

As Introduced

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H. B. No. 280

Representative Clyde

**Cosponsors: Representatives Antonio, Boyd, Budish, Carney, Fedor, Foley,
Gerberry, Hagan, R., Heard, Letson, O'Brien, Phillips, Pillich, Ramos,
Redfern, Sheehy, Stinziano, Williams**

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A B I L L

To amend sections 109.921, 2317.56, 3125.18, 1
3701.027, 3702.30, 4731.22, 5101.35, 5101.46, 2
5101.461, 5101.80, 5101.801, and 5153.16 and to 3
repeal sections 2919.19, 2919.191, 2919.192, 4
2919.193, 3701.033, 3702.302, 3702.303, 3702.304, 5
3702.305, 3702.306, 3702.307, 3702.308, 5101.101, 6
and 5101.804 of the Revised Code to repeal certain 7
amendments and enactments included in Am. Sub. 8
H.B. 59 of the 130th General Assembly regarding 9
the Rape Crisis Program trust fund, the Ohio 10
Parenting and Pregnancy program, ambulatory 11
surgical facilities, abortion, and the 12
distribution of family planning services funds. 13

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

Section 1. That sections 109.921, 2317.56, 3125.18, 3701.027, 14
3702.30, 4731.22, 5101.35, 5101.46, 5101.461, 5101.80, 5101.801, 15
and 5153.16 of the Revised Code be amended to read as follows: 16

Sec. 109.921. (A) As used in this section: 17

(1) "Rape crisis program" means any of the following:	18
(a) The nonprofit state sexual assault coalition designated by the center for injury prevention and control of the federal centers for disease control and prevention;	19 20 21
(b) A victim witness assistance program operated by a prosecuting attorney;	22 23
(c) A program operated by a government-based or nonprofit entity that provides a full continuum of services to victims of sexual assault, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, that does not provide medical services, and that may refer victims to physicians for medical care but does not engage in or refer for services for which the use of genetic services funds is prohibited by section 3701.511 of the Revised Code.	24 25 26 27 28 29 30 31 32
(2) "Sexual assault" means any of the following:	33
(a) A violation of section 2907.02, 2907.03, 2907.04, 2907.05, or former section 2907.12 of the Revised Code;	34 35
(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is or was substantially equivalent to any section listed in division (A)(2)(a) of this section.	36 37 38 39
(B) There is hereby created in the state treasury the rape crisis program trust fund, consisting of money paid into the fund pursuant to sections 307.515 and 311.172 of the Revised Code and any money appropriated to the fund by the general assembly or donated to the fund. The attorney general shall administer the fund. The attorney general may use not more than five per cent of the money deposited or appropriated into the fund to pay costs associated with administering this section and shall use at least ninety-five per cent of the money deposited or appropriated into	40 41 42 43 44 45 46 47 48

the fund for the purpose of providing funding to rape crisis 49
programs under this section. 50

(C)(1) The attorney general shall adopt rules under Chapter 51
119. of the Revised Code that establish procedures for rape crisis 52
programs to apply to the attorney general for funding out of the 53
rape crisis program trust fund and procedures for the attorney 54
general to distribute money out of the fund to rape crisis 55
programs. 56

(2) The attorney general may decide upon an application for 57
funding out of the rape crisis program trust fund without a 58
hearing. A decision of the attorney general to grant or deny 59
funding is final and not appealable under Chapter 119. or any 60
other provision of the Revised Code. 61

(D) A rape crisis program that receives funding out of the 62
rape crisis program trust fund shall use the money received only 63
for the following purposes: 64

(1) If the program is the nonprofit state sexual assault 65
coalition, to provide training and technical assistance to service 66
providers; 67

(2) If the program is a victim witness assistance program, to 68
provide victims of sexual assault with hotlines, victim advocacy, 69
or support services; 70

(3) If the program is a government-based or nonprofit entity 71
that provides a full continuum of services to victims of sexual 72
assault, to provide those services and education to prevent sexual 73
assault. 74

Sec. 2317.56. (A) As used in this section: 75

(1) "Medical emergency" ~~has the same meaning as in section~~ 76
~~2919.16 of the Revised Code~~ means a condition of a pregnant woman 77
that, in the reasonable judgment of the physician who is attending 78

the woman, creates an immediate threat of serious risk to the life 79
or physical health of the woman from the continuation of the 80
pregnancy necessitating the immediate performance or inducement of 81
an abortion. 82

(2) "Medical necessity" means a medical condition of a 83
pregnant woman that, in the reasonable judgment of the physician 84
who is attending the woman, so complicates the pregnancy that it 85
necessitates the immediate performance or inducement of an 86
abortion. 87

(3) "Probable gestational age of the embryo or fetus" means 88
the gestational age that, in the judgment of a physician, is, with 89
reasonable probability, the gestational age of the embryo or fetus 90
at the time that the physician informs a pregnant woman pursuant 91
to division (B)(1)(b) of this section. 92

(B) Except when there is a medical emergency or medical 93
necessity, an abortion shall be performed or induced only if all 94
of the following conditions are satisfied: 95

(1) At least twenty-four hours prior to the performance or 96
inducement of the abortion, a physician meets with the pregnant 97
woman in person in an individual, private setting and gives her an 98
adequate opportunity to ask questions about the abortion that will 99
be performed or induced. At this meeting, the physician shall 100
inform the pregnant woman, verbally or, if she is hearing 101
impaired, by other means of communication, of all of the 102
following: 103

(a) The nature and purpose of the particular abortion 104
procedure to be used and the medical risks associated with that 105
procedure; 106

(b) The probable gestational age of the embryo or fetus; 107

(c) The medical risks associated with the pregnant woman 108
carrying the pregnancy to term. 109

The meeting need not occur at the facility where the abortion 110
is to be performed or induced, and the physician involved in the 111
meeting need not be affiliated with that facility or with the 112
physician who is scheduled to perform or induce the abortion. 113

(2) At least twenty-four hours prior to the performance or 114
inducement of the abortion, ~~the physician who is to perform or~~ 115
~~induce the abortion or the physician's agent does~~ one or more 116
physicians or one or more agents of one or more physicians do each 117
of the following in person, by telephone, by certified mail, 118
return receipt requested, or by regular mail evidenced by a 119
certificate of mailing: 120

(a) Inform the pregnant woman of the name of the physician 121
who is scheduled to perform or induce the abortion; 122

(b) Give the pregnant woman copies of the published materials 123
described in division (C) of this section; 124

(c) Inform the pregnant woman that the materials given 125
pursuant to division (B)(2)(b) of this section are published by 126
the state and that they describe the embryo or fetus and list 127
agencies that offer alternatives to abortion. The pregnant woman 128
may choose to examine or not to examine the materials. A physician 129
or an agent of a physician may choose to be disassociated from the 130
materials and may choose to comment or not comment on the 131
materials. 132

(3) ~~If it has been determined that the unborn human~~ 133
~~individual the pregnant woman is carrying has a detectable~~ 134
~~heartbeat, the physician who is to perform or induce the abortion~~ 135
~~shall comply with the informed consent requirements in section~~ 136
~~2919.192 of the Revised Code in addition to complying with the~~ 137
~~informed consent requirements in divisions (B)(1), (2), (4), and~~ 138
~~(5) of this section.~~ 139

~~(4)~~ Prior to the performance or inducement of the abortion, 140

the pregnant woman signs a form consenting to the abortion and 141
certifies both of the following on that form: 142

(a) She has received the information and materials described 143
in divisions (B)(1) and (2) of this section, and her questions 144
about the abortion that will be performed or induced have been 145
answered in a satisfactory manner. 146

(b) She consents to the particular abortion voluntarily, 147
knowingly, intelligently, and without coercion by any person, and 148
she is not under the influence of any drug of abuse or alcohol. 149

~~The form shall contain the name and contact information of 150
the physician who provided to the pregnant woman the information 151
described in division (B)(1) of this section. 152~~

~~(5)(4)~~ Prior to the performance or inducement of the 153
abortion, the physician who is scheduled to perform or induce the 154
abortion or the physician's agent receives a copy of the pregnant 155
woman's signed form on which she consents to the abortion and that 156
includes the certification required by division (B)~~(4)~~(3) of this 157
section. 158

(C) The department of health shall publish in English and in 159
Spanish, in a typeface large enough to be clearly legible, and in 160
an easily comprehensible format, the following materials on the 161
department's web site: 162

(1) Materials that inform the pregnant woman about family 163
planning information, of publicly funded agencies that are 164
available to assist in family planning, and of public and private 165
agencies and services that are available to assist her through the 166
pregnancy, upon childbirth, and while the child is dependent, 167
including, but not limited to, adoption agencies. The materials 168
shall be geographically indexed; include a comprehensive list of 169
the available agencies, a description of the services offered by 170
the agencies, and the telephone numbers and addresses of the 171

agencies; and inform the pregnant woman about available medical 172
assistance benefits for prenatal care, childbirth, and neonatal 173
care and about the support obligations of the father of a child 174
who is born alive. The department shall ensure that the materials 175
described in division (C)(1) of this section are comprehensive and 176
do not directly or indirectly promote, exclude, or discourage the 177
use of any agency or service described in this division. 178

(2) Materials that inform the pregnant woman of the probable 179
anatomical and physiological characteristics of the zygote, 180
blastocyte, embryo, or fetus at two-week gestational increments 181
for the first sixteen weeks of pregnancy and at four-week 182
gestational increments from the seventeenth week of pregnancy to 183
full term, including any relevant information regarding the time 184
at which the fetus possibly would be viable. The department shall 185
cause these materials to be published only after it consults with 186
the Ohio state medical association and the Ohio section of the 187
American college of obstetricians and gynecologists relative to 188
the probable anatomical and physiological characteristics of a 189
zygote, blastocyte, embryo, or fetus at the various gestational 190
increments. The materials shall use language that is 191
understandable by the average person who is not medically trained, 192
shall be objective and nonjudgmental, and shall include only 193
accurate scientific information about the zygote, blastocyte, 194
embryo, or fetus at the various gestational increments. If the 195
materials use a pictorial, photographic, or other depiction to 196
provide information regarding the zygote, blastocyte, embryo, or 197
fetus, the materials shall include, in a conspicuous manner, a 198
scale or other explanation that is understandable by the average 199
person and that can be used to determine the actual size of the 200
zygote, blastocyte, embryo, or fetus at a particular gestational 201
increment as contrasted with the depicted size of the zygote, 202
blastocyte, embryo, or fetus at that gestational increment. 203

(D) Upon the submission of a request to the department of health by any person, hospital, physician, or medical facility for one copy of the materials published in accordance with division (C) of this section, the department shall make the requested copy of the materials available to the person, hospital, physician, or medical facility that requested the copy.

