

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 341

Representative Smith

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A B I L L

To amend sections 4715.30, 4715.302, 4723.28, 1
4723.487, 4725.092, 4725.19, 4729.16, 4729.80, 2
4730.25, 4730.53, 4731.055, and 4731.22 and to 3
enact section 4729.282 of the Revised Code to 4
prohibit a controlled substance that is a schedule 5
II drug or contains opioids from being prescribed 6
or dispensed without review of patient information 7
in the State Board of Pharmacy's Ohio Automated Rx 8
Reporting System. 9

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

Section 1. That sections 4715.30, 4715.302, 4723.28, 10
4723.487, 4725.092, 4725.19, 4729.16, 4729.80, 4730.25, 4730.53, 11
4731.055, and 4731.22 be amended and section 4729.282 of the 12
Revised Code be enacted to read as follows: 13

Sec. 4715.30. (A) An applicant for or holder of a certificate 14
or license issued under this chapter is subject to disciplinary 15
action by the state dental board for any of the following reasons: 16

(1) Employing or cooperating in fraud or material deception 17
in applying for or obtaining a license or certificate; 18
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(2) Obtaining or attempting to obtain money or anything of 20

value by intentional misrepresentation or material deception in 21
the course of practice; 22

(3) Advertising services in a false or misleading manner or 23
violating the board's rules governing time, place, and manner of 24
advertising; 25

(4) Commission of an act that constitutes a felony in this 26
state, regardless of the jurisdiction in which the act was 27
committed; 28

(5) Commission of an act in the course of practice that 29
constitutes a misdemeanor in this state, regardless of the 30
jurisdiction in which the act was committed; 31

(6) Conviction of, a plea of guilty to, a judicial finding of 32
guilt of, a judicial finding of guilt resulting from a plea of no 33
contest to, or a judicial finding of eligibility for intervention 34
in lieu of conviction for, any felony or of a misdemeanor 35
committed in the course of practice; 36

(7) Engaging in lewd or immoral conduct in connection with 37
the provision of dental services; 38

(8) Selling, prescribing, giving away, or administering drugs 39
for other than legal and legitimate therapeutic purposes, or 40
conviction of, a plea of guilty to, a judicial finding of guilt 41
of, a judicial finding of guilt resulting from a plea of no 42
contest to, or a judicial finding of eligibility for intervention 43
in lieu of conviction for, a violation of any federal or state law 44
regulating the possession, distribution, or use of any drug; 45

(9) Providing or allowing dental hygienists, expanded 46
function dental auxiliaries, or other practitioners of auxiliary 47
dental occupations working under the certificate or license 48
holder's supervision, or a dentist holding a temporary limited 49
continuing education license under division (C) of section 4715.16 50
of the Revised Code working under the certificate or license 51

holder's direct supervision, to provide dental care that departs 52
from or fails to conform to accepted standards for the profession, 53
whether or not injury to a patient results; 54

(10) Inability to practice under accepted standards of the 55
profession because of physical or mental disability, dependence on 56
alcohol or other drugs, or excessive use of alcohol or other 57
drugs; 58

(11) Violation of any provision of this chapter or any rule 59
adopted thereunder; 60

(12) Failure to use universal blood and body fluid 61
precautions established by rules adopted under section 4715.03 of 62
the Revised Code; 63

(13) Except as provided in division (H) of this section, 64
either of the following: 65

(a) Waiving the payment of all or any part of a deductible or 66
copayment that a patient, pursuant to a health insurance or health 67
care policy, contract, or plan that covers dental services, would 68
otherwise be required to pay if the waiver is used as an 69
enticement to a patient or group of patients to receive health 70
care services from that certificate or license holder; 71

(b) Advertising that the certificate or license holder will 72
waive the payment of all or any part of a deductible or copayment 73
that a patient, pursuant to a health insurance or health care 74
policy, contract, or plan that covers dental services, would 75
otherwise be required to pay. 76

(14) Failure to comply with section 4715.302 or 4729.79 of 77
the Revised Code, unless the state board of pharmacy no longer 78
maintains a drug database pursuant to section 4729.75 of the 79
Revised Code; 80

(15) Any of the following actions taken by an agency 81

responsible for authorizing, certifying, or regulating an 82
individual to practice a health care occupation or provide health 83
care services in this state or another jurisdiction, for any 84
reason other than the nonpayment of fees: the limitation, 85
revocation, or suspension of an individual's license to practice; 86
acceptance of an individual's license surrender; denial of a 87
license; refusal to renew or reinstate a license; imposition of 88
probation; or issuance of an order of censure or other reprimand; 89

(16) Failure to cooperate in an investigation conducted by 90
the board under division (D) of section 4715.03 of the Revised 91
Code, including failure to comply with a subpoena or order issued 92
by the board or failure to answer truthfully a question presented 93
by the board at a deposition or in written interrogatories, except 94
that failure to cooperate with an investigation shall not 95
constitute grounds for discipline under this section if a court of 96
competent jurisdiction has issued an order that either quashes a 97
subpoena or permits the individual to withhold the testimony or 98
evidence in issue. 99

(B) A manager, proprietor, operator, or conductor of a dental 100
facility shall be subject to disciplinary action if any dentist, 101
dental hygienist, expanded function dental auxiliary, or qualified 102
personnel providing services in the facility is found to have 103
committed a violation listed in division (A) of this section and 104
the manager, proprietor, operator, or conductor knew of the 105
violation and permitted it to occur on a recurring basis. 106

(C) Subject to Chapter 119. of the Revised Code, the board 107
may take one or more of the following disciplinary actions if one 108
or more of the grounds for discipline listed in divisions (A) and 109
(B) of this section exist: 110

(1) Censure the license or certificate holder; 111

(2) Place the license or certificate on probationary status 112

for such period of time the board determines necessary and require 113
the holder to: 114

(a) Report regularly to the board upon the matters which are 115
the basis of probation; 116

(b) Limit practice to those areas specified by the board; 117

(c) Continue or renew professional education until a 118
satisfactory degree of knowledge or clinical competency has been 119
attained in specified areas. 120

(3) Suspend the certificate or license; 121

(4) Revoke the certificate or license. 122

Where the board places a holder of a license or certificate 123
on probationary status pursuant to division (C)(2) of this 124
section, the board may subsequently suspend or revoke the license 125
or certificate if it determines that the holder has not met the 126
requirements of the probation or continues to engage in activities 127
that constitute grounds for discipline pursuant to division (A) or 128
(B) of this section. 129

Any order suspending a license or certificate shall state the 130
conditions under which the license or certificate will be 131
restored, which may include a conditional restoration during which 132
time the holder is in a probationary status pursuant to division 133
(C)(2) of this section. The board shall restore the license or 134
certificate unconditionally when such conditions are met. 135

(D) If the physical or mental condition of an applicant or a 136
license or certificate holder is at issue in a disciplinary 137
proceeding, the board may order the license or certificate holder 138
to submit to reasonable examinations by an individual designated 139
or approved by the board and at the board's expense. The physical 140
examination may be conducted by any individual authorized by the 141
Revised Code to do so, including a physician assistant, a clinical 142

nurse specialist, a certified nurse practitioner, or a certified 143
nurse-midwife. Any written documentation of the physical 144
examination shall be completed by the individual who conducted the 145
examination. 146

Failure to comply with an order for an examination shall be 147
grounds for refusal of a license or certificate or summary 148
suspension of a license or certificate under division (E) of this 149
section. 150

(E) If a license or certificate holder has failed to comply 151
with an order under division (D) of this section, the board may 152
apply to the court of common pleas of the county in which the 153
holder resides for an order temporarily suspending the holder's 154
license or certificate, without a prior hearing being afforded by 155
the board, until the board conducts an adjudication hearing 156
pursuant to Chapter 119. of the Revised Code. If the court 157
temporarily suspends a holder's license or certificate, the board 158
shall give written notice of the suspension personally or by 159
certified mail to the license or certificate holder. Such notice 160
shall inform the license or certificate holder of the right to a 161
hearing pursuant to Chapter 119. of the Revised Code. 162

(F) Any holder of a certificate or license issued under this 163
chapter who has pleaded guilty to, has been convicted of, or has 164
had a judicial finding of eligibility for intervention in lieu of 165
conviction entered against the holder in this state for aggravated 166
murder, murder, voluntary manslaughter, felonious assault, 167
kidnapping, rape, sexual battery, gross sexual imposition, 168
aggravated arson, aggravated robbery, or aggravated burglary, or 169
who has pleaded guilty to, has been convicted of, or has had a 170
judicial finding of eligibility for treatment or intervention in 171
lieu of conviction entered against the holder in another 172
jurisdiction for any substantially equivalent criminal offense, is 173
automatically suspended from practice under this chapter in this 174

state and any certificate or license issued to the holder under 175
this chapter is automatically suspended, as of the date of the 176
guilty plea, conviction, or judicial finding, whether the 177
proceedings are brought in this state or another jurisdiction. 178
Continued practice by an individual after the suspension of the 179
individual's certificate or license under this division shall be 180
considered practicing without a certificate or license. The board 181
shall notify the suspended individual of the suspension of the 182
individual's certificate or license under this division by 183
certified mail or in person in accordance with section 119.07 of 184
the Revised Code. If an individual whose certificate or license is 185
suspended under this division fails to make a timely request for 186
an adjudicatory hearing, the board shall enter a final order 187
revoking the individual's certificate or license. 188

(G) If the supervisory investigative panel determines both of 189
the following, the panel may recommend that the board suspend an 190
individual's certificate or license without a prior hearing: 191

(1) That there is clear and convincing evidence that an 192
individual has violated division (A) of this section; 193

(2) That the individual's continued practice presents a 194
danger of immediate and serious harm to the public. 195

Written allegations shall be prepared for consideration by 196
the board. The board, upon review of those allegations and by an 197
affirmative vote of not fewer than four dentist members of the 198
board and seven of its members in total, excluding any member on 199
the supervisory investigative panel, may suspend a certificate or 200
license without a prior hearing. A telephone conference call may 201
be utilized for reviewing the allegations and taking the vote on 202
the summary suspension. 203

The board shall issue a written order of suspension by 204
certified mail or in person in accordance with section 119.07 of 205

the Revised Code. The order shall not be subject to suspension by 206
the court during pendency or any appeal filed under section 119.12 207
of the Revised Code. If the individual subject to the summary 208
suspension requests an adjudicatory hearing by the board, the date 209
set for the hearing shall be within fifteen days, but not earlier 210
than seven days, after the individual requests the hearing, unless 211
otherwise agreed to by both the board and the individual. 212

