

As Introduced

**129th General Assembly
Regular Session
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H. B. No. 169

Representative Williams

Cosponsors: Representatives Letson, Barnes, Ramos, Hagan, R.

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A B I L L

To amend sections 3923.233, 3923.301, 4701.16, 1
4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 2
4715.30, 4717.14, 4719.03, 4723.07, 4723.28, 3
4723.34, 4725.19, 4725.53, 4727.15, 4728.13, 4
4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 5
4731.224, 4731.225, 4731.226, 4731.25, 4731.72, 6
4732.17, 4733.20, 4734.31, 4734.39, 4735.07, 7
4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 8
4738.04, 4738.07, 4738.12, 4738.18, 4740.06, 9
4740.10, 4741.22, 4747.12, 4749.03, 4749.04, 10
4749.06, 4751.10, 4753.10, 4755.11, 4755.47, 11
4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 12
4761.09, 4762.13, 4763.11, 4765.18, 4765.301, 13
4774.13, 4779.28, and 4781.09 and to enact section 14
4743.07 of the Revised Code to revise the laws 15
governing issuance of certain professional 16
licenses. 17

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

Section 1. That sections 3923.233, 3923.301, 4701.16, 18
4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 4717.14, 19
4719.03, 4723.07, 4723.28, 4723.34, 4725.19, 4725.53, 4727.15, 20

4728.13, 4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 4731.224, 21
4731.225, 4731.226, 4731.25, 4731.72, 4732.17, 4733.20, 4734.31, 22
4734.39, 4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 23
4738.04, 4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 4741.22, 24
4747.12, 4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 4755.11, 25
4755.47, 4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 26
4762.13, 4763.11, 4765.18, 4765.301, 4774.13, 4779.28, and 4781.09 27
be amended and section 4743.07 of the Revised Code be enacted to 28
read as follows: 29

Sec. 3923.233. Notwithstanding any provision of any 30
certificate furnished by an insurer in connection with or pursuant 31
to any group sickness and accident insurance policy delivered, 32
issued, renewed, or used, in or outside this state, on or after 33
January 1, 1985, and notwithstanding any provision of any policy 34
of insurance delivered, issued for delivery, renewed, or used, in 35
or outside this state, on or after January 1, 1985, whenever the 36
policy or certificate is subject to the jurisdiction of this state 37
and provides for reimbursement for any service that may be legally 38
performed by a certified nurse-midwife who is authorized under 39
section 4723.42 of the Revised Code to practice nurse-midwifery, 40
reimbursement under the policy or certificate shall not be denied 41
to a certified nurse-midwife performing the service in 42
collaboration with a licensed physician. The collaborating 43
physician shall be identified on an insurance claim form. 44

The cost of collaboration with a certified nurse-midwife by a 45
licensed physician as required under section 4723.43 of the 46
Revised Code is a reimbursable expense. 47

The division of any reimbursement payment for services 48
performed by a certified nurse-midwife between the nurse-midwife 49
and the nurse-midwife's collaborating physician shall be 50
determined and mutually agreed upon by the certified nurse-midwife 51

and the physician. The division of fees shall not be considered a violation of division (B)~~(17)~~(13) of section 4731.22 of the Revised Code. In no case shall the total fees charged exceed the fee the physician would have charged had the physician provided the entire service.

Sec. 3923.301. Every person, the state and any of its instrumentalities, any county, township, school district, or other political subdivision and any of its instrumentalities, and any municipal corporation and any of its instrumentalities that provides payment for health care benefits for any of its employees resident in this state, which benefits are not provided by contract with an insurer qualified to provide sickness and accident insurance or a health insuring corporation, and that includes reimbursement for any service that may be legally performed by a certified nurse-midwife who is authorized under section 4723.42 of the Revised Code to practice nurse-midwifery, shall not deny reimbursement to a certified nurse-midwife performing the service if the service is performed in collaboration with a licensed physician. The collaborating physician shall be identified on the claim form.

The cost of collaboration with a certified nurse-midwife by a licensed physician as required under section 4723.43 of the Revised Code is a reimbursable expense.

The division of any reimbursement payment for services performed by a certified nurse-midwife between the nurse-midwife and the nurse-midwife's collaborating physician shall be determined and mutually agreed upon by the certified nurse-midwife and the physician. The division of fees shall not be considered a violation of division (B)~~(17)~~(13) of section 4731.22 of the Revised Code. In no case shall the total fees charged exceed the fee the physician would have charged had the physician provided

the entire service. 83

Sec. 4701.16. (A) After notice and hearing as provided in 84
Chapter 119. of the Revised Code, the accountancy board may 85
discipline as described in division (B) of this section a person 86
holding an Ohio permit, an Ohio registration, a firm registration, 87
a CPA certificate, or a PA registration or any other person whose 88
activities are regulated by the board for any one or any 89
combination of the following causes: 90

(1) Fraud or deceit in obtaining a firm registration or in 91
obtaining a CPA certificate, a PA registration, an Ohio permit, or 92
an Ohio registration; 93

(2) Dishonesty, fraud, or gross negligence in the practice of 94
public accounting; 95

(3) Violation of any of the provisions of section 4701.14 of 96
the Revised Code; 97

(4) Violation of a rule of professional conduct promulgated 98
by the board under the authority granted by this chapter; 99

(5) Conviction of or plea of guilty to a felony criminal 100
offense that is substantially related to the practice of public 101
accounting under the laws of any state or of the United States; 102

~~(6) Conviction of any crime, an element of which is~~ 103
~~dishonesty or fraud, under the laws of any state or of the United~~ 104
~~States;~~ 105

~~(7)~~ Cancellation, revocation, suspension, or refusal to renew 106
authority to practice as a certified public accountant, a public 107
accountant, or a public accounting firm by any other state, for 108
any cause other than failure to pay registration fees in that 109
other state; 110

~~(8)~~(7) Suspension or revocation of the right to practice 111
before any state or federal agency; 112

(9) (8) Failure of a holder of a CPA certificate or PA registration to obtain an Ohio permit or an Ohio registration, or the failure of a public accounting firm to obtain a firm registration;	113 114 115 116
(10) (9) Conduct discreditable to the public accounting profession or to the holder of an Ohio permit, Ohio registration, or foreign certificate;	117 118 119
(11) (10) Failure of a public accounting firm to comply with section 4701.04 of the Revised Code.	120 121
(B) For any of the reasons specified in division (A) of this section, the board may do any of the following:	122 123
(1) Revoke, suspend, or refuse to renew any CPA certificate or PA registration or any Ohio permit, Ohio registration, or firm registration;	124 125 126
(2) Disqualify a person who is not a holder of an Ohio permit or a foreign certificate from owning an equity interest in a public accounting firm or qualified firm;	127 128 129
(3) Publicly censure a registered firm or a holder of a CPA certificate, a PA registration, an Ohio permit, or an Ohio registration;	130 131 132
(4) Levy against a registered firm or a holder of a CPA certificate, a PA registration, an Ohio permit, or an Ohio registration a penalty or fine not to exceed five thousand dollars for each offense. Any fine shall be reasonable and in relation to the severity of the offense.	133 134 135 136 137
(5) In the case of violations of division (A)(2) or (4) of this section, require completion of remedial continuing education programs prescribed by the board in addition to those required by section 4701.11 of the Revised Code;	138 139 140 141
(6) In the case of violations of division (A)(2) or (4) of	142

this section, require the holder of a CPA certificate, PA 143
registration, or firm registration to submit to a peer review by a 144
professional committee designated by the board, which committee 145
shall report to the board concerning that holder's compliance with 146
generally accepted accounting principles, generally accepted 147
auditing standards, or other generally accepted technical 148
standards; 149

(7) Revoke or suspend the privileges to offer or render 150
attest services in this state or to use a CPA title or designation 151
in this state of an individual who holds a foreign certificate. 152

(C) If the board levies a fine against or suspends the 153
certificate of a person or registration of a person or firm for a 154
violation of division (A)(2) or (4) of this section, it may waive 155
all or any portion of the fine or suspension if the holder of the 156
CPA certificate, PA registration, or firm registration complies 157
fully with division (B)(5) ~~or (6)~~ of this section. 158

(D) As used in this section, a "criminal offense that is 159
substantially related" has the same meaning as in section 4743.07 160
of the Revised Code. 161

Sec. 4703.15. (A) The architects board may by three 162
concurring votes deny renewal of, revoke, or suspend any 163
certificate of qualification to practice architecture, issued or 164
renewed under sections 4703.10, 4703.13, and 4703.14 of the 165
Revised Code, or any certificate of authorization, issued or 166
renewed under sections 4703.13 and 4703.18 of the Revised Code, if 167
proof satisfactory to the board is presented in any of the 168
following cases: 169

(1) In case it is shown that the certificate was obtained by 170
fraud; 171

(2) In case the holder of the certificate has been found 172

guilty by the board or by a court of justice of any fraud or 173
deceit in the holder's professional practice, or has been 174
convicted ~~of a felony~~ by a court of justice of, or pleaded guilty 175
in a court of justice to, a criminal offense that is substantially 176
related to the practice of architecture; 177

(3) In case the holder has been found guilty by the board of 178
gross negligence, incompetency, or misconduct in the performance 179
of the holder's services as an architect or in the practice of 180
architecture; 181

(4) In case the holder of the certificate has been found 182
guilty by the board of signing plans for the construction of a 183
building as a "registered architect" where the holder is not the 184
actual architect of such building and where the holder is without 185
prior written consent of the architect originating the design or 186
other documents used in the plans; 187

(5) In case the holder of the certificate has been found 188
guilty by the board of aiding and abetting another person or 189
persons not properly registered as required by sections 4703.01 to 190
4703.19 of the Revised Code, in the performance of activities that 191
in any manner or extent constitute the practice of architecture. 192

At any time after the expiration of six months from the date 193
of the revocation or suspension of a certificate, the individual, 194
firm, partnership, association, or corporation may apply for 195
reinstatement of the certificate. Upon showing that all loss 196
caused by the individual, firm, partnership, association, or 197
corporation whose certificate has been revoked or suspended has 198
been fully satisfied and that all conditions imposed by the 199
revocation or suspension decision have been complied with, and 200
upon the payment of all costs incurred by the board as a result of 201
the case at issue, the board, at its discretion and upon evidence 202
that in its opinion would so warrant, may restore the certificate. 203

(B) In addition to disciplinary action the board may take 204
against a certificate holder under division (A) of this section or 205
section 4703.151 of the Revised Code, the board may impose a fine 206
against a certificate holder who obtained a certificate by fraud 207
or who is found guilty of any act specified in divisions (A)(2) to 208
(A)(5) of this section or who violates any rule governing the 209
standards of service, conduct, and practice adopted pursuant to 210
section 4703.02 of the Revised Code. The fine imposed shall be not 211
more than one thousand dollars for each offense but shall not 212
exceed five thousand dollars regardless of the number of offenses 213
the certificate holder has committed between the time the fine is 214
imposed and the time any previous fine was imposed. 215

(C) As used in this section, a "criminal offense that is 216
substantially related" has the same meaning as in section 4743.07 217
of the Revised Code. 218

Sec. 4707.02. (A) No person shall act as an auction firm, 219
auctioneer, apprentice auctioneer, or special auctioneer within 220
this state without a license issued by the department of 221
agriculture. No auction shall be conducted in this state except by 222
an auctioneer licensed by the department. 223

The department shall not issue or renew a license if the 224
applicant or licensee has been convicted of ~~a felony or crime~~ 225
~~involving fraud or theft~~ or pleaded guilty to a criminal offense 226
that is substantially related to the profession of an auction 227
firm, auctioneer, apprentice auctioneer, or special auctioneer in 228
this or another state at any time during the ten years immediately 229
preceding application or renewal. 230

(B) Division (A) of this section does not apply to any of the 231
following: 232

(1) Sales at auction that either are required by law to be at 233
auction, other than sales pursuant to a judicial order or decree, 234

or are conducted by or under the direction of a public authority;	235
(2) The owner of any real or personal property desiring to	236
sell the property at auction, provided that the property was not	237
acquired for the purpose of resale;	238
(3) An auction mediation company;	239
(4) An auction that is conducted in a course of study for	240
auctioneers that is approved by the state auctioneers commission	241
created under section 4707.03 of the Revised Code for purposes of	242
student training and is supervised by a licensed auctioneer;	243
(5)(a) An auction that is sponsored by a nonprofit or	244
charitable organization that is registered in this state under	245
Chapter 1702. or Chapter 1716. of the Revised Code, respectively,	246
if the auction only involves the property of the members of the	247
organization and the auction is part of a fair that is organized	248
by an agricultural society under Chapter 1711. of the Revised Code	249
or by the Ohio expositions commission under Chapter 991. of the	250
Revised Code at which an auctioneer who is licensed under this	251
chapter physically conducts the auction; or	252
(b) Sales at an auction sponsored by a charitable, religious,	253
or civic organization that is tax exempt under subsection	254
501(c)(3) of the Internal Revenue Code, or by a public school,	255
chartered nonpublic school, or community school, if no person in	256
the business of organizing, arranging, or conducting an auction	257
for compensation and no consignor of consigned items sold at the	258
auction, except such organization or school, receives compensation	259
from the proceeds of the auction. As used in division (B)(5)(b) of	260
this section, "compensation" means money, a thing of value other	261
than participation in a charitable event, or a financial benefit.	262
(6) A person licensed as a livestock dealer under Chapter	263
943. of the Revised Code who exclusively sells livestock and uses	264
an auctioneer who is licensed under this chapter to conduct the	265

auction;	266
(7) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles to a person licensed under Chapter 4517. of the Revised Code and who uses an auctioneer who is licensed under this chapter to conduct the auction;	267 268 269 270 271
(8) A person who sells real or personal property by means of the internet.	272 273
(C)(1) No person shall advertise or hold oneself out as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of agriculture.	274 275 276 277
(2) Division (C)(1) of this section does not apply to an individual who is the subject of an advertisement regarding an auction conducted under division (B)(5)(b) of this section.	278 279 280
<u>(D) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code.</u>	281 282 283
Sec. 4707.15. <u>The As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code.</u>	284 285 286
<u>The</u> department of agriculture may deny, refuse to renew, suspend, or revoke the license of any auction firm, auctioneer, apprentice auctioneer, or special auctioneer for any of the following causes:	287 288 289 290
(A) Obtaining a license through false or fraudulent representation;	291 292
(B) Making any substantial misrepresentation in an application for a license;	293 294

(C) A continued course of misrepresentation or for making false promises through agents, advertising, or otherwise;	295 296
(D) Specifying that an auction is a reserve auction, absolute auction, or estate auction, but not conducting the auction as specified;	297 298 299
(E) Failing to account for or remit, within a reasonable time, any money or property belonging to others that comes into the licensee's possession, and for commingling funds of others with the licensee's own, or failing to keep funds of others in an escrow or trust account, except that in the case of a transaction involving real estate, such funds shall be maintained in accordance with division (A)(26) of section 4735.18 of the Revised Code;	300 301 302 303 304 305 306 307
(F) Paying valuable consideration to any person who has violated this chapter;	308 309
(G) Conviction in <u>In</u> a court of competent jurisdiction of this state or any other state, <u>conviction of or plea of guilty to</u> a criminal offense involving fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud, or another similar offense or a felony <u>that is substantially related to the profession of auctioneer, apprentice auctioneer, or special auctioneer;</u>	310 311 312 313 314 315 316
(H) Violation of this chapter or rules adopted under it;	317
(I) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer or auction firm;	318 319 320
(J) Any conduct of a person that is licensed under this chapter that demonstrates bad faith, dishonesty, incompetency, or untruthfulness;	321 322 323
(K) Any other conduct that constitutes improper, fraudulent,	324

or dishonest dealings;	325
(L) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee received the property for auction;	326 327 328 329
(M) The use of any power of attorney to circumvent this chapter;	330 331
(N) Failure to display the sign required under section 4707.22 of the Revised Code and a notice conspicuously at the clerk's desk or on a bid card that clearly states the terms and conditions of the auction;	332 333 334 335
(O) Failure to notify the department of any conviction of a felony or crime involving fraud within fifteen days of conviction;	336 337
(P) Aiding an unlicensed person in the performance of services or acts that require a license under this chapter;	338 339
(Q) The suspension or revocation of a license to engage in auctioneering or other disciplinary action by the licensing authority of another state;	340 341 342
(R) The refusal or disapproval by the licensing authority of another state of an application for a license to engage in auctioneering;	343 344 345
(S) Failure of a licensee to notify the department of agriculture within fifteen days of a disciplinary action against the licensee by another state's applicable governing authority;	346 347 348
(T) Engaging in auctioneering or providing auction services without a license or during the suspension of a license;	349 350
(U) Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.	351 352
Sec. 4709.13. (A) The barber board may refuse to issue or	353

renew or may suspend or revoke or impose conditions upon any 354
license issued pursuant to this chapter for any one or more of the 355
following causes: 356