(E) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in division (B) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

(F) If the conditions specified in division (B) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(G) The performance or inducement of an abortion without the prior satisfaction of the conditions specified in division (B) of this section does not constitute, and shall not be construed as constituting, a violation of division (A) of section 2919.12 of the Revised Code. The failure of a physician to satisfy the conditions of division (B) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of both of the following:

(1) A civil action for compensatory and exemplary damages as described in division (H) of this section;

(2) Disciplinary action under section 4731.22 of the Revised

Code.	235
(H)(1) Subject to divisions (H)(2) and (3) of this section,	236
any physician who performs or induces an abortion with actual	237
knowledge that the conditions specified in division (B) of this	238
section have not been satisfied or with a heedless indifference as	239
to whether those conditions have been satisfied is liable in	240
compensatory and exemplary damages in a civil action to any	241
person, or the representative of the estate of any person, who	242
sustains injury, death, or loss to person or property as a result	243
of the failure to satisfy those conditions. In the civil action,	244
the court additionally may enter any injunctive or other equitable	245
relief that it considers appropriate.	246
(2) The following shall be affirmative defenses in a civil	247
action authorized by division (H)(1) of this section:	248
(a) The physician performed or induced the abortion under the	249
circumstances described in division (E) of this section.	250
(b) The physician made a good faith effort to satisfy the	251
conditions specified in division (B) of this section.	252
(3) An employer or other principal is not liable in damages	253
in a civil action authorized by division (H)(1) of this section on	254
the basis of the doctrine of respondeat superior unless either of	255
the following applies:	256
(a) The employer or other principal had actual knowledge or,	257
by the exercise of reasonable diligence, should have known that an	258
employee or agent performed or induced an abortion with actual	259
knowledge that the conditions specified in division (B) of this	260
section had not been satisfied or with a heedless indifference as	261
to whether those conditions had been satisfied.	262
(b) The employer or other principal negligently failed to	263
secure the compliance of an employee or agent with division (B) of	264
this section.	265

(4) Notwithstanding division (E) of section 2919.12 of the Revised Code, the civil action authorized by division (H)(1) of this section shall be the exclusive civil remedy for persons, or the representatives of estates of persons, who allegedly sustain injury, death, or loss to person or property as a result of a failure to satisfy the conditions specified in division (B) of this section.

(I) The department of job and family services shall prepare and conduct a public information program to inform women of all available governmental programs and agencies that provide services or assistance for family planning, prenatal care, child care, or alternatives to abortion.

Sec. 3125.18. A child support enforcement agency shall administer a Title IV-A program identified under division (A)(4)(c) or ~~(e)~~(f) of section 5101.80 of the Revised Code that the department of job and family services provides for the agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code.

Sec. 3701.027. The department of health shall administer funds received from the "Maternal and Child Health Block Grant," Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 U.S.C.A. 701, as amended, for programs including the program for medically handicapped children, and to provide technical assistance and consultation to city and general health districts and local health planning organizations in implementing local, community-based, family-centered, coordinated systems of care for medically handicapped children. The department may make grants to persons and other entities for the provision of services with the funds. In addition, the department may use the funds to purchase liability insurance covering the provision of services under the programs by physicians and other health care professionals, and to

pay health insurance premiums on behalf of medically handicapped 297
children participating in the program for medically handicapped 298
children when the department determines, in accordance with 299
criteria set forth in rules adopted under division (A)(9) of 300
section 3701.021 of the Revised Code, that payment of the premiums 301
is cost effective. 302

In determining eligibility for services provided with funds 303
received from the "Maternal and Child Health Block Grant," the 304
department may use the application form established under section 305
5163.40 of the Revised Code. The department may require applicants 306
to furnish their social security numbers. ~~Funds from the "Maternal~~ 307
~~and Child Health Block Grant" that are administered for the~~ 308
~~purpose of providing family planning services shall be distributed~~ 309
~~in accordance with section 3701.033 of the Revised Code.~~ 310

Sec. 3702.30. (A) As used in this section: 311

(1) "Ambulatory surgical facility" means a facility, whether 312
or not part of the same organization as a hospital, that is 313
located in a building distinct from another in which inpatient 314
care is provided, and to which any of the following apply: 315

(a) Outpatient surgery is routinely performed in the 316
facility, and the facility functions separately from a hospital's 317
inpatient surgical service and from the offices of private 318
physicians, podiatrists, and dentists. 319

(b) Anesthesia is administered in the facility by an 320
anesthesiologist or certified registered nurse anesthetist, and 321
the facility functions separately from a hospital's inpatient 322
surgical service and from the offices of private physicians, 323
podiatrists, and dentists. 324

(c) The facility applies to be certified by the United States 325
centers for medicare and medicaid services as an ambulatory 326

surgical center for purposes of reimbursement under Part B of the 327
medicare program, Part B of Title XVIII of the "Social Security 328
Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 329

(d) The facility applies to be certified by a national 330
accrediting body approved by the centers for medicare and medicaid 331
services for purposes of deemed compliance with the conditions for 332
participating in the medicare program as an ambulatory surgical 333
center. 334

(e) The facility bills or receives from any third-party 335
payer, governmental health care program, or other person or 336
government entity any ambulatory surgical facility fee that is 337
billed or paid in addition to any fee for professional services. 338

(f) The facility is held out to any person or government 339
entity as an ambulatory surgical facility or similar facility by 340
means of signage, advertising, or other promotional efforts. 341

"Ambulatory surgical facility" does not include a hospital 342
emergency department. 343

(2) "Ambulatory surgical facility fee" means a fee for 344
certain overhead costs associated with providing surgical services 345
in an outpatient setting. A fee is an ambulatory surgical facility 346
fee only if it directly or indirectly pays for costs associated 347
with any of the following: 348

(a) Use of operating and recovery rooms, preparation areas, 349
and waiting rooms and lounges for patients and relatives; 350

(b) Administrative functions, record keeping, housekeeping, 351
utilities, and rent; 352

(c) Services provided by nurses, orderlies, technical 353
personnel, and others involved in patient care related to 354
providing surgery. 355

"Ambulatory surgical facility fee" does not include any 356

additional payment in excess of a professional fee that is 357
provided to encourage physicians, podiatrists, and dentists to 358
perform certain surgical procedures in their office or their group 359
practice's office rather than a health care facility, if the 360
purpose of the additional fee is to compensate for additional cost 361
incurred in performing office-based surgery. 362

(3) "Governmental health care program" has the same meaning 363
as in section 4731.65 of the Revised Code. 364

(4) "Health care facility" means any of the following: 365

(a) An ambulatory surgical facility; 366

(b) A freestanding dialysis center; 367

(c) A freestanding inpatient rehabilitation facility; 368

(d) A freestanding birthing center; 369

(e) A freestanding radiation therapy center; 370

(f) A freestanding or mobile diagnostic imaging center. 371

(5) "Third-party payer" has the same meaning as in section 372
3901.38 of the Revised Code. 373

(B) By rule adopted in accordance with sections 3702.12 and 374
3702.13 of the Revised Code, the director of health shall 375
establish quality standards for health care facilities. The 376
standards may incorporate accreditation standards or other quality 377
standards established by any entity recognized by the director. 378

~~In the case of an ambulatory surgical facility, the standards 379
shall require the ambulatory surgical facility to maintain an 380
infection control program. The purposes of the program are to 381
minimize infections and communicable diseases and facilitate a 382
functional and sanitary environment consistent with standards of 383
professional practice. To achieve these purposes, ambulatory 384
surgical facility staff managing the program shall create and 385
administer a plan designed to prevent, identify, and manage 386~~

~~infections and communicable diseases; ensure that the program is 387
directed by a qualified professional trained in infection control; 388
ensure that the program is an integral part of the ambulatory 389
surgical facility's quality assessment and performance improvement 390
program; and implement in an expeditious manner corrective and 391
preventive measures that result in improvement. 392~~

(C) Every ambulatory surgical facility shall require that 393
each physician who practices at the facility comply with all 394
relevant provisions in the Revised Code that relate to the 395
obtaining of informed consent from a patient. 396