Any summary suspension imposed under this division shall 213
remain in effect, unless reversed on appeal, until a final 214
adjudicative order issued by the board pursuant to this section 215
and Chapter 119. of the Revised Code becomes effective. The board 216
shall issue its final adjudicative order within seventy-five days 217
after completion of its hearing. A failure to issue the order 218
within seventy-five days shall result in dissolution of the 219
summary suspension order but shall not invalidate any subsequent, 220
final adjudicative order. 221

(H) Sanctions shall not be imposed under division (A)(13) of 222
this section against any certificate or license holder who waives 223
deductibles and copayments as follows: 224

(1) In compliance with the health benefit plan that expressly 225
allows such a practice. Waiver of the deductibles or copayments 226
shall be made only with the full knowledge and consent of the plan 227
purchaser, payer, and third-party administrator. Documentation of 228
the consent shall be made available to the board upon request. 229

(2) For professional services rendered to any other person 230
who holds a certificate or license issued pursuant to this chapter 231
to the extent allowed by this chapter and the rules of the board. 232

(I) In no event shall the board consider or raise during a 233
hearing required by Chapter 119. of the Revised Code the 234
circumstances of, or the fact that the board has received, one or 235
more complaints about a person unless the one or more complaints 236

are the subject of the hearing or resulted in the board taking an 237
action authorized by this section against the person on a prior 238
occasion. 239

(J) The board may share any information it receives pursuant 240
to an investigation under division (D) of section 4715.03 of the 241
Revised Code, including patient records and patient record 242
information, with law enforcement agencies, other licensing 243
boards, and other governmental agencies that are prosecuting, 244
adjudicating, or investigating alleged violations of statutes or 245
administrative rules. An agency or board that receives the 246
information shall comply with the same requirements regarding 247
confidentiality as those with which the state dental board must 248
comply, notwithstanding any conflicting provision of the Revised 249
Code or procedure of the agency or board that applies when it is 250
dealing with other information in its possession. In a judicial 251
proceeding, the information may be admitted into evidence only in 252
accordance with the Rules of Evidence, but the court shall require 253
that appropriate measures are taken to ensure that confidentiality 254
is maintained with respect to any part of the information that 255
contains names or other identifying information about patients or 256
complainants whose confidentiality was protected by the state 257
dental board when the information was in the board's possession. 258
Measures to ensure confidentiality that may be taken by the court 259
include sealing its records or deleting specific information from 260
its records. 261

Sec. 4715.302. (A) As used in this section, ~~"drug:~~ 262

(1) "Controlled substance" has the same meaning as in section 263
3719.01 of the Revised Code. 264

(2) "Drug database" means the database established and 265
maintained by the state board of pharmacy pursuant to section 266
4729.75 of the Revised Code. 267

(B) The A dentist who is considering prescribing or personally furnishing a controlled substance that is a schedule II drug or contains opioids shall personally, or through a delegate, request information related to the patient from the drug database pursuant to division (A)(5) of section 4729.80 of the Revised Code. The dentist shall not prescribe or personally furnish the controlled substance without first reviewing the information provided from the drug database. The dentist shall keep the information as part of the patient's record. 268
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The state dental board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by a dentist regarding the review of patient information available through the drug database ~~under division (A)(5) of section 4729.80 of the Revised Code.~~ 277
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(C) This section and the rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database. 282
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Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required to obtain a license, certificate of authority, or dialysis technician certificate issued by the board or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license, certificate of authority, or dialysis technician certificate issued by the board: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. 285
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(B) The board of nursing, by a vote of a quorum, may impose 299
one or more of the following sanctions: deny, revoke, suspend, or 300
place restrictions on any nursing license, certificate of 301
authority, or dialysis technician certificate issued by the board; 302
reprimand or otherwise discipline a holder of a nursing license, 303
certificate of authority, or dialysis technician certificate; or 304
impose a fine of not more than five hundred dollars per violation. 305
The sanctions may be imposed for any of the following: 306

(1) Denial, revocation, suspension, or restriction of 307
authority to engage in a licensed profession or practice a health 308
care occupation, including nursing or practice as a dialysis 309
technician, for any reason other than a failure to renew, in Ohio 310
or another state or jurisdiction; 311

(2) Engaging in the practice of nursing or engaging in 312
practice as a dialysis technician, having failed to renew a 313
nursing license or dialysis technician certificate issued under 314
this chapter, or while a nursing license or dialysis technician 315
certificate is under suspension; 316

(3) Conviction of, a plea of guilty to, a judicial finding of 317
guilt of, a judicial finding of guilt resulting from a plea of no 318
contest to, or a judicial finding of eligibility for a pretrial 319
diversion or similar program or for intervention in lieu of 320
conviction for, a misdemeanor committed in the course of practice; 321

(4) Conviction of, a plea of guilty to, a judicial finding of 322
guilt of, a judicial finding of guilt resulting from a plea of no 323
contest to, or a judicial finding of eligibility for a pretrial 324
diversion or similar program or for intervention in lieu of 325
conviction for, any felony or of any crime involving gross 326
immorality or moral turpitude; 327

(5) Selling, giving away, or administering drugs or 328
therapeutic devices for other than legal and legitimate 329

therapeutic purposes; or conviction of, a plea of guilty to, a 330
judicial finding of guilt of, a judicial finding of guilt 331
resulting from a plea of no contest to, or a judicial finding of 332
eligibility for a pretrial diversion or similar program or for 333
intervention in lieu of conviction for, violating any municipal, 334
state, county, or federal drug law; 335

(6) Conviction of, a plea of guilty to, a judicial finding of 336
guilt of, a judicial finding of guilt resulting from a plea of no 337
contest to, or a judicial finding of eligibility for a pretrial 338
diversion or similar program or for intervention in lieu of 339
conviction for, an act in another jurisdiction that would 340
constitute a felony or a crime of moral turpitude in Ohio; 341

(7) Conviction of, a plea of guilty to, a judicial finding of 342
guilt of, a judicial finding of guilt resulting from a plea of no 343
contest to, or a judicial finding of eligibility for a pretrial 344
diversion or similar program or for intervention in lieu of 345
conviction for, an act in the course of practice in another 346
jurisdiction that would constitute a misdemeanor in Ohio; 347

(8) Self-administering or otherwise taking into the body any 348
dangerous drug, as defined in section 4729.01 of the Revised Code, 349
in any way that is not in accordance with a legal, valid 350
prescription issued for that individual, or self-administering or 351
otherwise taking into the body any drug that is a schedule I 352
controlled substance; 353

(9) Habitual or excessive use of controlled substances, other 354
habit-forming drugs, or alcohol or other chemical substances to an 355
extent that impairs the individual's ability to provide safe 356
nursing care or safe dialysis care; 357

(10) Impairment of the ability to practice according to 358
acceptable and prevailing standards of safe nursing care or safe 359
dialysis care because of the use of drugs, alcohol, or other 360

chemical substances;	361
(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability;	362 363 364
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	365 366
(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;	367 368
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	369 370 371 372 373
(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	374 375 376
(16) Violation of this chapter or any rules adopted under it;	377
(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;	378 379
(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;	380 381 382
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	383 384
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	385 386 387
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	388 389 390

(22) In the case of a dialysis technician, engaging in 391
activities that exceed those permitted under section 4723.72 of 392
the Revised Code; 393

(23) Aiding and abetting a person in that person's practice 394
of nursing without a license or practice as a dialysis technician 395
without a certificate issued under this chapter; 396

(24) In the case of a certified registered nurse anesthetist, 397
clinical nurse specialist, certified nurse-midwife, or certified 398
nurse practitioner, except as provided in division (M) of this 399
section, either of the following: 400

(a) Waiving the payment of all or any part of a deductible or 401
copayment that a patient, pursuant to a health insurance or health 402
care policy, contract, or plan that covers such nursing services, 403
would otherwise be required to pay if the waiver is used as an 404
enticement to a patient or group of patients to receive health 405
care services from that provider; 406

(b) Advertising that the nurse will waive the payment of all 407
or any part of a deductible or copayment that a patient, pursuant 408
to a health insurance or health care policy, contract, or plan 409
that covers such nursing services, would otherwise be required to 410
pay. 411

(25) Failure to comply with the terms and conditions of 412
participation in the chemical dependency monitoring program 413
established under section 4723.35 of the Revised Code; 414

(26) Failure to comply with the terms and conditions required 415
under the practice intervention and improvement program 416
established under section 4723.282 of the Revised Code; 417

(27) In the case of a certified registered nurse anesthetist, 418
clinical nurse specialist, certified nurse-midwife, or certified 419
nurse practitioner: 420

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	421 422 423
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	424 425
(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	426 427 428 429 430
(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	431 432 433 434 435
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	436 437
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	438 439 440
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	441 442 443 444
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	445 446
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	447 448 449
(33) Assisting suicide as defined in section 3795.01 of the	450

Revised Code; 451

(34) Failure to comply with section 4723.487 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. 452
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(C) Disciplinary actions taken by the board under divisions 455
(A) and (B) of this section shall be taken pursuant to an 456
adjudication conducted under Chapter 119. of the Revised Code, 457
except that in lieu of a hearing, the board may enter into a 458
consent agreement with an individual to resolve an allegation of a 459
violation of this chapter or any rule adopted under it. A consent 460
agreement, when ratified by a vote of a quorum, shall constitute 461
the findings and order of the board with respect to the matter 462
addressed in the agreement. If the board refuses to ratify a 463
consent agreement, the admissions and findings contained in the 464
agreement shall be of no effect. 465

(D) The hearings of the board shall be conducted in 466
accordance with Chapter 119. of the Revised Code, the board may 467
appoint a hearing examiner, as provided in section 119.09 of the 468
Revised Code, to conduct any hearing the board is authorized to 469
hold under Chapter 119. of the Revised Code. 470

In any instance in which the board is required under Chapter 471
119. of the Revised Code to give notice of an opportunity for a 472
hearing and the applicant, licensee, or certificate holder does 473
not make a timely request for a hearing in accordance with section 474
119.07 of the Revised Code, the board is not required to hold a 475
hearing, but may adopt, by a vote of a quorum, a final order that 476
contains the board's findings. In the final order, the board may 477
order any of the sanctions listed in division (A) or (B) of this 478
section. 479

(E) If a criminal action is brought against a registered 480
nurse, licensed practical nurse, or dialysis technician for an act 481

or crime described in divisions (B)(3) to (7) of this section and 482
the action is dismissed by the trial court other than on the 483
merits, the board shall conduct an adjudication to determine 484
whether the registered nurse, licensed practical nurse, or 485
dialysis technician committed the act on which the action was 486
based. If the board determines on the basis of the adjudication 487
that the registered nurse, licensed practical nurse, or dialysis 488
technician committed the act, or if the registered nurse, licensed 489
practical nurse, or dialysis technician fails to participate in 490
the adjudication, the board may take action as though the 491
registered nurse, licensed practical nurse, or dialysis technician 492
had been convicted of the act. 493