(1) Conviction of or plea of guilty to a felony criminal 357
offense that is substantially related to the practice of barbering 358
shown by a certified copy of the record of the court of 359
conviction; 360

(2) Advertising by means of knowingly false or deceptive 361
statements; 362

(3) Habitual drunkenness or possession of or addiction to the 363
use of any controlled drug prohibited by state or federal law; 364

(4) Immoral or unprofessional conduct; 365

(5) Continuing to be employed in a barber shop wherein rules 366
of the board or department of health are violated; 367

(6) Employing any person who does not have a current Ohio 368
license to perform the practice of barbering; 369

(7) Owning, managing, operating, or controlling any barber 370
school or portion thereof, wherein the practice of barbering is 371
carried on, whether in the same building or not, without 372
displaying a sign at all entrances to the places where the 373
barbering is carried on, indicating that the work therein is done 374
by students exclusively; 375

(8) Owning, managing, operating, or controlling any barber 376
shop, unless it displays a recognizable sign or barber pole 377
indicating that it is a barber shop, and the sign or pole is 378
clearly visible at the main entrance to the shop; 379

(9) Violating any sanitary rules approved by the department 380
of health or the board; 381

(10) Employing another person to perform or ~~himself~~ 382
personally perform the practice of barbering in a licensed barber 383

shop unless that person is licensed as a barber under this 384
chapter; 385

(11) Gross incompetence. 386

(B) Prior to taking any action under division (A) of this 387
section, the board shall provide the person with a statement of 388
the charges against ~~him~~ the person and notice of the time and 389
place of a hearing on the charges. The board shall conduct the 390
hearing according to Chapter 119. of the Revised Code. Any person 391
dissatisfied with a decision of the board may appeal the board's 392
decision to the court of common pleas in Franklin county. 393

(C) The board may adopt rules in accordance with Chapter 119. 394
of the Revised Code, specifying additional grounds upon which the 395
board may take action under division (A) of this section. 396

(D) As used in this section, a "criminal offense that is 397
substantially related" has the same meaning as in section 4743.07 398
of the Revised Code. 399

Sec. 4712.03. After As used in this section, a "criminal 400
offense that is substantially related" has the same meaning as in 401
section 4743.07 of the Revised Code. 402

After notice and a hearing conducted in accordance with 403
Chapter 119. of the Revised Code, the superintendent of financial 404
institutions may suspend, revoke, or refuse to issue or renew a 405
certificate of registration if any of the following conditions 406
applies to the applicant for registration or registrant: 407

(A) The applicant or registrant obtained a certificate of 408
registration through any false or fraudulent representation or 409
made any substantial misrepresentation in any registration 410
application. 411

(B) The applicant or registrant made false promises through 412
advertising or other means or engaged in a continued course of 413

misrepresentations. 414

(C) The applicant or registrant violated any provision of 415
Chapter 1345. or sections 4712.01 to 4712.14 of the Revised Code 416
or the rules adopted thereunder. 417

(D) The applicant or registrant was convicted of, or pleaded 418
guilty to, in a court of competent jurisdiction of this state or 419
any other state, ~~of a felony or any criminal offense involving~~ 420
~~fraud~~ criminal offense that is substantially related to practice 421
as a credit services organization, or failed to notify the 422
division of financial institutions of any such conviction or 423
guilty plea. 424

(E) The applicant or registrant engaged in conduct that 425
constituted improper, fraudulent, or dishonest dealings. 426

Sec. 4715.30. (A) An applicant for or holder of a certificate 427
or license issued under this chapter is subject to disciplinary 428
action by the state dental board for any of the following reasons: 429

(1) Employing or cooperating in fraud or material deception 431
in applying for or obtaining a license or certificate; 432

(2) Obtaining or attempting to obtain money or anything of 433
value by intentional misrepresentation or material deception in 434
the course of practice; 435

(3) Advertising services in a false or misleading manner or 436
violating the board's rules governing time, place, and manner of 437
advertising; 438

(4) Conviction of or plea of guilty to a misdemeanor 439
~~committed in the course of practice or of any felony~~ criminal 440
offense that is substantially related to the practice of 441
dentistry; 442

(5) Engaging in lewd or immoral conduct in connection with 443

the provision of dental services;	444
(6) Selling, prescribing, giving away, or administering drugs	445
for other than legal and legitimate therapeutic purposes, or	446
conviction of violating any law of this state or the federal	447
government regulating the possession, distribution, or use of any	448
drug;	449
(7) Providing or allowing dental hygienists, expanded	450
function dental auxiliaries, or other practitioners of auxiliary	451
dental occupations working under the certificate or license	452
holder's supervision, or a dentist holding a temporary limited	453
continuing education license under division (C) of section 4715.16	454
of the Revised Code working under the certificate or license	455
holder's direct supervision, to provide dental care that departs	456
from or fails to conform to accepted standards for the profession,	457
whether or not injury to a patient results;	458
(8) Inability to practice under accepted standards of the	459
profession because of physical or mental disability, dependence on	460
alcohol or other drugs, or excessive use of alcohol or other	461
drugs;	462
(9) Violation of any provision of this chapter or any rule	463
adopted thereunder;	464
(10) Failure to use universal blood and body fluid	465
precautions established by rules adopted under section 4715.03 of	466
the Revised Code;	467
(11) Waiving the payment of all or any part of a deductible	468
or copayment that a patient, pursuant to a health insurance or	469
health care policy, contract, or plan that covers dental services,	470
would otherwise be required to pay if the waiver is used as an	471
enticement to a patient or group of patients to receive health	472
care services from that provider.	473
(12) Advertising that the certificate or license holder will	474

waive the payment of all or any part of a deductible or copayment 475
that a patient, pursuant to a health insurance or health care 476
policy, contract, or plan that covers dental services, would 477
otherwise be required to pay. 478

(B) A manager, proprietor, operator, or conductor of a dental 479
facility shall be subject to disciplinary action if any dentist, 480
dental hygienist, expanded function dental auxiliary, or qualified 481
personnel providing services in the facility is found to have 482
committed a violation listed in division (A) of this section and 483
the manager, proprietor, operator, or conductor knew of the 484
violation and permitted it to occur on a recurring basis. 485

(C) Subject to Chapter 119. of the Revised Code, the board 486
may take one or more of the following disciplinary actions if one 487
or more of the grounds for discipline listed in divisions (A) and 488
(B) of this section exist: 489

(1) Censure the license or certificate holder; 490

(2) Place the license or certificate on probationary status 491
for such period of time the board determines necessary and require 492
the holder to: 493

(a) Report regularly to the board upon the matters which are 494
the basis of probation; 495

(b) Limit practice to those areas specified by the board; 496

(c) Continue or renew professional education until a 497
satisfactory degree of knowledge or clinical competency has been 498
attained in specified areas. 499

(3) Suspend the certificate or license; 500

(4) Revoke the certificate or license. 501

Where the board places a holder of a license or certificate 502
on probationary status pursuant to division (C)(2) of this 503
section, the board may subsequently suspend or revoke the license 504

or certificate if it determines that the holder has not met the 505
requirements of the probation or continues to engage in activities 506
that constitute grounds for discipline pursuant to division (A) or 507
(B) of this section. 508

Any order suspending a license or certificate shall state the 509
conditions under which the license or certificate will be 510
restored, which may include a conditional restoration during which 511
time the holder is in a probationary status pursuant to division 512
(C)(2) of this section. The board shall restore the license or 513
certificate unconditionally when such conditions are met. 514

(D) If the physical or mental condition of an applicant or a 515
license or certificate holder is at issue in a disciplinary 516
proceeding, the board may order the license or certificate holder 517
to submit to reasonable examinations by an individual designated 518
or approved by the board and at the board's expense. The physical 519
examination may be conducted by any individual authorized by the 520
Revised Code to do so, including a physician assistant, a clinical 521
nurse specialist, a certified nurse practitioner, or a certified 522
nurse-midwife. Any written documentation of the physical 523
examination shall be completed by the individual who conducted the 524
examination. 525

Failure to comply with an order for an examination shall be 526
grounds for refusal of a license or certificate or summary 527
suspension of a license or certificate under division (E) of this 528
section. 529

(E) If the board has reason to believe that a license or 530
certificate holder represents a clear and immediate danger to the 531
public health and safety if the holder is allowed to continue to 532
practice, or if the holder has failed to comply with an order 533
under division (D) of this section, the board may apply to the 534
court of common pleas of the county in which the holder resides 535
for an order temporarily suspending the holder's license or 536

certificate, without a prior hearing being afforded by the board, 537
until the board conducts an adjudication hearing pursuant to 538
Chapter 119. of the Revised Code. If the court temporarily 539
suspends a holder's license or certificate, the board shall give 540
written notice of the suspension personally or by certified mail 541
to the license or certificate holder. Such notice shall include 542
specific facts and reasons for finding a clear and immediate 543
danger to the public health and safety and shall inform the 544
license or certificate holder of the right to a hearing pursuant 545
to Chapter 119. of the Revised Code. 546

(F) Any holder of a certificate or license issued under this 547
chapter who has pleaded guilty to, has been convicted of, or has 548
had a judicial finding of eligibility for intervention in lieu of 549
conviction entered against the holder in this state for aggravated 550
murder, murder, voluntary manslaughter, felonious assault, 551
kidnapping, rape, sexual battery, gross sexual imposition, 552
aggravated arson, aggravated robbery, or aggravated burglary, or 553
who has pleaded guilty to, has been convicted of, or has had a 554
judicial finding of eligibility for treatment or intervention in 555
lieu of conviction entered against the holder in another 556
jurisdiction for any substantially equivalent criminal offense, is 557
automatically suspended from practice under this chapter in this 558
state and any certificate or license issued to the holder under 559
this chapter is automatically suspended, as of the date of the 560
guilty plea, conviction, or judicial finding, whether the 561
proceedings are brought in this state or another jurisdiction. 562
Continued practice by an individual after the suspension of the 563
individual's certificate or license under this division shall be 564
considered practicing without a certificate or license. The board 565
shall notify the suspended individual of the suspension of the 566
individual's certificate or license under this division by 567
certified mail or in person in accordance with section 119.07 of 568
the Revised Code. If an individual whose certificate or license is 569

suspended under this division fails to make a timely request for 570
an adjudicatory hearing, the board shall enter a final order 571
revoking the individual's certificate or license. 572

(G) Notwithstanding divisions (A)(11) and (12) of this 573
section, sanctions shall not be imposed against any licensee who 574
waives deductibles and copayments: 575

(1) In compliance with the health benefit plan that expressly 576
allows such a practice. Waiver of the deductibles or copayments 577
shall be made only with the full knowledge and consent of the plan 578
purchaser, payer, and third-party administrator. Such consent 579
shall be made available to the board upon request. 580

(2) For professional services rendered to any other person 581
licensed pursuant to this chapter to the extent allowed by this 582
chapter and the rules of the board. 583

(H) In no event shall the board consider or raise during a 584
hearing required by Chapter 119. of the Revised Code the 585
circumstances of, or the fact that the board has received, one or 586
more complaints about a person unless the one or more complaints 587
are the subject of the hearing or resulted in the board taking an 588
action authorized by this section against the person on a prior 589
occasion. 590

(I) As used in this section, a "criminal offense that is 591
substantially related" has the same meaning as in section 4743.07 592
of the Revised Code. 593

Sec. 4717.14. (A) The board of embalmers and funeral 594
directors may refuse to grant or renew, or may suspend or revoke, 595
any license issued under this chapter for any of the following 596
reasons: 597

(1) The license was obtained by fraud or misrepresentation 598
either in the application or in passing the examination. 599

(2) The applicant or licensee has been convicted of or has
pleaded guilty to a ~~felony or of any crime involving moral~~
~~turpitude~~ criminal offense that is substantially related to the
profession of embalming or funeral directing.

(3) The applicant or licensee has purposely violated any
provision of sections 4717.01 to 4717.15 or a rule adopted under
any of those sections; division (A) or (B) of section 4717.23;
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2),
or divisions (H) to (K) of section 4717.26; division (D)(1) of
section 4717.27; or divisions (A) to (C) of section 4717.28 of the
Revised Code; any rule or order of the department of health or a
board of health of a health district governing the disposition of
dead human bodies; or any other rule or order applicable to the
applicant or licensee.

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

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

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

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

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

(9) The applicant or licensee transferred a license to

operate a funeral home, embalming facility, or crematory from one 631
owner or operator to another, or from one location to another, 632
without notifying the board. 633

(10) The applicant or licensee ~~mislead~~ misled the public by 634
using false or deceptive advertising. 635

(B)(1) The board of embalmers and funeral directors shall 636
refuse to grant or renew, or shall suspend or revoke, an 637
embalmer's, funeral director's, funeral home, or embalming 638
facility license only in accordance with Chapter 119. of the 639
Revised Code. 640

(2) The board shall send to the crematory review board 641
written notice that it proposes to refuse to issue or renew, or 642
proposes to suspend or revoke, a license to operate a crematory 643
facility. If, after the conclusion of the adjudicatory hearing on 644
the matter conducted under division (E) of section 4717.03 of the 645
Revised Code, the board of embalmers and funeral directors finds 646
that any of the circumstances described in divisions (A)(1) to 647
(10) of this section apply to the person named in its proposed 648
action, the board may issue a final order under division (E) of 649
section 4717.03 of the Revised Code refusing to issue or renew, or 650
suspending or revoking, the person's license to operate a 651
crematory facility. 652

(C) If the board of embalmers and funeral directors 653
determines that there is clear and convincing evidence that any of 654
the circumstances described in divisions (A)(1) to (10) of this 655
section apply to the holder of a license issued under this chapter 656
and that the licensee's continued practice presents a danger of 657
immediate and serious harm to the public, the board may suspend 658
the licensee's license without a prior adjudicatory hearing. The 659
executive director of the board shall prepare written allegations 660
for consideration by the board. 661

The board, after reviewing the written allegations, may 662
suspend a license without a prior hearing. 663

The board shall issue a written order of suspension by 664
certified mail or in person in accordance with section 119.07 of 665
the Revised Code. Such an order is not subject to suspension by 666
the court during the pendency of any appeal filed under section 667
119.12 of the Revised Code. If the holder of an embalmer's, 668
funeral director's, funeral home, or embalming facility license 669
requests an adjudicatory hearing by the board, the date set for 670
the hearing shall be within fifteen days, but not earlier than 671
seven days, after the licensee has requested a hearing, unless the 672
board and the licensee agree to a different time for holding the 673
hearing. 674

Upon issuing a written order of suspension to the holder of a 675
license to operate a crematory facility, the board of embalmers 676
and funeral directors shall send written notice of the issuance of 677
the order to the crematory review board. The crematory review 678
board shall hold an adjudicatory hearing on the order under 679
division (E) of section 4717.03 of the Revised Code within fifteen 680
days, but not earlier than seven days, after the issuance of the 681
order, unless the crematory review board and the licensee agree to 682
a different time for holding the adjudicatory hearing. 683

Any summary suspension imposed under this division shall 684
remain in effect, unless reversed on appeal, until a final 685
adjudicatory order issued by the board of embalmers and funeral 686
directors pursuant to this division and Chapter 119. of the 687
Revised Code, or division (E) of section 4717.03 of the Revised 688
Code, as applicable, becomes effective. The board of embalmers and 689
funeral directors shall issue its final adjudicatory order within 690
sixty days after the completion of its hearing or, in the case of 691
the summary suspension of a license to operate a crematory 692
facility, within sixty days after completion of the adjudicatory 693

hearing by the crematory review board. A failure to issue the 694
order within that time results in the dissolution of the summary 695
suspension order, but does not invalidate any subsequent final 696
adjudicatory order. 697