(D) The director shall issue a license to each health care 397
facility that makes application for a license and demonstrates to 398
the director that it meets the quality standards established by 399
the rules adopted under division (B) of this section and satisfies 400
the informed consent compliance requirements specified in division 401
(C) of this section. 402

(E)(1) Except as provided in division (H) of this section and 403
in section 3702.301 of the Revised Code, no health care facility 404
shall operate without a license issued under this section. 405

(2) If the department of health finds that a physician who 406
practices at a health care facility is not complying with any 407
provision of the Revised Code related to the obtaining of informed 408
consent from a patient, the department shall report its finding to 409
the state medical board, the physician, and the health care 410
facility. 411

(3) This division does not create, and shall not be construed 412
as creating, a new cause of action or substantive legal right 413
against a health care facility and in favor of a patient who 414
allegedly sustains harm as a result of the failure of the 415
patient's physician to obtain informed consent from the patient 416
prior to performing a procedure on or otherwise caring for the 417

patient in the health care facility. 418

(F) The rules adopted under division (B) of this section 419
shall include all of the following: 420

(1) Provisions governing application for, renewal, 421
suspension, and revocation of a license under this section; 422

(2) Provisions governing orders issued pursuant to section 423
3702.32 of the Revised Code for a health care facility to cease 424
its operations or to prohibit certain types of services provided 425
by a health care facility; 426

(3) Provisions governing the imposition under section 3702.32 427
of the Revised Code of civil penalties for violations of this 428
section or the rules adopted under this section, including a scale 429
for determining the amount of the penalties; 430

~~(4) Provisions specifying the form inspectors must use when 431
conducting inspections of ambulatory surgical facilities. 432~~

(G) An ambulatory surgical facility that performs or induces 433
abortions shall comply with section 3701.791 of the Revised Code. 434

(H) The following entities are not required to obtain a 435
license as a freestanding diagnostic imaging center issued under 436
this section: 437

(1) A hospital registered under section 3701.07 of the 438
Revised Code that provides diagnostic imaging; 439

(2) An entity that is reviewed as part of a hospital 440
accreditation or certification program and that provides 441
diagnostic imaging; 442

(3) An ambulatory surgical facility that provides diagnostic 443
imaging in conjunction with or during any portion of a surgical 444
procedure. 445

Sec. 4731.22. (A) The state medical board, by an affirmative 446

vote of not fewer than six of its members, may limit, revoke, or 447
suspend an individual's certificate to practice, refuse to grant a 448
certificate to an individual, refuse to register an individual, 449
refuse to reinstate a certificate, or reprimand or place on 450
probation the holder of a certificate if the individual or 451
certificate holder is found by the board to have committed fraud 452
during the administration of the examination for a certificate to 453
practice or to have committed fraud, misrepresentation, or 454
deception in applying for or securing any certificate to practice 455
or certificate of registration issued by the board. 456

(B) The board, by an affirmative vote of not fewer than six 457
members, shall, to the extent permitted by law, limit, revoke, or 458
suspend an individual's certificate to practice, refuse to 459
register an individual, refuse to reinstate a certificate, or 460
reprimand or place on probation the holder of a certificate for 461
one or more of the following reasons: 462

(1) Permitting one's name or one's certificate to practice or 463
certificate of registration to be used by a person, group, or 464
corporation when the individual concerned is not actually 465
directing the treatment given; 466

(2) Failure to maintain minimal standards applicable to the 467
selection or administration of drugs, or failure to employ 468
acceptable scientific methods in the selection of drugs or other 469
modalities for treatment of disease; 470

(3) Selling, giving away, personally furnishing, prescribing, 471
or administering drugs for other than legal and legitimate 472
therapeutic purposes or a plea of guilty to, a judicial finding of 473
guilt of, or a judicial finding of eligibility for intervention in 474
lieu of conviction of, a violation of any federal or state law 475
regulating the possession, distribution, or use of any drug; 476

(4) Willfully betraying a professional confidence. 477

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

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

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;	510
(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;	511 512 513 514
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	515 516 517
(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;	518 519 520
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	521 522 523
(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;	524 525 526
(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;	527 528 529
(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;	530 531 532
(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	533 534 535
(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;	536 537
(16) Failure to pay license renewal fees specified in this chapter;	538 539

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

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

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

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

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

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation

of, or conspiring to violate, any provisions of this chapter or 605
any rule promulgated by the board. 606

This division does not apply to a violation or attempted 607
violation of, assisting in or abetting the violation of, or a 608
conspiracy to violate, any provision of this chapter or any rule 609
adopted by the board that would preclude the making of a report by 610
a physician of an employee's use of a drug of abuse, or of a 611
condition of an employee other than one involving the use of a 612
drug of abuse, to the employer of the employee as described in 613
division (B) of section 2305.33 of the Revised Code. Nothing in 614
this division affects the immunity from civil liability conferred 615
by that section upon a physician who makes either type of report 616
in accordance with division (B) of that section. As used in this 617
division, "employee," "employer," and "physician" have the same 618
meanings as in section 2305.33 of the Revised Code. 619

(21) The violation of section 3701.79 of the Revised Code or 620
of any abortion rule adopted by the public health council pursuant 621
to section 3701.341 of the Revised Code; 622

(22) Any of the following actions taken by an agency 623
responsible for authorizing, certifying, or regulating an 624
individual to practice a health care occupation or provide health 625
care services in this state or another jurisdiction, for any 626
reason other than the nonpayment of fees: the limitation, 627
revocation, or suspension of an individual's license to practice; 628
acceptance of an individual's license surrender; denial of a 629
license; refusal to renew or reinstate a license; imposition of 630
probation; or issuance of an order of censure or other reprimand; 631

(23) The violation of section 2919.12 of the Revised Code or 632
the performance or inducement of an abortion upon a pregnant woman 633
with actual knowledge that the conditions specified in division 634
(B) of section 2317.56 of the Revised Code have not been satisfied 635
or with a heedless indifference as to whether those conditions 636

have been satisfied, unless an affirmative defense as specified in 637
division (H)(2) of that section would apply in a civil action 638
authorized by division (H)(1) of that section; 639

(24) The revocation, suspension, restriction, reduction, or 640
termination of clinical privileges by the United States department 641
of defense or department of veterans affairs or the termination or 642
suspension of a certificate of registration to prescribe drugs by 643
the drug enforcement administration of the United States 644
department of justice; 645

(25) Termination or suspension from participation in the 646
medicare or medicaid programs by the department of health and 647
human services or other responsible agency for any act or acts 648
that also would constitute a violation of division (B)(2), (3), 649
(6), (8), or (19) of this section; 650

(26) Impairment of ability to practice according to 651
acceptable and prevailing standards of care because of habitual or 652
excessive use or abuse of drugs, alcohol, or other substances that 653
impair ability to practice. 654

For the purposes of this division, any individual authorized 655
to practice by this chapter accepts the privilege of practicing in 656
this state subject to supervision by the board. By filing an 657
application for or holding a certificate to practice under this 658
chapter, an individual shall be deemed to have given consent to 659
submit to a mental or physical examination when ordered to do so 660
by the board in writing, and to have waived all objections to the 661
admissibility of testimony or examination reports that constitute 662
privileged communications. 663

If it has reason to believe that any individual authorized to 664
practice by this chapter or any applicant for certification to 665
practice suffers such impairment, the board may compel the 666
individual to submit to a mental or physical examination, or both. 667

The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

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

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, 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 the 699
assessments and shall describe the basis for their determination. 700

The board may reinstate a certificate suspended under this 701
division after that demonstration and after the individual has 702
entered into a written consent agreement. 703

When the impaired practitioner resumes practice, the board 704
shall require continued monitoring of the individual. The 705
monitoring shall include, but not be limited to, compliance with 706
the written consent agreement entered into before reinstatement or 707
with conditions imposed by board order after a hearing, and, upon 708
termination of the consent agreement, submission to the board for 709
at least two years of annual written progress reports made under 710
penalty of perjury stating whether the individual has maintained 711
sobriety. 712

(27) A second or subsequent violation of section 4731.66 or 713
4731.69 of the Revised Code; 714

(28) Except as provided in division (N) of this section: 715

(a) Waiving the payment of all or any part of a deductible or 716
copayment that a patient, pursuant to a health insurance or health 717
care policy, contract, or plan that covers the individual's 718
services, otherwise would be required to pay if the waiver is used 719
as an enticement to a patient or group of patients to receive 720
health care services from that individual; 721

(b) Advertising that the individual will waive the payment of 722
all or any part of a deductible or copayment that a patient, 723
pursuant to a health insurance or health care policy, contract, or 724
plan that covers the individual's services, otherwise would be 725
required to pay. 726

(29) Failure to use universal blood and body fluid 727
precautions established by rules adopted under section 4731.051 of 728
the Revised Code; 729

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

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

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

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

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, 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;

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised

Code and the board's rules for providing that supervision;	761
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	762 763 764
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	765 766
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	767 768
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	769 770 771
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	772 773 774
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	775 776 777 778
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	779 780 781 782
(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	783 784 785 786
(44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code;	787 788 789 790

(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

~~(47) Failure to comply with the requirement regarding maintaining notes described in division (B) of section 2919.191 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman.~~

(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 individual 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.