If the board takes action on the basis of a conviction, plea, 494
or a judicial finding as described in divisions (B)(3) to (7) of 495
this section that is overturned on appeal, the registered nurse, 496
licensed practical nurse, or dialysis technician may, on 497
exhaustion of the appeal process, petition the board for 498
reconsideration of its action. On receipt of the petition and 499
supporting court documents, the board shall temporarily rescind 500
its action. If the board determines that the decision on appeal 501
was a decision on the merits, it shall permanently rescind its 502
action. If the board determines that the decision on appeal was 503
not a decision on the merits, it shall conduct an adjudication to 504
determine whether the registered nurse, licensed practical nurse, 505
or dialysis technician committed the act on which the original 506
conviction, plea, or judicial finding was based. If the board 507
determines on the basis of the adjudication that the registered 508
nurse, licensed practical nurse, or dialysis technician committed 509
such act, or if the registered nurse, licensed practical nurse, or 510
dialysis technician does not request an adjudication, the board 511
shall reinstate its action; otherwise, the board shall permanently 512
rescind its action. 513

Notwithstanding the provision of division (C)(2) of section 514
2953.32 of the Revised Code specifying that if records pertaining 515
to a criminal case are sealed under that section the proceedings 516
in the case shall be deemed not to have occurred, sealing of the 517
following records on which the board has based an action under 518
this section shall have no effect on the board's action or any 519
sanction imposed by the board under this section: records of any 520
conviction, guilty plea, judicial finding of guilt resulting from 521
a plea of no contest, or a judicial finding of eligibility for a 522
pretrial diversion program or intervention in lieu of conviction. 523

The board shall not be required to seal, destroy, redact, or 524
otherwise modify its records to reflect the court's sealing of 525
conviction records. 526

(F) The board may investigate an individual's criminal 527
background in performing its duties under this section. As part of 528
such investigation, the board may order the individual to submit, 529
at the individual's expense, a request to the bureau of criminal 530
identification and investigation for a criminal records check and 531
check of federal bureau of investigation records in accordance 532
with the procedure described in section 4723.091 of the Revised 533
Code. 534

(G) During the course of an investigation conducted under 535
this section, the board may compel any registered nurse, licensed 536
practical nurse, or dialysis technician or applicant under this 537
chapter to submit to a mental or physical examination, or both, as 538
required by the board and at the expense of the individual, if the 539
board finds reason to believe that the individual under 540
investigation may have a physical or mental impairment that may 541
affect the individual's ability to provide safe nursing care. 542
Failure of any individual to submit to a mental or physical 543
examination when directed constitutes an admission of the 544
allegations, unless the failure is due to circumstances beyond the 545

individual's control, and a default and final order may be entered 546
without the taking of testimony or presentation of evidence. 547

If the board finds that an individual is impaired, the board 548
shall require the individual to submit to care, counseling, or 549
treatment approved or designated by the board, as a condition for 550
initial, continued, reinstated, or renewed authority to practice. 551
The individual shall be afforded an opportunity to demonstrate to 552
the board that the individual can begin or resume the individual's 553
occupation in compliance with acceptable and prevailing standards 554
of care under the provisions of the individual's authority to 555
practice. 556

For purposes of this division, any registered nurse, licensed 557
practical nurse, or dialysis technician or applicant under this 558
chapter shall be deemed to have given consent to submit to a 559
mental or physical examination when directed to do so in writing 560
by the board, and to have waived all objections to the 561
admissibility of testimony or examination reports that constitute 562
a privileged communication. 563

(H) The board shall investigate evidence that appears to show 564
that any person has violated any provision of this chapter or any 565
rule of the board. Any person may report to the board any 566
information the person may have that appears to show a violation 567
of any provision of this chapter or rule of the board. In the 568
absence of bad faith, any person who reports such information or 569
who testifies before the board in any adjudication conducted under 570
Chapter 119. of the Revised Code shall not be liable for civil 571
damages as a result of the report or testimony. 572

(I) All of the following apply under this chapter with 573
respect to the confidentiality of information: 574

(1) Information received by the board pursuant to a complaint 575
or an investigation is confidential and not subject to discovery 576

in any civil action, except that the board may disclose 577
information to law enforcement officers and government entities 578
for purposes of an investigation of either a licensed health care 579
professional, including a registered nurse, licensed practical 580
nurse, or dialysis technician, or a person who may have engaged in 581
the unauthorized practice of nursing or dialysis care. No law 582
enforcement officer or government entity with knowledge of any 583
information disclosed by the board pursuant to this division shall 584
divulge the information to any other person or government entity 585
except for the purpose of a government investigation, a 586
prosecution, or an adjudication by a court or government entity. 587

(2) If an investigation requires a review of patient records, 588
the investigation and proceeding shall be conducted in such a 589
manner as to protect patient confidentiality. 590

(3) All adjudications and investigations of the board shall 591
be considered civil actions for the purposes of section 2305.252 592
of the Revised Code. 593

(4) Any board activity that involves continued monitoring of 594
an individual as part of or following any disciplinary action 595
taken under this section shall be conducted in a manner that 596
maintains the individual's confidentiality. Information received 597
or maintained by the board with respect to the board's monitoring 598
activities is not subject to discovery in any civil action and is 599
confidential, except that the board may disclose information to 600
law enforcement officers and government entities for purposes of 601
an investigation of a licensee or certificate holder. 602

(J) Any action taken by the board under this section 603
resulting in a suspension from practice shall be accompanied by a 604
written statement of the conditions under which the person may be 605
reinstated to practice. 606

(K) When the board refuses to grant a license or certificate 607

to an applicant, revokes a license or certificate, or refuses to 608
reinstate a license or certificate, the board may specify that its 609
action is permanent. An individual subject to permanent action 610
taken by the board is forever ineligible to hold a license or 611
certificate of the type that was refused or revoked and the board 612
shall not accept from the individual an application for 613
reinstatement of the license or certificate or for a new license 614
or certificate. 615

(L) No unilateral surrender of a nursing license, certificate 616
of authority, or dialysis technician certificate issued under this 617
chapter shall be effective unless accepted by majority vote of the 618
board. No application for a nursing license, certificate of 619
authority, or dialysis technician certificate issued under this 620
chapter may be withdrawn without a majority vote of the board. The 621
board's jurisdiction to take disciplinary action under this 622
section is not removed or limited when an individual has a license 623
or certificate classified as inactive or fails to renew a license 624
or certificate. 625

(M) Sanctions shall not be imposed under division (B)(24) of 626
this section against any licensee who waives deductibles and 627
copayments as follows: 628

(1) In compliance with the health benefit plan that expressly 629
allows such a practice. Waiver of the deductibles or copayments 630
shall be made only with the full knowledge and consent of the plan 631
purchaser, payer, and third-party administrator. Documentation of 632
the consent shall be made available to the board upon request. 633

(2) For professional services rendered to any other person 634
licensed pursuant to this chapter to the extent allowed by this 635
chapter and the rules of the board. 636

Sec. 4723.487. (A) As used in this section, ~~"drug:~~ 637

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 638
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(2) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code. 640
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(B) The An advanced practice nurse with a certificate to prescribe issued under section 4723.48 of the Revised Code who is considering prescribing a controlled substance that is a schedule II drug or contains opioids shall personally, or through a delegate, request information related to the patient from the drug database pursuant to division (A)(5) of section 4729.80 of the Revised Code. The nurse shall not prescribe the controlled substance without first reviewing the information provided from the drug database. The nurse shall keep the information as part of the patient's record. 643
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The board of nursing shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by an advanced practice registered nurse with a certificate to prescribe issued under section 4723.48 of the Revised Code described in this division regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. 653
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(C) This section and the rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database. 660
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Sec. 4725.092. (A) As used in this section, ~~"drug:~~ 663

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 664
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(2) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 666
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4729.75 of the Revised Code. 668

(B) The An optometrist holding a therapeutic pharmaceutical 669
agents certificate who is considering prescribing a controlled 670
substance that is a schedule II drug or contains opioids shall 671
personally, or through a delegate, request information related to 672
the patient from the drug database pursuant to division (A)(5) of 673
section 4729.80 of the Revised Code. The optometrist shall not 674
prescribe the controlled substance without first reviewing the 675
information provided from the drug database. The optometrist shall 676
keep the information as part of the patient's record. 677

The state board of optometry shall adopt rules in accordance 678
with Chapter 119. of the Revised Code that establish standards and 679
procedures to be followed by an optometrist ~~who holds a~~ 680
~~therapeutic pharmaceutical agents certificate~~ described in this 681
division regarding the review of patient information available 682
through the drug database ~~under division (A)(5) of section 4729.80~~ 683
~~of the Revised Code.~~ 684

(C) This section and the rules adopted under it do not apply 685
if the state board of pharmacy no longer maintains the drug 686
database. 687

Sec. 4725.19. (A) In accordance with Chapter 119. of the 688
Revised Code and by an affirmative vote of a majority of its 689
members, the state board of optometry, for any of the reasons 690
specified in division (B) of this section, shall refuse to grant a 691
certificate of licensure to an applicant and may, with respect to 692
a licensed optometrist, do one or more of the following: 693

(1) Suspend the operation of any certificate of licensure, 694
topical ocular pharmaceutical agents certificate, or therapeutic 695
pharmaceutical agents certificate, or all certificates granted by 696
it to the optometrist; 697

(2) Permanently revoke any or all of the certificates;	698
(3) Limit or otherwise place restrictions on any or all of the certificates;	699 700
(4) Reprimand the optometrist;	701
(5) Impose a monetary penalty. If the reason for which the board is imposing the penalty involves a criminal offense that carries a fine under the Revised Code, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty imposed by the board shall not exceed five hundred dollars.	702 703 704 705 706 707
(6) Require the optometrist to take corrective action courses.	708 709
The amount and content of corrective action courses shall be established by the board in rules adopted under section 4725.09 of the Revised Code.	710 711 712
(B) The sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:	713 714
(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;	715 716 717
(2) Being at any time guilty of immorality, regardless of the jurisdiction in which the act was committed;	718 719
(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;	720 721
(4) Being at any time guilty of a felony, regardless of the jurisdiction in which the act was committed;	722 723
(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;	724 725 726