(D) If the board of embalmers and funeral directors suspends 698
or revokes a license held by a funeral director or a funeral home 699
for any reason identified in division (A) of this section, the 700
board may file a complaint with the court of common pleas in the 701
county where the violation occurred requesting appointment of a 702
receiver and the sequestration of the assets of the funeral home 703
that held the suspended or revoked license or the licensed funeral 704
home that employs the funeral director that held the suspended or 705
revoked license. If the court of common pleas is satisfied with 706
the application for a receivership, the court may appoint a 707
receiver. 708

The board or a receiver may employ and procure whatever 709
assistance or advice is necessary in the receivership or 710
liquidation and distribution of the assets of the funeral home, 711
and, for that purpose, may retain officers or employees of the 712
funeral home as needed. All expenses of the receivership or 713
liquidation shall be paid from the assets of the funeral home and 714
shall be a lien on those assets, and that lien shall be a priority 715
to any other lien. 716

(E) Any holder of a license issued under this chapter who has 717
pleaded guilty to, has been found by a judge or jury to be guilty 718
of, or has had a judicial finding of eligibility for treatment in 719
lieu of conviction entered against the individual in this state 720
for aggravated murder, murder, voluntary manslaughter, felonious 721
assault, kidnapping, rape, sexual battery, gross sexual 722
imposition, aggravated arson, aggravated robbery, or aggravated 723
burglary, or who has pleaded guilty to, has been found by a judge 724
or jury to be guilty of, or has had a judicial finding of 725

eligibility for treatment in lieu of conviction entered against 726
the individual in another jurisdiction for any substantially 727
equivalent criminal offense, is hereby suspended from practice 728
under this chapter by operation of law, and any license issued to 729
the individual under this chapter is hereby suspended by operation 730
of law as of the date of the guilty plea, verdict or finding of 731
guilt, or judicial finding of eligibility for treatment in lieu of 732
conviction, regardless of whether the proceedings are brought in 733
this state or another jurisdiction. The board shall notify the 734
suspended individual of the suspension of the individual's license 735
by the operation of this division by certified mail or in person 736
in accordance with section 119.07 of the Revised Code. If an 737
individual whose license is suspended under this division fails to 738
make a timely request for an adjudicatory hearing, the board shall 739
enter a final order revoking the license. 740

(F) No person whose license has been suspended or revoked 741
under or by the operation of this section shall practice embalming 742
or funeral directing or operate a funeral home, embalming 743
facility, or crematory facility until the board has reinstated the 744
person's license. 745

(G) As used in this section, a "criminal offense that is 746
substantially related" has the same meaning as in section 4743.07 747
of the Revised Code. 748

Sec. 4719.03. (A) Except as otherwise provided in division 749
(B) of this section, the attorney general shall issue a 750
certificate of registration or registration renewal as a telephone 751
solicitor to any applicant or registrant that submits a completed 752
application for the certificate, as specified under section 753
4719.02 of the Revised Code, and pays, as applicable, the 754
registration fee or renewal fee prescribed pursuant to rule of the 755
attorney general adopted under section 4719.10 of the Revised 756

Code. All fees collected under this division shall be deposited 757
into the state treasury to the credit of the telemarketing fraud 758
enforcement fund created in section 4719.17 of the Revised Code. 759
The certificate of registration or registration renewal shall 760
expire one year after the date on which it is issued. 761

(B) After an adjudication conducted in accordance with 762
Chapter 119. of the Revised Code, the attorney general may deny a 763
certificate of registration or registration renewal or may suspend 764
or revoke a certificate if the attorney general finds, by a 765
preponderance of the evidence, that any of the following 766
conditions apply: 767

(1) The applicant or registrant obtained a certificate of 768
registration or registration renewal through any false or 769
fraudulent representation or made any material misrepresentation 770
in any registration application. 771

(2) The applicant or registrant made false promises through 772
advertising or other means or engaged in a continued course of 773
misrepresentations. 774

(3) The applicant or registrant violated any provision of 775
Chapter 1345. or sections 4719.01 to 4719.18 of the Revised Code 776
or a rule adopted under that chapter or those sections. 777

(4) In a court of competent jurisdiction of this state or any 778
other state or of the United States, the applicant or registrant 779
was convicted of, pleaded guilty to, or entered a plea of no 780
contest for a ~~felony, engaging in a pattern of corrupt activity,~~ 781
~~racketeering, a violation of federal or state securities law, or a~~ 782
~~theft offense as defined in section 2913.01 of the Revised Code~~ 783
criminal offense that is substantially related to the profession 784
of telephone solicitor or in a similar law of any other state or 785
of the United States, or failed to notify the attorney general of 786
any conviction or plea of that type as required under division (H) 787

of section 4719.08 of the Revised Code.	788
(5) The applicant or registrant engaged in conduct that constituted improper, fraudulent, or dishonest dealings.	789 790
<u>(C) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code.</u>	791 792 793
Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:	794 795 796
(A) Provisions for the board's government and control of its actions and business affairs;	797 798
(B) Minimum curricula and standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of those programs;	799 800 801 802
(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;	803 804
(D) Standards and procedures for renewal of the licenses and certificates issued by the board;	805 806
(E) Standards for approval of continuing nursing education programs and courses for registered nurses, licensed practical nurses, certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.	807 808 809 810 811 812 813 814 815 816
(F) Standards that persons must meet to be authorized by the	817

board to approve continuing nursing education programs and courses 818
and a schedule by which that authorization expires and may be 819
renewed; 820

(G) Requirements, including continuing education 821
requirements, for restoring inactive nursing licenses, dialysis 822
technician certificates, and community health worker certificates, 823
and for restoring nursing licenses, dialysis technician 824
certificates, and community health worker certificates that have 825
lapsed through failure to renew; 826

(H) Conditions that may be imposed for reinstatement of a 827
nursing license, dialysis technician certificate, or community 828
health worker certificate following action taken under section 829
3123.47, 4723.28, 4723.281, or 4723.86 of the Revised Code 830
resulting in a license or certificate suspension; 831

(I) Standards for approval of peer support programs for 832
persons who hold a nursing license, dialysis technician 833
certificate, or community health worker certificate; 834

(J) Requirements for board approval of courses in medication 835
administration by licensed practical nurses; 836

(K) Criteria for evaluating the qualifications of an 837
applicant for a license to practice nursing as a registered nurse 838
or licensed practical nurse, a certificate of authority issued 839
under division (E) of section 4723.41 of the Revised Code, a 840
dialysis technician certificate, or a community health worker 841
certificate by the board's endorsement of the applicant's 842
authority to practice issued by the licensing agency of another 843
state; 844

(L) Universal blood and body fluid precautions that shall be 845
used by each person holding a nursing license or dialysis 846
technician certificate issued under this chapter who performs 847
exposure-prone invasive procedures. The rules shall define and 848

establish requirements for universal blood and body fluid	849
precautions that include the following:	850
(1) Appropriate use of hand washing;	851
(2) Disinfection and sterilization of equipment;	852
(3) Handling and disposal of needles and other sharp	853
instruments;	854
(4) Wearing and disposal of gloves and other protective	855
garments and devices.	856
(M) Standards and procedures for approving certificates of	857
authority to practice nursing as a certified registered nurse	858
anesthetist, clinical nurse specialist, certified nurse-midwife,	859
or certified nurse practitioner, and for renewal of those	860
certificates;	861
(N) Quality assurance standards for certified registered	862
nurse anesthetists, clinical nurse specialists, certified	863
nurse-midwives, or certified nurse practitioners;	864
(O) Additional criteria for the standard care arrangement	865
required by section 4723.431 of the Revised Code entered into by a	866
clinical nurse specialist, certified nurse-midwife, or certified	867
nurse practitioner and the nurse's collaborating physician or	868
podiatrist;	869
(P) Continuing education standards for clinical nurse	870
specialists who are exempt under division (C) of section 4723.41	871
of the Revised Code from the requirement of having passed a	872
certification examination;	873
(Q) For purposes of division (B) (31) <u>(29)</u> of section 4723.28	874
of the Revised Code, the actions, omissions, or other	875
circumstances that constitute failure to establish and maintain	876
professional boundaries with a patient.	877
The board may adopt other rules necessary to carry out the	878

provisions of this chapter. The rules shall be adopted in 879
accordance with Chapter 119. of the Revised Code. 880

Sec. 4723.28. (A) The board of nursing, by a vote of a 881
quorum, may revoke or may refuse to grant a nursing license, 882
certificate of authority, or dialysis technician certificate to a 883
person found by the board to have committed fraud in passing an 884
examination required to obtain the license, certificate of 885
authority, or dialysis technician certificate or to have committed 886
fraud, misrepresentation, or deception in applying for or securing 887
any nursing license, certificate of authority, or dialysis 888
technician certificate issued by the board. 889

(B) Subject to division (N) of this section, the board of 890
nursing, by a vote of a quorum, may impose one or more of the 891
following sanctions: deny, revoke, suspend, or place restrictions 892
on any nursing license, certificate of authority, or dialysis 893
technician certificate issued by the board; reprimand or otherwise 894
discipline a holder of a nursing license, certificate of 895
authority, or dialysis technician certificate; or impose a fine of 896
not more than five hundred dollars per violation. The sanctions 897
may be imposed for any of the following: 898

(1) Denial, revocation, suspension, or restriction of 899
authority to practice a health care occupation, including nursing 900
or practice as a dialysis technician, for any reason other than a 901
failure to renew, in Ohio or another state or jurisdiction; 902

(2) Engaging in the practice of nursing or engaging in 903
practice as a dialysis technician, having failed to renew a 904
nursing license or dialysis technician certificate issued under 905
this chapter, or while a nursing license or dialysis technician 906
certificate is under suspension; 907

~~(3) Conviction of, a plea of guilty to, a judicial finding of 908
guilt of, a judicial finding of guilt resulting from a plea of no 909~~

~~contest to, or a judicial finding of eligibility for intervention 910
in lieu of conviction for, a misdemeanor committed in the course 911
of practice; 912~~

~~(4) Conviction of, a plea of guilty to, a judicial finding of 913
guilt of, a judicial finding of guilt resulting from a plea of no 914
contest to, or a judicial finding of eligibility for intervention 915
in lieu of conviction for, ~~any felony or of any crime involving 916
gross immorality or moral turpitude~~ a criminal offense that is 917
substantially related to the practice of nursing or practice as a 918
dialysis technician; 919~~

~~(5)(4) Selling, giving away, or administering drugs or 920
therapeutic devices for other than legal and legitimate 921
therapeutic purposes; or conviction of, a plea of guilty to, a 922
judicial finding of guilt of, a judicial finding of guilt 923
resulting from a plea of no contest to, or a judicial finding of 924
eligibility for intervention in lieu of conviction for, violating 925
any municipal, state, county, or federal drug law; 926~~

~~(6)(5) Conviction of, a plea of guilty to, a judicial finding 927
of guilt of, a judicial finding of guilt resulting from a plea of 928
no contest to, or a judicial finding of eligibility for 929
intervention in lieu of conviction for, an act in another 930
jurisdiction that would constitute a ~~felony or a crime of moral 931
turpitude in Ohio~~ criminal offense that is substantially related 932
to the practice of nursing or practice as a dialysis technician; 933~~

~~(7) Conviction of, a plea of guilty to, a judicial finding of 934
guilt of, a judicial finding of guilt resulting from a plea of no 935
contest to, or a judicial finding of eligibility for intervention 936
in lieu of conviction for, an act in the course of practice in 937
another jurisdiction that would constitute a misdemeanor in Ohio; 938~~

~~(8)(6) Self-administering or otherwise taking into the body 939
any dangerous drug, as defined in section 4729.01 of the Revised 940~~

Code, in any way not in accordance with a legal, valid	941
prescription issued for that individual;	942
(9) <u>(7)</u> Habitual indulgence in the use of controlled	943
substances, other habit-forming drugs, or alcohol or other	944
chemical substances to an extent that impairs ability to practice;	945
(10) <u>(8)</u> Impairment of the ability to practice according to	946
acceptable and prevailing standards of safe nursing care because	947
of habitual or excessive use of drugs, alcohol, or other chemical	948
substances that impair the ability to practice;	949
(11) <u>(9)</u> Impairment of the ability to practice according to	950
acceptable and prevailing standards of safe nursing care because	951
of a physical or mental disability;	952
(12) <u>(10)</u> Assaulting or causing harm to a patient or depriving	953
a patient of the means to summon assistance;	954
(13) <u>(11)</u> Obtaining or attempting to obtain money or anything	955
of value by intentional misrepresentation or material deception in	956
the course of practice;	957
(14) <u>(12)</u> Adjudication by a probate court of being mentally	958
ill or mentally incompetent. The board may restore the person's	959
nursing license or dialysis technician certificate upon	960
adjudication by a probate court of the person's restoration to	961
competency or upon submission to the board of other proof of	962
competency.	963
(15) <u>(13)</u> The suspension or termination of employment by the	964
department of defense or the veterans administration of the United	965
States for any act that violates or would violate this chapter;	966
(16) <u>(14)</u> Violation of this chapter or any rules adopted under	967
it;	968
(17) <u>(15)</u> Violation of any restrictions placed on a nursing	969
license or dialysis technician certificate by the board;	970

(18) <u>(16)</u> Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	971 972 973
(19) <u>(17)</u> Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	974 975 976
(20) <u>(18)</u> In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	977 978 979
(21) <u>(19)</u> In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	980 981 982
(22) <u>(20)</u> In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	983 984 985
(23) <u>(21)</u> Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	986 987 988
(24) <u>(22)</u> In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, except as provided in division (M) of this section, either of the following:	989 990 991 992
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	993 994 995 996 997 998
(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant	999 1000

to a health insurance or health care policy, contract, or plan 1001
that covers such nursing services, would otherwise be required to 1002
pay. 1003

~~(25)~~(23) Failure to comply with the terms and conditions of 1004
participation in the chemical dependency monitoring program 1005
established under section 4723.35 of the Revised Code; 1006

~~(26)~~(24) Failure to comply with the terms and conditions 1007
required under the practice intervention and improvement program 1008
established under section 4723.282 of the Revised Code; 1009

~~(27)~~(25) In the case of a certified registered nurse 1010
anesthetist, clinical nurse specialist, certified nurse-midwife, 1011
or certified nurse practitioner: 1012

(a) Engaging in activities that exceed those permitted for 1013
the nurse's nursing specialty under section 4723.43 of the Revised 1014
Code; 1015

(b) Failure to meet the quality assurance standards 1016
established under section 4723.07 of the Revised Code. 1017

~~(28)~~(26) In the case of a clinical nurse specialist, 1018
certified nurse-midwife, or certified nurse practitioner, failure 1019
to maintain a standard care arrangement in accordance with section 1020
4723.431 of the Revised Code or to practice in accordance with the 1021
standard care arrangement; 1022

~~(29)~~(27) In the case of a clinical nurse specialist, 1023
certified nurse-midwife, or certified nurse practitioner who holds 1024
a certificate to prescribe issued under section 4723.48 of the 1025
Revised Code, failure to prescribe drugs and therapeutic devices 1026
in accordance with section 4723.481 of the Revised Code; 1027

~~(30)~~(28) Prescribing any drug or device to perform or induce 1028
an abortion, or otherwise performing or inducing an abortion; 1029

~~(31)~~(29) Failure to establish and maintain professional 1030

boundaries with a patient, as specified in rules adopted under 1031
section 4723.07 of the Revised Code; 1032

~~(32)~~(30) Regardless of whether the contact or verbal behavior 1033
is consensual, engaging with a patient other than the spouse of 1034
the registered nurse, licensed practical nurse, or dialysis 1035
technician in any of the following: 1036

(a) Sexual contact, as defined in section 2907.01 of the 1037
Revised Code; 1038

(b) Verbal behavior that is sexually demeaning to the patient 1039
or may be reasonably interpreted by the patient as sexually 1040
demeaning. 1041

~~(33)~~(31) Assisting suicide as defined in section 3795.01 of 1042
the Revised Code. 1043

