcement officers and government entities investigating a 2383
registered nurse, licensed practical nurse, or dialysis technician 2384
or a person who may have engaged in the unauthorized practice of 2385
nursing. No law enforcement officer or government entity with 2386
knowledge of any information disclosed by the board pursuant to 2387
this division shall divulge the information to any other person or 2388
government entity except for the purpose of an adjudication by a 2389
court or licensing or registration board or officer to which the 2390
person to whom the information relates is a party. 2391

(2) If an investigation requires a review of patient records, 2392
the investigation and proceeding shall be conducted in such a 2393
manner as to protect patient confidentiality. 2394

(3) All adjudications and investigations of the board shall 2395
be considered civil actions for the purposes of section 2305.252 2396
of the Revised Code. 2397

(4) Any board activity that involves continued monitoring of 2398
an individual as part of or following any disciplinary action 2399
taken under this section shall be conducted in a manner that 2400
maintains the individual's confidentiality. Information received 2401
or maintained by the board with respect to the board's monitoring 2402
activities is confidential and not subject to discovery in any 2403

civil action. 2404

(J) Any action taken by the board under this section 2405
resulting in a suspension from practice shall be accompanied by a 2406
written statement of the conditions under which the person may be 2407
reinstated to practice. 2408

(K) When the board refuses to grant a license or certificate 2409
to an applicant, revokes a license or certificate, or refuses to 2410
reinstate a license or certificate, the board may specify that its 2411
action is permanent. An individual subject to permanent action 2412
taken by the board is forever ineligible to hold a license or 2413
certificate of the type that was refused or revoked and the board 2414
shall not accept from the individual an application for 2415
reinstatement of the license or certificate or for a new license 2416
or certificate. 2417

(L) No unilateral surrender of a nursing license, certificate 2418
of authority, or dialysis technician certificate issued under this 2419
chapter shall be effective unless accepted by majority vote of the 2420
board. No application for a nursing license, certificate of 2421
authority, or dialysis technician certificate issued under this 2422
chapter may be withdrawn without a majority vote of the board. The 2423
board's jurisdiction to take disciplinary action under this 2424
section is not removed or limited when an individual has a license 2425
or certificate classified as inactive or fails to renew a license 2426
or certificate. 2427

(M) Sanctions shall not be imposed under division (B)(24) of 2428
this section against any licensee who waives deductibles and 2429
copayments as follows: 2430

(1) In compliance with the health benefit plan that expressly 2431
allows such a practice. Waiver of the deductibles or copayments 2432
shall be made only with the full knowledge and consent of the plan 2433
purchaser, payer, and third-party administrator. Documentation of 2434

the consent shall be made available to the board upon request. 2435

(2) For professional services rendered to any other person 2436
licensed pursuant to this chapter to the extent allowed by this 2437
chapter and the rules of the board. 2438

(N)(1) Any person who enters a prelicensure nursing education 2439
program on or after June 1, 2003, and who subsequently applies 2440
under division (A) of section 4723.09 of the Revised Code for 2441
licensure to practice as a registered nurse or as a licensed 2442
practical nurse and any person who applies under division (B) of 2443
that section for license by endorsement to practice nursing as a 2444
registered nurse or as a licensed practical nurse shall submit a 2445
request to the bureau of criminal identification and investigation 2446
for the bureau to conduct a criminal records check of the 2447
applicant and to send the results to the board, in accordance with 2448
section 4723.09 of the Revised Code. 2449

The board shall refuse to grant a license to practice nursing 2450
as a registered nurse or as a licensed practical nurse under 2451
section 4723.09 of the Revised Code to a person who entered a 2452
prelicensure nursing education program on or after June 1, 2003, 2453
and applied under division (A) of section 4723.09 of the Revised 2454
Code for the license or a person who applied under division (B) of 2455
that section for the license, if the criminal records check 2456
performed in accordance with division (C) of that section 2457
indicates that the person has pleaded guilty to, been convicted 2458
of, or has had a judicial finding of guilt for violating section 2459
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2460
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 2461
substantially similar law of another state, the United States, or 2462
another country. 2463

(2) Any person who enters a dialysis training program on or 2464
after June 1, 2003, and who subsequently applies for a certificate 2465
to practice as a dialysis technician shall submit a request to the 2466

bureau of criminal identification and investigation for the bureau 2467
to conduct a criminal records check of the applicant and to send 2468
the results to the board, in accordance with section 4723.75 of 2469
the Revised Code. 2470

The board shall refuse to issue a certificate to practice as 2471
a dialysis technician under section 4723.75 of the Revised Code to 2472
a person who entered a dialysis training program on or after June 2473
1, 2003, and whose criminal records check performed in accordance 2474
with division (C) of that section indicates that the person has 2475
pleaded guilty to, been convicted of, or has had a judicial 2476
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2477
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2478
2911.11 of the Revised Code or a substantially similar law of 2479
another state, the United States, or another country. 2480

(O) As used in this section, "intervention in lieu of 2481
conviction" means intervention in lieu of conviction under section 2482
2951.041 of the Revised Code. 2483

Sec. 4730.14. (A) A certificate to practice as a physician 2484
assistant shall expire biennially and may be renewed in accordance 2485
with this section. A person seeking to renew a certificate to 2486
practice as a physician assistant shall, on or before the 2487
thirty-first day of January of each even-numbered year, apply for 2488
renewal of the certificate. The state medical board shall send 2489
renewal notices at least one month prior to the expiration date. 2490

Applications shall be submitted to the board on forms the 2491
board shall prescribe and furnish. Each application shall be 2492
accompanied by a biennial renewal fee of one hundred dollars. The 2493
board shall deposit the fees in accordance with section 4731.24 of 2494
the Revised Code. 2495

The applicant shall report any criminal offense that 2496
constitutes grounds for refusing to issue a certificate to 2497

practice under section 4730.25 of the Revised Code to which the 2498
applicant has pleaded guilty, of which the applicant has been 2499
found guilty, or for which the applicant has been found eligible 2500
for intervention in lieu of conviction under section 2950.041 of 2501
the Revised Code, since last signing an application for a 2502
certificate to practice as a physician assistant. 2503

(B) To be eligible for renewal, a physician assistant shall 2504
certify to the board both of the following: 2505

(1) That the physician assistant has maintained certification 2506
by the national commission on certification of physician 2507
assistants or a successor organization that is recognized by the 2508
board by meeting the standards to hold current certification from 2509
the commission or its successor, including completion of 2510
continuing medical education requirements and passing periodic 2511
recertification examinations; 2512

(2) Except as provided in division (F) of this section and 2513
section 5903.12 of the Revised Code, that the physician assistant 2514
has completed during the current certification period not less 2515
than one hundred hours of continuing medical education acceptable 2516
to the board. 2517

(C) The board shall adopt rules in accordance with Chapter 2518
119. of the Revised Code specifying the types of continuing 2519
medical education that must be completed to fulfill the board's 2520
requirements under division (B)(2) of this section. Except when 2521
additional continuing medical education is required to renew a 2522
certificate to prescribe, as specified in section 4730.49 of the 2523
Revised Code, the board shall not adopt rules that require a 2524
physician assistant to complete in any certification period more 2525
than one hundred hours of continuing medical education acceptable 2526
to the board. In fulfilling the board's requirements, a physician 2527
assistant may use continuing medical education courses or programs 2528
completed to maintain certification by the national commission on 2529

certification of physician assistants or a successor organization 2530
that is recognized by the board if the standards for acceptable 2531
courses and programs of the commission or its successor are at 2532
least equivalent to the standards established by the board. 2533

(D) If an applicant submits a complete renewal application 2534
and qualifies for renewal pursuant to division (B) of this 2535
section, the board shall issue to the applicant a renewed 2536
certificate to practice as a physician assistant. 2537

(E) The board may require a random sample of physician 2538
assistants to submit materials documenting certification by the 2539
national commission on certification of physician assistants or a 2540
successor organization that is recognized by the board and 2541
completion of the required number of hours of continuing medical 2542
education. 2543

(F) The board shall provide for pro rata reductions by month 2544
of the number of hours of continuing education that must be 2545
completed for individuals who are in their first certification 2546
period, who have been disabled due to illness or accident, or who 2547
have been absent from the country. The board shall adopt rules, in 2548
accordance with Chapter 119. of the Revised Code, as necessary to 2549
implement this division. 2550

(G)(1) A certificate to practice that is not renewed on or 2551
before its expiration date is automatically suspended on its 2552
expiration date. Continued practice after suspension of the 2553
certificate shall be considered as practicing in violation of 2554
division (A) of section 4730.02 of the Revised Code. 2555

(2) If a certificate has been suspended pursuant to division 2556
(G)(1) of this section for two years or less, it may be 2557
reinstated. The board shall reinstate a certificate suspended for 2558
failure to renew upon an applicant's submission of a renewal 2559
application, the biennial renewal fee, and any applicable monetary 2560

penalty. 2561

If a certificate has been suspended pursuant to division 2562
(G)(1) of this ~~division~~ section for more than two years, it may be 2563
restored. In accordance with section 4730.28 of the Revised Code, 2564
the board may restore a certificate suspended for failure to renew 2565
upon an applicant's submission of a restoration application, the 2566
biennial renewal fee, and any applicable monetary penalty and 2567
compliance with sections 4776.01 to 4776.04 of the Revised Code. 2568
The board shall not restore to an applicant a certificate to 2569
practice as a physician assistant unless the board, in its 2570
discretion, decides that the results of the criminal records check 2571
do not make the applicant ineligible for a certificate issued 2572
pursuant to section 4730.12 of the Revised Code. 2573

The penalty for reinstatement shall be fifty dollars and the 2574
penalty for restoration shall be one hundred dollars. The board 2575
shall deposit penalties in accordance with section 4731.24 of the 2576
Revised Code. 2577

(H) If an individual certifies that the individual has 2578
completed the number of hours and type of continuing medical 2579
education required for renewal or reinstatement of a certificate 2580
to practice as a physician assistant, and the board finds through 2581
a random sample conducted under division (E) of this section or 2582
through any other means that the individual did not complete the 2583
requisite continuing medical education, the board may impose a 2584
civil penalty of not more than five thousand dollars. The board's 2585
finding shall be made pursuant to an adjudication under Chapter 2586
119. of the Revised Code and by an affirmative vote of not fewer 2587
than six members. 2588

A civil penalty imposed under this division may be in 2589
addition to or in lieu of any other action the board may take 2590
under section 4730.25 of the Revised Code. The board shall deposit 2591
civil penalties in accordance with section 4731.24 of the Revised 2592

Code. 2593

Sec. 4730.25. (A) The state medical board, by an affirmative 2594
vote of not fewer than six members, may revoke or may refuse to 2595
grant a certificate to practice as a physician assistant or a 2596
certificate to prescribe to a person found by the board to have 2597
committed fraud, misrepresentation, or deception in applying for 2598
or securing the certificate. 2599

(B) The board, by an affirmative vote of not fewer than six 2600
members, shall, to the extent permitted by law, limit, revoke, or 2601
suspend an individual's certificate to practice as a physician 2602
assistant or certificate to prescribe, refuse to issue a 2603
certificate to an applicant, refuse to reinstate a certificate, or 2604
reprimand or place on probation the holder of a certificate for 2605
any of the following reasons: 2606

(1) Failure to practice in accordance with the conditions 2607
under which the supervising physician's supervision agreement with 2608
the physician assistant was approved, including the requirement 2609
that when practicing under a particular supervising physician, the 2610
physician assistant must practice only according to the physician 2611
supervisory plan the board approved for that physician or the 2612
policies of the health care facility in which the supervising 2613
physician and physician assistant are practicing; 2614

(2) Failure to comply with the requirements of this chapter, 2615
Chapter 4731. of the Revised Code, or any rules adopted by the 2616
board; 2617

(3) Violating or attempting to violate, directly or 2618
indirectly, or assisting in or abetting the violation of, or 2619
conspiring to violate, any provision of this chapter, Chapter 2620
4731. of the Revised Code, or the rules adopted by the board; 2621

(4) Inability to practice according to acceptable and 2622

prevailing standards of care by reason of mental illness or 2623
physical illness, including physical deterioration that adversely 2624
affects cognitive, motor, or perceptive skills; 2625

(5) Impairment of ability to practice according to acceptable 2626
and prevailing standards of care because of habitual or excessive 2627
use or abuse of drugs, alcohol, or other substances that impair 2628
ability to practice; 2629

(6) Administering drugs for purposes other than those 2630
authorized under this chapter; 2631

(7) Willfully betraying a professional confidence; 2632

(8) Making a false, fraudulent, deceptive, or misleading 2633
statement in soliciting or advertising for employment as a 2634
physician assistant; in connection with any solicitation or 2635
advertisement for patients; in relation to the practice of 2636
medicine as it pertains to physician assistants; or in securing or 2637
attempting to secure a certificate to practice as a physician 2638
assistant, a certificate to prescribe, or approval of a 2639
supervision agreement. 2640

As used in this division, "false, fraudulent, deceptive, or 2641
misleading statement" means a statement that includes a 2642
misrepresentation of fact, is likely to mislead or deceive because 2643
of a failure to disclose material facts, is intended or is likely 2644
to create false or unjustified expectations of favorable results, 2645
or includes representations or implications that in reasonable 2646
probability will cause an ordinarily prudent person to 2647
misunderstand or be deceived. 2648

(9) Representing, with the purpose of obtaining compensation 2649
or other advantage personally or for any other person, that an 2650
incurable disease or injury, or other incurable condition, can be 2651
permanently cured; 2652

(10) The obtaining of, or attempting to obtain, money or 2653

anything of value by fraudulent misrepresentations in the course	2654
of practice;	2655
(11) A plea of guilty to, a judicial finding of guilt of, or	2656
a judicial finding of eligibility for intervention in lieu of	2657
conviction for, a felony;	2658
(12) Commission of an act that constitutes a felony in this	2659
state, regardless of the jurisdiction in which the act was	2660
committed;	2661
(13) A plea of guilty to, a judicial finding of guilt of, or	2662
a judicial finding of eligibility for intervention in lieu of	2663
conviction for, a misdemeanor committed in the course of practice;	2664
(14) A plea of guilty to, a judicial finding of guilt of, or	2665
a judicial finding of eligibility for intervention in lieu of	2666
conviction for, a misdemeanor involving moral turpitude;	2667
(15) Commission of an act in the course of practice that	2668
constitutes a misdemeanor in this state, regardless of the	2669
jurisdiction in which the act was committed;	2670
(16) Commission of an act involving moral turpitude that	2671
constitutes a misdemeanor in this state, regardless of the	2672
jurisdiction in which the act was committed;	2673
(17) A plea of guilty to, a judicial finding of guilt of, or	2674
a judicial finding of eligibility for intervention in lieu of	2675
conviction for violating any state or federal law regulating the	2676
possession, distribution, or use of any drug, including	2677
trafficking in drugs;	2678
(18) Any of the following actions taken by the state agency	2679
responsible for regulating the practice of physician assistants in	2680
another state, for any reason other than the nonpayment of fees:	2681
the limitation, revocation, or suspension of an individual's	2682
license to practice; acceptance of an individual's license	2683

surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(20) Violation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement;

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

(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 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;

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

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

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a physician assistant or applicant to resolve an

allegation of a violation of this chapter or any rule adopted 2715
under it. A consent agreement, when ratified by an affirmative 2716
vote of not fewer than six members of the board, shall constitute 2717
the findings and order of the board with respect to the matter 2718
addressed in the agreement. If the board refuses to ratify a 2719
consent agreement, the admissions and findings contained in the 2720
consent agreement shall be of no force or effect. 2721

(D) For purposes of divisions (B)(12), (15), and (16) of this 2722
section, the commission of the act may be established by a finding 2723
by the board, pursuant to an adjudication under Chapter 119. of 2724
the Revised Code, that the applicant or certificate holder 2725
committed the act in question. The board shall have no 2726
jurisdiction under these divisions in cases where the trial court 2727
renders a final judgment in the certificate holder's favor and 2728
that judgment is based upon an adjudication on the merits. The 2729
board shall have jurisdiction under these divisions in cases where 2730
the trial court issues an order of dismissal upon technical or 2731
procedural grounds. 2732

(E) The sealing of conviction records by any court shall have 2733
no effect upon a prior board order entered under the provisions of 2734
this section or upon the board's jurisdiction to take action under 2735
the provisions of this section if, based upon a plea of guilty, a 2736
judicial finding of guilt, or a judicial finding of eligibility 2737
for intervention in lieu of conviction, the board issued a notice 2738
of opportunity for a hearing prior to the court's order to seal 2739
the records. The board shall not be required to seal, destroy, 2740
redact, or otherwise modify its records to reflect the court's 2741
sealing of conviction records. 2742

(F) For purposes of this division, any individual who holds a 2743
certificate issued under this chapter, or applies for a 2744
certificate issued under this chapter, shall be deemed to have 2745
given consent to submit to a mental or physical examination when 2746

directed to do so in writing by the board and to have waived all 2747
objections to the admissibility of testimony or examination 2748
reports that constitute a privileged communication. 2749

(1) In enforcing division (B)(4) of this section, the board, 2750
upon a showing of a possible violation, may compel any individual 2751
who holds a certificate issued under this chapter or who has 2752
applied for a certificate pursuant to this chapter to submit to a 2753
mental examination, physical examination, including an HIV test, 2754
or both a mental and physical examination. The expense of the 2755
examination is the responsibility of the individual compelled to 2756
be examined. Failure to submit to a mental or physical examination 2757
or consent to an HIV test ordered by the board constitutes an 2758
admission of the allegations against the individual unless the 2759
failure is due to circumstances beyond the individual's control, 2760
and a default and final order may be entered without the taking of 2761
testimony or presentation of evidence. If the board finds a 2762
physician assistant unable to practice because of the reasons set 2763
forth in division (B)(4) of this section, the board shall require 2764
the physician assistant to submit to care, counseling, or 2765
treatment by physicians approved or designated by the board, as a 2766
condition for an initial, continued, reinstated, or renewed 2767
certificate. An individual affected under this division shall be 2768
afforded an opportunity to demonstrate to the board the ability to 2769
resume practicing in compliance with acceptable and prevailing 2770
standards of care. 2771

(2) For purposes of division (B)(5) of this section, if the 2772
board has reason to believe that any individual who holds a 2773
certificate issued under this chapter or any applicant for a 2774
certificate suffers such impairment, the board may compel the 2775
individual to submit to a mental or physical examination, or both. 2776
The expense of the examination is the responsibility of the 2777
individual compelled to be examined. Any mental or physical 2778

examination required under this division shall be undertaken by a 2779
treatment provider or physician qualified to conduct such 2780
examination and chosen by the board. 2781

Failure to submit to a mental or physical examination ordered 2782
by the board constitutes an admission of the allegations against 2783
the individual unless the failure is due to circumstances beyond 2784
the individual's control, and a default and final order may be 2785
entered without the taking of testimony or presentation of 2786
evidence. If the board determines that the individual's ability to 2787
practice is impaired, the board shall suspend the individual's 2788
certificate or deny the individual's application and shall require 2789
the individual, as a condition for initial, continued, reinstated, 2790
or renewed certification to practice or prescribe, to submit to 2791
treatment. 2792

Before being eligible to apply for reinstatement of a 2793
certificate suspended under this division, the physician assistant 2794
shall demonstrate to the board the ability to resume practice or 2795
prescribing in compliance with acceptable and prevailing standards 2796
of care. The demonstration shall include the following: 2797

(a) Certification from a treatment provider approved under 2798
section 4731.25 of the Revised Code that the individual has 2799
successfully completed any required inpatient treatment; 2800

(b) Evidence of continuing full compliance with an aftercare 2801
contract or consent agreement; 2802

(c) Two written reports indicating that the individual's 2803
ability to practice has been assessed and that the individual has 2804
been found capable of practicing according to acceptable and 2805
prevailing standards of care. The reports shall be made by 2806
individuals or providers approved by the board for making such 2807
assessments and shall describe the basis for their determination. 2808

The board may reinstate a certificate suspended under this 2809

division after such demonstration and after the individual has 2810
entered into a written consent agreement. 2811

When the impaired physician assistant resumes practice or 2812
prescribing, the board shall require continued monitoring of the 2813
physician assistant. The monitoring shall include compliance with 2814
the written consent agreement entered into before reinstatement or 2815
with conditions imposed by board order after a hearing, and, upon 2816
termination of the consent agreement, submission to the board for 2817
at least two years of annual written progress reports made under 2818
penalty of falsification stating whether the physician assistant 2819
has maintained sobriety. 2820

(G) If the secretary and supervising member determine that 2821
there is clear and convincing evidence that a physician assistant 2822
has violated division (B) of this section and that the 2823
individual's continued practice or prescribing presents a danger 2824
of immediate and serious harm to the public, they may recommend 2825
that the board suspend the individual's certificate to practice or 2826
prescribe without a prior hearing. Written allegations shall be 2827
prepared for consideration by the board. 2828

The board, upon review of those allegations and by an 2829
affirmative vote of not fewer than six of its members, excluding 2830
the secretary and supervising member, may suspend a certificate 2831
without a prior hearing. A telephone conference call may be 2832
utilized for reviewing the allegations and taking the vote on the 2833
summary suspension. 2834

The board shall issue a written order of suspension by 2835
certified mail or in person in accordance with section 119.07 of 2836
the Revised Code. The order shall not be subject to suspension by 2837
the court during pendency of any appeal filed under section 119.12 2838
of the Revised Code. If the physician assistant requests an 2839
adjudicatory hearing by the board, the date set for the hearing 2840
shall be within fifteen days, but not earlier than seven days, 2841

after the physician assistant requests the hearing, unless 2842
otherwise agreed to by both the board and the certificate holder. 2843

A summary suspension imposed under this division shall remain 2844
in effect, unless reversed on appeal, until a final adjudicative 2845
order issued by the board pursuant to this section and Chapter 2846
119. of the Revised Code becomes effective. The board shall issue 2847
its final adjudicative order within sixty days after completion of 2848
its hearing. Failure to issue the order within sixty days shall 2849
result in dissolution of the summary suspension order, but shall 2850
not invalidate any subsequent, final adjudicative order. 2851

(H) If the board takes action under division (B)(11), (13), 2852
or (14) of this section, and the judicial finding of guilt, guilty 2853
plea, or judicial finding of eligibility for intervention in lieu 2854
of conviction is overturned on appeal, upon exhaustion of the 2855
criminal appeal, a petition for reconsideration of the order may 2856
be filed with the board along with appropriate court documents. 2857
Upon receipt of a petition and supporting court documents, the 2858
board shall reinstate the certificate to practice or prescribe. 2859
The board may then hold an adjudication under Chapter 119. of the 2860
Revised Code to determine whether the individual committed the act 2861
in question. Notice of opportunity for hearing shall be given in 2862
accordance with Chapter 119. of the Revised Code. If the board 2863
finds, pursuant to an adjudication held under this division, that 2864
the individual committed the act, or if no hearing is requested, 2865
it may order any of the sanctions identified under division (B) of 2866
this section. 2867