- (6) Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board; 727
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- (7) Engaging in the practice of optometry as provided in division (A)(1), (2), or (3) of section 4725.01 of the Revised Code when the certificate authorizing that practice is under suspension, in which case the board shall permanently revoke the certificate; 730
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- (8) Being denied a license to practice optometry in another state or country or being subject to any other sanction by the optometric licensing authority of another state or country, other than sanctions imposed for the nonpayment of fees; 735
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- (9) Departing from or failing to conform to acceptable and prevailing standards of care in the practice of optometry as followed by similar practitioners under the same or similar circumstances, regardless of whether actual injury to a patient is established; 739
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- (10) Failing to maintain comprehensive patient records; 744
- (11) Advertising a price of optical accessories, eye examinations, or other products or services by any means that would deceive or mislead the public; 745
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- (12) Being addicted to the use of alcohol, stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to hinder or diminish the performance of the duties included in the person's practice of optometry; 748
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- (13) Engaging in the practice of optometry as provided in division (A)(2) or (3) of section 4725.01 of the Revised Code without authority to do so or, if authorized, in a manner inconsistent with the authority granted; 753
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(14) Failing to make a report to the board as required by 757
division (A) of section 4725.21 or section 4725.31 of the Revised 758
Code; 759

(15) Soliciting patients from door to door or establishing 760
temporary offices, in which case the board shall suspend all 761
certificates held by the optometrist; 762

(16) Failing to comply with section 4725.092 of the Revised 763
Code, unless the state board of pharmacy no longer maintains a 764
drug database pursuant to section 4729.75 of the Revised Code; 765

(17) Except as provided in division (D) of this section: 766

(a) Waiving the payment of all or any part of a deductible or 767
copayment that a patient, pursuant to a health insurance or health 768
care policy, contract, or plan that covers optometric services, 769
would otherwise be required to pay if the waiver is used as an 770
enticement to a patient or group of patients to receive health 771
care services from that optometrist. 772

(b) Advertising that the optometrist will waive the payment 773
of all or any part of a deductible or copayment that a patient, 774
pursuant to a health insurance or health care policy, contract, or 775
plan that covers optometric services, would otherwise be required 776
to pay. 777

(C) Any person who is the holder of a certificate of 778
licensure, or who is an applicant for a certificate of licensure 779
against whom is preferred any charges, shall be furnished by the 780
board with a copy of the complaint and shall have a hearing before 781
the board in accordance with Chapter 119. of the Revised Code. 782

(D) Sanctions shall not be imposed under division (B)~~(16)~~(17) 783
of this section against any optometrist who waives deductibles and 784
copayments: 785

(1) In compliance with the health benefit plan that expressly 786

allows such a practice. Waiver of the deductibles or copayments 787
shall be made only with the full knowledge and consent of the plan 788
purchaser, payer, and third-party administrator. Documentation of 789
the consent shall be made available to the board upon request. 790

(2) For professional services rendered to any other 791
optometrist licensed by the board, to the extent allowed by 792
sections 4725.01 to 4725.34 of the Revised Code and the rules of 793
the board. 794

Sec. 4729.16. (A) The state board of pharmacy, after notice 795
and hearing in accordance with Chapter 119. of the Revised Code, 796
may revoke, suspend, limit, place on probation, or refuse to grant 797
or renew an identification card, or may impose a monetary penalty 798
or forfeiture not to exceed in severity any fine designated under 799
the Revised Code for a similar offense, or in the case of a 800
violation of a section of the Revised Code that does not bear a 801
penalty, a monetary penalty or forfeiture of not more than five 802
hundred dollars, if the board finds a pharmacist or pharmacy 803
intern: 804

(1) Guilty of a felony or gross immorality; 805

(2) Guilty of dishonesty or unprofessional conduct in the 806
practice of pharmacy; 807

(3) Addicted to or abusing liquor or drugs or impaired 808
physically or mentally to such a degree as to render the 809
pharmacist or pharmacy intern unfit to practice pharmacy; 810

(4) Has been convicted of a misdemeanor related to, or 811
committed in, the practice of pharmacy; 812

(5) Guilty of willfully violating, conspiring to violate, 813
attempting to violate, or aiding and abetting the violation of any 814
of the provisions of this chapter, sections 3715.52 to 3715.72 of 815
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 816

any rule adopted by the board under those provisions;	817
(6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;	818 819
(7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;	820 821 822
(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;	823 824 825 826 827 828
(9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;	829 830
(10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code;	831 832 833 834
<u>(11) Has failed to comply with section 4729.282 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code.</u>	835 836 837
(B) Any individual whose identification card is revoked, suspended, or refused, shall return the identification card and license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.	838 839 840 841
(C) As used in this section:	842
"Unprofessional conduct in the practice of pharmacy" includes any of the following:	843 844
(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;	845 846

(2) Except as provided in section 4729.281 of the Revised Code, the sale of any drug for which a prescription is required, without having received a prescription for the drug;

(3) Knowingly dispensing medication pursuant to false or forged prescriptions;

(4) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;

(5) Obtaining any remuneration by fraud, misrepresentation, or deception.

(D) The board may suspend a license or identification card under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.

(E) If, pursuant to an adjudication under Chapter 119. of the Revised Code, the board has reasonable cause to believe that a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the pharmacist or pharmacy intern to submit to a physical or mental examination, or both.

Sec. 4729.282. (A) As used in this section:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(B) A pharmacist who is considering dispensing a controlled substance that is a schedule II drug or contains opioids shall personally, or through a delegate, request information related to the patient from the drug database pursuant to division (A)(6) of section 4729.80 of the Revised Code. The pharmacist shall not

dispense the controlled substance without first reviewing the 877
information provided from the drug database. The pharmacist shall 878
keep the information as part of the patient's record. 879

Sec. 4729.80. (A) If the state board of pharmacy establishes 880
and maintains a drug database pursuant to section 4729.75 of the 881
Revised Code, the board is authorized or required to provide 882
information from the database in accordance with the following: 883

(1) On receipt of a request from a designated representative 884
of a government entity responsible for the licensure, regulation, 885
or discipline of health care professionals with authority to 886
prescribe, administer, or dispense drugs, the board may provide to 887
the representative information from the database relating to the 888
professional who is the subject of an active investigation being 889
conducted by the government entity. 890

(2) On receipt of a request from a federal officer, or a 891
state or local officer of this or any other state, whose duties 892
include enforcing laws relating to drugs, the board shall provide 893
to the officer information from the database relating to the 894
person who is the subject of an active investigation of a drug 895
abuse offense, as defined in section 2925.01 of the Revised Code, 896
being conducted by the officer's employing government entity. 897

(3) Pursuant to a subpoena issued by a grand jury, the board 898
shall provide to the grand jury information from the database 899
relating to the person who is the subject of an investigation 900
being conducted by the grand jury. 901

(4) Pursuant to a subpoena, search warrant, or court order in 902
connection with the investigation or prosecution of a possible or 903
alleged criminal offense, the board shall provide information from 904
the database as necessary to comply with the subpoena, search 905
warrant, or court order. 906

(5) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board ~~may~~ shall provide to the prescriber information from the database relating to a patient who is either of the following, if the prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request:

(a) A current patient of the prescriber;

(b) A potential patient of the prescriber based on a referral of the patient to the prescriber.

(6) On receipt of a request from a pharmacist or the pharmacist's delegate approved by the board, the board ~~may~~ shall provide to the pharmacist information from the database relating to a current patient of the pharmacist, if the pharmacist certifies in a form specified by the board that it is for the purpose of the pharmacist's practice of pharmacy involving the patient who is the subject of the request.

(7) On receipt of a request from an individual seeking the individual's own database information in accordance with the procedure established in rules adopted under section 4729.84 of the Revised Code, the board may provide to the individual the individual's own database information.

(8) On receipt of a request from the medical director of a managed care organization that has entered into a data security agreement with the board required by section 5167.14 of the Revised Code, the board shall provide to the medical director information from the database relating to a medicaid recipient enrolled in the managed care organization, including information in the database related to prescriptions for the recipient that were not covered or reimbursed under a program administered by the department of medicaid.

(9) On receipt of a request from the medicaid director, the board shall provide to the director information from the database relating to a recipient of a program administered by the department of medicaid, including information in the database related to prescriptions for the recipient that were not covered or paid by a program administered by the department.

(10) On receipt of a request from the administrator of workers' compensation, the board may provide to the administrator information from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code.

(11) On receipt of a request from a requestor described in division (A)(1), (2), (5), or (6) of this section who is from or participating with another state's prescription monitoring program, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state.

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the database pursuant to this section. In accordance with rules adopted under section 4729.84 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes.

The board may provide records of an individual's requests for database information to the following:

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information;

(2) A federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs and who is involved in an active investigation being conducted by the officer's employing government entity of the individual who submitted the requests for database information.

(C) Information contained in the database and any information obtained from it is not a public record. Information contained in the records of requests for information from the database is not a public record. Information that does not identify a person may be released in summary, statistical, or aggregate form.

(D) A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

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

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

(1) Failure to practice in accordance with the conditions under which the supervising physician's supervision agreement with the physician assistant was approved, including the requirement

that when practicing under a particular supervising physician, the physician assistant must practice only according to the physician supervisory plan the board approved for that physician or the policies of the health care facility in which the supervising physician and physician assistant are practicing;

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

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

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

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

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

(7) Willfully betraying a professional confidence;

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

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

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

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

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

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

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

(14) 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;

(15) 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;

(16) Commission of an act involving moral turpitude that	1061
constitutes a misdemeanor in this state, regardless of the	1062
jurisdiction in which the act was committed;	1063
(17) A plea of guilty to, a judicial finding of guilt of, or	1064
a judicial finding of eligibility for intervention in lieu of	1065
conviction for violating any state or federal law regulating the	1066
possession, distribution, or use of any drug, including	1067
trafficking in drugs;	1068
(18) Any of the following actions taken by the state agency	1069
responsible for regulating the practice of physician assistants in	1070
another state, for any reason other than the nonpayment of fees:	1071
the limitation, revocation, or suspension of an individual's	1072
license to practice; acceptance of an individual's license	1073
surrender; denial of a license; refusal to renew or reinstate a	1074
license; imposition of probation; or issuance of an order of	1075
censure or other reprimand;	1076
(19) A departure from, or failure to conform to, minimal	1077
standards of care of similar physician assistants under the same	1078
or similar circumstances, regardless of whether actual injury to a	1079
patient is established;	1080
(20) Violation of the conditions placed by the board on a	1081
certificate to practice as a physician assistant, a certificate to	1082
prescribe, a physician supervisory plan, or supervision agreement;	1083
(21) Failure to use universal blood and body fluid	1084
precautions established by rules adopted under section 4731.051 of	1085
the Revised Code;	1086
(22) Failure to cooperate in an investigation conducted by	1087
the board under section 4730.26 of the Revised Code, including	1088
failure to comply with a subpoena or order issued by the board or	1089
failure to answer truthfully a question presented by the board at	1090
a deposition or in written interrogatories, except that failure to	1091

cooperate with an investigation shall not constitute grounds for 1092
discipline under this section if a court of competent jurisdiction 1093
has issued an order that either quashes a subpoena or permits the 1094
individual to withhold the testimony or evidence in issue; 1095