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

If the board takes disciplinary action against an individual 822
under division (B) of this section for a second or subsequent plea 823
of guilty to, or judicial finding of guilt of, a violation of 824
section 2919.123 of the Revised Code, the disciplinary action 825
shall consist of a suspension of the individual's certificate to 826
practice for a period of at least one year or, if determined 827
appropriate by the board, a more serious sanction involving the 828
individual's certificate to practice. Any consent agreement 829
entered into under this division with an individual that pertains 830
to a second or subsequent plea of guilty to, or judicial finding 831
of guilt of, a violation of that section shall provide for a 832
suspension of the individual's certificate to practice for a 833
period of at least one year or, if determined appropriate by the 834
board, a more serious sanction involving the individual's 835
certificate to practice. 836

(D) For purposes of divisions (B)(10), (12), and (14) of this 837
section, the commission of the act may be established by a finding 838
by the board, pursuant to an adjudication under Chapter 119. of 839
the Revised Code, that the individual committed the act. The board 840
does not have jurisdiction under those divisions if the trial 841
court renders a final judgment in the individual's favor and that 842
judgment is based upon an adjudication on the merits. The board 843
has jurisdiction under those divisions if the trial court issues 844
an order of dismissal upon technical or procedural grounds. 845

(E) The sealing of conviction records by any court shall have 846
no effect upon a prior board order entered under this section or 847
upon the board's jurisdiction to take action under this section 848
if, based upon a plea of guilty, a judicial finding of guilt, or a 849
judicial finding of eligibility for intervention in lieu of 850
conviction, the board issued a notice of opportunity for a hearing 851
prior to the court's order to seal the records. The board shall 852
not be required to seal, destroy, redact, or otherwise modify its 853

records to reflect the court's sealing of conviction records. 854

(F)(1) The board shall investigate evidence that appears to 855
show that a person has violated any provision of this chapter or 856
any rule adopted under it. Any person may report to the board in a 857
signed writing any information that the person may have that 858
appears to show a violation of any provision of this chapter or 859
any rule adopted under it. In the absence of bad faith, any person 860
who reports information of that nature or who testifies before the 861
board in any adjudication conducted under Chapter 119. of the 862
Revised Code shall not be liable in damages in a civil action as a 863
result of the report or testimony. Each complaint or allegation of 864
a violation received by the board shall be assigned a case number 865
and shall be recorded by the board. 866

(2) Investigations of alleged violations of this chapter or 867
any rule adopted under it shall be supervised by the supervising 868
member elected by the board in accordance with section 4731.02 of 869
the Revised Code and by the secretary as provided in section 870
4731.39 of the Revised Code. The president may designate another 871
member of the board to supervise the investigation in place of the 872
supervising member. No member of the board who supervises the 873
investigation of a case shall participate in further adjudication 874
of the case. 875

(3) In investigating a possible violation of this chapter or 876
any rule adopted under this chapter, or in conducting an 877
inspection under division (E) of section 4731.054 of the Revised 878
Code, the board may question witnesses, conduct interviews, 879
administer oaths, order the taking of depositions, inspect and 880
copy any books, accounts, papers, records, or documents, issue 881
subpoenas, and compel the attendance of witnesses and production 882
of books, accounts, papers, records, documents, and testimony, 883
except that a subpoena for patient record information shall not be 884
issued without consultation with the attorney general's office and 885

approval of the secretary and supervising member of the board. 886

(a) Before issuance of a subpoena for patient record 887
information, the secretary and supervising member shall determine 888
whether there is probable cause to believe that the complaint 889
filed alleges a violation of this chapter or any rule adopted 890
under it and that the records sought are relevant to the alleged 891
violation and material to the investigation. The subpoena may 892
apply only to records that cover a reasonable period of time 893
surrounding the alleged violation. 894

(b) On failure to comply with any subpoena issued by the 895
board and after reasonable notice to the person being subpoenaed, 896
the board may move for an order compelling the production of 897
persons or records pursuant to the Rules of Civil Procedure. 898

(c) A subpoena issued by the board may be served by a 899
sheriff, the sheriff's deputy, or a board employee designated by 900
the board. Service of a subpoena issued by the board may be made 901
by delivering a copy of the subpoena to the person named therein, 902
reading it to the person, or leaving it at the person's usual 903
place of residence, usual place of business, or address on file 904
with the board. When serving a subpoena to an applicant for or the 905
holder of a certificate issued under this chapter, service of the 906
subpoena may be made by certified mail, return receipt requested, 907
and the subpoena shall be deemed served on the date delivery is 908
made or the date the person refuses to accept delivery. If the 909
person being served refuses to accept the subpoena or is not 910
located, service may be made to an attorney who notifies the board 911
that the attorney is representing the person. 912

(d) A sheriff's deputy who serves a subpoena shall receive 913
the same fees as a sheriff. Each witness who appears before the 914
board in obedience to a subpoena shall receive the fees and 915
mileage provided for under section 119.094 of the Revised Code. 916

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

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation or pursuant to an inspection under division (E) of section 4731.054 of the Revised Code is confidential and not subject to discovery in any civil action.

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

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

is maintained with respect to any part of the information that 949
contains names or other identifying information about patients or 950
complainants whose confidentiality was protected by the state 951
medical board when the information was in the board's possession. 952
Measures to ensure confidentiality that may be taken by the court 953
include sealing its records or deleting specific information from 954
its records. 955

(6) On a quarterly basis, the board shall prepare a report 956
that documents the disposition of all cases during the preceding 957
three months. The report shall contain the following information 958
for each case with which the board has completed its activities: 959

(a) The case number assigned to the complaint or alleged 960
violation; 961

(b) The type of certificate to practice, if any, held by the 962
individual against whom the complaint is directed; 963

(c) A description of the allegations contained in the 964
complaint; 965

(d) The disposition of the case. 966

The report shall state how many cases are still pending and 967
shall be prepared in a manner that protects the identity of each 968
person involved in each case. The report shall be a public record 969
under section 149.43 of the Revised Code. 970

(G) If the secretary and supervising member determine both of 971
the following, they may recommend that the board suspend an 972
individual's certificate to practice without a prior hearing: 973

(1) That there is clear and convincing evidence that an 974
individual has violated division (B) of this section; 975

(2) That the individual's continued practice presents a 976
danger of immediate and serious harm to the public. 977

Written allegations shall be prepared for consideration by 978

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

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

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

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate

to practice. The board may then hold an adjudication under Chapter 1011
119. of the Revised Code to determine whether the individual 1012
committed the act in question. Notice of an opportunity for a 1013
hearing shall be given in accordance with Chapter 119. of the 1014
Revised Code. If the board finds, pursuant to an adjudication held 1015
under this division, that the individual committed the act or if 1016
no hearing is requested, the board may order any of the sanctions 1017
identified under division (B) of this section. 1018

(I) The certificate to practice issued to an individual under 1019
this chapter and the individual's practice in this state are 1020
automatically suspended as of the date of the individual's second 1021
or subsequent plea of guilty to, or judicial finding of guilt of, 1022
a violation of section 2919.123 of the Revised Code, or the date 1023
the individual pleads guilty to, is found by a judge or jury to be 1024
guilty of, or is subject to a judicial finding of eligibility for 1025
intervention in lieu of conviction in this state or treatment or 1026
intervention in lieu of conviction in another jurisdiction for any 1027
of the following criminal offenses in this state or a 1028
substantially equivalent criminal offense in another jurisdiction: 1029
aggravated murder, murder, voluntary manslaughter, felonious 1030
assault, kidnapping, rape, sexual battery, gross sexual 1031
imposition, aggravated arson, aggravated robbery, or aggravated 1032
burglary. Continued practice after suspension shall be considered 1033
practicing without a certificate. 1034

The board shall notify the individual subject to the 1035
suspension by certified mail or in person in accordance with 1036
section 119.07 of the Revised Code. If an individual whose 1037
certificate is automatically suspended under this division fails 1038
to make a timely request for an adjudication under Chapter 119. of 1039
the Revised Code, the board shall do whichever of the following is 1040
applicable: 1041

(1) If the automatic suspension under this division is for a 1042

second or subsequent plea of guilty to, or judicial finding of 1043
guilt of, a violation of section 2919.123 of the Revised Code, the 1044
board shall enter an order suspending the individual's certificate 1045
to practice for a period of at least one year or, if determined 1046
appropriate by the board, imposing a more serious sanction 1047
involving the individual's certificate to practice. 1048

(2) In all circumstances in which division (I)(1) of this 1049
section does not apply, enter a final order permanently revoking 1050
the individual's certificate to practice. 1051

(J) If the board is required by Chapter 119. of the Revised 1052
Code to give notice of an opportunity for a hearing and if the 1053
individual subject to the notice does not timely request a hearing 1054
in accordance with section 119.07 of the Revised Code, the board 1055
is not required to hold a hearing, but may adopt, by an 1056
affirmative vote of not fewer than six of its members, a final 1057
order that contains the board's findings. In that final order, the 1058
board may order any of the sanctions identified under division (A) 1059
or (B) of this section. 1060

(K) Any action taken by the board under division (B) of this 1061
section resulting in a suspension from practice shall be 1062
accompanied by a written statement of the conditions under which 1063
the individual's certificate to practice may be reinstated. The 1064
board shall adopt rules governing conditions to be imposed for 1065
reinstatement. Reinstatement of a certificate suspended pursuant 1066
to division (B) of this section requires an affirmative vote of 1067
not fewer than six members of the board. 1068