(I) The certificate to practice issued to a physician 2868
assistant and the physician assistant's practice in this state are 2869
automatically suspended as of the date the physician assistant 2870
pleads guilty to, is found by a judge or jury to be guilty of, or 2871
is subject to a judicial finding of eligibility for intervention 2872
in lieu of conviction in this state or something similar to 2873

treatment or intervention in lieu of conviction in another state 2874
for any of the following criminal offenses in this state or a 2875
substantially equivalent criminal offense in another jurisdiction: 2876
aggravated murder, murder, voluntary manslaughter, felonious 2877
assault, kidnapping, rape, sexual battery, gross sexual 2878
imposition, aggravated arson, aggravated robbery, or aggravated 2879
burglary. Continued practice after the suspension shall be 2880
considered practicing without a certificate. 2881

The board shall notify the individual subject to the 2882
suspension by certified mail or in person in accordance with 2883
section 119.07 of the Revised Code. If an individual whose 2884
certificate is suspended under this division fails to make a 2885
timely request for an adjudication under Chapter 119. of the 2886
Revised Code, the board shall enter a final order permanently 2887
revoking the individual's certificate to practice. 2888

(J) In any instance in which the board is required by Chapter 2889
119. of the Revised Code to give notice of opportunity for hearing 2890
and the individual subject to the notice does not timely request a 2891
hearing in accordance with section 119.07 of the Revised Code, the 2892
board is not required to hold a hearing, but may adopt, by an 2893
affirmative vote of not fewer than six of its members, a final 2894
order that contains the board's findings. In that final order, the 2895
board may order any of the sanctions identified under division (A) 2896
or (B) of this section. 2897

(K) Any action taken by the board under division (B) of this 2898
section resulting in a suspension shall be accompanied by a 2899
written statement of the conditions under which the physician 2900
assistant's certificate may be reinstated. The board shall adopt 2901
rules in accordance with Chapter 119. of the Revised Code 2902
governing conditions to be imposed for reinstatement. 2903
Reinstatement of a certificate suspended pursuant to division (B) 2904
of this section requires an affirmative vote of not fewer than six 2905

members of the board. 2906

(L) When the board refuses to grant to an applicant a 2907
certificate to practice as a physician assistant or a certificate 2908
to prescribe, revokes an individual's certificate, refuses to 2909
issue a certificate, or refuses to reinstate an individual's 2910
certificate, the board may specify that its action is permanent. 2911
An individual subject to a permanent action taken by the board is 2912
forever thereafter ineligible to hold the certificate and the 2913
board shall not accept an application for reinstatement of the 2914
certificate or for issuance of a new certificate. 2915

(M) Notwithstanding any other provision of the Revised Code, 2916
all of the following apply: 2917

(1) The surrender of a certificate issued under this chapter 2918
is not effective unless or until accepted by the board. 2919
Reinstatement of a certificate surrendered to the board requires 2920
an affirmative vote of not fewer than six members of the board. 2921

(2) An application made under this chapter for a certificate, 2922
approval of a physician supervisory plan, or approval of a 2923
supervision agreement may not be withdrawn without approval of the 2924
board. 2925

(3) Failure by an individual to renew a certificate in 2926
accordance with section 4730.14 or section 4730.48 of the Revised 2927
Code shall not remove or limit the board's jurisdiction to take 2928
disciplinary action under this section against the individual. 2929

(N) As used in this section, "intervention in lieu of 2930
conviction" means intervention in lieu of conviction under section 2931
2951.041 of the Revised Code. 2932

Sec. 4730.31. (A) As used in this section, ~~"prosecutor:~~ 2933

(1) "Intervention in lieu of conviction" means intervention 2934
in lieu of conviction under section 2950.041 of the Revised Code. 2935

(2) "Prosecutor" has the same meaning as in section 2935.01 2936
of the Revised Code. 2937

(B) Whenever any person holding a valid certificate issued 2938
pursuant to this chapter pleads guilty to, is subject to a 2939
judicial finding of guilt of, or is subject to a judicial finding 2940
of eligibility for intervention in lieu of conviction for a 2941
violation of Chapter 2907., 2925., or 3719. of the Revised Code or 2942
of any substantively comparable ordinance of a municipal 2943
corporation in connection with practicing as a physician 2944
assistant, the prosecutor in the case shall, on forms prescribed 2945
and provided by the state medical board, promptly notify the board 2946
of the conviction. Within thirty days of receipt of such 2947
information, the board shall initiate action in accordance with 2948
Chapter 119. of the Revised Code to determine whether to suspend 2949
or revoke the certificate under section 4730.25 of the Revised 2950
Code. 2951

(C) The prosecutor in any case against any person holding a 2952
valid certificate issued pursuant to this chapter shall, on forms 2953
prescribed and provided by the state medical board, notify the 2954
board of any of the following: 2955

(1) A plea of guilty to, a judicial finding of guilt of, or 2956
judicial finding of eligibility for intervention in lieu of 2957
conviction for a felony, or a case where the trial court issues an 2958
order of dismissal upon technical or procedural grounds of a 2959
felony charge; 2960

(2) A plea of guilty to, a judicial finding of guilt of, or 2961
judicial finding or eligibility for intervention in lieu of 2962
conviction for a misdemeanor committed in the course of practice, 2963
or a case where the trial court issues an order of dismissal upon 2964
technical or procedural grounds of a charge of a misdemeanor, if 2965
the alleged act was committed in the course of practice; 2966

(3) A plea of guilty to, a judicial finding of guilt of, or 2967
judicial finding of eligibility for intervention in lieu of 2968
conviction for a misdemeanor involving moral turpitude, or a case 2969
where the trial court issues an order of dismissal upon technical 2970
or procedural grounds of a charge of a misdemeanor involving moral 2971
turpitude. 2972

The report shall include the name and address of the 2973
certificate holder, the nature of the offense for which the action 2974
was taken, and the certified court documents recording the action. 2975

Sec. 4730.48. (A) Except in the case of a provisional 2976
certificate to prescribe, a physician assistant's certificate to 2977
prescribe expires on the same date as the physician assistant's 2978
certificate to practice as a physician assistant, as provided in 2979
section 4730.14 of the Revised Code. The certificate to prescribe 2980
may be renewed in accordance with this section. 2981

A person seeking to renew a certificate to prescribe shall, 2982
on or before the thirty-first day of January of each even-numbered 2983
year, apply for renewal of the certificate. The state medical 2984
board shall send renewal notices at least one month prior to the 2985
expiration date. The notice may be sent as part of the notice sent 2986
for renewal of the certificate to practice. 2987

Applications for renewal shall be submitted to the board on 2988
forms the board shall prescribe and furnish. An application for 2989
renewal of a certificate to prescribe may be submitted in 2990
conjunction with an application for renewal of a certificate to 2991
practice. 2992

Each application for renewal of a certificate to prescribe 2993
shall be accompanied by a biennial renewal fee of fifty dollars. 2994
The board shall deposit the fees in accordance with section 2995
4731.24 of the Revised Code. 2996

The applicant shall report any criminal offense that
constitutes grounds under section 4730.25 of the Revised Code for
refusing to issue a certificate to prescribe to which the
applicant has pleaded guilty, of which the applicant has been
found guilty, or for which the applicant has been found eligible
for intervention in lieu of conviction under section 2951.041 of
the Revised Code, since last signing an application for a
certificate to prescribe.

(B) The board shall review all renewal applications received.
If an applicant submits a complete renewal application and meets
the requirements for renewal specified in section 4730.49 of the
Revised Code, the board shall issue to the applicant a renewed
certificate to prescribe.

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

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

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

(2) Failure to maintain minimal standards applicable to the 3028
selection or administration of drugs, or failure to employ 3029
acceptable scientific methods in the selection of drugs or other 3030
modalities for treatment of disease; 3031

(3) Selling, giving away, personally furnishing, prescribing, 3032
or administering drugs for other than legal and legitimate 3033
therapeutic purposes or a plea of guilty to, a judicial finding of 3034
guilt of, or a judicial finding of eligibility for intervention in 3035
lieu of conviction of, a violation of any federal or state law 3036
regulating the possession, distribution, or use of any drug; 3037

(4) Willfully betraying a professional confidence. 3038

For purposes of this division, "willfully betraying a 3039
professional confidence" does not include providing any 3040
information, documents, or reports to a child fatality review 3041
board under sections 307.621 to 307.629 of the Revised Code and 3042
does not include the making of a report of an employee's use of a 3043
drug of abuse, or a report of a condition of an employee other 3044
than one involving the use of a drug of abuse, to the employer of 3045
the employee as described in division (B) of section 2305.33 of 3046
the Revised Code. Nothing in this division affects the immunity 3047
from civil liability conferred by that section upon a physician 3048
who makes either type of report in accordance with division (B) of 3049
that section. As used in this division, "employee," "employer," 3050
and "physician" have the same meanings as in section 2305.33 of 3051
the Revised Code. 3052

(5) Making a false, fraudulent, deceptive, or misleading 3053
statement in the solicitation of or advertising for patients; in 3054
relation to the practice of medicine and surgery, osteopathic 3055
medicine and surgery, podiatric medicine and surgery, or a limited 3056
branch of medicine; or in securing or attempting to secure any 3057
certificate to practice or certificate of registration issued by 3058
the board. 3059

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

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

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

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

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

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

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

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

(13) A plea of guilty to, a judicial finding of guilt of, or 3091
a judicial finding of eligibility for intervention in lieu of 3092
conviction for, a misdemeanor involving moral turpitude; 3093

(14) Commission of an act involving moral turpitude that 3094
constitutes a misdemeanor in this state, regardless of the 3095
jurisdiction in which the act was committed; 3096

(15) Violation of the conditions of limitation placed by the 3097
board upon a certificate to practice; 3098

(16) Failure to pay license renewal fees specified in this 3099
chapter; 3100

(17) Except as authorized in section 4731.31 of the Revised 3101
Code, engaging in the division of fees for referral of patients, 3102
or the receiving of a thing of value in return for a specific 3103
referral of a patient to utilize a particular service or business; 3104

(18) Subject to section 4731.226 of the Revised Code, 3105
violation of any provision of a code of ethics of the American 3106
medical association, the American osteopathic association, the 3107
American podiatric medical association, or any other national 3108
professional organizations that the board specifies by rule. The 3109
state medical board shall obtain and keep on file current copies 3110
of the codes of ethics of the various national professional 3111
organizations. The individual whose certificate is being suspended 3112
or revoked shall not be found to have violated any provision of a 3113
code of ethics of an organization not appropriate to the 3114
individual's profession. 3115

For purposes of this division, a "provision of a code of 3116
ethics of a national professional organization" does not include 3117
any provision that would preclude the making of a report by a 3118
physician of an employee's use of a drug of abuse, or of a 3119
condition of an employee other than one involving the use of a 3120
drug of abuse, to the employer of the employee as described in 3121

division (B) of section 2305.33 of the Revised Code. Nothing in 3122
this division affects the immunity from civil liability conferred 3123
by that section upon a physician who makes either type of report 3124
in accordance with division (B) of that section. As used in this 3125
division, "employee," "employer," and "physician" have the same 3126
meanings as in section 2305.33 of the Revised Code. 3127

(19) Inability to practice according to acceptable and 3128
prevailing standards of care by reason of mental illness or 3129
physical illness, including, but not limited to, physical 3130
deterioration that adversely affects cognitive, motor, or 3131
perceptive skills. 3132

In enforcing this division, the board, upon a showing of a 3133
possible violation, may compel any individual authorized to 3134
practice by this chapter or who has submitted an application 3135
pursuant to this chapter to submit to a mental examination, 3136
physical examination, including an HIV test, or both a mental and 3137
a physical examination. The expense of the examination is the 3138
responsibility of the individual compelled to be examined. Failure 3139
to submit to a mental or physical examination or consent to an HIV 3140
test ordered by the board constitutes an admission of the 3141
allegations against the individual unless the failure is due to 3142
circumstances beyond the individual's control, and a default and 3143
final order may be entered without the taking of testimony or 3144
presentation of evidence. If the board finds an individual unable 3145
to practice because of the reasons set forth in this division, the 3146
board shall require the individual to submit to care, counseling, 3147
or treatment by physicians approved or designated by the board, as 3148
a condition for initial, continued, reinstated, or renewed 3149
authority to practice. An individual affected under this division 3150
shall be afforded an opportunity to demonstrate to the board the 3151
ability to resume practice in compliance with acceptable and 3152
prevailing standards under the provisions of the individual's 3153

certificate. For the purpose of this division, any individual who 3154
applies for or receives a certificate to practice under this 3155
chapter accepts the privilege of practicing in this state and, by 3156
so doing, shall be deemed to have given consent to submit to a 3157
mental or physical examination when directed to do so in writing 3158
by the board, and to have waived all objections to the 3159
admissibility of testimony or examination reports that constitute 3160
a privileged communication. 3161

(20) Except when civil penalties are imposed under section 3162
4731.225 or 4731.281 of the Revised Code, and subject to section 3163
4731.226 of the Revised Code, violating or attempting to violate, 3164
directly or indirectly, or assisting in or abetting the violation 3165
of, or conspiring to violate, any provisions of this chapter or 3166
any rule promulgated by the board. 3167

This division does not apply to a violation or attempted 3168
violation of, assisting in or abetting the violation of, or a 3169
conspiracy to violate, any provision of this chapter or any rule 3170
adopted by the board that would preclude the making of a report by 3171
a physician of an employee's use of a drug of abuse, or of a 3172
condition of an employee other than one involving the use of a 3173
drug of abuse, to the employer of the employee as described in 3174
division (B) of section 2305.33 of the Revised Code. Nothing in 3175
this division affects the immunity from civil liability conferred 3176
by that section upon a physician who makes either type of report 3177
in accordance with division (B) of that section. As used in this 3178
division, "employee," "employer," and "physician" have the same 3179
meanings as in section 2305.33 of the Revised Code. 3180

(21) The violation of section 3701.79 of the Revised Code or 3181
of any abortion rule adopted by the public health council pursuant 3182
to section 3701.341 of the Revised Code; 3183

(22) Any of the following actions taken by the agency 3184
responsible for regulating the practice of medicine and surgery, 3185

osteopathic medicine and surgery, podiatric medicine and surgery, 3186
or the limited branches of medicine in another jurisdiction, for 3187
any reason other than the nonpayment of fees: the limitation, 3188
revocation, or suspension of an individual's license to practice; 3189
acceptance of an individual's license surrender; denial of a 3190
license; refusal to renew or reinstate a license; imposition of 3191
probation; or issuance of an order of censure or other reprimand; 3192

(23) The violation of section 2919.12 of the Revised Code or 3193
the performance or inducement of an abortion upon a pregnant woman 3194
with actual knowledge that the conditions specified in division 3195
(B) of section 2317.56 of the Revised Code have not been satisfied 3196
or with a heedless indifference as to whether those conditions 3197
have been satisfied, unless an affirmative defense as specified in 3198
division (H)(2) of that section would apply in a civil action 3199
authorized by division (H)(1) of that section; 3200

(24) The revocation, suspension, restriction, reduction, or 3201
termination of clinical privileges by the United States department 3202
of defense or department of veterans affairs or the termination or 3203
suspension of a certificate of registration to prescribe drugs by 3204
the drug enforcement administration of the United States 3205
department of justice; 3206

(25) Termination or suspension from participation in the 3207
medicare or medicaid programs by the department of health and 3208
human services or other responsible agency for any act or acts 3209
that also would constitute a violation of division (B)(2), (3), 3210
(6), (8), or (19) of this section; 3211

(26) Impairment of ability to practice according to 3212
acceptable and prevailing standards of care because of habitual or 3213
excessive use or abuse of drugs, alcohol, or other substances that 3214
impair ability to practice. 3215

For the purposes of this division, any individual authorized 3216

to practice by this chapter accepts the privilege of practicing in 3217
this state subject to supervision by the board. By filing an 3218
application for or holding a certificate to practice under this 3219
chapter, an individual shall be deemed to have given consent to 3220
submit to a mental or physical examination when ordered to do so 3221
by the board in writing, and to have waived all objections to the 3222
admissibility of testimony or examination reports that constitute 3223
privileged communications. 3224

If it has reason to believe that any individual authorized to 3225
practice by this chapter or any applicant for certification to 3226
practice suffers such impairment, the board may compel the 3227
individual to submit to a mental or physical examination, or both. 3228
The expense of the examination is the responsibility of the 3229
individual compelled to be examined. Any mental or physical 3230
examination required under this division shall be undertaken by a 3231
treatment provider or physician who is qualified to conduct the 3232
examination and who is chosen by the board. 3233

Failure to submit to a mental or physical examination ordered 3234
by the board constitutes an admission of the allegations against 3235
the individual unless the failure is due to circumstances beyond 3236
the individual's control, and a default and final order may be 3237
entered without the taking of testimony or presentation of 3238
evidence. If the board determines that the individual's ability to 3239
practice is impaired, the board shall suspend the individual's 3240
certificate or deny the individual's application and shall require 3241
the individual, as a condition for initial, continued, reinstated, 3242
or renewed certification to practice, to submit to treatment. 3243

Before being eligible to apply for reinstatement of a 3244
certificate suspended under this division, the impaired 3245
practitioner shall demonstrate to the board the ability to resume 3246
practice in compliance with acceptable and prevailing standards of 3247
care under the provisions of the practitioner's certificate. The 3248

demonstration shall include, but shall not be limited to, the 3249
following: 3250

(a) Certification from a treatment provider approved under 3251
section 4731.25 of the Revised Code that the individual has 3252
successfully completed any required inpatient treatment; 3253

(b) Evidence of continuing full compliance with an aftercare 3254
contract or consent agreement; 3255

(c) Two written reports indicating that the individual's 3256
ability to practice has been assessed and that the individual has 3257
been found capable of practicing according to acceptable and 3258
prevailing standards of care. The reports shall be made by 3259
individuals or providers approved by the board for making the 3260
assessments and shall describe the basis for their determination. 3261

The board may reinstate a certificate suspended under this 3262
division after that demonstration and after the individual has 3263
entered into a written consent agreement. 3264

When the impaired practitioner resumes practice, the board 3265
shall require continued monitoring of the individual. The 3266
monitoring shall include, but not be limited to, compliance with 3267
the written consent agreement entered into before reinstatement or 3268
with conditions imposed by board order after a hearing, and, upon 3269
termination of the consent agreement, submission to the board for 3270
at least two years of annual written progress reports made under 3271
penalty of perjury stating whether the individual has maintained 3272
sobriety. 3273

(27) A second or subsequent violation of section 4731.66 or 3274
4731.69 of the Revised Code; 3275

(28) Except as provided in division (N) of this section: 3276

(a) Waiving the payment of all or any part of a deductible or 3277
copayment that a patient, pursuant to a health insurance or health 3278

care policy, contract, or plan that covers the individual's 3279
services, otherwise would be required to pay if the waiver is used 3280
as an enticement to a patient or group of patients to receive 3281
health care services from that individual; 3282

(b) Advertising that the individual will waive the payment of 3283
all or any part of a deductible or copayment that a patient, 3284
pursuant to a health insurance or health care policy, contract, or 3285
plan that covers the individual's services, otherwise would be 3286
required to pay. 3287

(29) Failure to use universal blood and body fluid 3288
precautions established by rules adopted under section 4731.051 of 3289
the Revised Code; 3290

(30) Failure to provide notice to, and receive acknowledgment 3291
of the notice from, a patient when required by section 4731.143 of 3292
the Revised Code prior to providing nonemergency professional 3293
services, or failure to maintain that notice in the patient's 3294
file; 3295

(31) Failure of a physician supervising a physician assistant 3296
to maintain supervision in accordance with the requirements of 3297
Chapter 4730. of the Revised Code and the rules adopted under that 3298
chapter; 3299

(32) Failure of a physician or podiatrist to enter into a 3300
standard care arrangement with a clinical nurse specialist, 3301
certified nurse-midwife, or certified nurse practitioner with whom 3302
the physician or podiatrist is in collaboration pursuant to 3303
section 4731.27 of the Revised Code or failure to fulfill the 3304
responsibilities of collaboration after entering into a standard 3305
care arrangement; 3306

(33) Failure to comply with the terms of a consult agreement 3307
entered into with a pharmacist pursuant to section 4729.39 of the 3308
Revised Code; 3309

(34) Failure to cooperate in an investigation conducted by 3310
the board under division (F) of this section, including failure to 3311
comply with a subpoena or order issued by the board or failure to 3312
answer truthfully a question presented by the board at a 3313
deposition or in written interrogatories, except that failure to 3314
cooperate with an investigation shall not constitute grounds for 3315
discipline under this section if a court of competent jurisdiction 3316
has issued an order that either quashes a subpoena or permits the 3317
individual to withhold the testimony or evidence in issue; 3318

(35) Failure to supervise an acupuncturist in accordance with 3319
Chapter 4762. of the Revised Code and the board's rules for 3320
supervision of an acupuncturist; 3321

(36) Failure to supervise an anesthesiologist assistant in 3322
accordance with Chapter 4760. of the Revised Code and the board's 3323
rules for supervision of an anesthesiologist assistant; 3324

(37) Assisting suicide as defined in section 3795.01 of the 3325
Revised Code; 3326

(38) Failure to comply with the requirements of section 3327
2317.561 of the Revised Code; 3328

(39) Failure to supervise a radiologist assistant in 3329
accordance with Chapter 4774. of the Revised Code and the board's 3330
rules for supervision of radiologist assistants; 3331

(40) Performing or inducing an abortion at an office or 3332
facility with knowledge that the office or facility fails to post 3333
the notice required under section 3701.791 of the Revised Code. 3334

(C) Disciplinary actions taken by the board under divisions 3335
(A) and (B) of this section shall be taken pursuant to an 3336
adjudication under Chapter 119. of the Revised Code, except that 3337
in lieu of an adjudication, the board may enter into a consent 3338
agreement with an individual to resolve an allegation of a 3339
violation of this chapter or any rule adopted under it. A consent 3340

agreement, when ratified by an affirmative vote of not fewer than 3341
six members of the board, shall constitute the findings and order 3342
of the board with respect to the matter addressed in the 3343
agreement. If the board refuses to ratify a consent agreement, the 3344
admissions and findings contained in the consent agreement shall 3345
be of no force or effect. 3346