(23) Assisting suicide as defined in section 3795.01 of the 1096
Revised Code; 1097

(24) Prescribing any drug or device to perform or induce an 1098
abortion, or otherwise performing or inducing an abortion; 1099

(25) Failure to comply with section 4730.53 of the Revised 1100
Code, unless the board no longer maintains a drug database 1101
pursuant to section 4729.75 of the Revised Code. 1102

(C) Disciplinary actions taken by the board under divisions 1103
(A) and (B) of this section shall be taken pursuant to an 1104
adjudication under Chapter 119. of the Revised Code, except that 1105
in lieu of an adjudication, the board may enter into a consent 1106
agreement with a physician assistant or applicant to resolve an 1107
allegation of a violation of this chapter or any rule adopted 1108
under it. A consent agreement, when ratified by an affirmative 1109
vote of not fewer than six members of the board, shall constitute 1110
the findings and order of the board with respect to the matter 1111
addressed in the agreement. If the board refuses to ratify a 1112
consent agreement, the admissions and findings contained in the 1113
consent agreement shall be of no force or effect. 1114

(D) For purposes of divisions (B)(12), (15), and (16) of this 1115
section, the commission of the act may be established by a finding 1116
by the board, pursuant to an adjudication under Chapter 119. of 1117
the Revised Code, that the applicant or certificate holder 1118
committed the act in question. The board shall have no 1119
jurisdiction under these divisions in cases where the trial court 1120
renders a final judgment in the certificate holder's favor and 1121
that judgment is based upon an adjudication on the merits. The 1122

board shall have jurisdiction under these divisions in cases where 1123
the trial court issues an order of dismissal upon technical or 1124
procedural grounds. 1125

(E) The sealing of conviction records by any court shall have 1126
no effect upon a prior board order entered under the provisions of 1127
this section or upon the board's jurisdiction to take action under 1128
the provisions of this section if, based upon a plea of guilty, a 1129
judicial finding of guilt, or a judicial finding of eligibility 1130
for intervention in lieu of conviction, the board issued a notice 1131
of opportunity for a hearing prior to the court's order to seal 1132
the records. The board shall not be required to seal, destroy, 1133
redact, or otherwise modify its records to reflect the court's 1134
sealing of conviction records. 1135

(F) For purposes of this division, any individual who holds a 1136
certificate issued under this chapter, or applies for a 1137
certificate issued under this chapter, shall be deemed to have 1138
given consent to submit to a mental or physical examination when 1139
directed to do so in writing by the board and to have waived all 1140
objections to the admissibility of testimony or examination 1141
reports that constitute a privileged communication. 1142

(1) In enforcing division (B)(4) of this section, the board, 1143
upon a showing of a possible violation, may compel any individual 1144
who holds a certificate issued under this chapter or who has 1145
applied for a certificate pursuant to this chapter to submit to a 1146
mental examination, physical examination, including an HIV test, 1147
or both a mental and physical examination. The expense of the 1148
examination is the responsibility of the individual compelled to 1149
be examined. Failure to submit to a mental or physical examination 1150
or consent to an HIV test ordered by the board constitutes an 1151
admission of the allegations against the individual unless the 1152
failure is due to circumstances beyond the individual's control, 1153
and a default and final order may be entered without the taking of 1154

testimony or presentation of evidence. If the board finds a 1155
physician assistant unable to practice because of the reasons set 1156
forth in division (B)(4) of this section, the board shall require 1157
the physician assistant to submit to care, counseling, or 1158
treatment by physicians approved or designated by the board, as a 1159
condition for an initial, continued, reinstated, or renewed 1160
certificate. An individual affected under this division shall be 1161
afforded an opportunity to demonstrate to the board the ability to 1162
resume practicing in compliance with acceptable and prevailing 1163
standards of care. 1164

(2) For purposes of division (B)(5) of this section, if the 1165
board has reason to believe that any individual who holds a 1166
certificate issued under this chapter or any applicant for a 1167
certificate suffers such impairment, the board may compel the 1168
individual to submit to a mental or physical examination, or both. 1169
The expense of the examination is the responsibility of the 1170
individual compelled to be examined. Any mental or physical 1171
examination required under this division shall be undertaken by a 1172
treatment provider or physician qualified to conduct such 1173
examination and chosen by the board. 1174

Failure to submit to a mental or physical examination ordered 1175
by the board constitutes an admission of the allegations against 1176
the individual unless the failure is due to circumstances beyond 1177
the individual's control, and a default and final order may be 1178
entered without the taking of testimony or presentation of 1179
evidence. If the board determines that the individual's ability to 1180
practice is impaired, the board shall suspend the individual's 1181
certificate or deny the individual's application and shall require 1182
the individual, as a condition for initial, continued, reinstated, 1183
or renewed certification to practice or prescribe, to submit to 1184
treatment. 1185

Before being eligible to apply for reinstatement of a 1186

certificate suspended under this division, the physician assistant 1187
shall demonstrate to the board the ability to resume practice or 1188
prescribing in compliance with acceptable and prevailing standards 1189
of care. The demonstration shall include the following: 1190

(a) Certification from a treatment provider approved under 1191
section 4731.25 of the Revised Code that the individual has 1192
successfully completed any required inpatient treatment; 1193

(b) Evidence of continuing full compliance with an aftercare 1194
contract or consent agreement; 1195

(c) Two written reports indicating that the individual's 1196
ability to practice has been assessed and that the individual has 1197
been found capable of practicing according to acceptable and 1198
prevailing standards of care. The reports shall be made by 1199
individuals or providers approved by the board for making such 1200
assessments and shall describe the basis for their determination. 1201

The board may reinstate a certificate suspended under this 1202
division after such demonstration and after the individual has 1203
entered into a written consent agreement. 1204

When the impaired physician assistant resumes practice or 1205
prescribing, the board shall require continued monitoring of the 1206
physician assistant. The monitoring shall include compliance with 1207
the written consent agreement entered into before reinstatement or 1208
with conditions imposed by board order after a hearing, and, upon 1209
termination of the consent agreement, submission to the board for 1210
at least two years of annual written progress reports made under 1211
penalty of falsification stating whether the physician assistant 1212
has maintained sobriety. 1213

(G) If the secretary and supervising member determine that 1214
there is clear and convincing evidence that a physician assistant 1215
has violated division (B) of this section and that the 1216
individual's continued practice or prescribing presents a danger 1217

of immediate and serious harm to the public, they may recommend 1218
that the board suspend the individual's certificate to practice or 1219
prescribe without a prior hearing. Written allegations shall be 1220
prepared for consideration by the board. 1221

The board, upon review of those allegations and by an 1222
affirmative vote of not fewer than six of its members, excluding 1223
the secretary and supervising member, may suspend a certificate 1224
without a prior hearing. A telephone conference call may be 1225
utilized for reviewing the allegations and taking the vote on the 1226
summary suspension. 1227

The board shall issue a written order of suspension by 1228
certified mail or in person in accordance with section 119.07 of 1229
the Revised Code. The order shall not be subject to suspension by 1230
the court during pendency of any appeal filed under section 119.12 1231
of the Revised Code. If the physician assistant requests an 1232
adjudicatory hearing by the board, the date set for the hearing 1233
shall be within fifteen days, but not earlier than seven days, 1234
after the physician assistant requests the hearing, unless 1235
otherwise agreed to by both the board and the certificate holder. 1236

A summary suspension imposed under this division shall remain 1237
in effect, unless reversed on appeal, until a final adjudicative 1238
order issued by the board pursuant to this section and Chapter 1239
119. of the Revised Code becomes effective. The board shall issue 1240
its final adjudicative order within sixty days after completion of 1241
its hearing. Failure to issue the order within sixty days shall 1242
result in dissolution of the summary suspension order, but shall 1243
not invalidate any subsequent, final adjudicative order. 1244

(H) If the board takes action under division (B)(11), (13), 1245
or (14) of this section, and the judicial finding of guilt, guilty 1246
plea, or judicial finding of eligibility for intervention in lieu 1247
of conviction is overturned on appeal, upon exhaustion of the 1248
criminal appeal, a petition for reconsideration of the order may 1249

be filed with the board along with appropriate court documents. 1250
Upon receipt of a petition and supporting court documents, the 1251
board shall reinstate the certificate to practice or prescribe. 1252
The board may then hold an adjudication under Chapter 119. of the 1253
Revised Code to determine whether the individual committed the act 1254
in question. Notice of opportunity for hearing shall be given in 1255
accordance with Chapter 119. of the Revised Code. If the board 1256
finds, pursuant to an adjudication held under this division, that 1257
the individual committed the act, or if no hearing is requested, 1258
it may order any of the sanctions identified under division (B) of 1259
this section. 1260

(I) The certificate to practice issued to a physician 1261
assistant and the physician assistant's practice in this state are 1262
automatically suspended as of the date the physician assistant 1263
pleads guilty to, is found by a judge or jury to be guilty of, or 1264
is subject to a judicial finding of eligibility for intervention 1265
in lieu of conviction in this state or treatment or intervention 1266
in lieu of conviction in another state for any of the following 1267
criminal offenses in this state or a substantially equivalent 1268
criminal offense in another jurisdiction: aggravated murder, 1269
murder, voluntary manslaughter, felonious assault, kidnapping, 1270
rape, sexual battery, gross sexual imposition, aggravated arson, 1271
aggravated robbery, or aggravated burglary. Continued practice 1272
after the suspension shall be considered practicing without a 1273
certificate. 1274

The board shall notify the individual subject to the 1275
suspension by certified mail or in person in accordance with 1276
section 119.07 of the Revised Code. If an individual whose 1277
certificate is suspended under this division fails to make a 1278
timely request for an adjudication under Chapter 119. of the 1279
Revised Code, the board shall enter a final order permanently 1280
revoking the individual's certificate to practice. 1281

(J) In any instance in which the board is required by Chapter 1282
119. of the Revised Code to give notice of opportunity for hearing 1283
and the individual subject to the notice does not timely request a 1284
hearing in accordance with section 119.07 of the Revised Code, the 1285
board is not required to hold a hearing, but may adopt, by an 1286
affirmative vote of not fewer than six of its members, a final 1287
order that contains the board's findings. In that final order, the 1288
board may order any of the sanctions identified under division (A) 1289
or (B) of this section. 1290