(L) When the board refuses to grant a certificate to an 1069
applicant, revokes an individual's certificate to practice, 1070
refuses to register an applicant, or refuses to reinstate an 1071
individual's certificate to practice, the board may specify that 1072
its action is permanent. An individual subject to a permanent 1073
action taken by the board is forever thereafter ineligible to hold 1074

a certificate to practice and the board shall not accept an 1075
application for reinstatement of the certificate or for issuance 1076
of a new certificate. 1077

(M) Notwithstanding any other provision of the Revised Code, 1078
all of the following apply: 1079

(1) The surrender of a certificate issued under this chapter 1080
shall not be effective unless or until accepted by the board. A 1081
telephone conference call may be utilized for acceptance of the 1082
surrender of an individual's certificate to practice. The 1083
telephone conference call shall be considered a special meeting 1084
under division (F) of section 121.22 of the Revised Code. 1085
Reinstatement of a certificate surrendered to the board requires 1086
an affirmative vote of not fewer than six members of the board. 1087

(2) An application for a certificate made under the 1088
provisions of this chapter may not be withdrawn without approval 1089
of the board. 1090

(3) Failure by an individual to renew a certificate of 1091
registration in accordance with this chapter shall not remove or 1092
limit the board's jurisdiction to take any disciplinary action 1093
under this section against the individual. 1094

(4) At the request of the board, a certificate holder shall 1095
immediately surrender to the board a certificate that the board 1096
has suspended, revoked, or permanently revoked. 1097

(N) Sanctions shall not be imposed under division (B)(28) of 1098
this section against any person who waives deductibles and 1099
copayments as follows: 1100

(1) In compliance with the health benefit plan that expressly 1101
allows such a practice. Waiver of the deductibles or copayments 1102
shall be made only with the full knowledge and consent of the plan 1103
purchaser, payer, and third-party administrator. Documentation of 1104
the consent shall be made available to the board upon request. 1105

(2) For professional services rendered to any other person 1106
authorized to practice pursuant to this chapter, to the extent 1107
allowed by this chapter and rules adopted by the board. 1108

(0) Under the board's investigative duties described in this 1109
section and subject to division (F) of this section, the board 1110
shall develop and implement a quality intervention program 1111
designed to improve through remedial education the clinical and 1112
communication skills of individuals authorized under this chapter 1113
to practice medicine and surgery, osteopathic medicine and 1114
surgery, and podiatric medicine and surgery. In developing and 1115
implementing the quality intervention program, the board may do 1116
all of the following: 1117

(1) Offer in appropriate cases as determined by the board an 1118
educational and assessment program pursuant to an investigation 1119
the board conducts under this section; 1120

(2) Select providers of educational and assessment services, 1121
including a quality intervention program panel of case reviewers; 1122

(3) Make referrals to educational and assessment service 1123
providers and approve individual educational programs recommended 1124
by those providers. The board shall monitor the progress of each 1125
individual undertaking a recommended individual educational 1126
program. 1127

(4) Determine what constitutes successful completion of an 1128
individual educational program and require further monitoring of 1129
the individual who completed the program or other action that the 1130
board determines to be appropriate; 1131

(5) Adopt rules in accordance with Chapter 119. of the 1132
Revised Code to further implement the quality intervention 1133
program. 1134

An individual who participates in an individual educational 1135
program pursuant to this division shall pay the financial 1136

obligations arising from that educational program. 1137

Sec. 5101.35. (A) As used in this section: 1138

(1)(a) "Agency" means the following entities that administer 1139
a family services program: 1140

(i) The department of job and family services; 1141

(ii) A county department of job and family services; 1142

(iii) A public children services agency; 1143

(iv) A private or government entity administering, in whole 1144
or in part, a family services program for or on behalf of the 1145
department of job and family services or a county department of 1146
job and family services or public children services agency. 1147

(b) If the department of medicaid contracts with the 1148
department of job and family services to hear appeals authorized 1149
by section 5160.31 of the Revised Code regarding medical 1150
assistance programs, "agency" includes the department of medicaid. 1151

(2) "Appellant" means an applicant, participant, former 1152
participant, recipient, or former recipient of a family services 1153
program who is entitled by federal or state law to a hearing 1154
regarding a decision or order of the agency that administers the 1155
program. 1156

(3)(a) "Family services program" means all of the following: 1157

(i) A Title IV-A program as defined in section 5101.80 of the 1158
Revised Code; 1159

(ii) Programs that provide assistance under Chapter 5104. or 1160
5115. of the Revised Code; 1161

(iii) Programs that provide assistance under section 1162
5101.141, 5101.461, 5101.54, 5119.41, 5153.163, or 5153.165 of the 1163
Revised Code; 1164

(iv) Title XX social services provided under section 5101.46 1165
of the Revised Code, other than such services provided by the 1166
department of mental health and addiction services, the department 1167
of developmental disabilities, a board of alcohol, drug addiction, 1168
and mental health services, or a county board of developmental 1169
disabilities. 1170

(b) If the department of medicaid contracts with the 1171
department of job and family services to hear appeals authorized 1172
by section 5160.31 of the Revised Code regarding medical 1173
assistance programs, "family services program" includes medical 1174
assistance programs. 1175

(4) "Medical assistance program" has the same meaning as in 1176
section 5160.01 of the Revised Code. 1177

(B) Except as provided by divisions (G) and (H) of this 1178
section, an appellant who appeals under federal or state law a 1179
decision or order of an agency administering a family services 1180
program shall, at the appellant's request, be granted a state 1181
hearing by the department of job and family services. This state 1182
hearing shall be conducted in accordance with rules adopted under 1183
this section. The state hearing shall be recorded, but neither the 1184
recording nor a transcript of the recording shall be part of the 1185
official record of the proceeding. Except as provided in section 1186
5160.31 of the Revised Code, a state hearing decision is binding 1187
upon the agency and department, unless it is reversed or modified 1188
on appeal to the director of job and family services or a court of 1189
common pleas. 1190

(C) Except as provided by division (G) of this section, an 1191
appellant who disagrees with a state hearing decision may make an 1192
administrative appeal to the director of job and family services 1193
in accordance with rules adopted under this section. This 1194
administrative appeal does not require a hearing, but the director 1195
or the director's designee shall review the state hearing decision 1196

and previous administrative action and may affirm, modify, remand, 1197
or reverse the state hearing decision. An administrative appeal 1198
decision is the final decision of the department and, except as 1199
provided in section 5160.31 of the Revised Code, is binding upon 1200
the department and agency, unless it is reversed or modified on 1201
appeal to the court of common pleas. 1202

(D) An agency shall comply with a decision issued pursuant to 1203
division (B) or (C) of this section within the time limits 1204
established by rules adopted under this section. If a county 1205
department of job and family services or a public children 1206
services agency fails to comply within these time limits, the 1207
department may take action pursuant to section 5101.24 of the 1208
Revised Code. If another agency, other than the department of 1209
medicaid, fails to comply within the time limits, the department 1210
may force compliance by withholding funds due the agency or 1211
imposing another sanction established by rules adopted under this 1212
section. 1213

(E) An appellant who disagrees with an administrative appeal 1214
decision of the director of job and family services or the 1215
director's designee issued under division (C) of this section may 1216
appeal from the decision to the court of common pleas pursuant to 1217
section 119.12 of the Revised Code. The appeal shall be governed 1218
by section 119.12 of the Revised Code except that: 1219

(1) The person may appeal to the court of common pleas of the 1220
county in which the person resides, or to the court of common 1221
pleas of Franklin county if the person does not reside in this 1222
state. 1223

(2) The person may apply to the court for designation as an 1224
indigent and, if the court grants this application, the appellant 1225
shall not be required to furnish the costs of the appeal. 1226

(3) The appellant shall mail the notice of appeal to the 1227

department of job and family services and file notice of appeal 1228
with the court within thirty days after the department mails the 1229
administrative appeal decision to the appellant. For good cause 1230
shown, the court may extend the time for mailing and filing notice 1231
of appeal, but such time shall not exceed six months from the date 1232
the department mails the administrative appeal decision. Filing 1233
notice of appeal with the court shall be the only act necessary to 1234
vest jurisdiction in the court. 1235

(4) The department shall be required to file a transcript of 1236
the testimony of the state hearing with the court only if the 1237
court orders the department to file the transcript. The court 1238
shall make such an order only if it finds that the department and 1239
the appellant are unable to stipulate to the facts of the case and 1240
that the transcript is essential to a determination of the appeal. 1241
The department shall file the transcript not later than thirty 1242
days after the day such an order is issued. 1243

(F) The department of job and family services shall adopt 1244
rules in accordance with Chapter 119. of the Revised Code to 1245
implement this section, including rules governing the following: 1246

(1) State hearings under division (B) of this section. The 1247
rules shall include provisions regarding notice of eligibility 1248
termination and the opportunity of an appellant appealing a 1249
decision or order of a county department of job and family 1250
services to request a county conference with the county department 1251
before the state hearing is held. 1252

(2) Administrative appeals under division (C) of this 1253
section; 1254

(3) Time limits for complying with a decision issued under 1255
division (B) or (C) of this section; 1256

(4) Sanctions that may be applied against an agency under 1257
division (D) of this section. 1258