If the board takes disciplinary action against an individual 3347
under division (B) of this section for a second or subsequent plea 3348
of guilty to, or judicial finding of guilt of, a violation of 3349
section 2919.123 of the Revised Code, the disciplinary action 3350
shall consist of a suspension of the individual's certificate to 3351
practice for a period of at least one year or, if determined 3352
appropriate by the board, a more serious sanction involving the 3353
individual's certificate to practice. Any consent agreement 3354
entered into under this division with an individual that pertains 3355
to a second or subsequent plea of guilty to, or judicial finding 3356
of guilt of, a violation of that section shall provide for a 3357
suspension of the individual's certificate to practice for a 3358
period of at least one year or, if determined appropriate by the 3359
board, a more serious sanction involving the individual's 3360
certificate to practice. 3361

(D) For purposes of divisions (B)(10), (12), and (14) of this 3362
section, the commission of the act may be established by a finding 3363
by the board, pursuant to an adjudication under Chapter 119. of 3364
the Revised Code, that the individual committed the act. The board 3365
does not have jurisdiction under those divisions if the trial 3366
court renders a final judgment in the individual's favor and that 3367
judgment is based upon an adjudication on the merits. The board 3368
has jurisdiction under those divisions if the trial court issues 3369
an order of dismissal upon technical or procedural grounds. 3370

(E) The sealing of conviction records by any court shall have 3371
no effect upon a prior board order entered under this section or 3372

upon the board's jurisdiction to take action under this section 3373
if, based upon a plea of guilty, a judicial finding of guilt, or a 3374
judicial finding of eligibility for intervention in lieu of 3375
conviction, the board issued a notice of opportunity for a hearing 3376
prior to the court's order to seal the records. The board shall 3377
not be required to seal, destroy, redact, or otherwise modify its 3378
records to reflect the court's sealing of conviction records. 3379

(F)(1) The board shall investigate evidence that appears to 3380
show that a person has violated any provision of this chapter or 3381
any rule adopted under it. Any person may report to the board in a 3382
signed writing any information that the person may have that 3383
appears to show a violation of any provision of this chapter or 3384
any rule adopted under it. In the absence of bad faith, any person 3385
who reports information of that nature or who testifies before the 3386
board in any adjudication conducted under Chapter 119. of the 3387
Revised Code shall not be liable in damages in a civil action as a 3388
result of the report or testimony. Each complaint or allegation of 3389
a violation received by the board shall be assigned a case number 3390
and shall be recorded by the board. 3391

(2) Investigations of alleged violations of this chapter or 3392
any rule adopted under it shall be supervised by the supervising 3393
member elected by the board in accordance with section 4731.02 of 3394
the Revised Code and by the secretary as provided in section 3395
4731.39 of the Revised Code. The president may designate another 3396
member of the board to supervise the investigation in place of the 3397
supervising member. No member of the board who supervises the 3398
investigation of a case shall participate in further adjudication 3399
of the case. 3400

(3) In investigating a possible violation of this chapter or 3401
any rule adopted under this chapter, the board may administer 3402
oaths, order the taking of depositions, issue subpoenas, and 3403
compel the attendance of witnesses and production of books, 3404

accounts, papers, records, documents, and testimony, except that a 3405
subpoena for patient record information shall not be issued 3406
without consultation with the attorney general's office and 3407
approval of the secretary and supervising member of the board. 3408
Before issuance of a subpoena for patient record information, the 3409
secretary and supervising member shall determine whether there is 3410
probable cause to believe that the complaint filed alleges a 3411
violation of this chapter or any rule adopted under it and that 3412
the records sought are relevant to the alleged violation and 3413
material to the investigation. The subpoena may apply only to 3414
records that cover a reasonable period of time surrounding the 3415
alleged violation. 3416

On failure to comply with any subpoena issued by the board 3417
and after reasonable notice to the person being subpoenaed, the 3418
board may move for an order compelling the production of persons 3419
or records pursuant to the Rules of Civil Procedure. 3420

A subpoena issued by the board may be served by a sheriff, 3421
the sheriff's deputy, or a board employee designated by the board. 3422
Service of a subpoena issued by the board may be made by 3423
delivering a copy of the subpoena to the person named therein, 3424
reading it to the person, or leaving it at the person's usual 3425
place of residence. When the person being served is a person whose 3426
practice is authorized by this chapter, service of the subpoena 3427
may be made by certified mail, restricted delivery, return receipt 3428
requested, and the subpoena shall be deemed served on the date 3429
delivery is made or the date the person refuses to accept 3430
delivery. 3431

A sheriff's deputy who serves a subpoena shall receive the 3432
same fees as a sheriff. Each witness who appears before the board 3433
in obedience to a subpoena shall receive the fees and mileage 3434
provided for under section 119.094 of the Revised Code. 3435

(4) All hearings and investigations of the board shall be 3436

considered civil actions for the purposes of section 2305.252 of 3437
the Revised Code. 3438

(5) Information received by the board pursuant to an 3439
investigation is confidential and not subject to discovery in any 3440
civil action. 3441

The board shall conduct all investigations and proceedings in 3442
a manner that protects the confidentiality of patients and persons 3443
who file complaints with the board. The board shall not make 3444
public the names or any other identifying information about 3445
patients or complainants unless proper consent is given or, in the 3446
case of a patient, a waiver of the patient privilege exists under 3447
division (B) of section 2317.02 of the Revised Code, except that 3448
consent or a waiver of that nature is not required if the board 3449
possesses reliable and substantial evidence that no bona fide 3450
physician-patient relationship exists. 3451

The board may share any information it receives pursuant to 3452
an investigation, including patient records and patient record 3453
information, with law enforcement agencies, other licensing 3454
boards, and other governmental agencies that are prosecuting, 3455
adjudicating, or investigating alleged violations of statutes or 3456
administrative rules. An agency or board that receives the 3457
information shall comply with the same requirements regarding 3458
confidentiality as those with which the state medical board must 3459
comply, notwithstanding any conflicting provision of the Revised 3460
Code or procedure of the agency or board that applies when it is 3461
dealing with other information in its possession. In a judicial 3462
proceeding, the information may be admitted into evidence only in 3463
accordance with the Rules of Evidence, but the court shall require 3464
that appropriate measures are taken to ensure that confidentiality 3465
is maintained with respect to any part of the information that 3466
contains names or other identifying information about patients or 3467
complainants whose confidentiality was protected by the state 3468

medical board when the information was in the board's possession. 3469
Measures to ensure confidentiality that may be taken by the court 3470
include sealing its records or deleting specific information from 3471
its records. 3472

(6) On a quarterly basis, the board shall prepare a report 3473
that documents the disposition of all cases during the preceding 3474
three months. The report shall contain the following information 3475
for each case with which the board has completed its activities: 3476

(a) The case number assigned to the complaint or alleged 3477
violation; 3478

(b) The type of certificate to practice, if any, held by the 3479
individual against whom the complaint is directed; 3480

(c) A description of the allegations contained in the 3481
complaint; 3482

(d) The disposition of the case. 3483

The report shall state how many cases are still pending and 3484
shall be prepared in a manner that protects the identity of each 3485
person involved in each case. The report shall be a public record 3486
under section 149.43 of the Revised Code. 3487

(G) If the secretary and supervising member determine that 3488
there is clear and convincing evidence that an individual has 3489
violated division (B) of this section and that the individual's 3490
continued practice presents a danger of immediate and serious harm 3491
to the public, they may recommend that the board suspend the 3492
individual's certificate to practice without a prior hearing. 3493
Written allegations shall be prepared for consideration by the 3494
board. 3495

The board, upon review of those allegations and by an 3496
affirmative vote of not fewer than six of its members, excluding 3497
the secretary and supervising member, may suspend a certificate 3498

without a prior hearing. A telephone conference call may be 3499
utilized for reviewing the allegations and taking the vote on the 3500
summary suspension. 3501

The board shall issue a written order of suspension by 3502
certified mail or in person in accordance with section 119.07 of 3503
the Revised Code. The order shall not be subject to suspension by 3504
the court during pendency of any appeal filed under section 119.12 3505
of the Revised Code. If the individual subject to the summary 3506
suspension requests an adjudicatory hearing by the board, the date 3507
set for the hearing shall be within fifteen days, but not earlier 3508
than seven days, after the individual requests the hearing, unless 3509
otherwise agreed to by both the board and the individual. 3510

Any summary suspension imposed under this division shall 3511
remain in effect, unless reversed on appeal, until a final 3512
adjudicative order issued by the board pursuant to this section 3513
and Chapter 119. of the Revised Code becomes effective. The board 3514
shall issue its final adjudicative order within seventy-five days 3515
after completion of its hearing. A failure to issue the order 3516
within seventy-five days shall result in dissolution of the 3517
summary suspension order but shall not invalidate any subsequent, 3518
final adjudicative order. 3519

(H) If the board takes action under division (B)(9), (11), or 3520
(13) of this section and the judicial finding of guilt, guilty 3521
plea, or judicial finding of eligibility for intervention in lieu 3522
of conviction is overturned on appeal, upon exhaustion of the 3523
criminal appeal, a petition for reconsideration of the order may 3524
be filed with the board along with appropriate court documents. 3525
Upon receipt of a petition of that nature and supporting court 3526
documents, the board shall reinstate the individual's certificate 3527
to practice. The board may then hold an adjudication under Chapter 3528
119. of the Revised Code to determine whether the individual 3529
committed the act in question. Notice of an opportunity for a 3530

hearing shall be given in accordance with Chapter 119. of the 3531
Revised Code. If the board finds, pursuant to an adjudication held 3532
under this division, that the individual committed the act or if 3533
no hearing is requested, the board may order any of the sanctions 3534
identified under division (B) of this section. 3535

(I) The certificate to practice issued to an individual under 3536
this chapter and the individual's practice in this state are 3537
automatically suspended as of the date of the individual's second 3538
or subsequent plea of guilty to, or judicial finding of guilt of, 3539
a violation of section 2919.123 of the Revised Code, or the date 3540
the individual pleads guilty to, is found by a judge or jury to be 3541
guilty of, or is subject to a judicial finding of eligibility for 3542
intervention in lieu of conviction in this state or something 3543
similar to treatment or intervention in lieu of conviction in 3544
another jurisdiction for any of the following criminal offenses in 3545
this state or a substantially equivalent criminal offense in 3546
another jurisdiction: aggravated murder, murder, voluntary 3547
manslaughter, felonious assault, kidnapping, rape, sexual battery, 3548
gross sexual imposition, aggravated arson, aggravated robbery, or 3549
aggravated burglary. Continued practice after suspension shall be 3550
considered practicing without a certificate. 3551

The board shall notify the individual subject to the 3552
suspension by certified mail or in person in accordance with 3553
section 119.07 of the Revised Code. If an individual whose 3554
certificate is automatically suspended under this division fails 3555
to make a timely request for an adjudication under Chapter 119. of 3556
the Revised Code, the board shall do whichever of the following is 3557
applicable: 3558

(1) If the automatic suspension under this division is for a 3559
second or subsequent plea of guilty to, or judicial finding of 3560
guilt of, a violation of section 2919.123 of the Revised Code, the 3561
board shall enter an order suspending the individual's certificate 3562

to practice for a period of at least one year or, if determined 3563
appropriate by the board, imposing a more serious sanction 3564
involving the individual's certificate to practice. 3565

(2) In all circumstances in which division (I)(1) of this 3566
section does not apply, enter a final order permanently revoking 3567
the individual's certificate to practice. 3568

(J) If the board is required by Chapter 119. of the Revised 3569
Code to give notice of an opportunity for a hearing and if the 3570
individual subject to the notice does not timely request a hearing 3571
in accordance with section 119.07 of the Revised Code, the board 3572
is not required to hold a hearing, but may adopt, by an 3573
affirmative vote of not fewer than six of its members, a final 3574
order that contains the board's findings. In that final order, the 3575
board may order any of the sanctions identified under division (A) 3576
or (B) of this section. 3577

(K) Any action taken by the board under division (B) of this 3578
section resulting in a suspension from practice shall be 3579
accompanied by a written statement of the conditions under which 3580
the individual's certificate to practice may be reinstated. The 3581
board shall adopt rules governing conditions to be imposed for 3582
reinstatement. Reinstatement of a certificate suspended pursuant 3583
to division (B) of this section requires an affirmative vote of 3584
not fewer than six members of the board. 3585

(L) When the board refuses to grant a certificate to an 3586
applicant, revokes an individual's certificate to practice, 3587
refuses to register an applicant, or refuses to reinstate an 3588
individual's certificate to practice, the board may specify that 3589
its action is permanent. An individual subject to a permanent 3590
action taken by the board is forever thereafter ineligible to hold 3591
a certificate to practice and the board shall not accept an 3592
application for reinstatement of the certificate or for issuance 3593
of a new certificate. 3594

(M) Notwithstanding any other provision of the Revised Code, 3595
all of the following apply: 3596

(1) The surrender of a certificate issued under this chapter 3597
shall not be effective unless or until accepted by the board. 3598
Reinstatement of a certificate surrendered to the board requires 3599
an affirmative vote of not fewer than six members of the board. 3600

(2) An application for a certificate made under the 3601
provisions of this chapter may not be withdrawn without approval 3602
of the board. 3603

(3) Failure by an individual to renew a certificate of 3604
registration in accordance with this chapter shall not remove or 3605
limit the board's jurisdiction to take any disciplinary action 3606
under this section against the individual. 3607

(N) Sanctions shall not be imposed under division (B)(28) of 3608
this section against any person who waives deductibles and 3609
copayments as follows: 3610

(1) In compliance with the health benefit plan that expressly 3611
allows such a practice. Waiver of the deductibles or copayments 3612
shall be made only with the full knowledge and consent of the plan 3613
purchaser, payer, and third-party administrator. Documentation of 3614
the consent shall be made available to the board upon request. 3615

(2) For professional services rendered to any other person 3616
authorized to practice pursuant to this chapter, to the extent 3617
allowed by this chapter and rules adopted by the board. 3618

(O) Under the board's investigative duties described in this 3619
section and subject to division (F) of this section, the board 3620
shall develop and implement a quality intervention program 3621
designed to improve through remedial education the clinical and 3622
communication skills of individuals authorized under this chapter 3623
to practice medicine and surgery, osteopathic medicine and 3624
surgery, and podiatric medicine and surgery. In developing and 3625

implementing the quality intervention program, the board may do 3626
all of the following: 3627

(1) Offer in appropriate cases as determined by the board an 3628
educational and assessment program pursuant to an investigation 3629
the board conducts under this section; 3630

(2) Select providers of educational and assessment services, 3631
including a quality intervention program panel of case reviewers; 3632

(3) Make referrals to educational and assessment service 3633
providers and approve individual educational programs recommended 3634
by those providers. The board shall monitor the progress of each 3635
individual undertaking a recommended individual educational 3636
program. 3637

(4) Determine what constitutes successful completion of an 3638
individual educational program and require further monitoring of 3639
the individual who completed the program or other action that the 3640
board determines to be appropriate; 3641

(5) Adopt rules in accordance with Chapter 119. of the 3642
Revised Code to further implement the quality intervention 3643
program. 3644

An individual who participates in an individual educational 3645
program pursuant to this division shall pay the financial 3646
obligations arising from that educational program. 3647

As used in this section, "intervention in lieu of conviction" 3648
means intervention in lieu of conviction under section 2951.041 of 3649
the Revised Code. 3650

Sec. 4731.223. (A) As used in this section, "~~prosecutor:~~" 3651

(1) "Intervention in lieu of conviction" means intervention 3652
in lieu of conviction under section 2951.041 of the Revised Code. 3653

(2) "Prosecutor" has the same meaning as in section 2935.01 3654

of the Revised Code. 3655

(B) Whenever any person holding a valid certificate issued 3656
pursuant to this chapter pleads guilty to, is subject to a 3657
judicial finding of guilt of, or is subject to a judicial finding 3658
of eligibility for intervention in lieu of conviction for a 3659
violation of Chapter 2907., 2925., or 3719. of the Revised Code or 3660
of any substantively comparable ordinance of a municipal 3661
corporation in connection with the person's practice, or for a 3662
second or subsequent time pleads guilty to, or is subject to a 3663
judicial finding of guilt of, a violation of section 2919.123 of 3664
the Revised Code, the prosecutor in the case, on forms prescribed 3665
and provided by the state medical board, shall promptly notify the 3666
board of the conviction or guilty plea. Within thirty days of 3667
receipt of that information, the board shall initiate action in 3668
accordance with Chapter 119. of the Revised Code to determine 3669
whether to suspend or revoke the certificate under section 4731.22 3670
of the Revised Code. 3671

(C) The prosecutor in any case against any person holding a 3672
valid certificate issued pursuant to this chapter, on forms 3673
prescribed and provided by the state medical board, shall notify 3674
the board of any of the following: 3675

(1) A plea of guilty to, a finding of guilt by a jury or 3676
court of, or judicial finding of eligibility for intervention in 3677
lieu of conviction for a felony, or a case in which the trial 3678
court issues an order of dismissal upon technical or procedural 3679
grounds of a felony charge; 3680

(2) A plea of guilty to, a finding of guilt by a jury or 3681
court of, or judicial finding of eligibility for intervention in 3682
lieu of conviction for a misdemeanor committed in the course of 3683
practice, or a case in which the trial court issues an order of 3684
dismissal upon technical or procedural grounds of a charge of a 3685
misdemeanor, if the alleged act was committed in the course of 3686

practice; 3687

(3) A plea of guilty to, a finding of guilt by a jury or 3688
court of, or judicial finding of eligibility for intervention in 3689
lieu of conviction for a misdemeanor involving moral turpitude, or 3690
a case in which the trial court issues an order of dismissal upon 3691
technical or procedural grounds of a charge of a misdemeanor 3692
involving moral turpitude. 3693

The report shall include the name and address of the 3694
certificate holder, the nature of the offense for which the action 3695
was taken, and the certified court documents recording the action. 3696

Sec. 4731.281. (A) On or before the deadline established 3697
under division (B) of this section for applying for renewal of a 3698
certificate of registration, each person holding a certificate 3699
under this chapter to practice medicine and surgery, osteopathic 3700
medicine and surgery, or podiatric medicine and surgery shall 3701
certify to the state medical board that in the preceding two years 3702
the person has completed one hundred hours of continuing medical 3703
education. The certification shall be made upon the application 3704
for biennial registration submitted pursuant to division (B) of 3705
this section. The board shall adopt rules providing for pro rata 3706
reductions by month of the number of hours of continuing education 3707
required for persons who are in their first registration period, 3708
who have been disabled due to illness or accident, or who have 3709
been absent from the country. 3710

In determining whether a course, program, or activity 3711
qualifies for credit as continuing medical education, the board 3712
shall approve all continuing medical education taken by persons 3713
holding a certificate to practice medicine and surgery that is 3714
certified by the Ohio state medical association, all continuing 3715
medical education taken by persons holding a certificate to 3716
practice osteopathic medicine and surgery that is certified by the 3717

Ohio osteopathic association, and all continuing medical education 3718
taken by persons holding a certificate to practice podiatric 3719
medicine and surgery that is certified by the Ohio podiatric 3720
medical association. Each person holding a certificate to practice 3721
under this chapter shall be given sufficient choice of continuing 3722
education programs to ensure that the person has had a reasonable 3723
opportunity to participate in continuing education programs that 3724
are relevant to the person's medical practice in terms of subject 3725
matter and level. 3726

The board may require a random sample of persons holding a 3727
certificate to practice under this chapter to submit materials 3728
documenting completion of the continuing medical education 3729
requirement during the preceding registration period, but this 3730
provision shall not limit the board's authority to investigate 3731
pursuant to section 4731.22 of the Revised Code. 3732

(B)(1) Every person holding a certificate under this chapter 3733
to practice medicine and surgery, osteopathic medicine and 3734
surgery, or podiatric medicine and surgery wishing to renew that 3735
certificate shall apply to the board for a certificate of 3736
registration upon an application furnished by the board, and pay 3737
to the board at the time of application a fee of three hundred 3738
five dollars, according to the following schedule: 3739

(a) Persons whose last name begins with the letters "A" 3740
through "B," on or before April 1, 2001, and the first day of 3741
April of every odd-numbered year thereafter; 3742

(b) Persons whose last name begins with the letters "C" 3743
through "D," on or before January 1, 2001, and the first day of 3744
January of every odd-numbered year thereafter; 3745

(c) Persons whose last name begins with the letters "E" 3746
through "G," on or before October 1, 2000, and the first day of 3747
October of every even-numbered year thereafter; 3748

(d) Persons whose last name begins with the letters "H" 3749
through "K," on or before July 1, 2000, and the first day of July 3750
of every even-numbered year thereafter; 3751

(e) Persons whose last name begins with the letters "L" 3752
through "M," on or before April 1, 2000, and the first day of 3753
April of every even-numbered year thereafter; 3754

(f) Persons whose last name begins with the letters "N" 3755
through "R," on or before January 1, 2000, and the first day of 3756
January of every even-numbered year thereafter; 3757

(g) Persons whose last name begins with the letter "S," on or 3758
before October 1, 1999, and the first day of October of every 3759
odd-numbered year thereafter; 3760

(h) Persons whose last name begins with the letters "T" 3761
through "Z," on or before July 1, 1999, and the first day of July 3762
of every odd-numbered year thereafter. 3763

The board shall deposit the fee in accordance with section 3764
4731.24 of the Revised Code, except that the board shall deposit 3765
twenty dollars of the fee into the state treasury to the credit of 3766
the physician loan repayment fund created by section 3702.78 of 3767
the Revised Code. 3768

(2) The board shall mail or cause to be mailed to every 3769
person registered to practice medicine and surgery, osteopathic 3770
medicine and surgery, or podiatric medicine and surgery, a notice 3771
of registration renewal addressed to the person's last known 3772
address or may cause the notice to be sent to the person through 3773
the secretary of any recognized medical, osteopathic, or podiatric 3774
society, according to the following schedule: 3775

(a) To persons whose last name begins with the letters "A" 3776
through "B," on or before January 1, 2001, and the first day of 3777
January of every odd-numbered year thereafter; 3778

(b) To persons whose last name begins with the letters "C" through "D," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;	3779 3780 3781
(c) To persons whose last name begins with the letters "E" through "G," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;	3782 3783 3784
(d) To persons whose last name begins with the letters "H" through "K," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;	3785 3786 3787
(e) To persons whose last name begins with the letters "L" through "M," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;	3788 3789 3790
(f) To persons whose last name begins with the letters "N" through "R," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;	3791 3792 3793
(g) To persons whose last name begins with the letter "S," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter;	3794 3795 3796
(h) To persons whose last name begins with the letters "T" through "Z," on or before April 1, 1999, and the first day of April of every odd-numbered year thereafter.	3797 3798 3799
Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section.	3800 3801 3802
The notice shall inform the applicant of the renewal procedure. The board shall provide the application for registration renewal in a form determined by the board. The applicant shall provide in the application the applicant's full name, principal practice address and residence address, the number of the applicant's certificate to practice, and any other	3803 3804 3805 3806 3807 3808

information required by the board. The applicant shall include 3809
with the application a list of the names and addresses of any 3810
clinical nurse specialists, certified nurse-midwives, or certified 3811
nurse practitioners with whom the applicant is currently 3812
collaborating, as defined in section 4723.01 of the Revised Code. 3813
The applicant shall execute and deliver the application to the 3814
board in a manner prescribed by the board. Every person registered 3815
under this section shall give written notice to the board of any 3816
change of principal practice address or residence address or in 3817
the list within thirty days of the change. 3818