(K) Any action taken by the board under division (B) of this 1291
section resulting in a suspension shall be accompanied by a 1292
written statement of the conditions under which the physician 1293
assistant's certificate may be reinstated. The board shall adopt 1294
rules in accordance with Chapter 119. of the Revised Code 1295
governing conditions to be imposed for reinstatement. 1296
Reinstatement of a certificate suspended pursuant to division (B) 1297
of this section requires an affirmative vote of not fewer than six 1298
members of the board. 1299

(L) When the board refuses to grant to an applicant a 1300
certificate to practice as a physician assistant or a certificate 1301
to prescribe, revokes an individual's certificate, refuses to 1302
issue a certificate, or refuses to reinstate an individual's 1303
certificate, the board may specify that its action is permanent. 1304
An individual subject to a permanent action taken by the board is 1305
forever thereafter ineligible to hold the certificate and the 1306
board shall not accept an application for reinstatement of the 1307
certificate or for issuance of a new certificate. 1308

(M) Notwithstanding any other provision of the Revised Code, 1309
all of the following apply: 1310

(1) The surrender of a certificate issued under this chapter 1311
is not effective unless or until accepted by the board. 1312
Reinstatement of a certificate surrendered to the board requires 1313

an affirmative vote of not fewer than six members of the board. 1314

(2) An application made under this chapter for a certificate, 1315
approval of a physician supervisory plan, or approval of a 1316
supervision agreement may not be withdrawn without approval of the 1317
board. 1318

(3) Failure by an individual to renew a certificate in 1319
accordance with section 4730.14 or section 4730.48 of the Revised 1320
Code shall not remove or limit the board's jurisdiction to take 1321
disciplinary action under this section against the individual. 1322

Sec. 4730.53. (A) As used in this section, ~~"drug:~~ 1323

(1) "Controlled substance" has the same meaning as in section 1324
3719.01 of the Revised Code. 1325

(2) "Drug database" means the database established and 1326
maintained by the state board of pharmacy pursuant to section 1327
4729.75 of the Revised Code. 1328

(B) ~~The~~ A physician assistant holding a certificate to 1329
prescribe issued under this chapter who is considering prescribing 1330
a controlled substance that is a schedule II drug or contains 1331
opioids shall personally, or through a delegate, request 1332
information related to the patient from the drug database pursuant 1333
to division (A)(5) of section 4729.80 of the Revised Code. The 1334
physician assistant shall not prescribe the controlled substance 1335
without first reviewing the information provided from the drug 1336
database. The physician assistant shall keep the information as 1337
part of the patient's record. 1338

The medical board shall adopt rules in accordance with 1339
Chapter 119. of the Revised Code that establish standards and 1340
procedures to be followed by a physician assistant ~~who holds a~~ 1341
~~certificate to prescribe issued under this chapter~~ described in 1342
this division regarding the review of patient information 1343

available through the drug database ~~under division (A)(5) of~~ 1344
~~section 4729.80 of the Revised Code.~~ 1345

(C) This section and the rules adopted under it do not apply 1346
if the state board of pharmacy no longer maintains the drug 1347
database. 1348

Sec. 4731.055. (A) As used in this section: 1349

(1) "Controlled substance" has the same meaning as in section 1350
3719.01 of the Revised Code. 1351

(2) "Drug database" means the database established and 1352
maintained by the state board of pharmacy pursuant to section 1353
4729.75 of the Revised Code. 1354

~~(2)~~(3) "Physician" means an individual authorized under this 1355
chapter to practice medicine and surgery, osteopathic medicine and 1356
surgery, or podiatric medicine and surgery. 1357

(B) ~~The~~ A physician who is considering prescribing or 1358
personally furnishing a controlled substance that is a schedule II 1359
drug or contains opioids shall personally, or through a delegate, 1360
request information related to the patient from the drug database 1361
pursuant to division (A)(5) of section 4729.80 of the Revised 1362
Code. The physician shall not prescribe the controlled substance 1363
without first reviewing the information provided from the drug 1364
database. The physician shall keep the information as part of the 1365
patient's record. 1366

The state medical board shall adopt rules in accordance with 1367
Chapter 119. of the Revised Code that establish standards and 1368
procedures to be followed by a physician regarding the review of 1369
patient information available through the drug database ~~under~~ 1370
~~division (A)(5) of section 4729.80 of the Revised Code.~~ 1371

(C) This section and the rules adopted under it do not apply 1372
if the state board of pharmacy no longer maintains the drug 1373

database. 1374

Sec. 4731.22. (A) The state medical board, by an affirmative 1375
vote of not fewer than six of its members, may limit, revoke, or 1376
suspend an individual's certificate to practice, refuse to grant a 1377
certificate to an individual, refuse to register an individual, 1378
refuse to reinstate a certificate, or reprimand or place on 1379
probation the holder of a certificate if the individual or 1380
certificate holder is found by the board to have committed fraud 1381
during the administration of the examination for a certificate to 1382
practice or to have committed fraud, misrepresentation, or 1383
deception in applying for or securing any certificate to practice 1384
or certificate of registration issued by the board. 1385

(B) The board, by an affirmative vote of not fewer than six 1386
members, shall, to the extent permitted by law, limit, revoke, or 1387
suspend an individual's certificate to practice, refuse to 1388
register an individual, refuse to reinstate a certificate, or 1389
reprimand or place on probation the holder of a certificate for 1390
one or more of the following reasons: 1391

(1) Permitting one's name or one's certificate to practice or 1392
certificate of registration to be used by a person, group, or 1393
corporation when the individual concerned is not actually 1394
directing the treatment given; 1395

(2) Failure to maintain minimal standards applicable to the 1396
selection or administration of drugs, or failure to employ 1397
acceptable scientific methods in the selection of drugs or other 1398
modalities for treatment of disease; 1399

(3) Selling, giving away, personally furnishing, prescribing, 1400
or administering drugs for other than legal and legitimate 1401
therapeutic purposes or a plea of guilty to, a judicial finding of 1402
guilt of, or a judicial finding of eligibility for intervention in 1403
lieu of conviction of, a violation of any federal or state law 1404

regulating the possession, distribution, or use of any drug; 1405

(4) Willfully betraying a professional confidence. 1406

For purposes of this division, "willfully betraying a 1407
professional confidence" does not include providing any 1408
information, documents, or reports to a child fatality review 1409
board under sections 307.621 to 307.629 of the Revised Code and 1410
does not include the making of a report of an employee's use of a 1411
drug of abuse, or a report of a condition of an employee other 1412
than one involving the use of a drug of abuse, to the employer of 1413
the employee as described in division (B) of section 2305.33 of 1414
the Revised Code. Nothing in this division affects the immunity 1415
from civil liability conferred by that section upon a physician 1416
who makes either type of report in accordance with division (B) of 1417
that section. As used in this division, "employee," "employer," 1418
and "physician" have the same meanings as in section 2305.33 of 1419
the Revised Code. 1420

(5) Making a false, fraudulent, deceptive, or misleading 1421
statement in the solicitation of or advertising for patients; in 1422
relation to the practice of medicine and surgery, osteopathic 1423
medicine and surgery, podiatric medicine and surgery, or a limited 1424
branch of medicine; or in securing or attempting to secure any 1425
certificate to practice or certificate of registration issued by 1426
the board. 1427

As used in this division, "false, fraudulent, deceptive, or 1428
misleading statement" means a statement that includes a 1429
misrepresentation of fact, is likely to mislead or deceive because 1430
of a failure to disclose material facts, is intended or is likely 1431
to create false or unjustified expectations of favorable results, 1432
or includes representations or implications that in reasonable 1433
probability will cause an ordinarily prudent person to 1434
misunderstand or be deceived. 1435

- (6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;
- (7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;
- (8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;
- (9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;
- (10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;
- (11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;
- (12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;
- (13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;
- (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;
- (15) Violation of the conditions of limitation placed by the

board upon a certificate to practice; 1466

(16) Failure to pay license renewal fees specified in this 1467
chapter; 1468

(17) Except as authorized in section 4731.31 of the Revised 1469
Code, engaging in the division of fees for referral of patients, 1470
or the receiving of a thing of value in return for a specific 1471
referral of a patient to utilize a particular service or business; 1472

(18) Subject to section 4731.226 of the Revised Code, 1473
violation of any provision of a code of ethics of the American 1474
medical association, the American osteopathic association, the 1475
American podiatric medical association, or any other national 1476
professional organizations that the board specifies by rule. The 1477
state medical board shall obtain and keep on file current copies 1478
of the codes of ethics of the various national professional 1479
organizations. The individual whose certificate is being suspended 1480
or revoked shall not be found to have violated any provision of a 1481
code of ethics of an organization not appropriate to the 1482
individual's profession. 1483

For purposes of this division, a "provision of a code of 1484
ethics of a national professional organization" does not include 1485
any provision that would preclude the making of a report by a 1486
physician of an employee's use of a drug of abuse, or of a 1487
condition of an employee other than one involving the use of a 1488
drug of abuse, to the employer of the employee as described in 1489
division (B) of section 2305.33 of the Revised Code. Nothing in 1490
this division affects the immunity from civil liability conferred 1491
by that section upon a physician who makes either type of report 1492
in accordance with division (B) of that section. As used in this 1493
division, "employee," "employer," and "physician" have the same 1494
meanings as in section 2305.33 of the Revised Code. 1495

(19) Inability to practice according to acceptable and 1496

prevailing standards of care by reason of mental illness or 1497
physical illness, including, but not limited to, physical 1498
deterioration that adversely affects cognitive, motor, or 1499
perceptive skills. 1500

In enforcing this division, the board, upon a showing of a 1501
possible violation, may compel any individual authorized to 1502
practice by this chapter or who has submitted an application 1503
pursuant to this chapter to submit to a mental examination, 1504
physical examination, including an HIV test, or both a mental and 1505
a physical examination. The expense of the examination is the 1506
responsibility of the individual compelled to be examined. Failure 1507
to submit to a mental or physical examination or consent to an HIV 1508
test ordered by the board constitutes an admission of the 1509
allegations against the individual unless the failure is due to 1510
circumstances beyond the individual's control, and a default and 1511
final order may be entered without the taking of testimony or 1512
presentation of evidence. If the board finds an individual unable 1513
to practice because of the reasons set forth in this division, the 1514
board shall require the individual to submit to care, counseling, 1515
or treatment by physicians approved or designated by the board, as 1516
a condition for initial, continued, reinstated, or renewed 1517
authority to practice. An individual affected under this division 1518
shall be afforded an opportunity to demonstrate to the board the 1519
ability to resume practice in compliance with acceptable and 1520
prevailing standards under the provisions of the individual's 1521
certificate. For the purpose of this division, any individual who 1522
applies for or receives a certificate to practice under this 1523
chapter accepts the privilege of practicing in this state and, by 1524
so doing, shall be deemed to have given consent to submit to a 1525
mental or physical examination when directed to do so in writing 1526
by the board, and to have waived all objections to the 1527
admissibility of testimony or examination reports that constitute 1528
a privileged communication. 1529