(C) Disciplinary actions taken by the board under divisions 1044
(A) and (B) of this section shall be taken pursuant to an 1045
adjudication conducted under Chapter 119. of the Revised Code, 1046
except that in lieu of a hearing, the board may enter into a 1047
consent agreement with an individual to resolve an allegation of a 1048
violation of this chapter or any rule adopted under it. A consent 1049
agreement, when ratified by a vote of a quorum, shall constitute 1050
the findings and order of the board with respect to the matter 1051
addressed in the agreement. If the board refuses to ratify a 1052
consent agreement, the admissions and findings contained in the 1053
agreement shall be of no effect. 1054

(D) The hearings of the board shall be conducted in 1055
accordance with Chapter 119. of the Revised Code, the board may 1056
appoint a hearing examiner, as provided in section 119.09 of the 1057
Revised Code, to conduct any hearing the board is authorized to 1058
hold under Chapter 119. of the Revised Code. 1059

In any instance in which the board is required under Chapter 1060
119. of the Revised Code to give notice of an opportunity for a 1061

hearing and the applicant or license holder does not make a timely 1062
request for a hearing in accordance with section 119.07 of the 1063
Revised Code, the board is not required to hold a hearing, but may 1064
adopt, by a vote of a quorum, a final order that contains the 1065
board's findings. In the final order, the board may order any of 1066
the sanctions listed in division (A) or (B) of this section. 1067

(E) If a criminal action is brought against a registered 1068
nurse, licensed practical nurse, or dialysis technician for an act 1069
or crime described in divisions (B)(3) to ~~(7)~~(5) of this section 1070
and the action is dismissed by the trial court other than on the 1071
merits, the board shall conduct an adjudication to determine 1072
whether the registered nurse, licensed practical nurse, or 1073
dialysis technician committed the act on which the action was 1074
based. If the board determines on the basis of the adjudication 1075
that the registered nurse, licensed practical nurse, or dialysis 1076
technician committed the act, or if the registered nurse, licensed 1077
practical nurse, or dialysis technician fails to participate in 1078
the adjudication, the board may take action as though the 1079
registered nurse, licensed practical nurse, or dialysis technician 1080
had been convicted of the act. 1081

If the board takes action on the basis of a conviction, plea, 1082
or a judicial finding as described in divisions (B)(3) to ~~(7)~~(5) 1083
of this section that is overturned on appeal, the registered 1084
nurse, licensed practical nurse, or dialysis technician may, on 1085
exhaustion of the appeal process, petition the board for 1086
reconsideration of its action. On receipt of the petition and 1087
supporting court documents, the board shall temporarily rescind 1088
its action. If the board determines that the decision on appeal 1089
was a decision on the merits, it shall permanently rescind its 1090
action. If the board determines that the decision on appeal was 1091
not a decision on the merits, it shall conduct an adjudication to 1092
determine whether the registered nurse, licensed practical nurse, 1093

or dialysis technician committed the act on which the original 1094
conviction, plea, or judicial finding was based. If the board 1095
determines on the basis of the adjudication that the registered 1096
nurse, licensed practical nurse, or dialysis technician committed 1097
such act, or if the registered nurse, licensed practical nurse, or 1098
dialysis technician does not request an adjudication, the board 1099
shall reinstate its action; otherwise, the board shall permanently 1100
rescind its action. 1101

Notwithstanding the provision of division (C)(2) of section 1102
2953.32 of the Revised Code specifying that if records pertaining 1103
to a criminal case are sealed under that section the proceedings 1104
in the case shall be deemed not to have occurred, sealing of the 1105
records of a conviction on which the board has based an action 1106
under this section shall have no effect on the board's action or 1107
any sanction imposed by the board under this section. 1108

The board shall not be required to seal, destroy, redact, or 1109
otherwise modify its records to reflect the court's sealing of 1110
conviction records. 1111

(F) The board may investigate an individual's criminal 1112
background in performing its duties under this section. 1113

(G) During the course of an investigation conducted under 1114
this section, the board may compel any registered nurse, licensed 1115
practical nurse, or dialysis technician or applicant under this 1116
chapter to submit to a mental or physical examination, or both, as 1117
required by the board and at the expense of the individual, if the 1118
board finds reason to believe that the individual under 1119
investigation may have a physical or mental impairment that may 1120
affect the individual's ability to provide safe nursing care. 1121
Failure of any individual to submit to a mental or physical 1122
examination when directed constitutes an admission of the 1123
allegations, unless the failure is due to circumstances beyond the 1124
individual's control, and a default and final order may be entered 1125

without the taking of testimony or presentation of evidence. 1126

If the board finds that an individual is impaired, the board 1127
shall require the individual to submit to care, counseling, or 1128
treatment approved or designated by the board, as a condition for 1129
initial, continued, reinstated, or renewed authority to practice. 1130
The individual shall be afforded an opportunity to demonstrate to 1131
the board that the individual can begin or resume the individual's 1132
occupation in compliance with acceptable and prevailing standards 1133
of care under the provisions of the individual's authority to 1134
practice. 1135

For purposes of this division, any registered nurse, licensed 1136
practical nurse, or dialysis technician or applicant under this 1137
chapter shall be deemed to have given consent to submit to a 1138
mental or physical examination when directed to do so in writing 1139
by the board, and to have waived all objections to the 1140
admissibility of testimony or examination reports that constitute 1141
a privileged communication. 1142

(H) The board shall investigate evidence that appears to show 1143
that any person has violated any provision of this chapter or any 1144
rule of the board. Any person may report to the board any 1145
information the person may have that appears to show a violation 1146
of any provision of this chapter or rule of the board. In the 1147
absence of bad faith, any person who reports such information or 1148
who testifies before the board in any adjudication conducted under 1149
Chapter 119. of the Revised Code shall not be liable for civil 1150
damages as a result of the report or testimony. 1151

(I) All of the following apply under this chapter with 1152
respect to the confidentiality of information: 1153

(1) Information received by the board pursuant to an 1154
investigation is confidential and not subject to discovery in any 1155
civil action, except that the board may disclose information to 1156

law enforcement officers and government entities investigating a 1157
registered nurse, licensed practical nurse, or dialysis technician 1158
or a person who may have engaged in the unauthorized practice of 1159
nursing. No law enforcement officer or government entity with 1160
knowledge of any information disclosed by the board pursuant to 1161
this division shall divulge the information to any other person or 1162
government entity except for the purpose of an adjudication by a 1163
court or licensing or registration board or officer to which the 1164
person to whom the information relates is a party. 1165

(2) If an investigation requires a review of patient records, 1166
the investigation and proceeding shall be conducted in such a 1167
manner as to protect patient confidentiality. 1168

(3) All adjudications and investigations of the board shall 1169
be considered civil actions for the purposes of section 2305.252 1170
of the Revised Code. 1171

(4) Any board activity that involves continued monitoring of 1172
an individual as part of or following any disciplinary action 1173
taken under this section shall be conducted in a manner that 1174
maintains the individual's confidentiality. Information received 1175
or maintained by the board with respect to the board's monitoring 1176
activities is confidential and not subject to discovery in any 1177
civil action. 1178

(J) Any action taken by the board under this section 1179
resulting in a suspension from practice shall be accompanied by a 1180
written statement of the conditions under which the person may be 1181
reinstated to practice. 1182

(K) When the board refuses to grant a license or certificate 1183
to an applicant, revokes a license or certificate, or refuses to 1184
reinstate a license or certificate, the board may specify that its 1185
action is permanent. An individual subject to permanent action 1186
taken by the board is forever ineligible to hold a license or 1187

certificate of the type that was refused or revoked and the board 1188
shall not accept from the individual an application for 1189
reinstatement of the license or certificate or for a new license 1190
or certificate. 1191

(L) No unilateral surrender of a nursing license, certificate 1192
of authority, or dialysis technician certificate issued under this 1193
chapter shall be effective unless accepted by majority vote of the 1194
board. No application for a nursing license, certificate of 1195
authority, or dialysis technician certificate issued under this 1196
chapter may be withdrawn without a majority vote of the board. The 1197
board's jurisdiction to take disciplinary action under this 1198
section is not removed or limited when an individual has a license 1199
or certificate classified as inactive or fails to renew a license 1200
or certificate. 1201

(M) Sanctions shall not be imposed under division (B)~~(24)~~(22) 1202
of this section against any licensee who waives deductibles and 1203
copayments as follows: 1204

(1) In compliance with the health benefit plan that expressly 1205
allows such a practice. Waiver of the deductibles or copayments 1206
shall be made only with the full knowledge and consent of the plan 1207
purchaser, payer, and third-party administrator. Documentation of 1208
the consent shall be made available to the board upon request. 1209

(2) For professional services rendered to any other person 1210
licensed pursuant to this chapter to the extent allowed by this 1211
chapter and the rules of the board. 1212

(N)(1) Any person who enters a prelicensure nursing education 1213
program on or after June 1, 2003, and who subsequently applies 1214
under division (A) of section 4723.09 of the Revised Code for 1215
licensure to practice as a registered nurse or as a licensed 1216
practical nurse and any person who applies under division (B) of 1217
that section for license by endorsement to practice nursing as a 1218

registered nurse or as a licensed practical nurse shall submit a 1219
request to the bureau of criminal identification and investigation 1220
for the bureau to conduct a criminal records check of the 1221
applicant and to send the results to the board, in accordance with 1222
section 4723.09 of the Revised Code. 1223

The board shall refuse to grant a license to practice nursing 1224
as a registered nurse or as a licensed practical nurse under 1225
section 4723.09 of the Revised Code to a person who entered a 1226
prelicensure nursing education program on or after June 1, 2003, 1227
and applied under division (A) of section 4723.09 of the Revised 1228
Code for the license or a person who applied under division (B) of 1229
that section for the license, if the criminal records check 1230
performed in accordance with division (C) of that section 1231
indicates that the person has pleaded guilty to, been convicted 1232
of, or has had a judicial finding of guilt for violating section 1233
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 1234
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 1235
substantially similar law of another state, the United States, or 1236
another country. 1237

(2) Any person who enters a dialysis training program on or 1238
after June 1, 2003, and who subsequently applies for a certificate 1239
to practice as a dialysis technician shall submit a request to the 1240
bureau of criminal identification and investigation for the bureau 1241
to conduct a criminal records check of the applicant and to send 1242
the results to the board, in accordance with section 4723.75 of 1243
the Revised Code. 1244

The board shall refuse to issue a certificate to practice as 1245
a dialysis technician under section 4723.75 of the Revised Code to 1246
a person who entered a dialysis training program on or after June 1247
1, 2003, and whose criminal records check performed in accordance 1248
with division (C) of that section indicates that the person has 1249
pleaded guilty to, been convicted of, or has had a judicial 1250

finding of guilt for violating section 2903.01, 2903.02, 2903.03, 1251
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 1252
2911.11 of the Revised Code or a substantially similar law of 1253
another state, the United States, or another country. 1254

(O) As used in this section, a "criminal offense that is 1255
substantially related" has the same meaning as in section 4743.07 1256
of the Revised Code. 1257

Sec. 4723.34. (A) Reports to the board of nursing shall be 1258
made as follows: 1259

(1) Every employer of registered nurses, licensed practical 1260
nurses, or dialysis technicians shall report to the board of 1261
nursing the name of any current or former employee who holds a 1262
nursing license or dialysis technician certificate issued under 1263
this chapter who has engaged in conduct that would be grounds for 1264
disciplinary action by the board under section 4723.28 of the 1265
Revised Code. 1266

Every employer of certified community health workers shall 1267
report to the board the name of any current or former employee who 1268
holds a community health worker certificate issued under this 1269
chapter who has engaged in conduct that would be grounds for 1270
disciplinary action by the board under section 4723.86 of the 1271
Revised Code. 1272

Every employer of medication aides shall report to the board 1273
the name of any current or former employee who holds a medication 1274
aide certificate issued under this chapter who has engaged in 1275
conduct that would be grounds for disciplinary action by the board 1276
under section 4723.652 of the Revised Code. 1277

(2) Nursing associations shall report to the board the name 1278
of any registered nurse or licensed practical nurse and dialysis 1279
technician associations shall report to the board the name of any 1280

dialysis technician who has been investigated and found to 1281
constitute a danger to the public health, safety, and welfare 1282
because of conduct that would be grounds for disciplinary action 1283
by the board under section 4723.28 of the Revised Code, except 1284
that an association is not required to report the individual's 1285
name if the individual is maintaining satisfactory participation 1286
in a peer support program approved by the board under rules 1287
adopted under section 4723.07 of the Revised Code. 1288

Community health worker associations shall report to the 1289
board the name of any certified community health worker who has 1290
been investigated and found to constitute a danger to the public 1291
health, safety, and welfare because of conduct that would be 1292
grounds for disciplinary action by the board under section 4723.86 1293
of the Revised Code, except that an association is not required to 1294
report the individual's name if the individual is maintaining 1295
satisfactory participation in a peer support program approved by 1296
the board under rules adopted under section 4723.07 of the Revised 1297
Code. 1298

Medication aide associations shall report to the board the 1299
name of any medication aide who has been investigated and found to 1300
constitute a danger to the public health, safety, and welfare 1301
because of conduct that would be grounds for disciplinary action 1302
by the board under section 4723.652 of the Revised Code, except 1303
that an association is not required to report the individual's 1304
name if the individual is maintaining satisfactory participation 1305
in a peer support program approved by the board under rules 1306
adopted under section 4723.69 of the Revised Code. 1307

(3) If the prosecutor in a case described in divisions (B)(3) 1308
~~to (5) and (4)~~ of section 4723.28 of the Revised Code, or in a 1309
case where the trial court issued an order of dismissal upon 1310
technical or procedural grounds of a charge of a misdemeanor 1311
committed in the course of practice, a felony charge, or a charge 1312

of gross immorality or moral turpitude, knows or has reason to 1313
believe that the person charged is licensed under this chapter to 1314
practice nursing as a registered nurse or as a licensed practical 1315
nurse or holds a certificate issued under this chapter to practice 1316
as a dialysis technician, the prosecutor shall notify the board of 1317
nursing. With regard to certified community health workers and 1318
medication aides, if the prosecutor in a case involving a charge 1319
of a misdemeanor committed in the course of employment, a felony 1320
charge, or a charge of gross immorality or moral turpitude, 1321
including a case dismissed on technical or procedural grounds, 1322
knows or has reason to believe that the person charged holds a 1323
community health worker or medication aide certificate issued 1324
under this chapter, the prosecutor shall notify the board. 1325

Each notification required by this division shall be made on 1326
forms prescribed and provided by the board. The report shall 1327
include the name and address of the license or certificate holder, 1328
the charge, and the certified court documents recording the 1329
action. 1330

(B) If any person fails to provide a report required by this 1331
section, the board may seek an order from a court of competent 1332
jurisdiction compelling submission of the report. 1333

Sec. 4725.19. (A) In accordance with Chapter 119. of the 1334
Revised Code and by an affirmative vote of a majority of its 1335
members, the state board of optometry, for any of the reasons 1336
specified in division (B) of this section, shall refuse to grant a 1337
certificate of licensure to an applicant and may, with respect to 1338
a licensed optometrist, do one or more of the following: 1339

(1) Suspend the operation of any certificate of licensure, 1340
topical ocular pharmaceutical agents certificate, or therapeutic 1341
pharmaceutical agents certificate, or all certificates granted by 1342
it to the optometrist; 1343

(2) Permanently revoke any or all of the certificates;	1344
(3) Limit or otherwise place restrictions on any or all of the certificates;	1345 1346
(4) Reprimand the optometrist;	1347
(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.	1348 1349 1350 1351 1352 1353
(B) The sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:	1354 1355
(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;	1356 1357 1358
(2) Being at any time guilty of immorality, regardless of the jurisdiction in which the act was committed;	1359 1360
(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;	1361 1362
(4) Being at any time guilty of <u>Commission of a felony criminal offense that is substantially related to the practice of optometry</u> , regardless of the jurisdiction in which the act <u>criminal offense</u> was committed;	1363 1364 1365 1366
(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;	1367 1368 1369
(6) Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board;	1370 1371 1372
(7) <u>(6)</u> Engaging in the practice of optometry as provided in	1373

division (A)(1), (2), or (3) of section 4725.01 of the Revised 1374
Code when the certificate authorizing that practice is under 1375
suspension, in which case the board shall permanently revoke the 1376
certificate; 1377