The applicant shall report any criminal offense to which the 3819
applicant has pleaded guilty, of which the applicant has been 3820
found guilty, or for which the applicant has been found eligible 3821
for intervention in lieu of conviction under section 2951.041 of 3822
the Revised Code, since last filing an application for a 3823
certificate of registration. 3824

(C) The board shall issue to any person holding a certificate 3825
under this chapter to practice medicine and surgery, osteopathic 3826
medicine and surgery, or podiatric medicine and surgery, upon 3827
application and qualification therefor in accordance with this 3828
section, a certificate of registration under the seal of the 3829
board. A certificate of registration shall be valid for a two-year 3830
period. 3831

(D) Failure of any certificate holder to register and comply 3832
with this section shall operate automatically to suspend the 3833
holder's certificate to practice. Continued practice after the 3834
suspension of the certificate to practice shall be considered as 3835
practicing in violation of section 4731.41, 4731.43, or 4731.60 of 3836
the Revised Code. If the certificate has been suspended pursuant 3837
to this division for two years or less, it may be reinstated. The 3838
board shall reinstate a certificate to practice suspended for 3839
failure to register upon an applicant's submission of a renewal 3840

application, the biennial registration fee, and the applicable 3841
monetary penalty. The penalty for reinstatement shall be fifty 3842
dollars. If the certificate has been suspended pursuant to this 3843
division for more than two years, it may be restored. Subject to 3844
section 4731.222 of the Revised Code, the board may restore a 3845
certificate to practice suspended for failure to register upon an 3846
applicant's submission of a restoration application, the biennial 3847
registration fee, and the applicable monetary penalty and 3848
compliance with sections 4776.01 to 4776.04 of the Revised Code. 3849
The board shall not restore to an applicant a certificate to 3850
practice unless the board, in its discretion, decides that the 3851
results of the criminal records check do not make the applicant 3852
ineligible for a certificate issued pursuant to section 4731.14, 3853
4731.56, or 4731.57 of the Revised Code. The penalty for 3854
restoration shall be one hundred dollars. The board shall deposit 3855
the penalties in accordance with section 4731.24 of the Revised 3856
Code. 3857

(E) If an individual certifies completion of the number of 3858
hours and type of continuing medical education required to receive 3859
a certificate of registration or reinstatement of a certificate to 3860
practice, and the board finds through the random samples it 3861
conducts under this section or through any other means that the 3862
individual did not complete the requisite continuing medical 3863
education, the board may impose a civil penalty of not more than 3864
five thousand dollars. The board's finding shall be made pursuant 3865
to an adjudication under Chapter 119. of the Revised Code and by 3866
an affirmative vote of not fewer than six members. 3867

A civil penalty imposed under this division may be in 3868
addition to or in lieu of any other action the board may take 3869
under section 4731.22 of the Revised Code. The board shall deposit 3870
civil penalties in accordance with section 4731.24 of the Revised 3871
Code. 3872

(F) The state medical board may obtain information not 3873
protected by statutory or common law privilege from courts and 3874
other sources concerning malpractice claims against any person 3875
holding a certificate to practice under this chapter or practicing 3876
as provided in section 4731.36 of the Revised Code. 3877

(G) Each mailing sent by the board under division (B)(2) of 3878
this section to a person registered to practice medicine and 3879
surgery or osteopathic medicine and surgery shall inform the 3880
applicant of the reporting requirement established by division (H) 3881
of section 3701.79 of the Revised Code. At the discretion of the 3882
board, the information may be included on the application for 3883
registration or on an accompanying page. 3884

Sec. 4734.31. (A) The state chiropractic board may take any 3885
of the actions specified in division (B) of this section against 3886
an individual who has applied for or holds a license to practice 3887
chiropractic in this state if any of the reasons specified in 3888
division (C) of this section for taking action against an 3889
individual are applicable. Except as provided in division (D) of 3890
this section, actions taken against an individual shall be taken 3891
in accordance with Chapter 119. of the Revised Code. The board may 3892
specify that any action it takes is a permanent action. The 3893
board's authority to take action against an individual is not 3894
removed or limited by the individual's failure to renew a license. 3895

(B) In its imposition of sanctions against an individual, the 3896
board may do any of the following: 3897

(1) Refuse to issue, renew, restore, or reinstate a license 3898
to practice chiropractic or a certificate to practice acupuncture; 3899

(2) Reprimand or censure a license holder; 3900

(3) Place limits, restrictions, or probationary conditions on 3901
a license holder's practice; 3902

(4) Impose a civil fine of not more than five thousand 3903
dollars according to a schedule of fines specified in rules that 3904
the board shall adopt in accordance with Chapter 119. of the 3905
Revised Code. 3906

(5) Suspend a license to practice chiropractic or a 3907
certificate to practice acupuncture for a limited or indefinite 3908
period; 3909

(6) Revoke a license to practice chiropractic or a 3910
certificate to practice acupuncture. 3911

(C) The board may take the actions specified in division (B) 3912
of this section for any of the following reasons: 3913

(1) A plea of guilty to, a judicial finding of guilt of, or a 3914
judicial finding of eligibility for intervention in lieu of 3915
conviction for, a felony in any jurisdiction, in which case a 3916
certified copy of the court record shall be conclusive evidence of 3917
the conviction; 3918

(2) Commission of an act that constitutes a felony in this 3919
state, regardless of the jurisdiction in which the act was 3920
committed; 3921

(3) A plea of guilty to, a judicial finding of guilt of, or a 3922
judicial finding of eligibility for intervention in lieu of 3923
conviction for, a misdemeanor involving moral turpitude, as 3924
determined by the board, in which case a certified copy of the 3925
court record shall be conclusive evidence of the matter; 3926

(4) Commission of an act involving moral turpitude that 3927
constitutes a misdemeanor in this state, regardless of the 3928
jurisdiction in which the act was committed; 3929

(5) A plea of guilty to, a judicial finding of guilt of, or a 3930
judicial finding of eligibility for intervention in lieu of 3931
conviction for, a misdemeanor committed in the course of practice, 3932

in which case a certified copy of the court record shall be 3933
conclusive evidence of the matter; 3934

(6) Commission of an act in the course of practice that 3935
constitutes a misdemeanor in this state, regardless of the 3936
jurisdiction in which the act was committed; 3937

(7) A violation or attempted violation of this chapter or the 3938
rules adopted under it governing the practice of chiropractic and 3939
the practice of acupuncture by a chiropractor licensed under this 3940
chapter; 3941

(8) Failure to cooperate in an investigation conducted by the 3942
board, including failure to comply with a subpoena or order issued 3943
by the board or failure to answer truthfully a question presented 3944
by the board at a deposition or in written interrogatories, except 3945
that failure to cooperate with an investigation shall not 3946
constitute grounds for discipline under this section if the board 3947
or a court of competent jurisdiction has issued an order that 3948
either quashes a subpoena or permits the individual to withhold 3949
the testimony or evidence in issue; 3950

(9) Engaging in an ongoing professional relationship with a 3951
person or entity that violates any provision of this chapter or 3952
the rules adopted under it, unless the chiropractor makes a good 3953
faith effort to have the person or entity comply with the 3954
provisions; 3955

(10) Retaliating against a chiropractor for the 3956
chiropractor's reporting to the board or any other agency with 3957
jurisdiction any violation of the law or for cooperating with the 3958
board of another agency in the investigation of any violation of 3959
the law; 3960

(11) Aiding, abetting, assisting, counseling, or conspiring 3961
with any person in that person's violation of any provision of 3962
this chapter or the rules adopted under it, including the practice 3963

of chiropractic without a license, the practice of acupuncture 3964
without a certificate, or aiding, abetting, assisting, counseling, 3965
or conspiring with any person in that person's unlicensed practice 3966
of any other health care profession that has licensing 3967
requirements; 3968

(12) With respect to a report or record that is made, filed, 3969
or signed in connection with the practice of chiropractic or 3970
acupuncture, knowingly making or filing a report or record that is 3971
false, intentionally or negligently failing to file a report or 3972
record required by federal, state, or local law or willfully 3973
impeding or obstructing the required filing, or inducing another 3974
person to engage in any such acts; 3975

(13) Making a false, fraudulent, or deceitful statement to 3976
the board or any agent of the board during any investigation or 3977
other official proceeding conducted by the board under this 3978
chapter or in any filing that must be submitted to the board; 3979

(14) Attempting to secure a license to practice chiropractic 3980
or certificate to practice acupuncture or to corrupt the outcome 3981
of an official board proceeding through bribery or any other 3982
improper means; 3983

(15) Willfully obstructing or hindering the board or any 3984
agent of the board in the discharge of the board's duties; 3985

(16) Habitually using drugs or intoxicants to the extent that 3986
the person is rendered unfit for the practice of chiropractic or 3987
acupuncture; 3988

(17) Inability to practice chiropractic or acupuncture 3989
according to acceptable and prevailing standards of care by reason 3990
of chemical dependency, mental illness, or physical illness, 3991
including conditions in which physical deterioration has adversely 3992
affected the person's cognitive, motor, or perceptive skills and 3993
conditions in which a chiropractor's continued practice may pose a 3994

danger to the chiropractor or the public;	3995
(18) Any act constituting gross immorality relative to the person's practice of chiropractic or acupuncture, including acts involving sexual abuse, sexual misconduct, or sexual exploitation;	3996 3997 3998
(19) Exploiting a patient for personal or financial gain;	3999
(20) Failing to maintain proper, accurate, and legible records in the English language documenting each patient's care, including, as appropriate, records of the following: dates of treatment, services rendered, examinations, tests, x-ray reports, referrals, and the diagnosis or clinical impression and clinical treatment plan provided to the patient;	4000 4001 4002 4003 4004 4005
(21) Except as otherwise required by the board or by law, disclosing patient information gained during the chiropractor's professional relationship with a patient without obtaining the patient's authorization for the disclosure;	4006 4007 4008 4009
(22) Commission of willful or gross malpractice, or willful or gross neglect, in the practice of chiropractic or acupuncture;	4010 4011
(23) Failing to perform or negligently performing an act recognized by the board as a general duty or the exercise of due care in the practice of chiropractic or acupuncture, regardless of whether injury results to a patient from the failure to perform or negligent performance of the act;	4012 4013 4014 4015 4016
(24) Engaging in any conduct or practice that impairs or may impair the ability to practice chiropractic or acupuncture safely and skillfully;	4017 4018 4019
(25) Practicing, or claiming to be capable of practicing, beyond the scope of the practice of chiropractic or acupuncture as established under this chapter and the rules adopted under this chapter;	4020 4021 4022 4023
(26) Accepting and performing professional responsibilities	4024

as a chiropractor or chiropractor with a certificate to practice 4025
acupuncture when not qualified to perform those responsibilities, 4026
if the person knew or had reason to know that the person was not 4027
qualified to perform them; 4028

(27) Delegating any of the professional responsibilities of a 4029
chiropractor or chiropractor with a certificate to practice 4030
acupuncture to an employee or other individual when the delegating 4031
chiropractor knows or had reason to know that the employee or 4032
other individual is not qualified by training, experience, or 4033
professional licensure to perform the responsibilities; 4034

(28) Delegating any of the professional responsibilities of a 4035
chiropractor or chiropractor with a certificate to practice 4036
acupuncture to an employee or other individual in a negligent 4037
manner or failing to provide proper supervision of the employee or 4038
other individual to whom the responsibilities are delegated; 4039

(29) Failing to refer a patient to another health care 4040
practitioner for consultation or treatment when the chiropractor 4041
knows or has reason to know that the referral is in the best 4042
interest of the patient; 4043

(30) Obtaining or attempting to obtain any fee or other 4044
advantage by fraud or misrepresentation; 4045

(31) Making misleading, deceptive, false, or fraudulent 4046
representations in the practice of chiropractic or acupuncture; 4047

(32) Being guilty of false, fraudulent, deceptive, or 4048
misleading advertising or other solicitations for patients or 4049
knowingly having professional connection with any person that 4050
advertises or solicits for patients in such a manner; 4051

(33) Violation of a provision of any code of ethics 4052
established or adopted by the board under section 4734.16 of the 4053
Revised Code; 4054

(34) Failing to meet the examination requirements for receipt of a license specified under section 4734.20 of the Revised Code;	4055 4056
(35) Actions taken for any reason, other than nonpayment of fees, by the chiropractic or acupuncture licensing authority of another state or country;	4057 4058 4059
(36) Failing to maintain clean and sanitary conditions at the clinic, office, or other place in which chiropractic services or acupuncture services are provided;	4060 4061 4062
(37) Except as provided in division (G) of this section:	4063
(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;	4064 4065 4066 4067 4068 4069
(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.	4070 4071 4072 4073 4074
(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.	4075 4076 4077
(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:	4078 4079 4080
(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	4081 4082 4083 4084

board of chiropractic examiners. 4085

(2) A person is not entitled to an adjudication if the person 4086
fails to make a timely request for a hearing, in accordance with 4087
Chapter 119. of the Revised Code. 4088

(3) In lieu of an adjudication, the board may accept the 4089
surrender of a license to practice chiropractic or certificate to 4090
practice acupuncture from a chiropractor. 4091

(4) In lieu of an adjudication, the board may enter into a 4092
consent agreement with an individual to resolve an allegation of a 4093
violation of this chapter or any rule adopted under it. A consent 4094
agreement, when ratified by the board, shall constitute the 4095
findings and order of the board with respect to the matter 4096
addressed in the agreement. If the board refuses to ratify a 4097
consent agreement, the admissions and findings contained in the 4098
consent agreement shall be of no force or effect. 4099

(E) This section does not require the board to hire, contract 4100
with, or retain the services of an expert witness when the board 4101
takes action against a chiropractor concerning compliance with 4102
acceptable and prevailing standards of care in the practice of 4103
chiropractic or acupuncture. As part of an action taken concerning 4104
compliance with acceptable and prevailing standards of care, the 4105
board may rely on the knowledge of its members for purposes of 4106
making a determination of compliance, notwithstanding any expert 4107
testimony presented by the chiropractor that contradicts the 4108
knowledge and opinions of the members of the board. 4109

(F) The sealing of conviction records by a court shall have 4110
no effect on a prior board order entered under this section or on 4111
the board's jurisdiction to take action under this section if, 4112
based on a plea of guilty, a judicial finding of guilt, or a 4113
judicial finding of eligibility for intervention in lieu of 4114
conviction, the board issued a notice of opportunity for a hearing 4115

prior to the court's order to seal the records. The board shall 4116
not be required to seal, destroy, redact, or otherwise modify its 4117
records to reflect the court's sealing of conviction records. 4118

(G) Actions shall not be taken pursuant to division (C)(37) 4119
of this section against any chiropractor who waives deductibles 4120
and copayments as follows: 4121

(1) In compliance with the health benefit plan that expressly 4122
allows a practice of that nature. Waiver of the deductibles or 4123
copayments shall be made only with the full knowledge and consent 4124
of the plan purchaser, payer, and third-party administrator. 4125
Documentation of the consent shall be made available to the board 4126
upon request. 4127

(2) For professional services rendered to any other person 4128
licensed pursuant to this chapter, to the extent allowed by this 4129
chapter and the rules of the board. 4130

(H) As used in this section, "intervention in lieu of 4131
conviction" means intervention in lieu of conviction under section 4132
2951.041 of the Revised Code. 4133

Sec. 4760.06. (A) A person seeking to renew a certificate of 4134
registration as an anesthesiologist assistant shall, on or before 4135
the thirty-first day of January of each even-numbered year, apply 4136
for renewal of the certificate. The state medical board shall send 4137
renewal notices at least one month prior to the expiration date. 4138

Applications shall be submitted to the board on forms the 4139
board shall prescribe and supply. Each application shall be 4140
accompanied by a biennial renewal fee of one hundred dollars. 4141

The applicant shall report any criminal offense that 4142
constitutes grounds for refusing to issue a certificate of 4143
registration under section 4760.13 of the Revised Code to which 4144
the applicant has pleaded guilty, of which the applicant has been 4145

found guilty, or for which the applicant has been found eligible 4146
for intervention in lieu of conviction under section 2950.041 of 4147
the Revised Code, since last signing an application for a 4148
certificate of registration as an anesthesiologist assistant. 4149

(B) To be eligible for renewal, an anesthesiologist assistant 4150
must certify to the board that the assistant has maintained 4151
certification by the national commission for the certification of 4152
anesthesiologist assistants. 4153

(C) If an applicant submits a complete renewal application 4154
and qualifies for renewal pursuant to division (B) of this 4155
section, the board shall issue to the applicant a renewed 4156
certificate of registration as an anesthesiologist assistant. 4157

(D) A certificate of registration that is not renewed on or 4158
before its expiration date is automatically suspended on its 4159
expiration date. If a certificate has been suspended pursuant to 4160
this division for two years or less, the board shall reinstate the 4161
certificate upon an applicant's submission of a renewal 4162
application, the biennial renewal fee, and the applicable monetary 4163
penalty. The penalty for reinstatement is twenty-five dollars. If 4164
a certificate has been suspended pursuant to this division for 4165
more than two years, it may be restored upon an applicant's 4166
submission of a restoration application, the biennial registration 4167
fee, and the applicable monetary penalty and compliance with 4168
sections 4776.01 to 4776.04 of the Revised Code. The board shall 4169
not restore a certificate to practice unless the board, in its 4170
discretion, decides that the results of the criminal records check 4171
do not make the applicant ineligible for a certificate issued 4172
pursuant to section 4760.04 of the Revised Code. The penalty for 4173
restoration is fifty dollars. 4174

Sec. 4760.13. (A) The state medical board, by an affirmative 4175
vote of not fewer than six members, may revoke or may refuse to 4176

grant a certificate of registration as an anesthesiologist 4177
assistant to a person found by the board to have committed fraud, 4178
misrepresentation, or deception in applying for or securing the 4179
certificate. 4180

(B) The board, by an affirmative vote of not fewer than six 4181
members, shall, to the extent permitted by law, limit, revoke, or 4182
suspend an individual's certificate of registration as an 4183
anesthesiologist assistant, refuse to issue a certificate to an 4184
applicant, refuse to reinstate a certificate, or reprimand or 4185
place on probation the holder of a certificate for any of the 4186
following reasons: 4187

(1) Permitting the holder's name or certificate to be used by 4188
another person; 4189

(2) Failure to comply with the requirements of this chapter, 4190
Chapter 4731. of the Revised Code, or any rules adopted by the 4191
board; 4192

(3) Violating or attempting to violate, directly or 4193
indirectly, or assisting in or abetting the violation of, or 4194
conspiring to violate, any provision of this chapter, Chapter 4195
4731. of the Revised Code, or the rules adopted by the board; 4196

(4) A departure from, or failure to conform to, minimal 4197
standards of care of similar practitioners under the same or 4198
similar circumstances whether or not actual injury to the patient 4199
is established; 4200

(5) Inability to practice according to acceptable and 4201
prevailing standards of care by reason of mental illness or 4202
physical illness, including physical deterioration that adversely 4203
affects cognitive, motor, or perceptive skills; 4204

(6) Impairment of ability to practice according to acceptable 4205
and prevailing standards of care because of habitual or excessive 4206
use or abuse of drugs, alcohol, or other substances that impair 4207

ability to practice;	4208
(7) Willfully betraying a professional confidence;	4209
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate of registration to practice as an anesthesiologist assistant.	4210 4211 4212
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.	4213 4214 4215 4216 4217 4218 4219 4220
(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;	4221 4222 4223
(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	4224 4225 4226
(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	4227 4228 4229
(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	4230 4231 4232
(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;	4233 4234 4235
(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the	4236 4237

jurisdiction in which the act was committed; 4238

(15) Commission of an act involving moral turpitude that 4239
constitutes a misdemeanor in this state, regardless of the 4240
jurisdiction in which the act was committed; 4241

(16) A plea of guilty to, a judicial finding of guilt of, or 4242
a judicial finding of eligibility for intervention in lieu of 4243
conviction for violating any state or federal law regulating the 4244
possession, distribution, or use of any drug, including 4245
trafficking in drugs; 4246

(17) Any of the following actions taken by the state agency 4247
responsible for regulating the practice of anesthesiologist 4248
assistants in another jurisdiction, for any reason other than the 4249
nonpayment of fees: the limitation, revocation, or suspension of 4250
an individual's license to practice; acceptance of an individual's 4251
license surrender; denial of a license; refusal to renew or 4252
reinstate a license; imposition of probation; or issuance of an 4253
order of censure or other reprimand; 4254

(18) Violation of the conditions placed by the board on a 4255
certificate of registration; 4256

(19) Failure to use universal blood and body fluid 4257
precautions established by rules adopted under section 4731.051 of 4258
the Revised Code; 4259

(20) Failure to cooperate in an investigation conducted by 4260
the board under section 4760.14 of the Revised Code, including 4261
failure to comply with a subpoena or order issued by the board or 4262
failure to answer truthfully a question presented by the board at 4263
a deposition or in written interrogatories, except that failure to 4264
cooperate with an investigation shall not constitute grounds for 4265
discipline under this section if a court of competent jurisdiction 4266
has issued an order that either quashes a subpoena or permits the 4267
individual to withhold the testimony or evidence in issue; 4268

(21) Failure to comply with any code of ethics established by the national commission for the certification of anesthesiologist assistants;

(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.