(G) The department of job and family services may adopt rules 1259
in accordance with Chapter 119. of the Revised Code establishing 1260
an appeals process for an appellant who appeals a decision or 1261
order regarding a Title IV-A program identified under division 1262
(A)(4)(c), (d), (e), or (f), ~~or (g)~~ of section 5101.80 of the 1263
Revised Code that is different from the appeals process 1264
established by this section. The different appeals process may 1265
include having a state agency that administers the Title IV-A 1266
program pursuant to an interagency agreement entered into under 1267
section 5101.801 of the Revised Code administer the appeals 1268
process. 1269

(H) If an appellant receiving medicaid through a health 1270
insuring corporation that holds a certificate of authority under 1271
Chapter 1751. of the Revised Code is appealing a denial of 1272
medicaid services based on lack of medical necessity or other 1273
clinical issues regarding coverage by the health insuring 1274
corporation, the person hearing the appeal may order an 1275
independent medical review if that person determines that a review 1276
is necessary. The review shall be performed by a health care 1277
professional with appropriate clinical expertise in treating the 1278
recipient's condition or disease. The department shall pay the 1279
costs associated with the review. 1280

A review ordered under this division shall be part of the 1281
record of the hearing and shall be given appropriate evidentiary 1282
consideration by the person hearing the appeal. 1283

(I) The requirements of Chapter 119. of the Revised Code 1284
apply to a state hearing or administrative appeal under this 1285
section only to the extent, if any, specifically provided by rules 1286
adopted under this section. 1287

Sec. 5101.46. (A) As used in this section: 1288

(1) "Title XX" means Title XX of the "Social Security Act," 1289

88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.	1290
(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health and addiction services, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.	1291 1292 1293 1294 1295 1296 1297
(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	1298 1299 1300 1301 1302 1303
(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:	1304 1305 1306 1307 1308 1309
(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;	1310 1311
(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;	1312 1313
(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;	1314 1315 1316
(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;	1317 1318 1319

(5) Securing referral or admission for institutional care 1320
when other forms of care are not appropriate, or providing 1321
services to individuals in institutions. 1322

(C)(1) All federal funds received under Title XX shall be 1323
appropriated as follows: 1324

(a) Seventy-two and one-half per cent to the department of 1325
job and family services; 1326

(b) Twelve and ninety-three one-hundredths per cent to the 1327
department of mental health and addiction services; 1328

(c) Fourteen and fifty-seven one-hundredths per cent to the 1329
department of developmental disabilities. 1330

(2) Each of the state departments shall, subject to the 1331
approval of the controlling board, develop a formula for the 1332
distribution of the Title XX funds appropriated to the department 1333
to its respective local agencies. The formula developed by each 1334
state department shall take into account all of the following for 1335
each of its respective local agencies: 1336

(a) The total population of the area that is served by the 1337
respective local agency; 1338

(b) The percentage of the population in the area served that 1339
falls below the federal poverty guidelines; 1340

(c) The respective local agency's history of and ability to 1341
utilize Title XX funds. 1342

(3) Each of the state departments shall expend for state 1343
administrative costs not more than three per cent of the Title XX 1344
funds appropriated to the department. 1345

Each state department shall establish for each of its 1346
respective local agencies the maximum percentage of the Title XX 1347
funds distributed to the respective local agency that the 1348
respective local agency may expend for local administrative costs. 1349

The percentage shall be established by rule and shall comply with 1350
federal law governing the use of Title XX funds. The rules shall 1351
be adopted in accordance with section 111.15 of the Revised Code 1352
as if they were internal management rules. 1353

(4) The department of job and family services shall expend 1354
for the training of the following not more than two per cent of 1355
the Title XX funds appropriated to the department: 1356

(a) Employees of county departments of job and family 1357
services; 1358

(b) Providers of services under contract with the state 1359
departments' respective local agencies; 1360

(c) Employees of a public children services agency directly 1361
engaged in providing Title XX services. 1362

~~(5) Title XX funds distributed for the purpose of providing 1363
family planning services shall be distributed by the respective 1364
local agencies according to the same order of priority that 1365
applies to the department of job and family services under section 1366
5101.101 of the Revised Code. 1367~~

(D) The department of job and family services shall prepare 1368
an annual comprehensive Title XX social services plan on the 1369
intended use of Title XX funds. The department shall develop a 1370
method for obtaining public comment during the development of the 1371
plan and following its completion. 1372

For each federal fiscal year, the department of job and 1373
family services shall prepare a report on the actual use of Title 1374
XX funds. The department shall make the annual report available 1375
for public inspection. 1376

The departments of mental health and addiction services and 1377
developmental disabilities shall prepare and submit to the 1378
department of job and family services the portions of each annual 1379

plan and report that apply to services for mental health and 1380
mental retardation and developmental disabilities. Each respective 1381
local agency of the three state departments shall submit 1382
information as necessary for the preparation of annual plans and 1383
reports. 1384

(E) Each county department of job and family services shall 1385
adopt a county profile for the administration and provision of 1386
Title XX social services in the county. In developing its county 1387
profile, the county department shall take into consideration the 1388
comments and recommendations received from the public by the 1389
county family services planning committee pursuant to section 1390
329.06 of the Revised Code. As part of its preparation of the 1391
county profile, the county department may prepare a local needs 1392
report analyzing the need for Title XX social services. 1393

The county department shall submit the county profile to the 1394
board of county commissioners for its review. Once the county 1395
profile has been approved by the board, the county department 1396
shall file a copy of the county profile with the department of job 1397
and family services. The department shall approve the county 1398
profile if the department determines the profile provides for the 1399
Title XX social services to meet the goals specified in division 1400
(B) of this section. 1401

(F) Any of the three state departments and their respective 1402
local agencies may require that an entity under contract to 1403
provide social services with Title XX funds submit to an audit on 1404
the basis of alleged misuse or improper accounting of funds. If an 1405
audit is required, the social services provider shall reimburse 1406
the state department or respective local agency for the cost it 1407
incurred in conducting the audit or having the audit conducted. 1408

If an audit demonstrates that a social services provider is 1409
responsible for one or more adverse findings, the provider shall 1410
reimburse the appropriate state department or its respective local 1411

agency the amount of the adverse findings. The amount shall not be 1412
reimbursed with Title XX funds received under this section. The 1413
three state departments and their respective local agencies may 1414
terminate or refuse to enter into a Title XX contract with a 1415
social services provider if there are adverse findings in an audit 1416
that are the responsibility of the provider. 1417

(G) Except with respect to the matters for which each of the 1418
state departments must adopt rules under division (C)(3) of this 1419
section, the department of job and family services may adopt any 1420
rules it considers necessary to implement and carry out the 1421
purposes of this section. Rules governing financial and 1422
operational matters of the department or matters between the 1423
department and county departments of job and family services shall 1424
be adopted as internal management rules in accordance with section 1425
111.15 of the Revised Code. Rules governing eligibility for 1426
services, program participation, and other matters pertaining to 1427
applicants and participants shall be adopted in accordance with 1428
Chapter 119. of the Revised Code. 1429

Sec. 5101.461. (A) As used in this section: 1430

(1) "Title IV-A" means Title IV-A of the "Social Security 1431
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 1432

(2) "Title XX" has the same meaning as in section 5101.46 of 1433
the Revised Code. 1434

(B) To the extent authorized by federal law, the department 1435
of job and family services may use funds received through the 1436
Title IV-A temporary assistance for needy families block grant for 1437
purposes of providing Title XX social services. The amount used 1438
under this section shall not exceed the maximum amount permitted 1439
by federal law. The funds and provision of Title XX social 1440
services with the funds are not subject to section 5101.46 of the 1441
Revised Code. 1442

~~Funds distributed under this section for the purpose of providing family planning services shall be distributed by a county department of job and family services according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code.~~

(C) The department and any county department of job and family services may require an entity under contract to provide Title XX social services with funds used under this section to submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or county department for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider.

(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.80. (A) As used in this section and in section	1475
5101.801 of the Revised Code:	1476
(1) "County family services agency" has the same meaning as	1477
in section 307.981 of the Revised Code.	1478
(2) "State agency" has the same meaning as in section 9.82 of	1479
the Revised Code.	1480
(3) "Title IV-A administrative agency" means both of the	1481
following:	1482
(a) A county family services agency or state agency	1483
administering a Title IV-A program under the supervision of the	1484
department of job and family services;	1485
(b) A government agency or private, not-for-profit entity	1486
administering a project funded in whole or in part with funds	1487
provided under the Title IV-A demonstration program created under	1488
section 5101.803 of the Revised Code.	1489
(4) "Title IV-A program" means all of the following that are	1490
funded in part with funds provided under the temporary assistance	1491
for needy families block grant established by Title IV-A of the	1492
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as	1493
amended:	1494
(a) The Ohio works first program established under Chapter	1495
5107. of the Revised Code;	1496
(b) The prevention, retention, and contingency program	1497
established under Chapter 5108. of the Revised Code;	1498
(c) A program established by the general assembly or an	1499
executive order issued by the governor that is administered or	1500
supervised by the department of job and family services pursuant	1501
to section 5101.801 of the Revised Code;	1502
(d) The kinship permanency incentive program created under	1503

section 5101.802 of the Revised Code;	1504
(e) The Title IV-A demonstration program created under	1505
section 5101.803 of the Revised Code;	1506
(f) The Ohio parenting and pregnancy program created under	1507
section 5101.804 of the Revised Code;	1508
(g) A component of a Title IV-A program identified under	1509
divisions (A)(4)(a) to (f) <u>(e)</u> of this section that the Title IV-A	1510
state plan prepared under division (C)(1) of this section	1511
identifies as a component.	1512
(B) The department of job and family services shall act as	1513
the single state agency to administer and supervise the	1514
administration of Title IV-A programs. The Title IV-A state plan	1515
and amendments to the plan prepared under division (C) of this	1516
section are binding on Title IV-A administrative agencies. No	1517
Title IV-A administrative agency may establish, by rule or	1518
otherwise, a policy governing a Title IV-A program that is	1519
inconsistent with a Title IV-A program policy established, in rule	1520
or otherwise, by the director of job and family services.	1521
(C) The department of job and family services shall do all of	1522
the following:	1523
(1) Prepare and submit to the United States secretary of	1524
health and human services a Title IV-A state plan for Title IV-A	1525
programs;	1526
(2) Prepare and submit to the United States secretary of	1527
health and human services amendments to the Title IV-A state plan	1528
that the department determines necessary, including amendments	1529
necessary to implement Title IV-A programs identified in divisions	1530
(A)(4)(c) to (g) <u>(f)</u> of this section;	1531
(3) Prescribe forms for applications, certificates, reports,	1532
records, and accounts of Title IV-A administrative agencies, and	1533

other matters related to Title IV-A programs; 1534

(4) Make such reports, in such form and containing such 1535
information as the department may find necessary to assure the 1536
correctness and verification of such reports, regarding Title IV-A 1537
programs; 1538