(20) Except when civil penalties are imposed under section 1530
4731.225 or 4731.281 of the Revised Code, and subject to section 1531
4731.226 of the Revised Code, violating or attempting to violate, 1532
directly or indirectly, or assisting in or abetting the violation 1533
of, or conspiring to violate, any provisions of this chapter or 1534
any rule promulgated by the board. 1535

This division does not apply to a violation or attempted 1536
violation of, assisting in or abetting the violation of, or a 1537
conspiracy to violate, any provision of this chapter or any rule 1538
adopted by the board that would preclude the making of a report by 1539
a physician of an employee's use of a drug of abuse, or of a 1540
condition of an employee other than one involving the use of a 1541
drug of abuse, to the employer of the employee as described in 1542
division (B) of section 2305.33 of the Revised Code. Nothing in 1543
this division affects the immunity from civil liability conferred 1544
by that section upon a physician who makes either type of report 1545
in accordance with division (B) of that section. As used in this 1546
division, "employee," "employer," and "physician" have the same 1547
meanings as in section 2305.33 of the Revised Code. 1548

(21) The violation of section 3701.79 of the Revised Code or 1549
of any abortion rule adopted by the public health council pursuant 1550
to section 3701.341 of the Revised Code; 1551

(22) Any of the following actions taken by an agency 1552
responsible for authorizing, certifying, or regulating an 1553
individual to practice a health care occupation or provide health 1554
care services in this state or another jurisdiction, for any 1555
reason other than the nonpayment of fees: the limitation, 1556
revocation, or suspension of an individual's license to practice; 1557
acceptance of an individual's license surrender; denial of a 1558
license; refusal to renew or reinstate a license; imposition of 1559
probation; or issuance of an order of censure or other reprimand; 1560

(23) The violation of section 2919.12 of the Revised Code or 1561

the performance or inducement of an abortion upon a pregnant woman 1562
with actual knowledge that the conditions specified in division 1563
(B) of section 2317.56 of the Revised Code have not been satisfied 1564
or with a heedless indifference as to whether those conditions 1565
have been satisfied, unless an affirmative defense as specified in 1566
division (H)(2) of that section would apply in a civil action 1567
authorized by division (H)(1) of that section; 1568

(24) The revocation, suspension, restriction, reduction, or 1569
termination of clinical privileges by the United States department 1570
of defense or department of veterans affairs or the termination or 1571
suspension of a certificate of registration to prescribe drugs by 1572
the drug enforcement administration of the United States 1573
department of justice; 1574

(25) Termination or suspension from participation in the 1575
medicare or medicaid programs by the department of health and 1576
human services or other responsible agency for any act or acts 1577
that also would constitute a violation of division (B)(2), (3), 1578
(6), (8), or (19) of this section; 1579

(26) Impairment of ability to practice according to 1580
acceptable and prevailing standards of care because of habitual or 1581
excessive use or abuse of drugs, alcohol, or other substances that 1582
impair ability to practice. 1583

For the purposes of this division, any individual authorized 1584
to practice by this chapter accepts the privilege of practicing in 1585
this state subject to supervision by the board. By filing an 1586
application for or holding a certificate to practice under this 1587
chapter, an individual shall be deemed to have given consent to 1588
submit to a mental or physical examination when ordered to do so 1589
by the board in writing, and to have waived all objections to the 1590
admissibility of testimony or examination reports that constitute 1591
privileged communications. 1592

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. 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 1624
ability to practice has been assessed and that the individual has 1625
been found capable of practicing according to acceptable and 1626
prevailing standards of care. The reports shall be made by 1627
individuals or providers approved by the board for making the 1628
assessments and shall describe the basis for their determination. 1629

The board may reinstate a certificate suspended under this 1630
division after that demonstration and after the individual has 1631
entered into a written consent agreement. 1632

When the impaired practitioner resumes practice, the board 1633
shall require continued monitoring of the individual. The 1634
monitoring shall include, but not be limited to, compliance with 1635
the written consent agreement entered into before reinstatement or 1636
with conditions imposed by board order after a hearing, and, upon 1637
termination of the consent agreement, submission to the board for 1638
at least two years of annual written progress reports made under 1639
penalty of perjury stating whether the individual has maintained 1640
sobriety. 1641

(27) A second or subsequent violation of section 4731.66 or 1642
4731.69 of the Revised Code; 1643

(28) Except as provided in division (N) of this section: 1644

(a) Waiving the payment of all or any part of a deductible or 1645
copayment that a patient, pursuant to a health insurance or health 1646
care policy, contract, or plan that covers the individual's 1647
services, otherwise would be required to pay if the waiver is used 1648
as an enticement to a patient or group of patients to receive 1649
health care services from that individual; 1650

(b) Advertising that the individual will waive the payment of 1651
all or any part of a deductible or copayment that a patient, 1652
pursuant to a health insurance or health care policy, contract, or 1653
plan that covers the individual's services, otherwise would be 1654

required to pay. 1655

(29) Failure to use universal blood and body fluid 1656
precautions established by rules adopted under section 4731.051 of 1657
the Revised Code; 1658

(30) Failure to provide notice to, and receive acknowledgment 1659
of the notice from, a patient when required by section 4731.143 of 1660
the Revised Code prior to providing nonemergency professional 1661
services, or failure to maintain that notice in the patient's 1662
file; 1663

(31) Failure of a physician supervising a physician assistant 1664
to maintain supervision in accordance with the requirements of 1665
Chapter 4730. of the Revised Code and the rules adopted under that 1666
chapter; 1667

(32) Failure of a physician or podiatrist to enter into a 1668
standard care arrangement with a clinical nurse specialist, 1669
certified nurse-midwife, or certified nurse practitioner with whom 1670
the physician or podiatrist is in collaboration pursuant to 1671
section 4731.27 of the Revised Code or failure to fulfill the 1672
responsibilities of collaboration after entering into a standard 1673
care arrangement; 1674

(33) Failure to comply with the terms of a consult agreement 1675
entered into with a pharmacist pursuant to section 4729.39 of the 1676
Revised Code; 1677

(34) Failure to cooperate in an investigation conducted by 1678
the board under division (F) of this section, including failure to 1679
comply with a subpoena or order issued by the board or failure to 1680
answer truthfully a question presented by the board in an 1681
investigative interview, an investigative office conference, at a 1682
deposition, or in written interrogatories, except that failure to 1683
cooperate with an investigation shall not constitute grounds for 1684
discipline under this section if a court of competent jurisdiction 1685

has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	1686 1687
(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;	1688 1689 1690
(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;	1691 1692 1693
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	1694 1695
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1696 1697
(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;	1698 1699 1700
(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;	1701 1702 1703
(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;	1704 1705 1706 1707
(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;	1708 1709 1710 1711
(43) Failure to comply with the requirements of section 4729.79 or <u>4731.055</u> 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;	1712 1713 1714 1715

(44) Failure to comply with the requirements of section 1716
2919.171 of the Revised Code or failure to submit to the 1717
department of health in accordance with a court order a complete 1718
report as described in section 2919.171 of the Revised Code; 1719

(45) Practicing at a facility that is subject to licensure as 1720
a category III terminal distributor of dangerous drugs with a pain 1721
management clinic classification unless the person operating the 1722
facility has obtained and maintains the license with the 1723
classification; 1724

(46) Owning a facility that is subject to licensure as a 1725
category III terminal distributor of dangerous drugs with a pain 1726
management clinic classification unless the facility is licensed 1727
with the classification; 1728

(47) Failure to comply with the requirement regarding 1729
maintaining notes described in division (B) of section 2919.191 of 1730
the Revised Code or failure to satisfy the requirements of section 1731
2919.191 of the Revised Code prior to performing or inducing an 1732
abortion upon a pregnant woman. 1733

(C) Disciplinary actions taken by the board under divisions 1734
(A) and (B) of this section shall be taken pursuant to an 1735
adjudication under Chapter 119. of the Revised Code, except that 1736
in lieu of an adjudication, the board may enter into a consent 1737
agreement with an individual to resolve an allegation of a 1738
violation of this chapter or any rule adopted under it. A consent 1739
agreement, when ratified by an affirmative vote of not fewer than 1740
six members of the board, shall constitute the findings and order 1741
of the board with respect to the matter addressed in the 1742
agreement. If the board refuses to ratify a consent agreement, the 1743
admissions and findings contained in the consent agreement shall 1744
be of no force or effect. 1745

A telephone conference call may be utilized for ratification 1746

of a consent agreement that revokes or suspends an individual's 1747
certificate to practice. The telephone conference call shall be 1748
considered a special meeting under division (F) of section 121.22 1749
of the Revised Code. 1750

If the board takes disciplinary action against an individual 1751
under division (B) of this section for a second or subsequent plea 1752
of guilty to, or judicial finding of guilt of, a violation of 1753
section 2919.123 of the Revised Code, the disciplinary action 1754
shall consist of a suspension of the individual's certificate to 1755
practice for a period of at least one year or, if determined 1756
appropriate by the board, a more serious sanction involving the 1757
individual's certificate to practice. Any consent agreement 1758
entered into under this division with an individual that pertains 1759
to a second or subsequent plea of guilty to, or judicial finding 1760
of guilt of, a violation of that section shall provide for a 1761
suspension of the individual's certificate to practice for a 1762
period of at least one year or, if determined appropriate by the 1763
board, a more serious sanction involving the individual's 1764
certificate to practice. 1765

(D) For purposes of divisions (B)(10), (12), and (14) of this 1766
section, the commission of the act may be established by a finding 1767
by the board, pursuant to an adjudication under Chapter 119. of 1768
the Revised Code, that the individual committed the act. The board 1769
does not have jurisdiction under those divisions if the trial 1770
court renders a final judgment in the individual's favor and that 1771
judgment is based upon an adjudication on the merits. The board 1772
has jurisdiction under those divisions if the trial court issues 1773
an order of dismissal upon technical or procedural grounds. 1774