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

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

(E) The sealing of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under

the provisions of this section if, based upon a plea of guilty, a 4301
judicial finding of guilt, or a judicial finding of eligibility 4302
for intervention in lieu of conviction, the board issued a notice 4303
of opportunity for a hearing prior to the court's order to seal 4304
the records. The board shall not be required to seal, destroy, 4305
redact, or otherwise modify its records to reflect the court's 4306
sealing of conviction records. 4307

(F) For purposes of this division, any individual who holds a 4308
certificate of registration issued under this chapter, or applies 4309
for a certificate of registration, shall be deemed to have given 4310
consent to submit to a mental or physical examination when 4311
directed to do so in writing by the board and to have waived all 4312
objections to the admissibility of testimony or examination 4313
reports that constitute a privileged communication. 4314

(1) In enforcing division (B)(5) of this section, the board, 4315
on a showing of a possible violation, may compel any individual 4316
who holds a certificate of registration issued under this chapter 4317
or who has applied for a certificate of registration pursuant to 4318
this chapter to submit to a mental or physical examination, or 4319
both. A physical examination may include an HIV test. The expense 4320
of the examination is the responsibility of the individual 4321
compelled to be examined. Failure to submit to a mental or 4322
physical examination or consent to an HIV test ordered by the 4323
board constitutes an admission of the allegations against the 4324
individual unless the failure is due to circumstances beyond the 4325
individual's control, and a default and final order may be entered 4326
without the taking of testimony or presentation of evidence. If 4327
the board finds an anesthesiologist assistant unable to practice 4328
because of the reasons set forth in division (B)(5) of this 4329
section, the board shall require the anesthesiologist assistant to 4330
submit to care, counseling, or treatment by physicians approved or 4331
designated by the board, as a condition for an initial, continued, 4332

reinstated, or renewed certificate of registration. An individual 4333
affected by this division shall be afforded an opportunity to 4334
demonstrate to the board the ability to resume practicing in 4335
compliance with acceptable and prevailing standards of care. 4336

(2) For purposes of division (B)(6) of this section, if the 4337
board has reason to believe that any individual who holds a 4338
certificate of registration issued under this chapter or any 4339
applicant for a certificate of registration suffers such 4340
impairment, the board may compel the individual to submit to a 4341
mental or physical examination, or both. The expense of the 4342
examination is the responsibility of the individual compelled to 4343
be examined. Any mental or physical examination required under 4344
this division shall be undertaken by a treatment provider or 4345
physician qualified to conduct such examination and chosen by the 4346
board. 4347

Failure to submit to a mental or physical examination ordered 4348
by the board constitutes an admission of the allegations against 4349
the individual unless the failure is due to circumstances beyond 4350
the individual's control, and a default and final order may be 4351
entered without the taking of testimony or presentation of 4352
evidence. If the board determines that the individual's ability to 4353
practice is impaired, the board shall suspend the individual's 4354
certificate or deny the individual's application and shall require 4355
the individual, as a condition for an initial, continued, 4356
reinstated, or renewed certificate of registration, to submit to 4357
treatment. 4358

Before being eligible to apply for reinstatement of a 4359
certificate suspended under this division, the anesthesiologist 4360
assistant shall demonstrate to the board the ability to resume 4361
practice in compliance with acceptable and prevailing standards of 4362
care. The demonstration shall include the following: 4363

(a) Certification from a treatment provider approved under 4364

section 4731.25 of the Revised Code that the individual has 4365
successfully completed any required inpatient treatment; 4366

(b) Evidence of continuing full compliance with an aftercare 4367
contract or consent agreement; 4368

(c) Two written reports indicating that the individual's 4369
ability to practice has been assessed and that the individual has 4370
been found capable of practicing according to acceptable and 4371
prevailing standards of care. The reports shall be made by 4372
individuals or providers approved by the board for making such 4373
assessments and shall describe the basis for their determination. 4374

The board may reinstate a certificate suspended under this 4375
division after such demonstration and after the individual has 4376
entered into a written consent agreement. 4377

When the impaired anesthesiologist assistant resumes 4378
practice, the board shall require continued monitoring of the 4379
anesthesiologist assistant. The monitoring shall include 4380
monitoring of compliance with the written consent agreement 4381
entered into before reinstatement or with conditions imposed by 4382
board order after a hearing, and, on termination of the consent 4383
agreement, submission to the board for at least two years of 4384
annual written progress reports made under penalty of 4385
falsification stating whether the anesthesiologist assistant has 4386
maintained sobriety. 4387

(G) If the secretary and supervising member determine that 4388
there is clear and convincing evidence that an anesthesiologist 4389
assistant has violated division (B) of this section and that the 4390
individual's continued practice presents a danger of immediate and 4391
serious harm to the public, they may recommend that the board 4392
suspend the individual's certificate or registration without a 4393
prior hearing. Written allegations shall be prepared for 4394
consideration by the board. 4395

The board, on review of the 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 anesthesiologist assistant 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 anesthesiologist assistant requests the hearing, unless otherwise agreed to by both the board and the certificate holder.

A 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 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 4428
with Chapter 119. of the Revised Code. If the board finds, 4429
pursuant to an adjudication held under this division, that the 4430
individual committed the act, or if no hearing is requested, it 4431
may order any of the sanctions specified in division (B) of this 4432
section. 4433

(I) The certificate of registration of an anesthesiologist 4434
assistant and the assistant's practice in this state are 4435
automatically suspended as of the date the anesthesiologist 4436
assistant pleads guilty to, is found by a judge or jury to be 4437
guilty of, or is subject to a judicial finding of eligibility for 4438
intervention in lieu of conviction in this state or something 4439
similar to treatment ~~of~~ or intervention in lieu of conviction in 4440
another jurisdiction for any of the following criminal offenses in 4441
this state or a substantially equivalent criminal offense in 4442
another jurisdiction: aggravated murder, murder, voluntary 4443
manslaughter, felonious assault, kidnapping, rape, sexual battery, 4444
gross sexual imposition, aggravated arson, aggravated robbery, or 4445
aggravated burglary. Continued practice after the suspension shall 4446
be considered practicing without a certificate. 4447

The board shall notify the individual subject to the 4448
suspension by certified mail or in person in accordance with 4449
section 119.07 of the Revised Code. If an individual whose 4450
certificate is suspended under this division fails to make a 4451
timely request for an adjudication under Chapter 119. of the 4452
Revised Code, the board shall enter a final order permanently 4453
revoking the individual's certificate of registration. 4454

(J) In any instance in which the board is required by Chapter 4455
119. of the Revised Code to give notice of opportunity for hearing 4456
and the individual subject to the notice does not timely request a 4457
hearing in accordance with section 119.07 of the Revised Code, the 4458
board is not required to hold a hearing, but may adopt, by an 4459

affirmative vote of not fewer than six of its members, a final 4460
order that contains the board's findings. In the final order, the 4461
board may order any of the sanctions identified under division (A) 4462
or (B) of this section. 4463

(K) Any action taken by the board under division (B) of this 4464
section resulting in a suspension shall be accompanied by a 4465
written statement of the conditions under which the 4466
anesthesiologist assistant's certificate may be reinstated. The 4467
board shall adopt rules in accordance with Chapter 119. of the 4468
Revised Code governing conditions to be imposed for reinstatement. 4469
Reinstatement of a certificate suspended pursuant to division (B) 4470
of this section requires an affirmative vote of not fewer than six 4471
members of the board. 4472

(L) When the board refuses to grant a certificate of 4473
registration as an anesthesiologist assistant to an applicant, 4474
revokes an individual's certificate of registration, refuses to 4475
renew a certificate of registration, or refuses to reinstate an 4476
individual's certificate of registration, the board may specify 4477
that its action is permanent. An individual subject to a permanent 4478
action taken by the board is forever thereafter ineligible to hold 4479
a certificate of registration as an anesthesiologist assistant and 4480
the board shall not accept an application for reinstatement of the 4481
certificate or for issuance of a new certificate. 4482

(M) Notwithstanding any other provision of the Revised Code, 4483
all of the following apply: 4484

(1) The surrender of a certificate of registration issued 4485
under this chapter is not effective unless or until accepted by 4486
the board. Reinstatement of a certificate surrendered to the board 4487
requires an affirmative vote of not fewer than six members of the 4488
board. 4489

(2) An application made under this chapter for a certificate 4490

of registration may not be withdrawn without approval of the 4491
board. 4492

(3) Failure by an individual to renew a certificate of 4493
registration in accordance with section 4760.06 of the Revised 4494
Code shall not remove or limit the board's jurisdiction to take 4495
disciplinary action under this section against the individual. 4496

(N) As used in this section, "intervention in lieu of 4497
conviction" means intervention in lieu of conviction under section 4498
2951.041 of the Revised Code. 4499

Sec. 4760.15. (A) As used in this section, ~~"prosecutor:~~ 4500

(1) "Intervention in lieu of conviction" means intervention 4501
in lieu of conviction under section 2951.041 of the Revised Code. 4502

(2) "Prosecutor" has the same meaning as in section 2935.01 4503
of the Revised Code. 4504

(B) Whenever any person holding a valid certificate issued 4505
pursuant to this chapter pleads guilty to, is subject to a 4506
judicial finding of guilt of, or is subject to a judicial finding 4507
of eligibility for intervention in lieu of conviction for a 4508
violation of Chapter 2907., 2925., or 3719. of the Revised Code or 4509
of any substantively comparable ordinance of a municipal 4510
corporation in connection with the person's practice, the 4511
prosecutor in the case, on forms prescribed and provided by the 4512
state medical board, shall promptly notify the board of the 4513
conviction. Within thirty days of receipt of that information, the 4514
board shall initiate action in accordance with Chapter 119. of the 4515
Revised Code to determine whether to suspend or revoke the 4516
certificate under section 4760.13 of the Revised Code. 4517

(C) The prosecutor in any case against any person holding a 4518
valid certificate of registration issued pursuant to this chapter, 4519
on forms prescribed and provided by the state medical board, shall 4520

notify the board of any of the following: 4521

(1) A plea of guilty to, a finding of guilt by a jury or 4522
court of, or judicial finding of eligibility for intervention in 4523
lieu of conviction for a felony, or a case in which the trial 4524
court issues an order of dismissal upon technical or procedural 4525
grounds of a felony charge; 4526

(2) A plea of guilty to, a finding of guilt by a jury or 4527
court of, or judicial finding of eligibility for intervention in 4528
lieu of conviction for a misdemeanor committed in the course of 4529
practice, or a case in which the trial court issues an order of 4530
dismissal upon technical or procedural grounds of a charge of a 4531
misdemeanor, if the alleged act was committed in the course of 4532
practice; 4533

(3) A plea of guilty to, a finding of guilt by a jury or 4534
court of, or judicial finding of eligibility for intervention in 4535
lieu of conviction for a misdemeanor involving moral turpitude, or 4536
a case in which the trial court issues an order of dismissal upon 4537
technical or procedural grounds of a charge of a misdemeanor 4538
involving moral turpitude. 4539

The report shall include the name and address of the 4540
certificate holder, the nature of the offense for which the action 4541
was taken, and the certified court documents recording the action. 4542

Sec. 4761.09. (A) The Ohio respiratory care board may refuse 4543
to issue or renew a license or a limited permit, may issue a 4544
reprimand, may suspend or permanently revoke a license or limited 4545
permit, or may place a license or limited permit holder on 4546
probation, on any of the following grounds: 4547

(1) A plea of guilty to, a judicial finding of guilt of, or a 4548
judicial finding of eligibility for intervention in lieu of 4549
conviction under section 2951.041 of the Revised Code for an 4550

offense involving moral turpitude or of a felony, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(2) Violating any provision of this chapter or an order or rule of the board;

(3) Assisting another person in that person's violation of any provision of this chapter or an order or rule of the board;

(4) Obtaining a license or limited permit by means of fraud, false or misleading representation, or concealment of material facts or making any other material misrepresentation to the board;

(5) Being guilty of negligence or gross misconduct in the practice of respiratory care;

(6) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;

(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(8) Using any dangerous drug, as defined in section 4729.01 of the Revised Code, or alcohol to the extent that the use impairs the ability to practice respiratory care at an acceptable level of competency;

(9) Practicing respiratory care while mentally incompetent;

(10) Accepting commissions, rebates, or other forms of remuneration for patient referrals;

(11) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing in a manner that conflicts with section 4761.17 of the Revised Code;

(12) Employing, directing, or supervising a person who is not authorized to practice respiratory care under this chapter in the performance of respiratory care procedures;

(13) Misrepresenting educational attainments or authorized 4581
functions for the purpose of obtaining some benefit related to the 4582
practice of respiratory care; 4583

(14) Assisting suicide as defined in section 3795.01 of the 4584
Revised Code. 4585

Before the board may take any action under this section, 4586
other than issuance of a summary suspension order under division 4587
(C) of this section, the executive director of the board shall 4588
prepare and file written charges with the board. Disciplinary 4589
actions taken by the board under this section shall be taken 4590
pursuant to an adjudication under Chapter 119. of the Revised 4591
Code, except that in lieu of an adjudication, the board may enter 4592
into a consent agreement to resolve an allegation of a violation 4593
of this chapter or any rule adopted under it. A consent agreement, 4594
when ratified by the board, shall constitute the findings and 4595
order of the board with respect to the matter addressed in the 4596
agreement. If the board refuses to ratify a consent agreement, the 4597
admissions and findings contained in the consent agreement shall 4598
be of no effect. 4599

(B) If the board orders a license or limited permit holder 4600
placed on probation, the order shall be accompanied by a written 4601
statement of the conditions under which the person may be restored 4602
to practice. 4603

The person may reapply to the board for original issuance of 4604
a license after one year following the date the license was 4605
denied. 4606

A person may apply to the board for the reinstatement of a 4607
license or limited permit after one year following the date of 4608
suspension or refusal to renew. The board may accept or refuse the 4609
application for reinstatement and may require that the applicant 4610
pass a reexamination as a condition of eligibility for 4611

reinstatement. 4612

(C) If the president and secretary of the board determine 4613
that there is clear and convincing evidence that a license or 4614
limited permit holder has committed an act that is grounds for 4615
board action under division (A) of this section and that continued 4616
practice by the license or permit holder presents a danger of 4617
immediate and serious harm to the public, the president and 4618
secretary may recommend that the board suspend the license or 4619
limited permit without a prior hearing. The president and 4620
secretary shall submit in writing to the board the allegations 4621
causing them to recommend the suspension. 4622

On review of the allegations, the board, by a vote of not 4623
less than seven of its members, may suspend a license or limited 4624
permit without a prior hearing. The board may review the 4625
allegations and vote on the suspension by a telephone conference 4626
call. 4627

If the board votes to suspend a license or limited permit 4628
under this division, the board shall issue a written order of 4629
summary suspension to the license or limited permit holder in 4630
accordance with section 119.07 of the Revised Code. If the license 4631
or limited permit holder requests a hearing by the board, the 4632
board shall conduct the hearing in accordance with Chapter 119. of 4633
the Revised Code. Notwithstanding section 119.12 of the Revised 4634
Code, a court of common pleas shall not grant a suspension of the 4635
board's order of summary suspension pending determination of an 4636
appeal filed under that section. 4637

Any order of summary suspension issued under this division 4638
shall remain in effect until a final adjudication order issued by 4639
the board pursuant to division (A) of this section becomes 4640
effective. The board shall issue its final adjudication order 4641
regarding an order of summary suspension issued under this 4642
division not later than sixty days after completion of its 4643

hearing. Failure to issue the order within sixty days shall result 4644
in immediate dissolution of the suspension order, but shall not 4645
invalidate any subsequent, final adjudication order. 4646

Sec. 4762.06. (A) A person seeking to renew a certificate to 4647
practice as an acupuncturist shall, on or before the thirty-first 4648
day of January of each even-numbered year, apply for renewal of 4649
the certificate. The state medical board shall send renewal 4650
notices at least one month prior to the expiration date. 4651

Applications shall be submitted to the board on forms the 4652
board shall prescribe and supply. Each application shall be 4653
accompanied by a biennial renewal fee of one hundred dollars. 4654

The applicant shall report any criminal offense that 4655
constitutes grounds for refusing to issue a certificate under 4656
section 4762.13 of the Revised Code to which the applicant has 4657
pleaded guilty, of which the applicant has been found guilty, or 4658
for which the applicant has been found eligible for intervention 4659
in lieu of conviction under section 2951.041 of the Revised Code, 4660
since last signing an application for a certificate to practice as 4661
an acupuncturist. 4662

(B) To be eligible for renewal, an acupuncturist must certify 4663
to the board that the acupuncturist has maintained the 4664
acupuncturist's designation as a diplomate in acupuncture by the 4665
national certification commission for acupuncture and oriental 4666
medicine. 4667

(C) If an applicant submits a complete renewal application 4668
and qualifies for renewal pursuant to division (B) of this 4669
section, the board shall issue to the applicant a renewed 4670
certificate to practice as an acupuncturist. 4671

(D) A certificate to practice that is not renewed on or 4672
before its expiration date is automatically suspended on its 4673

expiration date. If a certificate has been suspended pursuant to 4674
this division for two years or less, the board shall reinstate the 4675
certificate upon an applicant's submission of a renewal 4676
application, the biennial renewal fee, and the applicable monetary 4677
penalty. The penalty for reinstatement is twenty-five dollars. If 4678
a certificate has been suspended pursuant to this division for 4679
more than two years, it may be restored upon an applicant's 4680
submission of a restoration application, the biennial registration 4681
fee, and the applicable monetary penalty and compliance with 4682
sections 4776.01 to 4776.04 of the Revised Code. The board shall 4683
not restore a certificate to practice unless the board, in its 4684
discretion, decides that the results of the criminal records check 4685
do not make the applicant ineligible for a certificate issued 4686
pursuant to section 4762.04 of the Revised Code. The penalty for 4687
restoration is fifty dollars. 4688

Sec. 4762.13. (A) The state medical board, by an affirmative 4689
vote of not fewer than six members, may revoke or may refuse to 4690
grant a certificate to practice as an acupuncturist to a person 4691
found by the board to have committed fraud, misrepresentation, or 4692
deception in applying for or securing the certificate. 4693

(B) The board, by an affirmative vote of not fewer than six 4694
members, shall, to the extent permitted by law, limit, revoke, or 4695
suspend an individual's certificate to practice as an 4696
acupuncturist, refuse to issue a certificate to an applicant, 4697
refuse to reinstate a certificate, or reprimand or place on 4698
probation the holder of a certificate for any of the following 4699
reasons: 4700

(1) Permitting the holder's name or certificate to be used by 4701
another person; 4702

(2) Failure to comply with the requirements of this chapter, 4703
Chapter 4731. of the Revised Code, or any rules adopted by the 4704

board; 4705

(3) Violating or attempting to violate, directly or 4706
indirectly, or assisting in or abetting the violation of, or 4707
conspiring to violate, any provision of this chapter, Chapter 4708
4731. of the Revised Code, or the rules adopted by the board; 4709

(4) A departure from, or failure to conform to, minimal 4710
standards of care of similar practitioners under the same or 4711
similar circumstances whether or not actual injury to the patient 4712
is established; 4713

(5) Inability to practice according to acceptable and 4714
prevailing standards of care by reason of mental illness or 4715
physical illness, including physical deterioration that adversely 4716
affects cognitive, motor, or perceptive skills; 4717

(6) Impairment of ability to practice according to acceptable 4718
and prevailing standards of care because of habitual or excessive 4719
use or abuse of drugs, alcohol, or other substances that impair 4720
ability to practice; 4721

(7) Willfully betraying a professional confidence; 4722

(8) Making a false, fraudulent, deceptive, or misleading 4723
statement in soliciting or advertising for patients or in securing 4724
or attempting to secure a certificate to practice as an 4725
acupuncturist. 4726

As used in this division, "false, fraudulent, deceptive, or 4727
misleading statement" means a statement that includes a 4728
misrepresentation of fact, is likely to mislead or deceive because 4729
of a failure to disclose material facts, is intended or is likely 4730
to create false or unjustified expectations of favorable results, 4731
or includes representations or implications that in reasonable 4732
probability will cause an ordinarily prudent person to 4733
misunderstand or be deceived. 4734

(9) Representing, with the purpose of obtaining compensation 4735
or other advantage personally or for any other person, that an 4736
incurable disease or injury, or other incurable condition, can be 4737
permanently cured; 4738

(10) The obtaining of, or attempting to obtain, money or a 4739
thing of value by fraudulent misrepresentations in the course of 4740
practice; 4741

(11) A plea of guilty to, a judicial finding of guilt of, or 4742
a judicial finding of eligibility for intervention in lieu of 4743
conviction for, a felony; 4744

(12) Commission of an act that constitutes a felony in this 4745
state, regardless of the jurisdiction in which the act was 4746
committed; 4747

(13) A plea of guilty to, a judicial finding of guilt of, or 4748
a judicial finding of eligibility for intervention in lieu of 4749
conviction for, a misdemeanor committed in the course of practice; 4750

(14) A plea of guilty to, a judicial finding of guilt of, or 4751
a judicial finding of eligibility for intervention in lieu of 4752
conviction for, a misdemeanor involving moral turpitude; 4753

(15) Commission of an act in the course of practice that 4754
constitutes a misdemeanor in this state, regardless of the 4755
jurisdiction in which the act was committed; 4756

(16) Commission of an act involving moral turpitude that 4757
constitutes a misdemeanor in this state, regardless of the 4758
jurisdiction in which the act was committed; 4759

(17) A plea of guilty to, a judicial finding of guilt of, or 4760
a judicial finding of eligibility for intervention in lieu of 4761
conviction for violating any state or federal law regulating the 4762
possession, distribution, or use of any drug, including 4763
trafficking in drugs; 4764

(18) Any of the following actions taken by the state agency responsible for regulating the practice of acupuncture in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) Violation of the conditions placed by the board on a certificate to practice as an acupuncturist;

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

(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;

(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;

(23) Failure to have adequate professional liability insurance coverage in accordance with section 4762.22 of the Revised Code.