(5) Require reports and information from each Title IV-A 1539
administrative agency as may be necessary or advisable regarding a 1540
Title IV-A program; 1541

(6) Afford a fair hearing in accordance with section 5101.35 1542
of the Revised Code to any applicant for, or participant or former 1543
participant of, a Title IV-A program aggrieved by a decision 1544
regarding the program; 1545

(7) Administer and expend, pursuant to Chapters 5104., 5107., 1546
and 5108. of the Revised Code and sections 5101.801, 5101.802, and 1547
5101.803, ~~and 5101.804~~ of the Revised Code, any sums appropriated 1548
by the general assembly for the purpose of those chapters and 1549
sections and all sums paid to the state by the secretary of the 1550
treasury of the United States as authorized by Title IV-A of the 1551
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 1552
amended; 1553

(8) Conduct investigations and audits as are necessary 1554
regarding Title IV-A programs; 1555

(9) Enter into reciprocal agreements with other states 1556
relative to the provision of Ohio works first and prevention, 1557
retention, and contingency to residents and nonresidents; 1558

(10) Contract with a private entity to conduct an independent 1559
on-going evaluation of the Ohio works first program and the 1560
prevention, retention, and contingency program. The contract must 1561
require the private entity to do all of the following: 1562

(a) Examine issues of process, practice, impact, and 1563

outcomes; 1564

(b) Study former participants of Ohio works first who have 1565
not participated in Ohio works first for at least one year to 1566
determine whether they are employed, the type of employment in 1567
which they are engaged, the amount of compensation they are 1568
receiving, whether their employer provides health insurance, 1569
whether and how often they have received benefits or services 1570
under the prevention, retention, and contingency program, and 1571
whether they are successfully self sufficient; 1572

(c) Provide the department with reports at times the 1573
department specifies. 1574

(11) Not later than the last day of each January and July, 1575
prepare a report containing information on the following: 1576

(a) Individuals exhausting the time limits for participation 1577
in Ohio works first set forth in section 5107.18 of the Revised 1578
Code. 1579

(b) Individuals who have been exempted from the time limits 1580
set forth in section 5107.18 of the Revised Code and the reasons 1581
for the exemption. 1582

(D) The department shall provide copies of the reports it 1583
receives under division (C)(10) of this section and prepares under 1584
division (C)(11) of this section to the governor, the president 1585
and minority leader of the senate, and the speaker and minority 1586
leader of the house of representatives. The department shall 1587
provide copies of the reports to any private or government entity 1588
on request. 1589

(E) An authorized representative of the department or a 1590
county family services agency or state agency administering a 1591
Title IV-A program shall have access to all records and 1592
information bearing thereon for the purposes of investigations 1593
conducted pursuant to this section. An authorized representative 1594

of a government entity or private, not-for-profit entity 1595
administering a project funded in whole or in part with funds 1596
provided under the Title IV-A demonstration program shall have 1597
access to all records and information bearing on the project for 1598
the purpose of investigations conducted pursuant to this section. 1599

Sec. 5101.801. (A) Except as otherwise provided by the law 1600
enacted by the general assembly or executive order issued by the 1601
governor establishing the Title IV-A program, a Title IV-A program 1602
identified under division (A)(4)(c), (d), (e), or (f), ~~or (g)~~ of 1603
section 5101.80 of the Revised Code shall provide benefits and 1604
services that are not "assistance" as defined in 45 C.F.R. 1605
260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) 1606
excludes from the definition of assistance. 1607

(B)(1) Except as otherwise provided by the law enacted by the 1608
general assembly or executive order issued by the governor 1609
establishing the Title IV-A program, the department of job and 1610
family services shall do either of the following regarding a Title 1611
IV-A program identified under division (A)(4)(c), (d), (e), or 1612
(f), ~~or (g)~~ of section 5101.80 of the Revised Code: 1613

(a) Administer the program or supervise a county family 1614
services agency's administration of the program; 1615

(b) Enter into an interagency agreement with a state agency 1616
for the state agency to administer the program under the 1617
department's supervision. 1618

(2) The department may enter into an agreement with a 1619
government entity and, to the extent permitted by federal law, a 1620
private, not-for-profit entity for the entity to receive funding 1621
for a project under the Title IV-A demonstration program ~~created~~ 1622
~~under section 5101.803 of the Revised Code.~~ 1623

~~(3) To the extent permitted by federal law, the department 1624~~

~~may enter into an agreement with a private, not for profit entity 1625
for the entity to receive funds under the Ohio parenting and 1626
pregnancy program created under section 5101.804 of the Revised 1627
Code. 1628~~

(C) The department may adopt rules governing Title IV-A 1629
programs identified under divisions (A)(4)(c), (d), (e), and (f) 1630
~~and (g)~~ of section 5101.80 of the Revised Code. Rules governing 1631
financial and operational matters of the department or between the 1632
department and county family services agencies shall be adopted as 1633
internal management rules adopted in accordance with section 1634
111.15 of the Revised Code. All other rules shall be adopted in 1635
accordance with Chapter 119. of the Revised Code. 1636

(D) If the department enters into an agreement regarding a 1637
Title IV-A program identified under division (A)(4)(c), (e), or 1638
(f), ~~or (g)~~ of section 5101.80 of the Revised Code pursuant to 1639
division (B)(1)(b) or (2) of this section, the agreement shall 1640
include at least all of the following: 1641

(1) A requirement that the state agency or entity comply with 1642
the requirements for the program or project, including all of the 1643
following requirements established by federal statutes and 1644
regulations, state statutes and rules, the United States office of 1645
management and budget, and the Title IV-A state plan prepared 1646
under section 5101.80 of the Revised Code: 1647

(a) Eligibility; 1648

(b) Reports; 1649

(c) Benefits and services; 1650

(d) Use of funds; 1651

(e) Appeals for applicants for, and recipients and former 1652
recipients of, the benefits and services; 1653

(f) Audits. 1654

(2) A complete description of all of the following:	1655
(a) The benefits and services that the program or project is to provide;	1656 1657
(b) The methods of program or project administration;	1658
(c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services;	1659 1660 1661
(d) Other requirements that the department requires be included.	1662 1663
(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project before the policy is established;	1664 1665 1666 1667
(4) Provisions regarding how the department is to reimburse the state agency or entity for allowable expenditures under the program or project that the department approves, including all of the following:	1668 1669 1670 1671
(a) Limitations on administrative costs;	1672
(b) The department, at its discretion, doing either of the following:	1673 1674
(i) Withholding no more than five per cent of the funds that the department would otherwise provide to the state agency or entity for the program or project;	1675 1676 1677
(ii) Charging the state agency or entity for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the program or project.	1678 1679 1680 1681
(5) If the state agency or entity arranges by contract, grant, or other agreement for another entity to perform a function the state agency or entity would otherwise perform regarding the	1682 1683 1684

program or project, the state agency or entity's responsibilities	1685
for both of the following:	1686
(a) Ensuring that the other entity complies with the	1687
agreement between the state agency or entity and department and	1688
federal statutes and regulations and state statutes and rules	1689
governing the use of funds for the program or project;	1690
(b) Auditing the other entity in accordance with requirements	1691
established by the United States office of management and budget.	1692
(6) The state agency or entity's responsibilities regarding	1693
the prompt payment, including any interest assessed, of any	1694
adverse audit finding, final disallowance of federal funds, or	1695
other sanction or penalty imposed by the federal government,	1696
auditor of state, department, a court, or other entity regarding	1697
funds for the program or project;	1698
(7) Provisions for the department to terminate the agreement	1699
or withhold reimbursement from the state agency or entity if	1700
either of the following occur:	1701
(a) The federal government disapproves the program or project	1702
or reduces federal funds for the program or project;	1703
(b) The state agency or entity fails to comply with the terms	1704
of the agreement.	1705
(8) Provisions for both of the following:	1706
(a) The department and state agency or entity determining the	1707
performance outcomes expected for the program or project;	1708
(b) An evaluation of the program or project to determine its	1709
success in achieving the performance outcomes determined under	1710
division (D)(8)(a) of this section.	1711
(E) To the extent consistent with the law enacted by the	1712
general assembly or executive order issued by the governor	1713
establishing the Title IV-A program and subject to the approval of	1714

the director of budget and management, the director of job and 1715
family services may terminate a Title IV-A program identified 1716
under division (A)(4)(c), (d), (e), or (f), ~~or (g)~~ of section 1717
5101.80 of the Revised Code or reduce funding for the program if 1718
the director of job and family services determines that federal or 1719
state funds are insufficient to fund the program. If the director 1720
of budget and management approves the termination or reduction in 1721
funding for such a program, the director of job and family 1722
services shall issue instructions for the termination or funding 1723
reduction. If a Title IV-A administrative agency is administering 1724
the program, the agency is bound by the termination or funding 1725
reduction and shall comply with the director's instructions. 1726