(E) The sealing of conviction records by any court shall have 1775
no effect upon a prior board order entered under this section or 1776
upon the board's jurisdiction to take action under this section 1777
if, based upon a plea of guilty, a judicial finding of guilt, or a 1778

judicial finding of eligibility for intervention in lieu of 1779
conviction, the board issued a notice of opportunity for a hearing 1780
prior to the court's order to seal the records. The board shall 1781
not be required to seal, destroy, redact, or otherwise modify its 1782
records to reflect the court's sealing of conviction records. 1783

(F)(1) The board shall investigate evidence that appears to 1784
show that a person has violated any provision of this chapter or 1785
any rule adopted under it. Any person may report to the board in a 1786
signed writing any information that the person may have that 1787
appears to show a violation of any provision of this chapter or 1788
any rule adopted under it. In the absence of bad faith, any person 1789
who reports information of that nature or who testifies before the 1790
board in any adjudication conducted under Chapter 119. of the 1791
Revised Code shall not be liable in damages in a civil action as a 1792
result of the report or testimony. Each complaint or allegation of 1793
a violation received by the board shall be assigned a case number 1794
and shall be recorded by the board. 1795

(2) Investigations of alleged violations of this chapter or 1796
any rule adopted under it shall be supervised by the supervising 1797
member elected by the board in accordance with section 4731.02 of 1798
the Revised Code and by the secretary as provided in section 1799
4731.39 of the Revised Code. The president may designate another 1800
member of the board to supervise the investigation in place of the 1801
supervising member. No member of the board who supervises the 1802
investigation of a case shall participate in further adjudication 1803
of the case. 1804

(3) In investigating a possible violation of this chapter or 1805
any rule adopted under this chapter, or in conducting an 1806
inspection under division (E) of section 4731.054 of the Revised 1807
Code, the board may question witnesses, conduct interviews, 1808
administer oaths, order the taking of depositions, inspect and 1809
copy any books, accounts, papers, records, or documents, issue 1810

subpoenas, and compel the attendance of witnesses and production 1811
of books, accounts, papers, records, documents, and testimony, 1812
except that a subpoena for patient record information shall not be 1813
issued without consultation with the attorney general's office and 1814
approval of the secretary and supervising member of the board. 1815

(a) Before issuance of a subpoena for patient record 1816
information, the secretary and supervising member shall determine 1817
whether there is probable cause to believe that the complaint 1818
filed alleges a violation of this chapter or any rule adopted 1819
under it and that the records sought are relevant to the alleged 1820
violation and material to the investigation. The subpoena may 1821
apply only to records that cover a reasonable period of time 1822
surrounding the alleged violation. 1823

(b) On failure to comply with any subpoena issued by the 1824
board and after reasonable notice to the person being subpoenaed, 1825
the board may move for an order compelling the production of 1826
persons or records pursuant to the Rules of Civil Procedure. 1827

(c) A subpoena issued by the board may be served by a 1828
sheriff, the sheriff's deputy, or a board employee designated by 1829
the board. Service of a subpoena issued by the board may be made 1830
by delivering a copy of the subpoena to the person named therein, 1831
reading it to the person, or leaving it at the person's usual 1832
place of residence, usual place of business, or address on file 1833
with the board. When serving a subpoena to an applicant for or the 1834
holder of a certificate issued under this chapter, service of the 1835
subpoena may be made by certified mail, return receipt requested, 1836
and the subpoena shall be deemed served on the date delivery is 1837
made or the date the person refuses to accept delivery. If the 1838
person being served refuses to accept the subpoena or is not 1839
located, service may be made to an attorney who notifies the board 1840
that the attorney is representing the person. 1841

(d) A sheriff's deputy who serves a subpoena shall receive 1842

the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(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 1875
accordance with the Rules of Evidence, but the court shall require 1876
that appropriate measures are taken to ensure that confidentiality 1877
is maintained with respect to any part of the information that 1878
contains names or other identifying information about patients or 1879
complainants whose confidentiality was protected by the state 1880
medical board when the information was in the board's possession. 1881
Measures to ensure confidentiality that may be taken by the court 1882
include sealing its records or deleting specific information from 1883
its records. 1884

(6) On a quarterly basis, the board shall prepare a report 1885
that documents the disposition of all cases during the preceding 1886
three months. The report shall contain the following information 1887
for each case with which the board has completed its activities: 1888

(a) The case number assigned to the complaint or alleged 1889
violation; 1890

(b) The type of certificate to practice, if any, held by the 1891
individual against whom the complaint is directed; 1892

(c) A description of the allegations contained in the 1893
complaint; 1894

(d) The disposition of the case. 1895

The report shall state how many cases are still pending and 1896
shall be prepared in a manner that protects the identity of each 1897
person involved in each case. The report shall be a public record 1898
under section 149.43 of the Revised Code. 1899

(G) If the secretary and supervising member determine both of 1900
the following, they may recommend that the board suspend an 1901
individual's certificate to practice without a prior hearing: 1902

(1) That there is clear and convincing evidence that an 1903
individual has violated division (B) of this section; 1904

(2) That the individual's continued practice presents a 1905
danger of immediate and serious harm to the public. 1906

Written allegations shall be prepared for consideration by 1907
the board. The board, upon review of those allegations and by an 1908
affirmative vote of not fewer than six of its members, excluding 1909
the secretary and supervising member, may suspend a certificate 1910
without a prior hearing. A telephone conference call may be 1911
utilized for reviewing the allegations and taking the vote on the 1912
summary suspension. 1913

The board shall issue a written order of suspension by 1914
certified mail or in person in accordance with section 119.07 of 1915
the Revised Code. The order shall not be subject to suspension by 1916
the court during pendency of any appeal filed under section 119.12 1917
of the Revised Code. If the individual subject to the summary 1918
suspension requests an adjudicatory hearing by the board, the date 1919
set for the hearing shall be within fifteen days, but not earlier 1920
than seven days, after the individual requests the hearing, unless 1921
otherwise agreed to by both the board and the individual. 1922

Any summary suspension imposed under this division shall 1923
remain in effect, unless reversed on appeal, until a final 1924
adjudicative order issued by the board pursuant to this section 1925
and Chapter 119. of the Revised Code becomes effective. The board 1926
shall issue its final adjudicative order within seventy-five days 1927
after completion of its hearing. A failure to issue the order 1928
within seventy-five days shall result in dissolution of the 1929
summary suspension order but shall not invalidate any subsequent, 1930
final adjudicative order. 1931

(H) If the board takes action under division (B)(9), (11), or 1932
(13) of this section and the judicial finding of guilt, guilty 1933
plea, or judicial finding of eligibility for intervention in lieu 1934
of conviction is overturned on appeal, upon exhaustion of the 1935
criminal appeal, a petition for reconsideration of the order may 1936

be filed with the board along with appropriate court documents. 1937
Upon receipt of a petition of that nature and supporting court 1938
documents, the board shall reinstate the individual's certificate 1939
to practice. The board may then hold an adjudication under Chapter 1940
119. of the Revised Code to determine whether the individual 1941
committed the act in question. Notice of an opportunity for a 1942
hearing shall be given in accordance with Chapter 119. of the 1943
Revised Code. If the board finds, pursuant to an adjudication held 1944
under this division, that the individual committed the act or if 1945
no hearing is requested, the board may order any of the sanctions 1946
identified under division (B) of this section. 1947

(I) The certificate to practice issued to an individual under 1948
this chapter and the individual's practice in this state are 1949
automatically suspended as of the date of the individual's second 1950
or subsequent plea of guilty to, or judicial finding of guilt of, 1951
a violation of section 2919.123 of the Revised Code, or the date 1952
the individual pleads guilty to, is found by a judge or jury to be 1953
guilty of, or is subject to a judicial finding of eligibility for 1954
intervention in lieu of conviction in this state or treatment or 1955
intervention in lieu of conviction in another jurisdiction for any 1956
of the following criminal offenses in this state or a 1957
substantially equivalent criminal offense in another jurisdiction: 1958
aggravated murder, murder, voluntary manslaughter, felonious 1959
assault, kidnapping, rape, sexual battery, gross sexual 1960
imposition, aggravated arson, aggravated robbery, or aggravated 1961
burglary. Continued practice after suspension shall be considered 1962
practicing without a certificate. 1963

The board shall notify the individual subject to the 1964
suspension by certified mail or in person in accordance with 1965
section 119.07 of the Revised Code. If an individual whose 1966
certificate is automatically suspended under this division fails 1967
to make a timely request for an adjudication under Chapter 119. of 1968

the Revised Code, the board shall do whichever of the following is applicable: 1969
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(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice. 1971
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(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to practice. 1978
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(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section. 1981
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(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board. 1990
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(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, 1998
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refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

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

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

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

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

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

(1) In compliance with the health benefit plan that expressly

allows such a practice. Waiver of the deductibles or copayments 2031
shall be made only with the full knowledge and consent of the plan 2032
purchaser, payer, and third-party administrator. Documentation of 2033
the consent shall be made available to the board upon request. 2034

(2) For professional services rendered to any other person 2035
authorized to practice pursuant to this chapter, to the extent 2036
allowed by this chapter and rules adopted by the board. 2037

(0) Under the board's investigative duties described in this 2038
section and subject to division (F) of this section, the board 2039
shall develop and implement a quality intervention program 2040
designed to improve through remedial education the clinical and 2041
communication skills of individuals authorized under this chapter 2042
to practice medicine and surgery, osteopathic medicine and 2043
surgery, and podiatric medicine and surgery. In developing and 2044
implementing the quality intervention program, the board may do 2045
all of the following: 2046

(1) Offer in appropriate cases as determined by the board an 2047
educational and assessment program pursuant to an investigation 2048
the board conducts under this section; 2049

(2) Select providers of educational and assessment services, 2050
including a quality intervention program panel of case reviewers; 2051

(3) Make referrals to educational and assessment service 2052
providers and approve individual educational programs recommended 2053
by those providers. The board shall monitor the progress of each 2054
individual undertaking a recommended individual educational 2055
program. 2056

(4) Determine what constitutes successful completion of an 2057
individual educational program and require further monitoring of 2058
the individual who completed the program or other action that the 2059
board determines to be appropriate; 2060

(5) Adopt rules in accordance with Chapter 119. of the 2061

Revised Code to further implement the quality intervention program. 2062
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An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program. 2064
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Section 2. That existing sections 4715.30, 4715.302, 4723.28, 4723.487, 4725.092, 4725.19, 4729.16, 4729.80, 4730.25, 4730.53, 4731.055, and 4731.22 of the Revised Code are hereby repealed. 2067
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Section 3. Section 4723.487 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 303 and Sub. S.B. 301 of the 129th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. 2071
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