~~(8)~~(7) Being denied a license to practice optometry in 1378
another state or country or being subject to any other sanction by 1379
the optometric licensing authority of another state or country, 1380
other than sanctions imposed for the nonpayment of fees; 1381

~~(9)~~(8) Departing from or failing to conform to acceptable and 1382
prevailing standards of care in the practice of optometry as 1383
followed by similar practitioners under the same or similar 1384
circumstances, regardless of whether actual injury to a patient is 1385
established; 1386

~~(10)~~(9) Failing to maintain comprehensive patient records; 1387

~~(11)~~(10) Advertising a price of optical accessories, eye 1388
examinations, or other products or services by any means that 1389
would deceive or mislead the public; 1390

~~(12)~~(11) Being addicted to the use of alcohol, stimulants, 1391
narcotics, or any other substance which impairs the intellect and 1392
judgment to such an extent as to hinder or diminish the 1393
performance of the duties included in the person's practice of 1394
optometry; 1395

~~(13)~~(12) Engaging in the practice of optometry as provided in 1396
division (A)(2) or (3) of section 4725.01 of the Revised Code 1397
without authority to do so or, if authorized, in a manner 1398
inconsistent with the authority granted; 1399

~~(14)~~(13) Failing to make a report to the board as required by 1400
division (A) of section 4725.21 or section 4725.31 of the Revised 1401
Code; 1402

~~(15)~~(14) Soliciting patients from door to door or 1403

establishing temporary offices, in which case the board shall 1404
suspend all certificates held by the optometrist; 1405

~~(16)~~(15) Except as provided in division (D) of this section: 1406

(a) Waiving the payment of all or any part of a deductible or 1407
copayment that a patient, pursuant to a health insurance or health 1408
care policy, contract, or plan that covers optometric services, 1409
would otherwise be required to pay if the waiver is used as an 1410
enticement to a patient or group of patients to receive health 1411
care services from that optometrist. 1412

(b) Advertising that the optometrist will waive the payment 1413
of all or any part of a deductible or copayment that a patient, 1414
pursuant to a health insurance or health care policy, contract, or 1415
plan that covers optometric services, would otherwise be required 1416
to pay. 1417

(C) Any person who is the holder of a certificate of 1418
licensure, or who is an applicant for a certificate of licensure 1419
against whom is preferred any charges, shall be furnished by the 1420
board with a copy of the complaint and shall have a hearing before 1421
the board in accordance with Chapter 119. of the Revised Code. 1422

(D) Sanctions shall not be imposed under division (B)~~(16)~~(15) 1423
of this section against any optometrist who waives deductibles and 1424
copayments: 1425

(1) In compliance with the health benefit plan that expressly 1426
allows such a practice. Waiver of the deductibles or copayments 1427
shall be made only with the full knowledge and consent of the plan 1428
purchaser, payer, and third-party administrator. Documentation of 1429
the consent shall be made available to the board upon request. 1430

(2) For professional services rendered to any other 1431
optometrist licensed by the board, to the extent allowed by 1432
sections 4725.01 to 4725.34 of the Revised Code and the rules of 1433
the board. 1434

(E) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code. 1435
1436
1437

Sec. 4725.53. (A) The Ohio optical dispensers board, by a 1438
majority vote of its members, may refuse to grant a license and, 1439
in accordance with Chapter 119. of the Revised Code, may suspend 1440
or revoke the license of a licensed dispensing optician or impose 1441
a fine or order restitution pursuant to division (B) of this 1442
section on any of the following grounds: 1443

(1) Conviction of ~~a felony or a crime involving moral~~ 1444
~~turpitude~~ or plea of guilty to a criminal offense that is 1445
substantially related to the practice of optical dispensing; 1446

(2) Obtaining or attempting to obtain a license by fraud or 1447
deception; 1448

(3) Obtaining any fee or making any sale of an optical aid by 1449
means of fraud or misrepresentation; 1450

(4) Habitual indulgence in the use of controlled substances 1451
or other habit-forming drugs, or in the use of alcoholic liquors 1452
to an extent that affects professional competency; 1453

(5) Finding by a court of competent jurisdiction that the 1454
applicant or licensee is incompetent by reason of mental illness 1455
and no subsequent finding by the court of competency; 1456

(6) Finding by a court of law that the licensee is guilty of 1457
incompetence or negligence in the dispensing of optical aids; 1458

(7) Knowingly permitting or employing a person whose license 1459
has been suspended or revoked or an unlicensed person to engage in 1460
optical dispensing; 1461

(8) Permitting another person to use ~~his~~ the licensee's 1462
license; 1463

(9) Engaging in optical dispensing not pursuant to the 1464
prescription of a licensed physician or licensed optometrist, but 1465
nothing in this section shall prohibit the duplication or 1466
replacement of previously prepared optical aids, except contact 1467
lenses shall not be duplicated or replaced without a written 1468
prescription; 1469

(10) Violation of sections 4725.40 to 4725.59 of the Revised 1470
Code; 1471

(11) Waiving the payment of all or any part of a deductible 1472
or copayment that a patient, pursuant to a health insurance or 1473
health care policy, contract, or plan that covers optical 1474
dispensing services, would otherwise be required to pay if the 1475
waiver is used as an enticement to a patient or group of patients 1476
to receive health care services from that provider. 1477

(12) Advertising that ~~he~~ the licensee will waive the payment 1478
of all or any part of a deductible or copayment that a patient, 1479
pursuant to a health insurance or health care policy, contract, or 1480
plan that covers optical dispensing services, would otherwise be 1481
required to pay. 1482

(B) The board may impose a fine of not more than five hundred 1483
dollars for a first occurrence of an action that is grounds for 1484
discipline under this section and of not less than five hundred 1485
nor more than one thousand dollars for a subsequent occurrence, or 1486
may order the licensee to make restitution to a person who has 1487
suffered a financial loss as a result of the licensee's failure to 1488
comply with sections 4725.40 to 4725.59 of the Revised Code. 1489

(C) Notwithstanding divisions (A)(11) and (12) of this 1490
section, sanctions shall not be imposed against any licensee who 1491
waives deductibles and copayments: 1492

(1) In compliance with the health benefit plan that expressly 1493
allows such a practice. Waiver of the deductibles or copays shall 1494

be made only with the full ~~knowlege~~ knowledge and consent of the 1495
plan purchaser, payer, and third-party administrator. Such consent 1496
shall be made available to the board upon request. 1497

(2) For professional services rendered to any other person 1498
licensed pursuant to this chapter to the extent allowed by this 1499
chapter and the rules of the board. 1500

(D) As used in this section, a "criminal offense that is 1501
substantially related" has the same meaning as in section 4743.07 1502
of the Revised Code. 1503

Sec. 4727.15. (A) No person licensed as a pawnbroker under 1504
this chapter, and no agent, officer, or employee thereof, shall 1505
violate this chapter. 1506

(B) Upon the criminal conviction of a licensee or any 1507
employee, manager, officer, director, shareholder, member, or 1508
partner of a licensee for a violation of this chapter, the 1509
superintendent of financial institutions may suspend the license 1510
of the licensee without a prior hearing to protect the public 1511
interest and subsequently may act to revoke the license of the 1512
licensee pursuant to ~~chapter~~ Chapter 119. of the Revised Code. 1513

(C) Upon the criminal conviction of a licensee or any 1514
employee, manager, officer, director, shareholder, member, or 1515
partner of a licensee under any section in Title XXIX of the 1516
Revised Code or under federal law for theft, receiving stolen 1517
property, or money laundering, the superintendent may suspend the 1518
license of the licensee without a prior hearing to protect the 1519
public interest and subsequently may act to revoke the license of 1520
the licensee pursuant to ~~chapter~~ Chapter 119. of the Revised Code. 1521

(D) Upon the criminal conviction of or a plea of guilty by a 1522
licensee under any section of Title XXIX of the Revised Code or 1523
under federal law for a ~~crime~~ criminal offense substantially 1524

related to the profession of pawnbroker other than theft, 1525
receiving stolen property, or money laundering, the superintendent 1526
may assess a penalty against the licensee or act to revoke or 1527
suspend the license of the licensee pursuant to ~~chapter~~ Chapter 1528
119. of the Revised Code. 1529

(E) As used in this section, a "criminal offense that is 1530
substantially related" has the same meaning as in section 4743.07 1531
of the Revised Code. 1532

Sec. 4728.13. (A) No person, firm, partnership, corporation, 1533
or association, and no agent, officer, or employee thereof, shall 1534
violate this chapter. The division of financial institutions upon 1535
a criminal conviction for a violation of this chapter shall revoke 1536
any license theretofore issued to the person, firm, partnership, 1537
corporation, or association. The division also may revoke or 1538
suspend the license of any licensee in accordance with section 1539
4728.03 of the Revised Code upon a criminal conviction of or plea 1540
of guilty by the licensee for any ~~felony~~ criminal offense ~~or crime~~ 1541
~~involving moral turpitude~~ substantially related to the profession 1542
of precious metals dealer. 1543

(B) No person shall obstruct or refuse to permit any 1544
investigation conducted under this chapter by the superintendent 1545
of financial institutions, a person acting on behalf of an agency 1546
or a political subdivision of this state, or a law enforcement 1547
officer. All articles purchased by a person licensed under this 1548
chapter shall be made promptly available for inspection by these 1549
officials. 1550

(C) In any proceeding or action brought under this chapter, 1551
the burden of proving an exemption from a requirement of this 1552
chapter falls on the person claiming the benefit of the exemption. 1553

(D) As used in this section, a "criminal offense that is 1554
substantially related" has the same meaning as in section 4743.07 1555

of the Revised Code. 1556

Sec. 4729.16. (A) The state board of pharmacy, after notice 1557
and hearing in accordance with Chapter 119. of the Revised Code, 1558
may revoke, suspend, limit, place on probation, or refuse to grant 1559
or renew an identification card, or may impose a monetary penalty 1560
or forfeiture not to exceed in severity any fine designated under 1561
the Revised Code for a similar offense, or in the case of a 1562
violation of a section of the Revised Code that does not bear a 1563
penalty, a monetary penalty or forfeiture of not more than five 1564
hundred dollars, if the board finds a pharmacist or pharmacy 1565
intern: 1566

(1) Guilty of a ~~felony or gross immorality~~ criminal offense 1567
substantially related to the practice of pharmacy; 1568

(2) Guilty of dishonesty or unprofessional conduct in the 1569
practice of pharmacy; 1570

(3) Addicted to or abusing liquor or drugs or impaired 1571
physically or mentally to such a degree as to render the 1572
pharmacist or pharmacy intern unfit to practice pharmacy; 1573

(4) ~~Has been convicted of a misdemeanor related to, or~~ 1574
~~committed in, the practice of pharmacy;~~ 1575

~~(5)~~ Guilty of willfully violating, conspiring to violate, 1576
attempting to violate, or aiding and abetting the violation of any 1577
of the provisions of this chapter, sections 3715.52 to 3715.72 of 1578
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 1579
any rule adopted by the board under those provisions; 1580

~~(6)~~(5) Guilty of permitting anyone other than a pharmacist or 1581
pharmacy intern to practice pharmacy; 1582

~~(7)~~(6) Guilty of knowingly lending the pharmacist's or 1583
pharmacy intern's name to an illegal practitioner of pharmacy or 1584
having professional connection with an illegal practitioner of 1585

pharmacy;	1586
(8) <u>(7)</u> 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;	1587 1588 1589 1590 1591 1592
(9) <u>(8)</u> Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;	1593 1594
(10) <u>(9)</u> 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.	1595 1596 1597 1598
(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.	1599 1600 1601 1602
(C) As used in this section:	1603
<u>(1)</u> "Unprofessional conduct in the practice of pharmacy" includes any of the following:	1604 1605
(1) <u>(a)</u> Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;	1606 1607
(2) <u>(b)</u> 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;	1608 1609 1610
(3) <u>(c)</u> Knowingly dispensing medication pursuant to false or forged prescriptions;	1611 1612
(4) <u>(d)</u> 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;	1613 1614 1615

~~(5)(e)~~ Obtaining any remuneration by fraud, 1616
misrepresentation, or deception. 1617

(2) A "criminal offense that is substantially related" has 1618
the same meaning as in section 4743.07 of the Revised Code. 1619

(D) The board may suspend a license or identification card 1620
under division (B) of section 3719.121 of the Revised Code by 1621
utilizing a telephone conference call to review the allegations 1622
and take a vote. 1623

(E) If, pursuant to an adjudication under Chapter 119. of the 1624
Revised Code, the board has reasonable cause to believe that a 1625
pharmacist or pharmacy intern is physically or mentally impaired, 1626
the board may require the pharmacist or pharmacy intern to submit 1627
to a physical or mental examination, or both. 1628

Sec. 4729.53. (A) The board of pharmacy shall not register 1629
any person as a wholesale distributor of dangerous drugs unless 1630
the applicant for registration furnishes satisfactory proof to the 1631
board of pharmacy that ~~he~~ the applicant meets all of the 1632
following: 1633

(1) That if the applicant has been convicted of or pleaded 1634
guilty to a violation of any federal, state, or local law relating 1635
to drug samples, wholesale or retail drug distribution, or 1636
distribution of controlled substances or of a ~~felony~~ criminal 1637
offense substantially related to the profession of wholesale 1638
distributor of dangerous drugs, or if a federal, state, or local 1639
governmental entity has suspended or revoked any current or prior 1640
license or registration of the applicant for the manufacture or 1641
sale of any dangerous drugs, including controlled substances, the 1642
applicant, to the satisfaction of the board, assures that ~~he~~ the 1643
applicant has in place adequate safeguards to prevent the 1644
recurrence of any such violations; 1645

(2) The applicant's past experience in the manufacture or 1646
distribution of dangerous drugs, including controlled substances, 1647
is acceptable to the board. 1648

(3) The applicant is equipped as to land, buildings, 1649
equipment, and personnel to properly carry on the business of a 1650
wholesale distributor of dangerous drugs, including providing 1651
adequate security for and proper storage conditions and handling 1652
for dangerous drugs, and is complying with the requirements under 1653
this chapter and the rules adopted pursuant thereto for 1654
maintaining and making available records to properly identified 1655
board officials and federal, state, and local law enforcement 1656
agencies. 1657

(4) Personnel employed by the applicant have the appropriate 1658
education or experience, as determined by the board, to assume 1659
responsibility for positions related to compliance with this 1660
chapter and the rules adopted pursuant thereto. 1661

(5) The applicant has designated the name and address of a 1662
person to whom communications from the board may be directed and 1663
upon whom the notices and citations provided for in section 1664
4729.56 of the Revised Code may be served. 1665

(6) Adequate safeguards are assured to prevent the sale of 1666
dangerous drugs to any person other than those named in division 1667
(B) of section 4729.51 of the Revised Code. 1668

(7) Any other requirement or qualification the board, by rule 1669
adopted in accordance with Chapter 119. of the Revised Code, 1670
considers relevant to and consistent with the public safety and 1671
health. 1672

(B) The board may refuse to register or renew the 1673
registration certificate of any person if the board determines 1674
that the granting of the registration certificate or its renewal 1675
is not in the public interest. 1676

(C) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code. 1677
1678
1679

Sec. 4729.56. (A) In accordance with Chapter 119. of the Revised Code, the board of pharmacy may suspend, revoke, or refuse to renew any registration certificate issued to a wholesale distributor of dangerous drugs pursuant to section 4729.52 of the Revised Code or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or one thousand dollars if the acts committed are not classified as an offense by the Revised Code for any of the following causes: 1680
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(1) Making any false material statements in an application for registration as a wholesale distributor of dangerous drugs; 1689
1690

(2) Violating any federal, state, or local drug law; any provision of this chapter or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the board; 1691
1692
1693

(3) A conviction of ~~a felony~~ or plea of guilty to a criminal offense that is substantially related to the practice of pharmacy; 1694
1695

(4) Ceasing to satisfy the qualifications for registration under section 4729.53 of the Revised Code or the rules of the board. 1696
1697
1698