(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 4796
in lieu of an adjudication, the board may enter into a consent 4797
agreement with an acupuncturist or applicant to resolve an 4798
allegation of a violation of this chapter or any rule adopted 4799
under it. A consent agreement, when ratified by an affirmative 4800
vote of not fewer than six members of the board, shall constitute 4801
the findings and order of the board with respect to the matter 4802
addressed in the agreement. If the board refuses to ratify a 4803
consent agreement, the admissions and findings contained in the 4804
consent agreement shall be of no force or effect. 4805

(D) For purposes of divisions (B)(12), (15), and (16) of this 4806
section, the commission of the act may be established by a finding 4807
by the board, pursuant to an adjudication under Chapter 119. of 4808
the Revised Code, that the applicant or certificate holder 4809
committed the act in question. The board shall have no 4810
jurisdiction under these divisions in cases where the trial court 4811
renders a final judgment in the certificate holder's favor and 4812
that judgment is based upon an adjudication on the merits. The 4813
board shall have jurisdiction under these divisions in cases where 4814
the trial court issues an order of dismissal upon technical or 4815
procedural grounds. 4816

(E) The sealing of conviction records by any court shall have 4817
no effect upon a prior board order entered under the provisions of 4818
this section or upon the board's jurisdiction to take action under 4819
the provisions of this section if, based upon a plea of guilty, a 4820
judicial finding of guilt, or a judicial finding of eligibility 4821
for intervention in lieu of conviction, the board issued a notice 4822
of opportunity for a hearing prior to the court's order to seal 4823
the records. The board shall not be required to seal, destroy, 4824
redact, or otherwise modify its records to reflect the court's 4825
sealing of conviction records. 4826

(F) For purposes of this division, any individual who holds a 4827

certificate to practice issued under this chapter, or applies for 4828
a certificate to practice, shall be deemed to have given consent 4829
to submit to a mental or physical examination when directed to do 4830
so in writing by the board and to have waived all objections to 4831
the admissibility of testimony or examination reports that 4832
constitute a privileged communication. 4833

(1) In enforcing division (B)(5) of this section, the board, 4834
upon a showing of a possible violation, may compel any individual 4835
who holds a certificate to practice issued under this chapter or 4836
who has applied for a certificate pursuant to this chapter to 4837
submit to a mental examination, physical examination, including an 4838
HIV test, or both a mental and physical examination. The expense 4839
of the examination is the responsibility of the individual 4840
compelled to be examined. Failure to submit to a mental or 4841
physical examination or consent to an HIV test ordered by the 4842
board constitutes an admission of the allegations against the 4843
individual unless the failure is due to circumstances beyond the 4844
individual's control, and a default and final order may be entered 4845
without the taking of testimony or presentation of evidence. If 4846
the board finds an acupuncturist unable to practice because of the 4847
reasons set forth in division (B)(5) of this section, the board 4848
shall require the acupuncturist to submit to care, counseling, or 4849
treatment by physicians approved or designated by the board, as a 4850
condition for an initial, continued, reinstated, or renewed 4851
certificate to practice. An individual affected by this division 4852
shall be afforded an opportunity to demonstrate to the board the 4853
ability to resume practicing in compliance with acceptable and 4854
prevailing standards of care. 4855

(2) For purposes of division (B)(6) of this section, if the 4856
board has reason to believe that any individual who holds a 4857
certificate to practice issued under this chapter or any applicant 4858
for a certificate suffers such impairment, the board may compel 4859

the individual to submit to a mental or physical examination, or 4860
both. The expense of the examination is the responsibility of the 4861
individual compelled to be examined. Any mental or physical 4862
examination required under this division shall be undertaken by a 4863
treatment provider or physician qualified to conduct such 4864
examination and chosen by the board. 4865

Failure to submit to a mental or physical examination ordered 4866
by the board constitutes an admission of the allegations against 4867
the individual unless the failure is due to circumstances beyond 4868
the individual's control, and a default and final order may be 4869
entered without the taking of testimony or presentation of 4870
evidence. If the board determines that the individual's ability to 4871
practice is impaired, the board shall suspend the individual's 4872
certificate or deny the individual's application and shall require 4873
the individual, as a condition for an initial, continued, 4874
reinstated, or renewed certificate, to submit to treatment. 4875

Before being eligible to apply for reinstatement of a 4876
certificate suspended under this division, the acupuncturist shall 4877
demonstrate to the board the ability to resume practice in 4878
compliance with acceptable and prevailing standards of care. The 4879
demonstration shall include the following: 4880

(a) Certification from a treatment provider approved under 4881
section 4731.25 of the Revised Code that the individual has 4882
successfully completed any required inpatient treatment; 4883

(b) Evidence of continuing full compliance with an aftercare 4884
contract or consent agreement; 4885

(c) Two written reports indicating that the individual's 4886
ability to practice has been assessed and that the individual has 4887
been found capable of practicing according to acceptable and 4888
prevailing standards of care. The reports shall be made by 4889
individuals or providers approved by the board for making such 4890

assessments and shall describe the basis for their determination. 4891

The board may reinstate a certificate suspended under this 4892
division after such demonstration and after the individual has 4893
entered into a written consent agreement. 4894

When the impaired acupuncturist resumes practice, the board 4895
shall require continued monitoring of the acupuncturist. The 4896
monitoring shall include monitoring of compliance with the written 4897
consent agreement entered into before reinstatement or with 4898
conditions imposed by board order after a hearing, and, upon 4899
termination of the consent agreement, submission to the board for 4900
at least two years of annual written progress reports made under 4901
penalty of falsification stating whether the acupuncturist has 4902
maintained sobriety. 4903

(G) If the secretary and supervising member determine that 4904
there is clear and convincing evidence that an acupuncturist has 4905
violated division (B) of this section and that the individual's 4906
continued practice presents a danger of immediate and serious harm 4907
to the public, they may recommend that the board suspend the 4908
individual's certificate to practice without a prior hearing. 4909
Written allegations shall be prepared for consideration by the 4910
board. 4911

The board, upon review of the allegations and by an 4912
affirmative vote of not fewer than six of its members, excluding 4913
the secretary and supervising member, may suspend a certificate 4914
without a prior hearing. A telephone conference call may be 4915
utilized for reviewing the allegations and taking the vote on the 4916
summary suspension. 4917

The board shall issue a written order of suspension by 4918
certified mail or in person in accordance with section 119.07 of 4919
the Revised Code. The order shall not be subject to suspension by 4920
the court during pendency of any appeal filed under section 119.12 4921

of the Revised Code. If the acupuncturist requests an adjudicatory 4922
hearing by the board, the date set for the hearing shall be within 4923
fifteen days, but not earlier than seven days, after the 4924
acupuncturist requests the hearing, unless otherwise agreed to by 4925
both the board and the certificate holder. 4926

A summary suspension imposed under this division shall remain 4927
in effect, unless reversed on appeal, until a final adjudicative 4928
order issued by the board pursuant to this section and Chapter 4929
119. of the Revised Code becomes effective. The board shall issue 4930
its final adjudicative order within sixty days after completion of 4931
its hearing. Failure to issue the order within sixty days shall 4932
result in dissolution of the summary suspension order, but shall 4933
not invalidate any subsequent, final adjudicative order. 4934

(H) If the board takes action under division (B)(11), (13), 4935
or (14) of this section, and the judicial finding of guilt, guilty 4936
plea, or judicial finding of eligibility for intervention in lieu 4937
of conviction is overturned on appeal, upon exhaustion of the 4938
criminal appeal, a petition for reconsideration of the order may 4939
be filed with the board along with appropriate court documents. 4940
Upon receipt of a petition and supporting court documents, the 4941
board shall reinstate the certificate to practice. The board may 4942
then hold an adjudication under Chapter 119. of the Revised Code 4943
to determine whether the individual committed the act in question. 4944
Notice of opportunity for hearing shall be given in accordance 4945
with Chapter 119. of the Revised Code. If the board finds, 4946
pursuant to an adjudication held under this division, that the 4947
individual committed the act, or if no hearing is requested, it 4948
may order any of the sanctions specified in division (B) of this 4949
section. 4950

(I) The certificate to practice of an acupuncturist and the 4951
acupuncturist's practice in this state are automatically suspended 4952
as of the date the acupuncturist pleads guilty to, is found by a 4953

judge or jury to be guilty of, or is subject to a judicial finding 4954
of eligibility for intervention in lieu of conviction in this 4955
state or something similar to treatment or intervention in lieu of 4956
conviction in another jurisdiction for any of the following 4957
criminal offenses in this state or a substantially equivalent 4958
criminal offense in another jurisdiction: aggravated murder, 4959
murder, voluntary manslaughter, felonious assault, kidnapping, 4960
rape, sexual battery, gross sexual imposition, aggravated arson, 4961
aggravated robbery, or aggravated burglary. Continued practice 4962
after the suspension shall be considered practicing without a 4963
certificate. 4964

The board shall notify the individual subject to the 4965
suspension by certified mail or in person in accordance with 4966
section 119.07 of the Revised Code. If an individual whose 4967
certificate is suspended under this division fails to make a 4968
timely request for an adjudication under Chapter 119. of the 4969
Revised Code, the board shall enter a final order permanently 4970
revoking the individual's certificate to practice. 4971

(J) In any instance in which the board is required by Chapter 4972
119. of the Revised Code to give notice of opportunity for hearing 4973
and the individual subject to the notice does not timely request a 4974
hearing in accordance with section 119.07 of the Revised Code, the 4975
board is not required to hold a hearing, but may adopt, by an 4976
affirmative vote of not fewer than six of its members, a final 4977
order that contains the board's findings. In the final order, the 4978
board may order any of the sanctions identified under division (A) 4979
or (B) of this section. 4980

(K) Any action taken by the board under division (B) of this 4981
section resulting in a suspension shall be accompanied by a 4982
written statement of the conditions under which the 4983
acupuncturist's certificate to practice may be reinstated. The 4984
board shall adopt rules in accordance with Chapter 119. of the 4985

Revised Code governing conditions to be imposed for reinstatement. 4986
Reinstatement of a certificate suspended pursuant to division (B) 4987
of this section requires an affirmative vote of not fewer than six 4988
members of the board. 4989

(L) When the board refuses to grant a certificate to practice 4990
as an acupuncturist to an applicant, revokes an individual's 4991
certificate, refuses to renew a certificate, or refuses to 4992
reinstate an individual's certificate, the board may specify that 4993
its action is permanent. An individual subject to a permanent 4994
action taken by the board is forever thereafter ineligible to hold 4995
a certificate to practice as an acupuncturist and the board shall 4996
not accept an application for reinstatement of the certificate or 4997
for issuance of a new certificate. 4998

(M) Notwithstanding any other provision of the Revised Code, 4999
all of the following apply: 5000

(1) The surrender of a certificate to practice as an 5001
acupuncturist issued under this chapter is not effective unless or 5002
until accepted by the board. Reinstatement of a certificate 5003
surrendered to the board requires an affirmative vote of not fewer 5004
than six members of the board. 5005

(2) An application made under this chapter for a certificate 5006
may not be withdrawn without approval of the board. 5007

(3) Failure by an individual to renew a certificate in 5008
accordance with section 4762.06 of the Revised Code shall not 5009
remove or limit the board's jurisdiction to take disciplinary 5010
action under this section against the individual. 5011

(N) As used in this section, "intervention in lieu of 5012
conviction" means intervention in lieu of conviction under section 5013
2951.041 of the Revised Code. 5014

Sec. 4762.15. (A) As used in this section, ~~"prosecutor:~~ 5015

(1) "Intervention in lieu of conviction" means intervention 5016
in lieu of conviction under section 2950.041 of the Revised Code. 5017

(2) "Prosecutor" has the same meaning as in section 2935.01 5018
of the Revised Code. 5019

(B) Whenever any person holding a valid certificate to 5020
practice as an acupuncturist issued pursuant to this chapter 5021
pleads guilty to, is subject to a judicial finding of guilt of, or 5022
is subject to a judicial finding of eligibility for intervention 5023
in lieu of conviction for a violation of Chapter 2907., 2925., or 5024
3719. of the Revised Code or of any substantively comparable 5025
ordinance of a municipal corporation in connection with the 5026
person's practice, the prosecutor in the case, on forms prescribed 5027
and provided by the state medical board, shall promptly notify the 5028
board of the conviction. Within thirty days of receipt of that 5029
information, the board shall initiate action in accordance with 5030
Chapter 119. of the Revised Code to determine whether to suspend 5031
or revoke the certificate under section 4762.13 of the Revised 5032
Code. 5033

(C) The prosecutor in any case against any person holding a 5034
valid certificate to practice issued pursuant to this chapter, on 5035
forms prescribed and provided by the state medical board, shall 5036
notify the board of any of the following: 5037

(1) A plea of guilty to, a finding of guilt by a jury or 5038
court of, or judicial finding of eligibility for intervention in 5039
lieu of conviction for a felony, or a case in which the trial 5040
court issues an order of dismissal upon technical or procedural 5041
grounds of a felony charge; 5042

(2) A plea of guilty to, a finding of guilt by a jury or 5043
court of, or judicial finding of eligibility for intervention in 5044
lieu of conviction for a misdemeanor committed in the course of 5045
practice, or a case in which the trial court issues an order of 5046

dismissal upon technical or procedural grounds of a charge of a
misdemeanor, if the alleged act was committed in the course of
practice;

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

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

Sec. 4765.112. (A) The state board of emergency medical
services, by an affirmative vote of the majority of its members,
may suspend without a prior hearing a certificate to practice
issued under this chapter if the board determines that there is
clear and convincing evidence that continued practice by the
certificate holder presents a danger of immediate and serious harm
to the public and that the certificate holder has done any of the
following:

(1) Furnished false, fraudulent, or misleading information to
the board;

(2) Engaged in activities that exceed those permitted by the
individual's certificate;

(3) In a court of this or any other state or federal court
been convicted of, pleaded guilty to, or been the subject of a
judicial finding of guilt of, a judicial finding of guilt
resulting from a plea of no contest to, or a judicial finding of
eligibility for intervention in lieu of conviction under section
2951.041 of the Revised Code for, a felony or for a misdemeanor

committed in the course of practice or involving gross immorality 5077
or moral turpitude. 5078

(B) Immediately following the decision to impose a summary 5079
suspension, the board, in accordance with section 119.07 of the 5080
Revised Code, shall issue a written order of suspension, cause it 5081
to be delivered to the certificate holder, and notify the 5082
certificate holder of the opportunity for a hearing. If timely 5083
requested by the certificate holder, a hearing shall be conducted 5084
in accordance with section 4765.115 of the Revised Code. 5085

Sec. 4774.06. (A) An individual seeking to renew a 5086
certificate to practice as a radiologist assistant shall, on or 5087
before the thirty-first day of January of each even-numbered year, 5088
apply for renewal of the certificate. The state medical board 5089
shall send renewal notices at least one month prior to the 5090
expiration date. 5091

Renewal applications shall be submitted to the board in a 5092
manner prescribed by the board. Each application shall be 5093
accompanied by a biennial renewal fee specified by the board in 5094
rules adopted under section 4774.11 of the Revised Code. 5095

The applicant shall report any criminal offense that 5096
constitutes grounds for refusing to issue a certificate under 5097
section 4774.13 of the Revised Code to which the applicant has 5098
pleaded guilty, of which the applicant has been found guilty, or 5099
for which the applicant has been found eligible for intervention 5100
in lieu of conviction under section 2951.041 of the Revised Code, 5101
since last signing an application for a certificate to practice as 5102
a radiologist assistant. 5103

(B) To be eligible for renewal, a radiologist assistant shall 5104
certify to the board that the assistant has maintained both of the 5105
following: 5106

(1) A license as a radiographer under Chapter 4773. of the Revised Code; 5107
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(2) Certification as a registered radiologist assistant from the American registry of radiologic technologists by meeting the registry's requirements for annual registration, including completion of the continuing education requirements established by the registry. 5109
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(C) If an applicant submits a renewal application that the board considers to be complete and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed certificate to practice as a radiologist assistant. 5114
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(D) A certificate to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date, subject to the provisions of section 119.06 of the Revised Code specifying that an applicant who appropriately files a renewal application is not required to discontinue practicing merely because the board has failed to act on the application. If a certificate has been suspended pursuant to this division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a certificate unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4774.04 of the Revised Code. The penalty for restoration is fifty 5119
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dollars. 5139

Sec. 4774.13. (A) The state medical board, by an affirmative 5140
vote of not fewer than six members, may revoke or may refuse to 5141
grant a certificate to practice as a radiologist assistant to an 5142
individual found by the board to have committed fraud, 5143
misrepresentation, or deception in applying for or securing the 5144
certificate. 5145

(B) The board, by an affirmative vote of not fewer than six 5146
members, shall, to the extent permitted by law, limit, revoke, or 5147
suspend an individual's certificate to practice as a radiologist 5148
assistant, refuse to issue a certificate to an applicant, refuse 5149
to reinstate a certificate, or reprimand or place on probation the 5150
holder of a certificate for any of the following reasons: 5151

(1) Permitting the holder's name or certificate to be used by 5152
another person; 5153

(2) Failure to comply with the requirements of this chapter, 5154
Chapter 4731. of the Revised Code, or any rules adopted by the 5155
board; 5156

(3) Violating or attempting to violate, directly or 5157
indirectly, or assisting in or abetting the violation of, or 5158
conspiring to violate, any provision of this chapter, Chapter 5159
4731. of the Revised Code, or the rules adopted by the board; 5160

(4) A departure from, or failure to conform to, minimal 5161
standards of care of similar practitioners under the same or 5162
similar circumstances whether or not actual injury to the patient 5163
is established; 5164

(5) Inability to practice according to acceptable and 5165
prevailing standards of care by reason of mental illness or 5166
physical illness, including physical deterioration that adversely 5167
affects cognitive, motor, or perceptive skills; 5168

(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;	5169 5170 5171 5172
(7) Willfully betraying a professional confidence;	5173
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant.	5174 5175 5176
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.	5177 5178 5179 5180 5181 5182 5183 5184
(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;	5185 5186 5187
(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	5188 5189 5190
(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	5191 5192 5193
(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	5194 5195 5196
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of	5197 5198

conviction for, a misdemeanor involving moral turpitude;	5199
(14) Commission of an act in the course of practice that	5200
constitutes a misdemeanor in this state, regardless of the	5201
jurisdiction in which the act was committed;	5202
(15) Commission of an act involving moral turpitude that	5203
constitutes a misdemeanor in this state, regardless of the	5204
jurisdiction in which the act was committed;	5205
(16) A plea of guilty to, a judicial finding of guilt of, or	5206
a judicial finding of eligibility for intervention in lieu of	5207
conviction for violating any state or federal law regulating the	5208
possession, distribution, or use of any drug, including	5209
trafficking in drugs;	5210
(17) Any of the following actions taken by the state agency	5211
responsible for regulating the practice of radiologist assistants	5212
in another jurisdiction, for any reason other than the nonpayment	5213
of fees: the limitation, revocation, or suspension of an	5214
individual's license to practice; acceptance of an individual's	5215
license surrender; denial of a license; refusal to renew or	5216
reinstate a license; imposition of probation; or issuance of an	5217
order of censure or other reprimand;	5218
(18) Violation of the conditions placed by the board on a	5219
certificate to practice as a radiologist assistant;	5220
(19) Failure to use universal blood and body fluid	5221
precautions established by rules adopted under section 4731.051 of	5222
the Revised Code;	5223
(20) Failure to cooperate in an investigation conducted by	5224
the board under section 4774.14 of the Revised Code, including	5225
failure to comply with a subpoena or order issued by the board or	5226
failure to answer truthfully a question presented by the board at	5227
a deposition or in written interrogatories, except that failure to	5228
cooperate with an investigation shall not constitute grounds for	5229

discipline under this section if a court of competent jurisdiction 5230
has issued an order that either quashes a subpoena or permits the 5231
individual to withhold the testimony or evidence in issue; 5232

(21) Failure to maintain a license as a radiographer under 5233
Chapter 4773. of the Revised Code; 5234

(22) Failure to maintain certification as a registered 5235
radiologist assistant from the American registry of radiologic 5236
technologists, including revocation by the registry of the 5237
assistant's certification or failure by the assistant to meet the 5238
registry's requirements for annual registration, or failure to 5239
notify the board that the certification as a registered 5240
radiologist assistant has not been maintained; 5241

(23) Failure to comply with any of the rules of ethics 5242
included in the standards of ethics established by the American 5243
registry of radiologic technologists, as those rules apply to an 5244
individual who holds the registry's certification as a registered 5245
radiologist assistant. 5246

(C) Disciplinary actions taken by the board under divisions 5247
(A) and (B) of this section shall be taken pursuant to an 5248
adjudication under Chapter 119. of the Revised Code, except that 5249
in lieu of an adjudication, the board may enter into a consent 5250
agreement with a radiologist assistant or applicant to resolve an 5251
allegation of a violation of this chapter or any rule adopted 5252
under it. A consent agreement, when ratified by an affirmative 5253
vote of not fewer than six members of the board, shall constitute 5254
the findings and order of the board with respect to the matter 5255
addressed in the agreement. If the board refuses to ratify a 5256
consent agreement, the admissions and findings contained in the 5257
consent agreement shall be of no force or effect. 5258

(D) For purposes of divisions (B)(11), (14), and (15) of this 5259
section, the commission of the act may be established by a finding 5260

by the board, pursuant to an adjudication under Chapter 119. of 5261
the Revised Code, that the applicant or certificate holder 5262
committed the act in question. The board shall have no 5263
jurisdiction under these divisions in cases where the trial court 5264
renders a final judgment in the certificate holder's favor and 5265
that judgment is based upon an adjudication on the merits. The 5266
board shall have jurisdiction under these divisions in cases where 5267
the trial court issues an order of dismissal on technical or 5268
procedural grounds. 5269

(E) The sealing of conviction records by any court shall have 5270
no effect on a prior board order entered under the provisions of 5271
this section or on the board's jurisdiction to take action under 5272
the provisions of this section if, based upon a plea of guilty, a 5273
judicial finding of guilt, or a judicial finding of eligibility 5274
for intervention in lieu of conviction, the board issued a notice 5275
of opportunity for a hearing prior to the court's order to seal 5276
the records. The board shall not be required to seal, destroy, 5277
redact, or otherwise modify its records to reflect the court's 5278
sealing of conviction records. 5279

(F) For purposes of this division, any individual who holds a 5280
certificate to practice as a radiologist assistant issued under 5281
this chapter, or applies for a certificate to practice, shall be 5282
deemed to have given consent to submit to a mental or physical 5283
examination when directed to do so in writing by the board and to 5284
have waived all objections to the admissibility of testimony or 5285
examination reports that constitute a privileged communication. 5286

(1) In enforcing division (B)(5) of this section, the board, 5287
on a showing of a possible violation, may compel any individual 5288
who holds a certificate to practice as a radiologist assistant 5289
issued under this chapter or who has applied for a certificate to 5290
practice to submit to a mental or physical examination, or both. A 5291
physical examination may include an HIV test. The expense of the 5292

examination is the responsibility of the individual compelled to 5293
be examined. Failure to submit to a mental or physical examination 5294
or consent to an HIV test ordered by the board constitutes an 5295
admission of the allegations against the individual unless the 5296
failure is due to circumstances beyond the individual's control, 5297
and a default and final order may be entered without the taking of 5298
testimony or presentation of evidence. If the board finds a 5299
radiologist assistant unable to practice because of the reasons 5300
set forth in division (B)(5) of this section, the board shall 5301
require the radiologist assistant to submit to care, counseling, 5302
or treatment by physicians approved or designated by the board, as 5303
a condition for an initial, continued, reinstated, or renewed 5304
certificate to practice. An individual affected by this division 5305
shall be afforded an opportunity to demonstrate to the board the 5306
ability to resume practicing in compliance with acceptable and 5307
prevailing standards of care. 5308

(2) For purposes of division (B)(6) of this section, if the 5309
board has reason to believe that any individual who holds a 5310
certificate to practice as a radiologist assistant issued under 5311
this chapter or any applicant for a certificate to practice 5312
suffers such impairment, the board may compel the individual to 5313
submit to a mental or physical examination, or both. The expense 5314
of the examination is the responsibility of the individual 5315
compelled to be examined. Any mental or physical examination 5316
required under this division shall be undertaken by a treatment 5317
provider or physician qualified to conduct such examination and 5318
chosen by the board. 5319

Failure to submit to a mental or physical examination ordered 5320
by the board constitutes an admission of the allegations against 5321
the individual unless the failure is due to circumstances beyond 5322
the individual's control, and a default and final order may be 5323
entered without the taking of testimony or presentation of 5324

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 an initial, continued, reinstated, or renewed certificate to practice, to submit to treatment.