(F) The director of job and family services may adopt 1727
internal management rules in accordance with section 111.15 of the 1728
Revised Code as necessary to implement this section. The rules are 1729
binding on each Title IV-A administrative agency. 1730

Sec. 5153.16. (A) Except as provided in section 2151.422 of 1731
the Revised Code, in accordance with rules adopted under section 1732
5153.166 of the Revised Code, and on behalf of children in the 1733
county whom the public children services agency considers to be in 1734
need of public care or protective services, the public children 1735
services agency shall do all of the following: 1736

(1) Make an investigation concerning any child alleged to be 1737
an abused, neglected, or dependent child; 1738

(2) Enter into agreements with the parent, guardian, or other 1739
person having legal custody of any child, or with the department 1740
of job and family services, department of mental health and 1741
addiction services, department of developmental disabilities, 1742
other department, any certified organization within or outside the 1743
county, or any agency or institution outside the state, having 1744
legal custody of any child, with respect to the custody, care, or 1745

placement of any child, or with respect to any matter, in the 1746
interests of the child, provided the permanent custody of a child 1747
shall not be transferred by a parent to the public children 1748
services agency without the consent of the juvenile court; 1749

(3) Accept custody of children committed to the public 1750
children services agency by a court exercising juvenile 1751
jurisdiction; 1752

(4) Provide such care as the public children services agency 1753
considers to be in the best interests of any child adjudicated to 1754
be an abused, neglected, or dependent child the agency finds to be 1755
in need of public care or service; 1756

(5) Provide social services to any unmarried girl adjudicated 1757
to be an abused, neglected, or dependent child who is pregnant 1758
with or has been delivered of a child; 1759

(6) Make available to the bureau for children with medical 1760
handicaps of the department of health at its request any 1761
information concerning a crippled child found to be in need of 1762
treatment under sections 3701.021 to 3701.028 of the Revised Code 1763
who is receiving services from the public children services 1764
agency; 1765

(7) Provide temporary emergency care for any child considered 1766
by the public children services agency to be in need of such care, 1767
without agreement or commitment; 1768

(8) Find certified foster homes, within or outside the 1769
county, for the care of children, including handicapped children 1770
from other counties attending special schools in the county; 1771

(9) Subject to the approval of the board of county 1772
commissioners and the state department of job and family services, 1773
establish and operate a training school or enter into an agreement 1774
with any municipal corporation or other political subdivision of 1775
the county respecting the operation, acquisition, or maintenance 1776

of any children's home, training school, or other institution for 1777
the care of children maintained by such municipal corporation or 1778
political subdivision; 1779

(10) Acquire and operate a county children's home, establish, 1780
maintain, and operate a receiving home for the temporary care of 1781
children, or procure certified foster homes for this purpose; 1782

(11) Enter into an agreement with the trustees of any 1783
district children's home, respecting the operation of the district 1784
children's home in cooperation with the other county boards in the 1785
district; 1786

(12) Cooperate with, make its services available to, and act 1787
as the agent of persons, courts, the department of job and family 1788
services, the department of health, and other organizations within 1789
and outside the state, in matters relating to the welfare of 1790
children, except that the public children services agency shall 1791
not be required to provide supervision of or other services 1792
related to the exercise of parenting time rights granted pursuant 1793
to section 3109.051 or 3109.12 of the Revised Code or 1794
companionship or visitation rights granted pursuant to section 1795
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 1796
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 1797
a common pleas court, pursuant to division (E)(6) of section 1798
3113.31 of the Revised Code, requires the provision of supervision 1799
or other services related to the exercise of the parenting time 1800
rights or companionship or visitation rights; 1801

(13) Make investigations at the request of any superintendent 1802
of schools in the county or the principal of any school concerning 1803
the application of any child adjudicated to be an abused, 1804
neglected, or dependent child for release from school, where such 1805
service is not provided through a school attendance department; 1806

(14) Administer funds provided under Title IV-E of the 1807

"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 1808
amended, in accordance with rules adopted under section 5101.141 1809
of the Revised Code; 1810

(15) In addition to administering Title IV-E adoption 1811
assistance funds, enter into agreements to make adoption 1812
assistance payments under section 5153.163 of the Revised Code; 1813

(16) Implement a system of safety and risk assessment, in 1814
accordance with rules adopted by the director of job and family 1815
services, to assist the public children services agency in 1816
determining the risk of abuse or neglect to a child; 1817

(17) Enter into a plan of cooperation with the board of 1818
county commissioners under section 307.983 of the Revised Code and 1819
comply with each fiscal agreement the board enters into under 1820
section 307.98 of the Revised Code that include family services 1821
duties of public children services agencies and contracts the 1822
board enters into under sections 307.981 and 307.982 of the 1823
Revised Code that affect the public children services agency; 1824

(18) Make reasonable efforts to prevent the removal of an 1825
alleged or adjudicated abused, neglected, or dependent child from 1826
the child's home, eliminate the continued removal of the child 1827
from the child's home, or make it possible for the child to return 1828
home safely, except that reasonable efforts of that nature are not 1829
required when a court has made a determination under division 1830
(A)(2) of section 2151.419 of the Revised Code; 1831

(19) Make reasonable efforts to place the child in a timely 1832
manner in accordance with the permanency plan approved under 1833
division (E) of section 2151.417 of the Revised Code and to 1834
complete whatever steps are necessary to finalize the permanent 1835
placement of the child; 1836

(20) Administer a Title IV-A program identified under 1837
division (A)(4)(c) or ~~(g)~~(f) of section 5101.80 of the Revised 1838

Code that the department of job and family services provides for 1839
the public children services agency to administer under the 1840
department's supervision pursuant to section 5101.801 of the 1841
Revised Code; 1842

(21) Administer the kinship permanency incentive program 1843
created under section 5101.802 of the Revised Code under the 1844
supervision of the director of job and family services; 1845

(22) Provide independent living services pursuant to sections 1846
2151.81 to 2151.84 of the Revised Code; 1847

(23) File a missing child report with a local law enforcement 1848
agency upon becoming aware that a child in the custody of the 1849
public children services agency is or may be missing. 1850

(B) The public children services agency shall use the system 1851
implemented pursuant to division (A)(16) of this section in 1852
connection with an investigation undertaken pursuant to division 1853
(F)(1) of section 2151.421 of the Revised Code to assess both of 1854
the following: 1855

(1) The ongoing safety of the child; 1856

(2) The appropriateness of the intensity and duration of the 1857
services provided to meet child and family needs throughout the 1858
duration of a case. 1859

(C) Except as provided in section 2151.422 of the Revised 1860
Code, in accordance with rules of the director of job and family 1861
services, and on behalf of children in the county whom the public 1862
children services agency considers to be in need of public care or 1863
protective services, the public children services agency may do 1864
the following: 1865

(1) Provide or find, with other child serving systems, 1866
specialized foster care for the care of children in a specialized 1867
foster home, as defined in section 5103.02 of the Revised Code, 1868

certified under section 5103.03 of the Revised Code; 1869

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 1870
this section, contract with the following for the purpose of 1871
assisting the agency with its duties: 1872

(i) County departments of job and family services; 1873

(ii) Boards of alcohol, drug addiction, and mental health 1874
services; 1875

(iii) County boards of developmental disabilities; 1876

(iv) Regional councils of political subdivisions established 1877
under Chapter 167. of the Revised Code; 1878

(v) Private and government providers of services; 1879

(vi) Managed care organizations and prepaid health plans. 1880

(b) A public children services agency contract under division 1881
(C)(2)(a) of this section regarding the agency's duties under 1882
section 2151.421 of the Revised Code may not provide for the 1883
entity under contract with the agency to perform any service not 1884
authorized by the department's rules. 1885

(c) Only a county children services board appointed under 1886
section 5153.03 of the Revised Code that is a public children 1887
services agency may contract under division (C)(2)(a) of this 1888
section. If an entity specified in division (B) or (C) of section 1889
5153.02 of the Revised Code is the public children services agency 1890
for a county, the board of county commissioners may enter into 1891
contracts pursuant to section 307.982 of the Revised Code 1892
regarding the agency's duties. 1893

Section 2. That existing sections 109.921, 2317.56, 3125.18, 1894
3701.027, 3702.30, 4731.22, 5101.35, 5101.46, 5101.461, 5101.80, 1895
5101.801, and 5153.16 and sections 2919.19, 2919.191, 2919.192, 1896
2919.193, 3701.033, 3702.302, 3702.303, 3702.304, 3702.305, 1897
3702.306, 3702.307, 3702.308, 5101.101, and 5101.804 of the 1898

Revised Code are hereby repealed.

1899