(B) Upon the suspension or revocation of the registration certificate of any wholesale distributor of dangerous drugs, the distributor shall immediately surrender ~~his~~ the distributor's registration certificate to the board. 1699
1700
1701
1702

(C) If the board suspends, revokes, or refuses to renew any registration certificate issued to a wholesale distributor of dangerous drugs and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, 1703
1704
1705
1706

the board may place under seal all dangerous drugs owned by or in 1707
the possession, custody, or control of the affected wholesale 1708
distributor of dangerous drugs. Except as provided in this 1709
division, the board shall not dispose of the dangerous drugs 1710
sealed under this division until the wholesale distributor of 1711
dangerous drugs exhausts all of ~~his~~ the distributor's appeal 1712
rights under Chapter 119. of the Revised Code. The court involved 1713
in such an appeal may order the board, during the pendency of the 1714
appeal, to sell sealed dangerous drugs that are perishable. The 1715
board shall deposit the proceeds of the sale with the court. 1716

(D) As used in this section, a "criminal offense that is 1717
substantially related" has the same meaning as in section 4743.07 1718
of the Revised Code. 1719

Sec. 4730.25. (A) The state medical board, by an affirmative 1720
vote of not fewer than six members, may revoke or may refuse to 1721
grant a certificate to practice as a physician assistant or a 1722
certificate to prescribe to a person found by the board to have 1723
committed fraud, misrepresentation, or deception in applying for 1724
or securing the certificate. 1725

(B) The board, by an affirmative vote of not fewer than six 1726
members, shall, to the extent permitted by law, limit, revoke, or 1727
suspend an individual's certificate to practice as a physician 1728
assistant or certificate to prescribe, refuse to issue a 1729
certificate to an applicant, refuse to reinstate a certificate, or 1730
reprimand or place on probation the holder of a certificate for 1731
any of the following reasons: 1732

(1) Failure to practice in accordance with the conditions 1733
under which the supervising physician's supervision agreement with 1734
the physician assistant was approved, including the requirement 1735
that when practicing under a particular supervising physician, the 1736
physician assistant must practice only according to the physician 1737

supervisory plan the board approved for that physician or the 1738
policies of the health care facility in which the supervising 1739
physician and physician assistant are practicing; 1740

(2) Failure to comply with the requirements of this chapter, 1741
Chapter 4731. of the Revised Code, or any rules adopted by the 1742
board; 1743

(3) Violating or attempting to violate, directly or 1744
indirectly, or assisting in or abetting the violation of, or 1745
conspiring to violate, any provision of this chapter, Chapter 1746
4731. of the Revised Code, or the rules adopted by the board; 1747

(4) Inability to practice according to acceptable and 1748
prevailing standards of care by reason of mental illness or 1749
physical illness, including physical deterioration that adversely 1750
affects cognitive, motor, or perceptive skills; 1751

(5) Impairment of ability to practice according to acceptable 1752
and prevailing standards of care because of habitual or excessive 1753
use or abuse of drugs, alcohol, or other substances that impair 1754
ability to practice; 1755

(6) Administering drugs for purposes other than those 1756
authorized under this chapter; 1757

(7) Willfully betraying a professional confidence; 1758

(8) Making a false, fraudulent, deceptive, or misleading 1759
statement in soliciting or advertising for employment as a 1760
physician assistant; in connection with any solicitation or 1761
advertisement for patients; in relation to the practice of 1762
medicine as it pertains to physician assistants; or in securing or 1763
attempting to secure a certificate to practice as a physician 1764
assistant, a certificate to prescribe, or approval of a 1765
supervision agreement. 1766

As used in this division, "false, fraudulent, deceptive, or 1767

misleading statement" means a statement that includes a 1768
misrepresentation of fact, is likely to mislead or deceive because 1769
of a failure to disclose material facts, is intended or is likely 1770
to create false or unjustified expectations of favorable results, 1771
or includes representations or implications that in reasonable 1772
probability will cause an ordinarily prudent person to 1773
misunderstand or be deceived. 1774

(9) Representing, with the purpose of obtaining compensation 1775
or other advantage personally or for any other person, that an 1776
incurable disease or injury, or other incurable condition, can be 1777
permanently cured; 1778

(10) The obtaining of, or attempting to obtain, money or 1779
anything of value by fraudulent misrepresentations in the course 1780
of practice; 1781

(11) A plea of guilty to, a judicial finding of guilt of, or 1782
a judicial finding of eligibility for intervention in lieu of 1783
conviction for, a felony criminal offense that is substantially 1784
related to practice as a physician assistant; 1785

(12) Commission of an act that constitutes a felony criminal 1786
offense that is substantially related to practice as a physician 1787
assistant in this state, regardless of the jurisdiction in which 1788
the act was committed; 1789

~~(13) A plea of guilty to, a judicial finding of guilt of, or~~ 1790
~~a judicial finding of eligibility for intervention in lieu of~~ 1791
~~conviction for, a misdemeanor committed in the course of practice;~~ 1792

~~(14) A plea of guilty to, a judicial finding of guilt of, or~~ 1793
~~a judicial finding of eligibility for intervention in lieu of~~ 1794
~~conviction for, a misdemeanor involving moral turpitude;~~ 1795

~~(15) Commission of an act in the course of practice that~~ 1796
~~constitutes a misdemeanor in this state, regardless of the~~ 1797
~~jurisdiction in which the act was committed;~~ 1798

(16) Commission of an act involving moral turpitude that	1799
constitutes a misdemeanor in this state, regardless of the	1800
jurisdiction in which the act was committed;	1801
(17) A plea of guilty to, a judicial finding of guilt of, or	1802
a judicial finding of eligibility for intervention in lieu of	1803
conviction for violating any state or federal law regulating the	1804
possession, distribution, or use of any drug, including	1805
trafficking in drugs;	1806
(18) <u>(14)</u> Any of the following actions taken by the state	1807
agency responsible for regulating the practice of physician	1808
assistants in another state, for any reason other than the	1809
nonpayment of fees: the limitation, revocation, or suspension of	1810
an individual's license to practice; acceptance of an individual's	1811
license surrender; denial of a license; refusal to renew or	1812
reinstate a license; imposition of probation; or issuance of an	1813
order of censure or other reprimand;	1814
(19) <u>(15)</u> A departure from, or failure to conform to, minimal	1815
standards of care of similar physician assistants under the same	1816
or similar circumstances, regardless of whether actual injury to a	1817
patient is established;	1818
(20) <u>(16)</u> Violation of the conditions placed by the board on a	1819
certificate to practice as a physician assistant, a certificate to	1820
prescribe, a physician supervisory plan, or supervision agreement;	1821
(21) <u>(17)</u> Failure to use universal blood and body fluid	1822
precautions established by rules adopted under section 4731.051 of	1823
the Revised Code;	1824
(22) <u>(18)</u> Failure to cooperate in an investigation conducted	1825
by the board under section 4730.26 of the Revised Code, including	1826
failure to comply with a subpoena or order issued by the board or	1827
failure to answer truthfully a question presented by the board at	1828
a deposition or in written interrogatories, except that failure to	1829

cooperate with an investigation shall not constitute grounds for 1830
discipline under this section if a court of competent jurisdiction 1831
has issued an order that either quashes a subpoena or permits the 1832
individual to withhold the testimony or evidence in issue; 1833

~~(23)~~(19) Assisting suicide as defined in section 3795.01 of 1834
the Revised Code; 1835

~~(24)~~(20) Prescribing any drug or device to perform or induce 1836
an abortion, or otherwise performing or inducing an abortion. 1837

(C) Disciplinary actions taken by the board under divisions 1838
(A) and (B) of this section shall be taken pursuant to an 1839
adjudication under Chapter 119. of the Revised Code, except that 1840
in lieu of an adjudication, the board may enter into a consent 1841
agreement with a physician assistant or applicant to resolve an 1842
allegation of a violation of this chapter or any rule adopted 1843
under it. A consent agreement, when ratified by an affirmative 1844
vote of not fewer than six members of the board, shall constitute 1845
the findings and order of the board with respect to the matter 1846
addressed in the agreement. If the board refuses to ratify a 1847
consent agreement, the admissions and findings contained in the 1848
consent agreement shall be of no force or effect. 1849

(D) For purposes of ~~divisions~~ division (B)(12), ~~(15)~~, and 1850
~~(16)~~ of this section, the commission of the act may be established 1851
by a finding by the board, pursuant to an adjudication under 1852
Chapter 119. of the Revised Code, that the applicant or 1853
certificate holder committed the act in question. The board shall 1854
have no jurisdiction under ~~these divisions~~ that division in cases 1855
where the trial court renders a final judgment in the certificate 1856
holder's favor and that judgment is based upon an adjudication on 1857
the merits. The board shall have jurisdiction under ~~these~~ 1858
~~divisions~~ that division in cases where the trial court issues an 1859
order of dismissal upon technical or procedural grounds. 1860

(E) The sealing of conviction records by any court shall have 1861
no effect upon a prior board order entered under the provisions of 1862
this section or upon the board's jurisdiction to take action under 1863
the provisions of this section if, based upon a plea of guilty, a 1864
judicial finding of guilt, or a judicial finding of eligibility 1865
for intervention in lieu of conviction, the board issued a notice 1866
of opportunity for a hearing prior to the court's order to seal 1867
the records. The board shall not be required to seal, destroy, 1868
redact, or otherwise modify its records to reflect the court's 1869
sealing of conviction records. 1870

(F) For purposes of this division, any individual who holds a 1871
certificate issued under this chapter, or applies for a 1872
certificate issued under this chapter, shall be deemed to have 1873
given consent to submit to a mental or physical examination when 1874
directed to do so in writing by the board and to have waived all 1875
objections to the admissibility of testimony or examination 1876
reports that constitute a privileged communication. 1877

(1) In enforcing division (B)(4) of this section, the board, 1878
upon a showing of a possible violation, may compel any individual 1879
who holds a certificate issued under this chapter or who has 1880
applied for a certificate pursuant to this chapter to submit to a 1881
mental examination, physical examination, including an HIV test, 1882
or both a mental and physical examination. The expense of the 1883
examination is the responsibility of the individual compelled to 1884
be examined. Failure to submit to a mental or physical examination 1885
or consent to an HIV test ordered by the board constitutes an 1886
admission of the allegations against the individual unless the 1887
failure is due to circumstances beyond the individual's control, 1888
and a default and final order may be entered without the taking of 1889
testimony or presentation of evidence. If the board finds a 1890
physician assistant unable to practice because of the reasons set 1891
forth in division (B)(4) of this section, the board shall require 1892

the physician assistant to submit to care, counseling, or 1893
treatment by physicians approved or designated by the board, as a 1894
condition for an initial, continued, reinstated, or renewed 1895
certificate. An individual affected under this division shall be 1896
afforded an opportunity to demonstrate to the board the ability to 1897
resume practicing in compliance with acceptable and prevailing 1898
standards of care. 1899

(2) For purposes of division (B)(5) of this section, if the 1900
board has reason to believe that any individual who holds a 1901
certificate issued under this chapter or any applicant for a 1902
certificate suffers such impairment, the board may compel the 1903
individual to submit to a mental or physical examination, or both. 1904
The expense of the examination is the responsibility of the 1905
individual compelled to be examined. Any mental or physical 1906
examination required under this division shall be undertaken by a 1907
treatment provider or physician qualified to conduct such 1908
examination and chosen by the board. 1909

Failure to submit to a mental or physical examination ordered 1910
by the board constitutes an admission of the allegations against 1911
the individual unless the failure is due to circumstances beyond 1912
the individual's control, and a default and final order may be 1913
entered without the taking of testimony or presentation of 1914
evidence. If the board determines that the individual's ability to 1915
practice is impaired, the board shall suspend the individual's 1916
certificate or deny the individual's application and shall require 1917
the individual, as a condition for initial, continued, reinstated, 1918
or renewed certification to practice or prescribe, to submit to 1919
treatment. 1920

Before being eligible to apply for reinstatement of a 1921
certificate suspended under this division, the physician assistant 1922
shall demonstrate to the board the ability to resume practice or 1923
prescribing in compliance with acceptable and prevailing standards 1924

of care. The demonstration shall include the following: 1925

(a) Certification from a treatment provider approved under 1926
section 4731.25 of the Revised Code that the individual has 1927
successfully completed any required inpatient treatment; 1928

(b) Evidence of continuing full compliance with an aftercare 1929
contract or consent agreement; 1930

(c) Two written reports indicating that the individual's 1931
ability to practice has been assessed and that the individual has 1932
been found capable of practicing according to acceptable and 1933
prevailing standards of care. The reports shall be made by 1934
individuals or providers approved by the board for making such 1935
assessments and shall describe the basis for their determination. 1936

The board may reinstate a certificate suspended under this 1937
division after such demonstration and after the individual has 1938
entered into a written consent agreement. 1939

When the impaired physician assistant resumes practice or 1940
prescribing, the board shall require continued monitoring of the 1941
physician assistant. The monitoring shall include compliance with 1942
the written consent agreement entered into before reinstatement or 1943
with conditions imposed by board order after a hearing, and, upon 1944
termination of the consent agreement, submission to the board for 1945
at least two years of annual written progress reports made under 1946
penalty of falsification stating whether the physician assistant 1947
has maintained sobriety. 1948

(G) If the secretary and supervising member determine that 1949
there is clear and convincing evidence that a physician assistant 1950
has violated division (B) of this section and that the 1951
individual's continued practice or prescribing presents a danger 1952
of immediate and serious harm to the public, they may recommend 1953
that the board suspend the individual's certificate to practice or 1954
prescribe without a prior hearing. Written allegations shall be 1955

prepared for consideration by the board. 1956

The board, upon review of those allegations and by an 1957
affirmative vote of not fewer than six of its members, excluding 1958
the secretary and supervising member, may suspend a certificate 1959
without a prior hearing. A telephone conference call may be 1960
utilized for reviewing the allegations and taking the vote on the 1961
summary suspension. 1962

The board shall issue a written order of suspension by 1963
certified mail or in person in accordance with section 119.07 of 1964
the Revised Code. The order shall not be subject to suspension by 1965
the court during pendency of any appeal filed under section 119.12 1966
of the Revised Code. If the physician assistant requests an 1967
adjudicatory hearing by the board, the date set for the hearing 1968
shall be within fifteen days, but not earlier than seven days, 1969
after the physician assistant requests the hearing, unless 1970
otherwise agreed to by both the board and the certificate holder. 1971

A summary suspension imposed under this division shall remain 1972
in effect, unless reversed on appeal, until a final adjudicative 1973
order issued by the board pursuant to this section and Chapter 1974
119. of the Revised Code becomes effective. The board shall issue 1975
its final adjudicative order within sixty days after completion of 1976
its hearing. Failure to issue the order within sixty days shall 1977
result in dissolution of the summary suspension order, but shall 1978
not invalidate any subsequent, final adjudicative order. 1979

(H) If the board takes action under division (B)(11), ~~(13),~~ 1980
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 1981
plea, or judicial finding of eligibility for intervention in lieu 1982
of conviction is overturned on appeal, upon exhaustion of the 1983
criminal appeal, a petition for reconsideration of the order may 1984
be filed with the board along with appropriate court documents. 1985
Upon receipt of a petition and supporting court documents, the 1986
board shall reinstate the certificate to practice or prescribe. 1987

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

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

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

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a

hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

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

(L) When the board refuses to grant to an applicant a certificate to practice as a physician assistant or a certificate to prescribe, revokes an individual's certificate, refuses to issue a certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the certificate and the board shall not accept an application for reinstatement of the 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 is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

approval of a physician supervisory plan, or approval of a 2051
supervision agreement may not be withdrawn without approval of the 2052
board. 2053

(3) Failure by an individual to renew a certificate in 2054
accordance with section 4730.14 or section 4730.48 of the Revised 2055
Code shall not remove or limit the board's jurisdiction to take 2056
disciplinary action under this section against the individual. 2057

(N) As used in this section, a "criminal offense that is 2058
substantially related" has the same meaning as in section 4743.07 2059
of the Revised Code. 2060

Sec. 4731.22. (A) The state medical board, by an affirmative 2061
vote of not fewer than six of its members, may revoke or may 2062
refuse to grant a certificate to a person found by the board to 2063
have committed fraud during the administration of the examination 2064
for a certificate to practice or to have committed fraud, 2065
misrepresentation, or deception in applying for or securing any 2066
certificate to practice or certificate of registration issued by 2067
the board. 2068