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

(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 radiologist assistant resumes practice, the board shall require continued monitoring of the radiologist assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission

to the board for at least two years of annual written progress 5356
reports made under penalty of falsification stating whether the 5357
radiologist assistant has maintained sobriety. 5358

(G) If the secretary and supervising member determine that 5359
there is clear and convincing evidence that a radiologist 5360
assistant has violated division (B) of this section and that the 5361
individual's continued practice presents a danger of immediate and 5362
serious harm to the public, they may recommend that the board 5363
suspend the individual's certificate to practice without a prior 5364
hearing. Written allegations shall be prepared for consideration 5365
by the board. 5366

The board, on review of the allegations and by an affirmative 5367
vote of not fewer than six of its members, excluding the secretary 5368
and supervising member, may suspend a certificate without a prior 5369
hearing. A telephone conference call may be utilized for reviewing 5370
the allegations and taking the vote on the summary suspension. 5371

The board shall issue a written order of suspension by 5372
certified mail or in person in accordance with section 119.07 of 5373
the Revised Code. The order shall not be subject to suspension by 5374
the court during pendency of any appeal filed under section 119.12 5375
of the Revised Code. If the radiologist assistant requests an 5376
adjudicatory hearing by the board, the date set for the hearing 5377
shall be within fifteen days, but not earlier than seven days, 5378
after the radiologist assistant requests the hearing, unless 5379
otherwise agreed to by both the board and the certificate holder. 5380

A summary suspension imposed under this division shall remain 5381
in effect, unless reversed on appeal, until a final adjudicative 5382
order issued by the board pursuant to this section and Chapter 5383
119. of the Revised Code becomes effective. The board shall issue 5384
its final adjudicative order within sixty days after completion of 5385
its hearing. Failure to issue the order within sixty days shall 5386
result in dissolution of the summary suspension order, but shall 5387

not invalidate any subsequent, final adjudicative order. 5388

(H) If the board takes action under division (B)(10), (12), 5389
or (13) of this section, and the judicial finding of guilt, guilty 5390
plea, or judicial finding of eligibility for intervention in lieu 5391
of conviction is overturned on appeal, on exhaustion of the 5392
criminal appeal, a petition for reconsideration of the order may 5393
be filed with the board along with appropriate court documents. On 5394
receipt of a petition and supporting court documents, the board 5395
shall reinstate the certificate to practice as a radiologist 5396
assistant. The board may then hold an adjudication under Chapter 5397
119. of the Revised Code to determine whether the individual 5398
committed the act in question. Notice of opportunity for hearing 5399
shall be given in accordance with Chapter 119. of the Revised 5400
Code. If the board finds, pursuant to an adjudication held under 5401
this division, that the individual committed the act, or if no 5402
hearing is requested, it may order any of the sanctions specified 5403
in division (B) of this section. 5404

(I) The certificate to practice of a radiologist assistant 5405
and the assistant's practice in this state are automatically 5406
suspended as of the date the radiologist assistant pleads guilty 5407
to, is found by a judge or jury to be guilty of, or is subject to 5408
a judicial finding of eligibility for intervention in lieu of 5409
conviction in this state or treatment of intervention in lieu of 5410
conviction in another jurisdiction for any of the following 5411
criminal offenses in this state or a substantially equivalent 5412
criminal offense in another jurisdiction: aggravated murder, 5413
murder, voluntary manslaughter, felonious assault, kidnapping, 5414
rape, sexual battery, gross sexual imposition, aggravated arson, 5415
aggravated robbery, or aggravated burglary. Continued practice 5416
after the suspension shall be considered practicing without a 5417
certificate. 5418

The board shall notify the individual subject to the 5419

suspension by certified mail or in person in accordance with 5420
section 119.07 of the Revised Code. If an individual whose 5421
certificate is suspended under this division fails to make a 5422
timely request for an adjudication under Chapter 119. of the 5423
Revised Code, the board shall enter a final order permanently 5424
revoking the individual's certificate to practice. 5425

(J) In any instance in which the board is required by Chapter 5426
119. of the Revised Code to give notice of opportunity for hearing 5427
and the individual subject to the notice does not timely request a 5428
hearing in accordance with section 119.07 of the Revised Code, the 5429
board is not required to hold a hearing, but may adopt, by an 5430
affirmative vote of not fewer than six of its members, a final 5431
order that contains the board's findings. In the final order, the 5432
board may order any of the sanctions identified under division (A) 5433
or (B) of this section. 5434

(K) Any action taken by the board under division (B) of this 5435
section resulting in a suspension shall be accompanied by a 5436
written statement of the conditions under which the radiologist 5437
assistant's certificate may be reinstated. The board shall adopt 5438
rules in accordance with Chapter 119. of the Revised Code 5439
governing conditions to be imposed for reinstatement. 5440
Reinstatement of a certificate suspended pursuant to division (B) 5441
of this section requires an affirmative vote of not fewer than six 5442
members of the board. 5443

(L) When the board refuses to grant a certificate to practice 5444
as a radiologist assistant to an applicant, revokes an 5445
individual's certificate, refuses to renew a certificate, or 5446
refuses to reinstate an individual's certificate, the board may 5447
specify that its action is permanent. An individual subject to a 5448
permanent action taken by the board is forever thereafter 5449
ineligible to hold a certificate to practice as a radiologist 5450
assistant and the board shall not accept an application for 5451

reinstatement of the certificate or for issuance of a new 5452
certificate. 5453

(M) Notwithstanding any other provision of the Revised Code, 5454
all of the following apply: 5455

(1) The surrender of a certificate to practice as a 5456
radiologist assistant issued under this chapter is not effective 5457
unless or until accepted by the board. Reinstatement of a 5458
certificate surrendered to the board requires an affirmative vote 5459
of not fewer than six members of the board. 5460

(2) An application made under this chapter for a certificate 5461
to practice may not be withdrawn without approval of the board. 5462

(3) Failure by an individual to renew a certificate to 5463
practice in accordance with section 4774.06 of the Revised Code 5464
shall not remove or limit the board's jurisdiction to take 5465
disciplinary action under this section against the individual. 5466

(N) As used in this section, "intervention in lieu of 5467
conviction" means intervention in lieu of conviction under section 5468
2951.041 of the Revised Code. 5469

Sec. 4774.15. (A) As used in this section, ~~"prosecutor:~~ 5470

(1) "Intervention in lieu of conviction" means intervention 5471
in lieu of conviction under section 2951.041 of the Revised Code. 5472

(2) "Prosecutor" has the same meaning as in section 2935.01 5473
of the Revised Code. 5474

(B) Whenever any person holding a valid certificate to 5475
practice as a radiologist assistant issued under this chapter 5476
pleads guilty to, is subject to a judicial finding of guilt of, or 5477
is subject to a judicial finding of eligibility for intervention 5478
in lieu of conviction for a violation of Chapter 2907., 2925., or 5479
3719. of the Revised Code or of any substantively comparable 5480
ordinance of a municipal corporation in connection with the 5481

person's practice, the prosecutor in the case, on forms prescribed 5482
and provided by the state medical board, shall promptly notify the 5483
board of the conviction. Within thirty days of receipt of that 5484
information, the board shall initiate action in accordance with 5485
Chapter 119. of the Revised Code to determine whether to suspend 5486
or revoke the certificate under section 4774.13 of the Revised 5487
Code. 5488

(C) The prosecutor in any case against any person holding a 5489
valid certificate to practice issued under this chapter, on forms 5490
prescribed and provided by the state medical board, shall notify 5491
the board of any of the following: 5492

(1) A plea of guilty to, a finding of guilt by a jury or 5493
court of, or judicial finding of eligibility for intervention in 5494
lieu of conviction for a felony, or a case in which the trial 5495
court issues an order of dismissal upon technical or procedural 5496
grounds of a felony charge; 5497

(2) A plea of guilty to, a finding of guilt by a jury or 5498
court of, or judicial finding of eligibility for intervention in 5499
lieu of conviction for a misdemeanor committed in the course of 5500
practice, or a case in which the trial court issues an order of 5501
dismissal upon technical or procedural grounds of a charge of a 5502
misdemeanor, if the alleged act was committed in the course of 5503
practice; 5504

(3) A plea of guilty to, a finding of guilt by a jury or 5505
court of, or judicial finding of eligibility for intervention in 5506
lieu of conviction for a misdemeanor involving moral turpitude, or 5507
a case in which the trial court issues an order of dismissal upon 5508
technical or procedural grounds of a charge of a misdemeanor 5509
involving moral turpitude. 5510

The report shall include the name and address of the 5511
certificate holder, the nature of the offense for which the action 5512

was taken, and the certified court documents recording the action. 5513

Sec. 5111.032. (A) As used in this section: 5514

(1) "Criminal records check" has the same meaning as in 5515
section 109.572 of the Revised Code. 5516

(2) "Department" includes a designee of the department of job 5517
and family services. 5518

(3) "Owner" means a person who has an ownership interest in a 5519
provider in an amount designated by the department of job and 5520
family services in rules adopted under this section. 5521

(4) "Provider" means a person, institution, or entity that 5522
has a provider agreement with the department of job and family 5523
services pursuant to Title XIX of the "Social Security Act," 49 5524
State Stat. 620 (1965), 42 U.S.C. 1396, as amended. 5525

(5) "Intervention in lieu of conviction" means intervention 5526
in lieu of conviction under section 2951.041 of the Revised Code. 5527

(B)(1) Except as provided in division (B)(2) of this section, 5528
the department of job and family services may require that any 5529
provider, applicant to be a provider, employee or prospective 5530
employee of a provider, owner or prospective owner of a provider, 5531
officer or prospective officer of a provider, or board member or 5532
prospective board member of a provider submit to a criminal 5533
records check as a condition of obtaining a provider agreement, 5534
continuing to hold a provider agreement, being employed by a 5535
provider, having an ownership interest in a provider, or being an 5536
officer or board member of a provider. The department may 5537
designate the categories of persons who are subject to the 5538
criminal records check requirement. The department shall designate 5539
the times at which the criminal records checks must be conducted. 5540

(2) The section does not apply to providers, applicants to be 5541
providers, employees of a provider, or prospective employees of a 5542

provider who are subject to criminal records checks under section 5543
5111.033 or 5111.034 of the Revised Code. 5544

(C)(1) The department shall inform each provider or applicant 5545
to be a provider whether the provider or applicant is subject to a 5546
criminal records check requirement under division (B) of this 5547
section. For providers, the information shall be given at times 5548
designated in rules adopted under this section. For applicants to 5549
be providers, the information shall be given at the time of 5550
initial application. When the information is given, the department 5551
shall specify which of the provider's or applicant's employees or 5552
prospective employees, owners or prospective owners, officers or 5553
prospective officers, or board members or prospective board 5554
members are subject to the criminal records check requirement. 5555

(2) At times designated in rules adopted under this section, 5556
a provider that is subject to the criminal records check 5557
requirement shall inform each person specified by the department 5558
under division (C)(1) of this section that the person is required, 5559
as applicable, to submit to a criminal records check for final 5560
consideration for employment in a full-time, part-time, or 5561
temporary position; as a condition of continued employment; or as 5562
a condition of becoming or continuing to be an officer, board 5563
member or owner of a provider. 5564

(D)(1) If a provider or applicant to be a provider is subject 5565
to a criminal records check under this section, the department 5566
shall require the conduct of a criminal records check by the 5567
superintendent of the bureau of criminal identification and 5568
investigation. If a provider or applicant to be a provider for 5569
whom a criminal records check is required does not present proof 5570
of having been a resident of this state for the five-year period 5571
immediately prior to the date the criminal records check is 5572
requested or provide evidence that within that five-year period 5573
the superintendent has requested information about the individual 5574

from the federal bureau of investigation in a criminal records 5575
check, the department shall require the provider or applicant to 5576
request that the superintendent obtain information from the 5577
federal bureau of investigation as part of the criminal records 5578
check of the provider or applicant. Even if a provider or 5579
applicant for whom a criminal records check request is required 5580
presents proof of having been a resident of this state for the 5581
five-year period, the department may require that the provider or 5582
applicant request that the superintendent obtain information from 5583
the federal bureau of investigation and include it in the criminal 5584
records check of the provider or applicant. 5585

(2) A provider shall require the conduct of a criminal 5586
records check by the superintendent with respect to each of the 5587
persons specified by the department under division (C)(1) of this 5588
section. If the person for whom a criminal records check is 5589
required does not present proof of having been a resident of this 5590
state for the five-year period immediately prior to the date the 5591
criminal records check is requested or provide evidence that 5592
within that five-year period the superintendent of the bureau of 5593
criminal identification and investigation has requested 5594
information about the individual from the federal bureau of 5595
investigation in a criminal records check, the individual shall 5596
request that the superintendent obtain information from the 5597
federal bureau of investigation as part of the criminal records 5598
check of the individual. Even if an individual for whom a criminal 5599
records check request is required presents proof of having been a 5600
resident of this state for the five-year period, the department 5601
may require the provider to request that the superintendent obtain 5602
information from the federal bureau of investigation and include 5603
it in the criminal records check of the person. 5604

(E)(1) Criminal records checks required under this section 5605
for providers or applicants to be providers shall be obtained as 5606

follows: 5607

(a) The department shall provide each provider or applicant 5608
information about accessing and completing the form prescribed 5609
pursuant to division (C)(1) of section 109.572 of the Revised Code 5610
and the standard fingerprint impression sheet prescribed pursuant 5611
to division (C)(2) of that section. 5612

(b) The provider or applicant shall submit the required form 5613
and one complete set of fingerprint impressions directly to the 5614
superintendent for purposes of conducting the criminal records 5615
check using the applicable methods prescribed by division (C) of 5616
section 109.572 of the Revised Code. The applicant or provider 5617
shall pay all fees associated with obtaining the criminal records 5618
check. 5619

(c) The superintendent shall conduct the criminal records 5620
check in accordance with section 109.572 of the Revised Code. The 5621
provider or applicant shall instruct the superintendent to submit 5622
the report of the criminal records check directly to the director 5623
of job and family services. 5624

(2) Criminal records checks required under this section for 5625
persons specified by the department under division (C)(1) of this 5626
section shall be obtained as follows: 5627

(a) The provider shall give to each person subject to 5628
criminal records check requirement information about accessing and 5629
completing the form prescribed pursuant to division (C)(1) of 5630
section 109.572 of the Revised Code and the standard fingerprint 5631
impression sheet prescribed pursuant to division (C)(2) of that 5632
section. 5633

(b) The person shall submit the required form and one 5634
complete set of fingerprint impressions directly to the 5635
superintendent for purposes of conducting the criminal records 5636
check using the applicable methods prescribed by division (C) of 5637

section 109.572 of the Revised Code. The person shall pay all fees 5638
associated with obtaining the criminal records check. 5639

(c) The superintendent shall conduct the criminal records 5640
check in accordance with section 109.572 of the Revised Code. The 5641
person subject to the criminal records check shall instruct the 5642
superintendent to submit the report of the criminal records check 5643
directly to the provider. The department may require the provider 5644
to submit the report to the department. 5645

(F) If a provider or applicant to be a provider is given the 5646
information specified in division (E)(1)(a) of this section but 5647
fails to obtain a criminal records check, the department shall, as 5648
applicable, terminate the provider agreement or deny the 5649
application to be a provider. 5650

If a person is given the information specified in division 5651
(E)(2)(a) of this section but fails to obtain a criminal records 5652
check, the provider shall not, as applicable, permit the person to 5653
be an employee, owner, officer, or board member of the provider. 5654

(G) Except as provided in rules adopted under division (J) of 5655
this section, the department shall terminate the provider 5656
agreement of a provider or the department shall not issue a 5657
provider agreement to an applicant if the provider or applicant is 5658
subject to a criminal records check under this section and the 5659
provider or applicant has been convicted of, has pleaded guilty 5660
to, or has been found eligible for intervention in lieu of 5661
conviction for any of the following, regardless of the date of the 5662
conviction, the date of entry of the guilty plea, or the date the 5663
applicant or provider was found eligible for intervention in lieu 5664
of conviction: 5665

(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 5666
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 5667
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 5668

2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 5669
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 5670
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 5671
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 5672
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 5673
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 5674
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 5675
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 5676
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 5677
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 5678
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 5679
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 5680
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 5681
penetration in violation of former section 2907.12 of the Revised 5682
Code, a violation of section 2905.04 of the Revised Code as it 5683
existed prior to July 1, 1996, a violation of section 2919.23 of 5684
the Revised Code that would have been a violation of section 5685
2905.04 of the Revised Code as it existed prior to July 1, 1996, 5686
had the violation been committed prior to that date; 5687

(2) A violation of an existing or former municipal ordinance 5688
or law of this state, any other state, or the United States that 5689
is substantially equivalent to any of the offenses listed in 5690
division (G)(1) of this section. 5691

(H)(1)(a) Except as provided in rules adopted under division 5692
(J) of this section and subject to division (H)(2) of this 5693
section, no provider shall permit a person to be an employee, 5694
owner, officer, or board member of the provider if the person is 5695
subject to a criminal records check under this section and the 5696
person has been convicted of, has pleaded guilty to, or has been 5697
found eligible for intervention in lieu of conviction for any of 5698
the offenses specified in division (G)(1) or (2) of this section. 5699

(b) No provider shall employ a person who has been excluded 5700

from participating in the medicaid program, the medicare program 5701
operated pursuant to Title XVIII of the "Social Security Act," or 5702
any other federal health care program. 5703

(2)(a) A provider may employ conditionally a person for whom 5704
a criminal records check is required under this section prior to 5705
obtaining the results of a criminal records check regarding the 5706
person, but only if the person submits a request for a criminal 5707
records check not later than five business days after the 5708
individual begins conditional employment. 5709

(b) A provider that employs a person conditionally under 5710
authority of division (H)(2)(a) of this section shall terminate 5711
the person's employment if the results of the criminal records 5712
check request are not obtained within the period ending sixty days 5713
after the date the request is made. Regardless of when the results 5714
of the criminal records check are obtained, if the results 5715
indicate that the individual has been convicted of, has pleaded 5716
guilty to, or has been found eligible for intervention in lieu of 5717
conviction for any of the offenses specified in division (G)(1) or 5718
(2) of this section, the provider shall terminate the person's 5719
employment unless the provider chooses to employ the individual 5720
pursuant to division (J) of this section. 5721

(I) The report of a criminal records check conducted pursuant 5722
to this section is not a public record for the purposes of section 5723
149.43 of the Revised Code and shall not be made available to any 5724
person other than the following: 5725

(1) The person who is the subject of the criminal records 5726
check or the person's representative; 5727

(2) The director of job and family services and the staff of 5728
the department in the administration of the medicaid program; 5729

(3) A court, hearing officer, or other necessary individual 5730
involved in a case dealing with the denial or termination of a 5731

provider agreement; 5732

(4) A court, hearing officer, or other necessary individual 5733
involved in a case dealing with a person's denial of employment, 5734
termination of employment, or employment or unemployment benefits. 5735

(J) The department may adopt rules in accordance with Chapter 5736
119. of the Revised Code to implement this section. The rules may 5737
specify circumstances under which the department may continue a 5738
provider agreement or issue a provider agreement to an applicant 5739
when the provider or applicant has been convicted of, has pleaded 5740
guilty to, or has been found eligible for intervention in lieu of 5741
conviction for any of the offenses specified in division (G)(1) or 5742
(2) of this section. The rules may also specify circumstances 5743
under which a provider may permit a person to be an employee, 5744
owner, officer, or board member of the provider, when the person 5745
has been convicted of, has pleaded guilty to, or has been found 5746
eligible for intervention in lieu of conviction for any of the 5747
offenses specified in division (G)(1) or (2) of this section. 5748

Sec. 5111.033. (A) As used in this section: 5749

(1) "Applicant" means a person who is under final 5750
consideration for employment or, after September 26, 2003, an 5751
existing employee with a waiver agency in a full-time, part-time, 5752
or temporary position that involves providing home and 5753
community-based waiver services to a person with disabilities. 5754
"Applicant" also means an existing employee with a waiver agency 5755
in a full-time, part-time, or temporary position that involves 5756
providing home and community-based waiver services to a person 5757
with disabilities after September 26, 2003. 5758

(2) "Criminal records check" has the same meaning as in 5759
section 109.572 of the Revised Code. 5760

(3) "Waiver agency" means a person or government entity that 5761

is not certified under the medicare program and is accredited by 5762
the community health accreditation program or the joint commission 5763
on accreditation of health care organizations or a company that 5764
provides home and community-based waiver services to persons with 5765
disabilities through department of job and family services 5766
administered home and community-based waiver programs. 5767

(4) "Home and community-based waiver services" means services 5768
furnished under the provision of 42 C.F.R. 441, subpart G, that 5769
permit individuals to live in a home setting rather than a nursing 5770
facility or hospital. Home and community-based waiver services are 5771
approved by the centers for medicare and medicaid for specific 5772
populations and are not otherwise available under the medicaid 5773
state plan. 5774

(5) "Intervention in lieu of conviction" means intervention 5775
in lieu of conviction under section 2951.041 of the Revised Code. 5776

(B)(1) The chief administrator of a waiver agency shall 5777
require each applicant to request that the superintendent of the 5778
bureau of criminal identification and investigation conduct a 5779
criminal records check with respect to the applicant. If an 5780
applicant for whom a criminal records check request is required 5781
under this division does not present proof of having been a 5782
resident of this state for the five-year period immediately prior 5783
to the date the criminal records check is requested or provide 5784
evidence that within that five-year period the superintendent has 5785
requested information about the applicant from the federal bureau 5786
of investigation in a criminal records check, the chief 5787
administrator shall require the applicant to request that the 5788
superintendent obtain information from the federal bureau of 5789
investigation as part of the criminal records check of the 5790
applicant. Even if an applicant for whom a criminal records check 5791
request is required under this division presents proof of having 5792
been a resident of this state for the five-year period, the chief 5793

administrator may require the applicant to request that the 5794
superintendent include information from the federal bureau of 5795
investigation in the criminal records check. 5796

(2) The chief administrator shall provide the following to 5797
each applicant for whom a criminal records check request is 5798
required under division (B)(1) of this section: 5799

(a) Information about accessing, completing, and forwarding 5800
to the superintendent of the bureau of criminal identification and 5801
investigation the form prescribed pursuant to division (C)(1) of 5802
section 109.572 of the Revised Code and the standard fingerprint 5803
impression sheet prescribed pursuant to division (C)(2) of that 5804
section; 5805