(B) The board, by an affirmative vote of not fewer than six 2069
members, shall, to the extent permitted by law, limit, revoke, or 2070
suspend an individual's certificate to practice, refuse to 2071
register an individual, refuse to reinstate a certificate, or 2072
reprimand or place on probation the holder of a certificate for 2073
one or more of the following reasons: 2074

(1) Permitting one's name or one's certificate to practice or 2075
certificate of registration to be used by a person, group, or 2076
corporation when the individual concerned is not actually 2077
directing the treatment given; 2078

(2) Failure to maintain minimal standards applicable to the 2079
selection or administration of drugs, or failure to employ 2080

acceptable scientific methods in the selection of drugs or other 2081
modalities for treatment of disease; 2082

(3) Selling, giving away, personally furnishing, prescribing, 2083
or administering drugs for other than legal and legitimate 2084
therapeutic purposes or a plea of guilty to, a judicial finding of 2085
guilt of, or a judicial finding of eligibility for intervention in 2086
lieu of conviction of, a violation of any federal or state law 2087
regulating the possession, distribution, or use of any drug; 2088

(4) Willfully betraying a professional confidence. 2089

For purposes of this division, "willfully betraying a 2090
professional confidence" does not include providing any 2091
information, documents, or reports to a child fatality review 2092
board under sections 307.621 to 307.629 of the Revised Code and 2093
does not include the making of a report of an employee's use of a 2094
drug of abuse, or a report of a condition of an employee other 2095
than one involving the use of a drug of abuse, to the employer of 2096
the employee as described in division (B) of section 2305.33 of 2097
the Revised Code. Nothing in this division affects the immunity 2098
from civil liability conferred by that section upon a physician 2099
who makes either type of report in accordance with division (B) of 2100
that section. As used in this division, "employee," "employer," 2101
and "physician" have the same meanings as in section 2305.33 of 2102
the Revised Code. 2103

(5) Making a false, fraudulent, deceptive, or misleading 2104
statement in the solicitation of or advertising for patients; in 2105
relation to the practice of medicine and surgery, osteopathic 2106
medicine and surgery, podiatric medicine and surgery, or a limited 2107
branch of medicine; or in securing or attempting to secure any 2108
certificate to practice or certificate of registration issued by 2109
the board. 2110

As used in this division, "false, fraudulent, deceptive, or 2111

misleading statement" means a statement that includes a 2112
misrepresentation of fact, is likely to mislead or deceive because 2113
of a failure to disclose material facts, is intended or is likely 2114
to create false or unjustified expectations of favorable results, 2115
or includes representations or implications that in reasonable 2116
probability will cause an ordinarily prudent person to 2117
misunderstand or be deceived. 2118

(6) A departure from, or the failure to conform to, minimal 2119
standards of care of similar practitioners under the same or 2120
similar circumstances, whether or not actual injury to a patient 2121
is established; 2122

(7) Representing, with the purpose of obtaining compensation 2123
or other advantage as personal gain or for any other person, that 2124
an incurable disease or injury, or other incurable condition, can 2125
be permanently cured; 2126

(8) The obtaining of, or attempting to obtain, money or 2127
anything of value by fraudulent misrepresentations in the course 2128
of practice; 2129

(9) A plea of guilty to, a judicial finding of guilt of, or a 2130
judicial finding of eligibility for intervention in lieu of 2131
conviction for, a felony criminal offense that is substantially 2132
related to the practice of medicine; 2133

(10) Commission of an act that constitutes a felony criminal 2134
offense that is substantially related to the practice of medicine 2135
in this state, regardless of the jurisdiction in which the act was 2136
committed; 2137

~~(11) A plea of guilty to, a judicial finding of guilt of, or 2138
a judicial finding of eligibility for intervention in lieu of 2139
conviction for, a misdemeanor committed in the course of practice;~~ 2140

~~(12) Commission of an act in the course of practice that 2141
constitutes a misdemeanor in this state, regardless of the 2142~~

~~jurisdiction in which the act was committed;~~ 2143

~~(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;~~ 2144
2145
2146

~~(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;~~ 2147
2148
2149

~~(15) Violation of the conditions of limitation placed by the
board upon a certificate to practice;~~ 2150
2151

~~(16)~~(12) Failure to pay license renewal fees specified in 2152
this chapter; 2153

~~(17)~~(13) Except as authorized in section 4731.31 of the 2154
Revised Code, engaging in the division of fees for referral of 2155
patients, or the receiving of a thing of value in return for a 2156
specific referral of a patient to utilize a particular service or 2157
business; 2158

~~(18)~~(14) Subject to section 4731.226 of the Revised Code, 2159
violation of any provision of a code of ethics of the American 2160
medical association, the American osteopathic association, the 2161
American podiatric medical association, or any other national 2162
professional organizations that the board specifies by rule. The 2163
state medical board shall obtain and keep on file current copies 2164
of the codes of ethics of the various national professional 2165
organizations. The individual whose certificate is being suspended 2166
or revoked shall not be found to have violated any provision of a 2167
code of ethics of an organization not appropriate to the 2168
individual's profession. 2169

For purposes of this division, a "provision of a code of 2170
ethics of a national professional organization" does not include 2171
any provision that would preclude the making of a report by a 2172
physician of an employee's use of a drug of abuse, or of a 2173

condition of an employee other than one involving the use of a 2174
drug of abuse, to the employer of the employee as described in 2175
division (B) of section 2305.33 of the Revised Code. Nothing in 2176
this division affects the immunity from civil liability conferred 2177
by that section upon a physician who makes either type of report 2178
in accordance with division (B) of that section. As used in this 2179
division, "employee," "employer," and "physician" have the same 2180
meanings as in section 2305.33 of the Revised Code. 2181

~~(19)~~(15) Inability to practice according to acceptable and 2182
prevailing standards of care by reason of mental illness or 2183
physical illness, including, but not limited to, physical 2184
deterioration that adversely affects cognitive, motor, or 2185
perceptive skills. 2186

In enforcing this division, the board, upon a showing of a 2187
possible violation, may compel any individual authorized to 2188
practice by this chapter or who has submitted an application 2189
pursuant to this chapter to submit to a mental examination, 2190
physical examination, including an HIV test, or both a mental and 2191
a physical examination. The expense of the examination is the 2192
responsibility of the individual compelled to be examined. Failure 2193
to submit to a mental or physical examination or consent to an HIV 2194
test ordered by the board constitutes an admission of the 2195
allegations against the individual unless the failure is due to 2196
circumstances beyond the individual's control, and a default and 2197
final order may be entered without the taking of testimony or 2198
presentation of evidence. If the board finds an individual unable 2199
to practice because of the reasons set forth in this division, the 2200
board shall require the individual to submit to care, counseling, 2201
or treatment by physicians approved or designated by the board, as 2202
a condition for initial, continued, reinstated, or renewed 2203
authority to practice. An individual affected under this division 2204
shall be afforded an opportunity to demonstrate to the board the 2205

ability to resume practice in compliance with acceptable and 2206
prevailing standards under the provisions of the individual's 2207
certificate. For the purpose of this division, any individual who 2208
applies for or receives a certificate to practice under this 2209
chapter accepts the privilege of practicing in this state and, by 2210
so doing, shall be deemed to have given consent to submit to a 2211
mental or physical examination when directed to do so in writing 2212
by the board, and to have waived all objections to the 2213
admissibility of testimony or examination reports that constitute 2214
a privileged communication. 2215

~~(20)~~(16) Except when civil penalties are imposed under 2216
section 4731.225 or 4731.281 of the Revised Code, and subject to 2217
section 4731.226 of the Revised Code, violating or attempting to 2218
violate, directly or indirectly, or assisting in or abetting the 2219
violation of, or conspiring to violate, any provisions of this 2220
chapter or any rule promulgated by the board. 2221

This division does not apply to a violation or attempted 2222
violation of, assisting in or abetting the violation of, or a 2223
conspiracy to violate, any provision of this chapter or any rule 2224
adopted by the board that would preclude the making of a report by 2225
a physician of an employee's use of a drug of abuse, or of a 2226
condition of an employee other than one involving the use of a 2227
drug of abuse, to the employer of the employee as described in 2228
division (B) of section 2305.33 of the Revised Code. Nothing in 2229
this division affects the immunity from civil liability conferred 2230
by that section upon a physician who makes either type of report 2231
in accordance with division (B) of that section. As used in this 2232
division, "employee," "employer," and "physician" have the same 2233
meanings as in section 2305.33 of the Revised Code. 2234

~~(21)~~(17) The violation of section 3701.79 of the Revised Code 2235
or of any abortion rule adopted by the public health council 2236
pursuant to section 3701.341 of the Revised Code; 2237

~~(22)~~(18) Any of the following actions taken by the agency 2238
responsible for regulating the practice of medicine and surgery, 2239
osteopathic medicine and surgery, podiatric medicine and surgery, 2240
or the limited branches of medicine in another jurisdiction, for 2241
any reason other than the nonpayment of fees: the limitation, 2242
revocation, or suspension of an individual's license to practice; 2243
acceptance of an individual's license surrender; denial of a 2244
license; refusal to renew or reinstate a license; imposition of 2245
probation; or issuance of an order of censure or other reprimand; 2246

~~(23)~~(19) The violation of section 2919.12 of the Revised Code 2247
or the performance or inducement of an abortion upon a pregnant 2248
woman with actual knowledge that the conditions specified in 2249
division (B) of section 2317.56 of the Revised Code have not been 2250
satisfied or with a heedless indifference as to whether those 2251
conditions have been satisfied, unless an affirmative defense as 2252
specified in division (H)(2) of that section would apply in a 2253
civil action authorized by division (H)(1) of that section; 2254

~~(24)~~(20) The revocation, suspension, restriction, reduction, 2255
or termination of clinical privileges by the United States 2256
department of defense or department of veterans affairs or the 2257
termination or suspension of a certificate of registration to 2258
prescribe drugs by the drug enforcement administration of the 2259
United States department of justice; 2260

~~(25)~~(21) Termination or suspension from participation in the 2261
medicare or medicaid programs by the department of health and 2262
human services or other responsible agency for any act or acts 2263
that also would constitute a violation of division (B)(2), (3), 2264
(6), (8), or ~~(19)~~(15) of this section; 2265

~~(26)~~(22) Impairment of ability to practice according to 2266
acceptable and prevailing standards of care because of habitual or 2267
excessive use or abuse of drugs, alcohol, or other substances that 2268
impair ability to practice. 2269

For the purposes of this division, any individual authorized 2270
to practice by this chapter accepts the privilege of practicing in 2271
this state subject to supervision by the board. By filing an 2272
application for or holding a certificate to practice under this 2273
chapter, an individual shall be deemed to have given consent to 2274
submit to a mental or physical examination when ordered to do so 2275
by the board in writing, and to have waived all objections to the 2276
admissibility of testimony or examination reports that constitute 2277
privileged communications. 2278

If it has reason to believe that any individual authorized to 2279
practice by this chapter or any applicant for certification to 2280
practice suffers such impairment, the board may compel the 2281
individual to submit to a mental or physical examination, or both. 2282
The expense of the examination is the responsibility of the 2283
individual compelled to be examined. Any mental or physical 2284
examination required under this division shall be undertaken by a 2285
treatment provider or physician who is qualified to conduct the 2286
examination and who is chosen by the board. 2287

Failure to submit to a mental or physical examination ordered 2288
by the board constitutes an admission of the allegations against 2289
the individual unless the failure is due to circumstances beyond 2290
the individual's control, and a default and final order may be 2291
entered without the taking of testimony or presentation of 2292
evidence. If the board determines that the individual's ability to 2293
practice is impaired, the board shall suspend the individual's 2294
certificate or deny the individual's application and shall require 2295
the individual, as a condition for initial, continued, reinstated, 2296
or renewed certification to practice, to submit to treatment. 2297

Before being eligible to apply for reinstatement of a 2298
certificate suspended under this division, the impaired 2299
practitioner shall demonstrate to the board the ability to resume 2300
practice in compliance with acceptable and prevailing standards of 2301

care under the provisions of the practitioner's certificate. The 2302
demonstration shall include, but shall not be limited to, the 2303
following: 2304

(a) Certification from a treatment provider approved under 2305
section 4731.25 of the Revised Code that the individual has 2306
successfully completed any required inpatient treatment; 2307

(b) Evidence of continuing full compliance with an aftercare 2308
contract or consent agreement; 2309

(c) Two written reports indicating that the individual's 2310
ability to practice has been assessed and that the individual has 2311
been found capable of practicing according to acceptable and 2312
prevailing standards of care. The reports shall be made by 2313
individuals or providers approved by the board for making the 2314
assessments and shall describe the basis for their determination. 2315

The board may reinstate a certificate suspended under this 2316
division after that demonstration and after the individual has 2317
entered into a written consent agreement. 2318

When the impaired practitioner resumes practice, the board 2319
shall require continued monitoring of the individual. The 2320
monitoring shall include, but not be limited to, compliance with 2321
the written consent agreement entered into before reinstatement or 2322
with conditions imposed by board order after a hearing, and, upon 2323
termination of the consent agreement, submission to the board for 2324
at least two years of annual written progress reports made under 2325
penalty of perjury stating whether the individual has maintained 2326
sobriety. 2327

~~(27)~~(23) A second or subsequent violation of section 4731.66 2328
or 4731.69 of the Revised Code; 2329

~~(28)~~(24) Except as provided in division (N) of this section: 2330

(a) Waiving the payment of all or any part of a deductible or 2331

copayment that a patient, pursuant to a health insurance or health 2332
care policy, contract, or plan that covers the individual's 2333
services, otherwise would be required to pay if the waiver is used 2334
as an enticement to a patient or group of patients to receive 2335
health care services from that individual; 2336

(b) Advertising that the individual will waive the payment of 2337
all or any part of a deductible or copayment that a patient, 2338
pursuant to a health insurance or health care policy, contract, or 2339
plan that covers the individual's services, otherwise would be 2340
required to pay. 2341

~~(29)~~(25) Failure to use universal blood and body fluid 2342
precautions established by rules adopted under section 4731.051 of 2343
the Revised Code; 2344

~~(30)~~(26) Failure to provide notice to, and receive 2345
acknowledgment of the notice from, a patient when required by 2346
section 4731.143 of the Revised Code prior to providing 2347
nonemergency professional services, or failure to maintain that 2348
notice in the patient's file; 2349

~~(31)~~(27) Failure of a physician supervising a physician 2350
assistant to maintain supervision in accordance with the 2351
requirements of Chapter 4730. of the Revised Code and the rules 2352
adopted under that chapter; 2353

~~(32)~~(28) Failure of a physician or podiatrist to enter into a 2354
standard care arrangement with a clinical nurse specialist, 2355
certified nurse-midwife, or certified nurse practitioner with whom 2356
the physician or podiatrist is in collaboration pursuant to 2357
section 4731.27 of the Revised Code or failure to fulfill the 2358
responsibilities of collaboration after entering into a standard 2359
care arrangement; 2360

~~(33)~~(29) Failure to comply with the terms of a consult 2361
agreement entered into with a pharmacist pursuant to section 2362