(b) Written notification that the applicant is to instruct 5806
the superintendent to submit the completed report of the criminal 5807
records check directly to the chief administrator. 5808

(3) An applicant given information and notification under 5809
divisions (B)(2)(a) and (b) of this section who fails to access, 5810
complete, and forward to the superintendent the form or the 5811
standard fingerprint impression sheet, or who fails to instruct 5812
the superintendent to submit the completed report of the criminal 5813
records check directly to the chief administrator, shall not be 5814
employed in any position in a waiver agency for which a criminal 5815
records check is required by this section. 5816

(C)(1) Except as provided in rules adopted by the department 5817
of job and family services in accordance with division (F) of this 5818
section and subject to division (C)(2) of this section, no waiver 5819
agency shall employ a person in a position that involves providing 5820
home and community-based waiver services to persons with 5821
disabilities if the person has been convicted of, has pleaded 5822
guilty to, or has been found eligible for intervention in lieu of 5823
conviction for any of the following, regardless of the date of the 5824

conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction: 5825
5826

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 5827
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 5828
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 5829
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 5830
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 5831
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 5832
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 5833
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 5834
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 5835
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 5836
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 5837
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 5838
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 5839
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 5840
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 5841
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 5842
penetration in violation of former section 2907.12 of the Revised 5843
Code, a violation of section 2905.04 of the Revised Code as it 5844
existed prior to July 1, 1996, a violation of section 2919.23 of 5845
the Revised Code that would have been a violation of section 5846
2905.04 of the Revised Code as it existed prior to July 1, 1996, 5847
had the violation been committed prior to that date; 5848

(b) A violation of an existing or former municipal ordinance 5849
or law of this state, any other state, or the United States that 5850
is substantially equivalent to any of the offenses listed in 5851
division (C)(1)(a) of this section. 5852

(2)(a) A waiver agency may employ conditionally an applicant 5853
for whom a criminal records check request is required under 5854
division (B) of this section prior to obtaining the results of a 5855
criminal records check regarding the individual, provided that the 5856

agency shall require the individual to request a criminal records 5857
check regarding the individual in accordance with division (B)(1) 5858
of this section not later than five business days after the 5859
individual begins conditional employment. 5860

(b) A waiver agency that employs an individual conditionally 5861
under authority of division (C)(2)(a) of this section shall 5862
terminate the individual's employment if the results of the 5863
criminal records check request under division (B) of this section, 5864
other than the results of any request for information from the 5865
federal bureau of investigation, are not obtained within the 5866
period ending sixty days after the date the request is made. 5867
Regardless of when the results of the criminal records check are 5868
obtained, if the results indicate that the individual has been 5869
convicted of, has pleaded guilty to, or has been found eligible 5870
for intervention in lieu of conviction for any of the offenses 5871
listed or described in division (C)(1) of this section, the agency 5872
shall terminate the individual's employment unless the agency 5873
chooses to employ the individual pursuant to division (F) of this 5874
section. 5875

(D)(1) The fee prescribed pursuant to division (C)(3) of 5876
section 109.572 of the Revised Code for each criminal records 5877
check conducted pursuant to a request made under division (B) of 5878
this section shall be paid to the bureau of criminal 5879
identification and investigation by the applicant or the waiver 5880
agency. 5881

(2) If a waiver agency pays the fee, it may charge the 5882
applicant a fee not exceeding the amount the agency pays under 5883
division (D)(1) of this section. An agency may collect a fee only 5884
if the agency notifies the person at the time of initial 5885
application for employment of the amount of the fee and that, 5886
unless the fee is paid, the person will not be considered for 5887
employment. 5888

(E) The report of any criminal records check conducted 5889
pursuant to a request made under this section is not a public 5890
record for the purposes of section 149.43 of the Revised Code and 5891
shall not be made available to any person other than the 5892
following: 5893

(1) The individual who is the subject of the criminal records 5894
check or the individual's representative; 5895

(2) The chief administrator of the agency requesting the 5896
criminal records check or the administrator's representative; 5897

(3) An administrator at the department; 5898

(4) A court, hearing officer, or other necessary individual 5899
involved in a case dealing with a denial of employment of the 5900
applicant or dealing with employment or unemployment benefits of 5901
the applicant. 5902

(F) The department shall adopt rules in accordance with 5903
Chapter 119. of the Revised Code to implement this section. The 5904
rules shall specify circumstances under which a waiver agency may 5905
employ a person who has been convicted of, has pleaded guilty to, 5906
or has been found eligible for intervention in lieu of conviction 5907
for an offense listed or described in division (C)(1) of this 5908
section. 5909

(G) The chief administrator of a waiver agency shall inform 5910
each person, at the time of initial application for a position 5911
that involves providing home and community-based waiver services 5912
to a person with a disability, that the person is required to 5913
provide a set of fingerprint impressions and that a criminal 5914
records check is required to be conducted if the person comes 5915
under final consideration for employment. 5916

(H)(1) A person who, on September 26, 2003, is an employee of 5917
a waiver agency in a full-time, part-time, or temporary position 5918
that involves providing home and community-based waiver services 5919

to a person with disabilities shall comply with this section 5920
within sixty days after September 26, 2003, unless division (H)(2) 5921
of this section applies. 5922

(2) This section shall not apply to a person to whom all of 5923
the following apply: 5924

(a) On September 26, 2003, the person is an employee of a 5925
waiver agency in a full-time, part-time, or temporary position 5926
that involves providing home and community-based waiver services 5927
to a person with disabilities. 5928

(b) The person previously had been the subject of a criminal 5929
background check relating to that position; 5930

(c) The person has been continuously employed in that 5931
position since that criminal background check had been conducted. 5932

Sec. 5111.034. (A) As used in this section: 5933

(1) "Anniversary date" means the later of the effective date 5934
of the provider agreement relating to the independent provider or 5935
sixty days after September 26, 2003. 5936

(2) "Criminal records check" has the same meaning as in 5937
section 109.572 of the Revised Code. 5938

(3) "Department" includes a designee of the department of job 5939
and family services. 5940

(4) "Independent provider" means a person who is submitting 5941
an application for a provider agreement or who has a provider 5942
agreement as an independent provider in a department of job and 5943
family services administered home and community-based services 5944
program providing home and community-based waiver services to 5945
consumers with disabilities. 5946

(5) "Home and community-based waiver services" has the same 5947
meaning as in section 5111.033 of the Revised Code. 5948

(6) "Intervention in lieu of conviction" means intervention 5949
in lieu of conviction under section 2951.041 of the Revised Code. 5950

(B)(1) The department of job and family services shall inform 5951
each independent provider, at the time of initial application for 5952
a provider agreement that involves providing home and 5953
community-based waiver services to consumers with disabilities, 5954
that the independent provider is required to provide a set of 5955
fingerprint impressions and that a criminal records check is 5956
required to be conducted if the person is to become an independent 5957
provider in a department administered home and community-based 5958
waiver program. 5959

(2) Beginning on September 26, 2003, the department shall 5960
inform each enrolled medicaid independent provider on or before 5961
time of the anniversary date of the provider agreement that 5962
involves providing home and community-based waiver services to 5963
consumers with disabilities that the independent provider is 5964
required to provide a set of fingerprint impressions and that a 5965
criminal records check is required to be conducted. 5966

(C)(1) The department shall require the independent provider 5967
to complete a criminal records check prior to entering into a 5968
provider agreement with the independent provider and at least 5969
annually thereafter. If an independent provider for whom a 5970
criminal records check is required under this division does not 5971
present proof of having been a resident of this state for the 5972
five-year period immediately prior to the date the criminal 5973
records check is requested or provide evidence that within that 5974
five-year period the superintendent of the bureau of criminal 5975
identification and investigation has requested information about 5976
the independent provider from the federal bureau of investigation 5977
in a criminal records check, the department shall request that the 5978
independent provider obtain through the superintendent a criminal 5979
records request from the federal bureau of investigation as part 5980

of the criminal records check of the independent provider. Even if 5981
an independent provider for whom a criminal records check request 5982
is required under this division presents proof of having been a 5983
resident of this state for the five-year period, the department 5984
may request that the independent provider obtain information 5985
through the superintendent from the federal bureau of 5986
investigation in the criminal records check. 5987

(2) The department shall provide the following to each 5988
independent provider for whom a criminal records check request is 5989
required under division (C)(1) of this section: 5990

(a) Information about accessing, completing, and forwarding 5991
to the superintendent of the bureau of criminal identification and 5992
investigation the form prescribed pursuant to division (C)(1) of 5993
section 109.572 of the Revised Code and the standard fingerprint 5994
impression sheet prescribed pursuant to division (C)(2) of that 5995
section; 5996

(b) Written notification that the independent provider is to 5997
instruct the superintendent to submit the completed report of the 5998
criminal records check directly to the department. 5999

(3) An independent provider given information and 6000
notification under divisions (C)(2)(a) and (b) of this section who 6001
fails to access, complete, and forward to the superintendent the 6002
form or the standard fingerprint impression sheet, or who fails to 6003
instruct the superintendent to submit the completed report of the 6004
criminal records check directly to the department, shall not be 6005
approved as an independent provider. 6006

(D) Except as provided in rules adopted by the department in 6007
accordance with division (G) of this section, the department shall 6008
not issue a new provider agreement to, and shall terminate an 6009
existing provider agreement of, an independent provider if the 6010
person has been convicted of, has pleaded guilty to, or has been 6011

found eligible for intervention in lieu of conviction for any of 6012
the following, regardless of the date of the conviction, the date 6013
of entry of the guilty plea, or the date the person was found 6014
eligible for intervention in lieu of conviction: 6015

(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 6016
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 6017
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 6018
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 6019
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 6020
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 6021
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 6022
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 6023
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 6024
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 6025
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 6026
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 6027
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 6028
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 6029
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 6030
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 6031
penetration in violation of former section 2907.12 of the Revised 6032
Code, a violation of section 2905.04 of the Revised Code as it 6033
existed prior to July 1, 1996, a violation of section 2919.23 of 6034
the Revised Code that would have been a violation of section 6035
2905.04 of the Revised Code as it existed prior to July 1, 1996, 6036
had the violation been committed prior to that date; 6037

(2) A violation of an existing or former municipal ordinance 6038
or law of this state, any other state, or the United States that 6039
is substantially equivalent to any of the offenses listed in 6040
division (D)(1) of this section. 6041

(E) Each independent provider shall pay to the bureau of 6042
criminal identification and investigation the fee prescribed 6043

pursuant to division (C)(3) of section 109.572 of the Revised Code 6044
for each criminal records check conducted pursuant to a request 6045
made under division (C) of this section. 6046

(F) The report of any criminal records check conducted by the 6047
bureau of criminal identification and investigation in accordance 6048
with section 109.572 of the Revised Code and pursuant to a request 6049
made under division (C) of this section is not a public record for 6050
the purposes of section 149.43 of the Revised Code and shall not 6051
be made available to any person other than the following: 6052

(1) The person who is the subject of the criminal records 6053
check or the person's representative; 6054

(2) An administrator at the department or the administrator's 6055
representative; 6056

(3) A court, hearing officer, or other necessary individual 6057
involved in a case dealing with a denial or termination of a 6058
provider agreement related to the criminal records check. 6059

(G) The department shall adopt rules in accordance with 6060
Chapter 119. of the Revised Code to implement this section. The 6061
rules shall specify circumstances under which the department may 6062
either issue a provider agreement to an independent provider or 6063
allow an independent provider to maintain an existing provider 6064
agreement when the independent provider has been convicted of, has 6065
pleaded guilty to, or has been found eligible for intervention in 6066
lieu of conviction for an offense listed or described in division 6067
(D)(1) or (2) of this section. 6068

Section 2. That existing sections 109.572, 2929.12, 2929.22, 6069
2951.041, 3719.121, 3719.70, 4715.30, 4717.05, 4717.14, 4723.28, 6070
4730.14, 4730.25, 4730.31, 4730.48, 4731.22, 4731.223, 4731.281, 6071
4734.31, 4760.06, 4760.13, 4760.15, 4761.09, 4762.06, 4762.13, 6072
4762.15, 4765.112, 4774.06, 4774.13, 4774.15, 5111.032, 5111.033, 6073

and 5111.034 of the Revised Code are hereby repealed. 6074

Section 3. (A) Sections 1 and 2 of this act shall take effect 6075
on January 1, 2012. 6076

(B) Sections 109.572, 2929.12, 2929.22, 2951.041, 2951.042, 6077
2951.043, 2951.044, 2951.045, 3719.121, 3719.70, 4715.30, 4717.05, 6078
4717.14, 4723.28, 4730.14, 4730.25, 4730.31, 4730.48, 4731.22, 6079
4731.223, 4731.281, 4734.31, 4760.06, 4760.13, 4760.15, 4761.09, 6080
4762.06, 4762.13, 4762.15, 4765.112, 4774.06, 4774.13, 4774.15, 6081
5111.032, 5111.033, and 5111.034 of the Revised Code, as amended 6082
or enacted by Sections 1 and 2 of this act, shall apply to all 6083
charges of an illegal possession or use of a controlled substance 6084
offense and all proceedings involving an illegal possession or use 6085
of a controlled substance offense in which sentence has yet to be 6086
imposed that are before a court on or after January 1, 2010. As 6087
used in this Section, "illegal possession or use of a controlled 6088
substance offense" has the same meaning as in section 2951.042 of 6089
the Revised Code, as enacted in Section 1 of this act. 6090

Section 4. The General Assembly hereby states that its 6091
purposes and intent in enacting this act are as follows: 6092

(A) To break the cycle of drug use, addiction, and crime as 6093
early as possible by guaranteeing the opportunity for treatment 6094
and rehabilitation services to nonviolent drug users entering the 6095
criminal justice system; 6096

(B) To halt the wasteful expenditure of millions of dollars 6097
each year on the incarceration and re-incarceration of nonviolent 6098
drug users who would be better served by more cost-effective 6099
treatment and rehabilitation and to promote medical and public 6100
health responses to drug abuse that reject incarceration for 6101
non-violent defendants charged with a drug possession or use 6102
offense; 6103

(C) To provide substance abuse treatment and rehabilitation programs to nonviolent defendants charged with a drug possession or use offense, in order to reduce or eliminate substance abuse and addiction and increase the employability of such persons;

(D) To enhance public safety by reducing drug use-related crime and by preserving jail and prison cells for serious and violent offenders and to improve public health by reducing drug abuse and dependence through professionally supervised drug treatment programs;

(E) To rest responsibility for the treatment and supervision of nonviolent defendants charged with a drug possession or use offense with qualified treatment professionals, with appropriate links to the criminal justice system, and to ensure that drug testing is used as a treatment tool, with relapse understood to often be a part of the process of recovery signaling the need for a consequence or increase in the level of care, and not discontinuation of treatment;

(F) To maintain existing efforts in Ohio to prevent drug use and to provide treatment and rehabilitation to substance users and abusers, regardless of whether they are involved in the criminal justice system, without reducing funding for such efforts in order to pay for treatment programs made necessary by this act.

Section 5. (A) As used in this Section, "lead agency" means the department of alcohol and drug addiction services.

(B) The lead agency shall promulgate regulations for the implementation of sections 2951.042 to 2951.045 of the Revised Code, as enacted in Section 1 of this act, and this Section consistent with their purposes and intent. The lead agency shall ensure that recipient counties or multi-county regional bodies provide a diversity of treatment programs to ensure the availability of a continuum of services from low-threshold to

residential drug treatment, as well as services designed for the 6135
special needs of women and parents, pregnant women, and culturally 6136
and linguistically diverse populations. 6137

(C)(1) Except as otherwise provided in division (C) of this 6138
Section, the director of the lead agency shall distribute annually 6139
all moneys appropriated to the Substance Abuse Treatment Fund to 6140
the department's affiliated agencies or bodies in counties or 6141
multi-county regions. These moneys shall be used to pay for the 6142
costs of providing treatment programs for offenders granted a 6143
request for treatment under section 2951.042 of the Revised Code 6144
and for persons placed in treatment as a result of a drug-related 6145
violation of the terms of judicial release or supervised release 6146
from prison. 6147

(2) The director of the lead agency shall establish a fair 6148
and equitable distribution formula for estimating the need for 6149
funds of the various counties and multicounty regions. The formula 6150
shall include factors such as population, the number of arrests 6151
for illegal possession or use of a controlled substance offenses, 6152
substance abuse treatment and rehabilitation services caseload, 6153
the need for infrastructure and professional development to 6154
provide treatment and rehabilitative services, and any other 6155
factor the director of the lead agency deems appropriate. The 6156
director of the lead agency shall use this formula to determine 6157
the allocation of the moneys in the Substance Abuse Treatment Fund 6158
among each of the counties and multi-county regions. The lead 6159
agency also may reserve up to five per cent of the moneys 6160
available in the Fund to pay the lead agency's administrative 6161
costs associated with implementing sections 2951.042 to 2951.045 6162
of the Revised Code and this Section. The lead agency also may 6163
reserve up to one per cent of the moneys available in the Fund to 6164
pay for a long-term study of the offender populations and 6165
treatment programs affected by sections 2951.042 to 2951.045 of 6166

the Revised Code and this Section. 6167

(D) Each county or multi-county region shall spend at least 6168
eighty-five per cent of the moneys it receives pursuant to 6169
division (C) of this section on the provision of community-based 6170
treatment and rehabilitation services to offenders granted a 6171
request for treatment under section 2951.042 of the Revised Code 6172
or persons who commit drug-related violations of the terms of 6173
judicial release or supervised release from prison. No county or 6174
multi-county region shall devote, in any fiscal year, more than 6175
fifteen per cent of the funds the region receives under division 6176
(C) of this Section to expenses other than treatment necessitated 6177
by sections 2951.042 to 2951.045 of the Revised Code and this 6178
Section, including, but not limited to, administration costs for 6179
treatment providers, transportation for offenders to treatment, 6180
additional probation department costs, and court costs. The 6181
director of the lead agency may stipulate permissible uses of 6182
non-treatment funds and may annually set the percentage of 6183
available moneys that may be used for treatment of persons on 6184
judicial release or supervised release from prison. 6185

(E) Each county or multi-county regional body receiving funds 6186
under division (C) of this Section shall submit to the lead agency 6187
annual reports, or more frequent reports required by the director 6188
of the lead agency under this division, detailing the use of funds 6189
so provided. The reports shall be subject to annual audits by the 6190
auditor of state. The director of the lead agency may require more 6191
frequent reports. 6192

(F)(1) The lead agency shall collect and publish annually 6193
data to evaluate the effectiveness and financial impact of the 6194
treatment programs implemented under sections 2951.042 to 2951.045 6195
of the Revised Code and this Section. The study shall include, but 6196
not be limited to, all of the following: 6197

(a) A review of the implementation process; 6198

(b) Case dispositions for offenders found eligible for treatment under those provisions;	6199 6200
(c) Any changes in overall drug-related costs of probation, incarceration, and supervised release;	6201 6202
(d) Changes in recidivism rates for nonviolent drug offenders;	6203 6204
(e) Reductions in crime;	6205
(f) Reductions in prison and jail construction;	6206
(g) Changes in health outcomes for drug users;	6207
(h) Reduced welfare costs;	6208
(i) Employment levels for persons completing treatment funded under division (C) of this Section;	6209 6210
(j) Comparisons of treatment modalities;	6211
(k) The adequacy of funds appropriated;	6212
(l) Other impacts or issues identified by the lead agency.	6213
(2) The lead agency also shall seek to collect data on the race, gender, and age of drug offenders, and demographic information on types and numbers of controlled substances arrests, prosecutions, diversions to treatment, and completion of treatment.	6214 6215 6216 6217 6218
Section 6. The General Assembly expresses its intention to do all of the following:	6219 6220
(A) Maintain its prior efforts to provide substance abuse treatment and rehabilitation during at least the first six fiscal years following the effective date of this act;	6221 6222 6223
(B) During the six-year period described in division (A) of this section, have the funding relative to substance abuse treatment appropriated in Section 7 of this act, and funding	6224 6225 6226

relative to such treatment similarly appropriated in subsequent 6227
acts during that period, supplement, not supplant, funding for 6228
other substance abuse prevention and treatment programs and other 6229
rehabilitation programs and support services, such as vocational 6230
training, literacy training, family counseling, and mental health 6231
services operating prior to the enactment of this act; 6232

(C) During the six-year period described in division (A) of 6233
this section, continue to appropriate funds for substance abuse 6234
prevention and treatment programs and other related rehabilitation 6235
programs in amounts equal to or greater than the amounts 6236
appropriated for substance abuse prevention and treatment programs 6237
and other rehabilitation programs in fiscal year 2011, in constant 6238
2012 dollars, without taking into account any funds from the 6239
Substance Abuse Treatment Fund. 6240

Section 7. On July 1 of fiscal year 2012 and fiscal year 6241
2013, or as soon as possible thereafter, the Director of Budget 6242
and Management shall transfer \$38,000,000 in cash from the General 6243
Revenue Fund to the Substance Abuse Treatment Fund, as established 6244
by section 2951.042 of the Revised Code. The transferred cash is 6245
hereby appropriated. 6246

Within the limits set forth in this act, the Director of 6247
Budget and Management shall establish accounts indicating source 6248
and amount of funds for each appropriation made in this act and 6249
shall determine the form and manner in which appropriation 6250
accounts shall be maintained. Expenditures from appropriations 6251
contained in this act shall be accounted for as though made in the 6252
main operating appropriations act of the 129th General Assembly. 6253

The appropriations made in this act are subject to all 6254
provisions of the main operating appropriations act of the 129th 6255
General Assembly that are generally applicable to such 6256
appropriations. 6257

Section 8. The codified and uncodified sections of law 6258
contained in this act, and the items of law of which the codified 6259
and uncodified sections of law contained in this act are composed, 6260
are not subject to the referendum. Therefore, under Ohio 6261
Constitution, Article II, Section 1d and section 1.471 of the 6262
Revised Code, the codified and uncodified sections of law 6263
contained in this act, and the items of law of which the codified 6264
and uncodified sections of law contained in this act are composed, 6265
go into immediate effect when this act becomes law. 6266

Section 9. Section 4731.22 of the Revised Code is presented 6267
in this act as a composite of the section as amended by Am. Sub. 6268
H.B. 280, Sub. H.B. 525, and Sub. S.B. 229 of the 127th General 6269
Assembly. The General Assembly, applying the principle stated in 6270
division (B) of section 1.52 of the Revised Code that amendments 6271
are to be harmonized if reasonably capable of simultaneous 6272
operation, finds that the composite is the resulting version of 6273
the section in effect prior to the effective date of the section 6274
as presented in this act. 6275