4729.39 of the Revised Code;	2363
(34) (30) Failure to cooperate in an investigation conducted	2364
by the board under division (F) of this section, including failure	2365
to comply with a subpoena or order issued by the board or failure	2366
to answer truthfully a question presented by the board at a	2367
deposition or in written interrogatories, except that failure to	2368
cooperate with an investigation shall not constitute grounds for	2369
discipline under this section if a court of competent jurisdiction	2370
has issued an order that either quashes a subpoena or permits the	2371
individual to withhold the testimony or evidence in issue;	2372
(35) (31) Failure to supervise an acupuncturist in accordance	2373
with Chapter 4762. of the Revised Code and the board's rules for	2374
supervision of an acupuncturist;	2375
(36) (32) Failure to supervise an anesthesiologist assistant	2376
in accordance with Chapter 4760. of the Revised Code and the	2377
board's rules for supervision of an anesthesiologist assistant;	2378
(37) (33) Assisting suicide as defined in section 3795.01 of	2379
the Revised Code;	2380
(38) (34) Failure to comply with the requirements of section	2381
2317.561 of the Revised Code;	2382
(39) (35) Failure to supervise a radiologist assistant in	2383
accordance with Chapter 4774. of the Revised Code and the board's	2384
rules for supervision of radiologist assistants;	2385
(40) (36) Performing or inducing an abortion at an office or	2386
facility with knowledge that the office or facility fails to post	2387
the notice required under section 3701.791 of the Revised Code.	2388
(C) Disciplinary actions taken by the board under divisions	2389
(A) and (B) of this section shall be taken pursuant to an	2390
adjudication under Chapter 119. of the Revised Code, except that	2391
in lieu of an adjudication, the board may enter into a consent	2392

agreement with an individual to resolve an allegation of a 2393
violation of this chapter or any rule adopted under it. A consent 2394
agreement, when ratified by an affirmative vote of not fewer than 2395
six members of the board, shall constitute the findings and order 2396
of the board with respect to the matter addressed in the 2397
agreement. If the board refuses to ratify a consent agreement, the 2398
admissions and findings contained in the consent agreement shall 2399
be of no force or effect. 2400

If the board takes disciplinary action against an individual 2401
under division (B) of this section for a second or subsequent plea 2402
of guilty to, or judicial finding of guilt of, a violation of 2403
section 2919.123 of the Revised Code, the disciplinary action 2404
shall consist of a suspension of the individual's certificate to 2405
practice for a period of at least one year or, if determined 2406
appropriate by the board, a more serious sanction involving the 2407
individual's certificate to practice. Any consent agreement 2408
entered into under this division with an individual that pertains 2409
to a second or subsequent plea of guilty to, or judicial finding 2410
of guilt of, a violation of that section shall provide for a 2411
suspension of the individual's certificate to practice for a 2412
period of at least one year or, if determined appropriate by the 2413
board, a more serious sanction involving the individual's 2414
certificate to practice. 2415

(D) For purposes of ~~divisions~~ division (B)(10), ~~(12), and~~ 2416
~~(14)~~ of this section, the commission of the act may be established 2417
by a finding by the board, pursuant to an adjudication under 2418
Chapter 119. of the Revised Code, that the individual committed 2419
the act. The board does not have jurisdiction under ~~these~~ 2420
~~divisions~~ that division if the trial court renders a final 2421
judgment in the individual's favor and that judgment is based upon 2422
an adjudication on the merits. The board has jurisdiction under 2423
~~these divisions~~ that division if the trial court issues an order 2424

of dismissal upon technical or procedural grounds. 2425

(E) The sealing of conviction records by any court shall have 2426
no effect upon a prior board order entered under this section or 2427
upon the board's jurisdiction to take action under this section 2428
if, based upon a plea of guilty, a judicial finding of guilt, or a 2429
judicial finding of eligibility for intervention in lieu of 2430
conviction, the board issued a notice of opportunity for a hearing 2431
prior to the court's order to seal the records. The board shall 2432
not be required to seal, destroy, redact, or otherwise modify its 2433
records to reflect the court's sealing of conviction records. 2434

(F)(1) The board shall investigate evidence that appears to 2435
show that a person has violated any provision of this chapter or 2436
any rule adopted under it. Any person may report to the board in a 2437
signed writing any information that the person may have that 2438
appears to show a violation of any provision of this chapter or 2439
any rule adopted under it. In the absence of bad faith, any person 2440
who reports information of that nature or who testifies before the 2441
board in any adjudication conducted under Chapter 119. of the 2442
Revised Code shall not be liable in damages in a civil action as a 2443
result of the report or testimony. Each complaint or allegation of 2444
a violation received by the board shall be assigned a case number 2445
and shall be recorded by the board. 2446

(2) Investigations of alleged violations of this chapter or 2447
any rule adopted under it shall be supervised by the supervising 2448
member elected by the board in accordance with section 4731.02 of 2449
the Revised Code and by the secretary as provided in section 2450
4731.39 of the Revised Code. The president may designate another 2451
member of the board to supervise the investigation in place of the 2452
supervising member. No member of the board who supervises the 2453
investigation of a case shall participate in further adjudication 2454
of the case. 2455

(3) In investigating a possible violation of this chapter or 2456

any rule adopted under this chapter, the board may administer 2457
oaths, order the taking of depositions, issue subpoenas, and 2458
compel the attendance of witnesses and production of books, 2459
accounts, papers, records, documents, and testimony, except that a 2460
subpoena for patient record information shall not be issued 2461
without consultation with the attorney general's office and 2462
approval of the secretary and supervising member of the board. 2463
Before issuance of a subpoena for patient record information, the 2464
secretary and supervising member shall determine whether there is 2465
probable cause to believe that the complaint filed alleges a 2466
violation of this chapter or any rule adopted under it and that 2467
the records sought are relevant to the alleged violation and 2468
material to the investigation. The subpoena may apply only to 2469
records that cover a reasonable period of time surrounding the 2470
alleged violation. 2471

On failure to comply with any subpoena issued by the board 2472
and after reasonable notice to the person being subpoenaed, the 2473
board may move for an order compelling the production of persons 2474
or records pursuant to the Rules of Civil Procedure. 2475

A subpoena issued by the board may be served by a sheriff, 2476
the sheriff's deputy, or a board employee designated by the board. 2477
Service of a subpoena issued by the board may be made by 2478
delivering a copy of the subpoena to the person named therein, 2479
reading it to the person, or leaving it at the person's usual 2480
place of residence. When the person being served is a person whose 2481
practice is authorized by this chapter, service of the subpoena 2482
may be made by certified mail, restricted delivery, return receipt 2483
requested, and the subpoena shall be deemed served on the date 2484
delivery is made or the date the person refuses to accept 2485
delivery. 2486

A sheriff's deputy who serves a subpoena shall receive the 2487
same fees as a sheriff. Each witness who appears before the board 2488

in obedience to a subpoena shall receive the fees and mileage 2489
provided for under section 119.094 of the Revised Code. 2490

(4) All hearings and investigations of the board shall be 2491
considered civil actions for the purposes of section 2305.252 of 2492
the Revised Code. 2493

(5) Information received by the board pursuant to an 2494
investigation is confidential and not subject to discovery in any 2495
civil action. 2496

The board shall conduct all investigations and proceedings in 2497
a manner that protects the confidentiality of patients and persons 2498
who file complaints with the board. The board shall not make 2499
public the names or any other identifying information about 2500
patients or complainants unless proper consent is given or, in the 2501
case of a patient, a waiver of the patient privilege exists under 2502
division (B) of section 2317.02 of the Revised Code, except that 2503
consent or a waiver of that nature is not required if the board 2504
possesses reliable and substantial evidence that no bona fide 2505
physician-patient relationship exists. 2506

The board may share any information it receives pursuant to 2507
an investigation, including patient records and patient record 2508
information, with law enforcement agencies, other licensing 2509
boards, and other governmental agencies that are prosecuting, 2510
adjudicating, or investigating alleged violations of statutes or 2511
administrative rules. An agency or board that receives the 2512
information shall comply with the same requirements regarding 2513
confidentiality as those with which the state medical board must 2514
comply, notwithstanding any conflicting provision of the Revised 2515
Code or procedure of the agency or board that applies when it is 2516
dealing with other information in its possession. In a judicial 2517
proceeding, the information may be admitted into evidence only in 2518
accordance with the Rules of Evidence, but the court shall require 2519
that appropriate measures are taken to ensure that confidentiality 2520

is maintained with respect to any part of the information that 2521
contains names or other identifying information about patients or 2522
complainants whose confidentiality was protected by the state 2523
medical board when the information was in the board's possession. 2524
Measures to ensure confidentiality that may be taken by the court 2525
include sealing its records or deleting specific information from 2526
its records. 2527

(6) On a quarterly basis, the board shall prepare a report 2528
that documents the disposition of all cases during the preceding 2529
three months. The report shall contain the following information 2530
for each case with which the board has completed its activities: 2531

(a) The case number assigned to the complaint or alleged 2532
violation; 2533

(b) The type of certificate to practice, if any, held by the 2534
individual against whom the complaint is directed; 2535

(c) A description of the allegations contained in the 2536
complaint; 2537

(d) The disposition of the case. 2538

The report shall state how many cases are still pending and 2539
shall be prepared in a manner that protects the identity of each 2540
person involved in each case. The report shall be a public record 2541
under section 149.43 of the Revised Code. 2542

(G) If the secretary and supervising member determine that 2543
there is clear and convincing evidence that an individual has 2544
violated division (B) of this section and that the individual's 2545
continued practice presents a danger of immediate and serious harm 2546
to the public, they may recommend that the board suspend the 2547
individual's certificate to practice without a prior hearing. 2548
Written allegations shall be prepared for consideration by the 2549
board. 2550

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

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

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

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

to practice. The board may then hold an adjudication under Chapter 2583
119. of the Revised Code to determine whether the individual 2584
committed the act in question. Notice of an opportunity for a 2585
hearing shall be given in accordance with Chapter 119. of the 2586
Revised Code. If the board finds, pursuant to an adjudication held 2587
under this division, that the individual committed the act or if 2588
no hearing is requested, the board may order any of the sanctions 2589
identified under division (B) of this section. 2590

(I) The certificate to practice issued to an individual under 2591
this chapter and the individual's practice in this state are 2592
automatically suspended as of the date of the individual's second 2593
or subsequent plea of guilty to, or judicial finding of guilt of, 2594
a violation of section 2919.123 of the Revised Code, or the date 2595
the individual pleads guilty to, is found by a judge or jury to be 2596
guilty of, or is subject to a judicial finding of eligibility for 2597
intervention in lieu of conviction in this state or treatment or 2598
intervention in lieu of conviction in another jurisdiction for any 2599
of the following criminal offenses in this state or a 2600
substantially equivalent criminal offense in another jurisdiction: 2601
aggravated murder, murder, voluntary manslaughter, felonious 2602
assault, kidnapping, rape, sexual battery, gross sexual 2603
imposition, aggravated arson, aggravated robbery, or aggravated 2604
burglary. Continued practice after suspension shall be considered 2605
practicing without a certificate. 2606

The board shall notify the individual subject to the 2607
suspension by certified mail or in person in accordance with 2608
section 119.07 of the Revised Code. If an individual whose 2609
certificate is automatically suspended under this division fails 2610
to make a timely request for an adjudication under Chapter 119. of 2611
the Revised Code, the board shall do whichever of the following is 2612
applicable: 2613

(1) If the automatic suspension under this division is for a 2614

second or subsequent plea of guilty to, or judicial finding of 2615
guilt of, a violation of section 2919.123 of the Revised Code, the 2616
board shall enter an order suspending the individual's certificate 2617
to practice for a period of at least one year or, if determined 2618
appropriate by the board, imposing a more serious sanction 2619
involving the individual's certificate to practice. 2620

(2) In all circumstances in which division (I)(1) of this 2621
section does not apply, enter a final order permanently revoking 2622
the individual's certificate to practice. 2623

(J) If the board is required by Chapter 119. of the Revised 2624
Code to give notice of an opportunity for a hearing and if the 2625
individual subject to the notice does not timely request a hearing 2626
in accordance with section 119.07 of the Revised Code, the board 2627
is not required to hold a hearing, but may adopt, by an 2628
affirmative vote of not fewer than six of its members, a final 2629
order that contains the board's findings. In that final order, the 2630
board may order any of the sanctions identified under division (A) 2631
or (B) of this section. 2632

(K) Any action taken by the board under division (B) of this 2633
section resulting in a suspension from practice shall be 2634
accompanied by a written statement of the conditions under which 2635
the individual's certificate to practice may be reinstated. The 2636
board shall adopt rules governing conditions to be imposed for 2637
reinstatement. Reinstatement of a certificate suspended pursuant 2638
to division (B) of this section requires an affirmative vote of 2639
not fewer than six members of the board. 2640

(L) When the board refuses to grant a certificate to an 2641
applicant, revokes an individual's certificate to practice, 2642
refuses to register an applicant, or refuses to reinstate an 2643
individual's certificate to practice, the board may specify that 2644
its action is permanent. An individual subject to a permanent 2645
action taken by the board is forever thereafter ineligible to hold 2646

a certificate to practice and the board shall not accept an 2647
application for reinstatement of the certificate or for issuance 2648
of a new certificate. 2649

(M) Notwithstanding any other provision of the Revised Code, 2650
all of the following apply: 2651

(1) The surrender of a certificate issued under this chapter 2652
shall not be effective unless or until accepted by the board. 2653
Reinstatement of a certificate surrendered to the board requires 2654
an affirmative vote of not fewer than six members of the board. 2655

(2) An application for a certificate made under the 2656
provisions of this chapter may not be withdrawn without approval 2657
of the board. 2658

(3) Failure by an individual to renew a certificate of 2659
registration in accordance with this chapter shall not remove or 2660
limit the board's jurisdiction to take any disciplinary action 2661
under this section against the individual. 2662

(N) Sanctions shall not be imposed under division (B)~~(28)~~(24) 2663
of this section against any person who waives deductibles and 2664
copayments as follows: 2665

(1) In compliance with the health benefit plan that expressly 2666
allows such a practice. Waiver of the deductibles or copayments 2667
shall be made only with the full knowledge and consent of the plan 2668
purchaser, payer, and third-party administrator. Documentation of 2669
the consent shall be made available to the board upon request. 2670

(2) For professional services rendered to any other person 2671
authorized to practice pursuant to this chapter, to the extent 2672
allowed by this chapter and rules adopted by the board. 2673

(O) Under the board's investigative duties described in this 2674
section and subject to division (F) of this section, the board 2675
shall develop and implement a quality intervention program 2676

designed to improve through remedial education the clinical and 2677
communication skills of individuals authorized under this chapter 2678
to practice medicine and surgery, osteopathic medicine and 2679
surgery, and podiatric medicine and surgery. In developing and 2680
implementing the quality intervention program, the board may do 2681
all of the following: 2682

(1) Offer in appropriate cases as determined by the board an 2683
educational and assessment program pursuant to an investigation 2684
the board conducts under this section; 2685

(2) Select providers of educational and assessment services, 2686
including a quality intervention program panel of case reviewers; 2687

(3) Make referrals to educational and assessment service 2688
providers and approve individual educational programs recommended 2689
by those providers. The board shall monitor the progress of each 2690
individual undertaking a recommended individual educational 2691
program. 2692

(4) Determine what constitutes successful completion of an 2693
individual educational program and require further monitoring of 2694
the individual who completed the program or other action that the 2695
board determines to be appropriate; 2696

(5) Adopt rules in accordance with Chapter 119. of the 2697
Revised Code to further implement the quality intervention 2698
program. 2699

An individual who participates in an individual educational 2700
program pursuant to this division shall pay the financial 2701
obligations arising from that educational program. 2702

(P) As used in this section, a "criminal offense that is 2703
substantially related" has the same meaning as in section 4743.07 2704
of the Revised Code. 2705

Sec. 4731.224. (A) Within sixty days after the imposition of 2706

any formal disciplinary action taken by any health care facility, 2707
including a hospital, health care facility operated by a health 2708
insuring corporation, ambulatory surgical center, or similar 2709
facility, against any individual holding a valid certificate to 2710
practice issued pursuant to this chapter, the chief administrator 2711
or executive officer of the facility shall report to the state 2712
medical board the name of the individual, the action taken by the 2713
facility, and a summary of the underlying facts leading to the 2714
action taken. Upon request, the board shall be provided certified 2715
copies of the patient records that were the basis for the 2716
facility's action. Prior to release to the board, the summary 2717
shall be approved by the peer review committee that reviewed the 2718
case or by the governing board of the facility. As used in this 2719
division, "formal disciplinary action" means any action resulting 2720
in the revocation, restriction, reduction, or termination of 2721
clinical privileges for violations of professional ethics, or for 2722
reasons of medical incompetence, medical malpractice, or drug or 2723
alcohol abuse. "Formal disciplinary action" includes a summary 2724
action, an action that takes effect notwithstanding any appeal 2725
rights that may exist, and an action that results in an individual 2726
surrendering clinical privileges while under investigation and 2727
during proceedings regarding the action being taken or in return 2728
for not being investigated or having proceedings held. "Formal 2729
disciplinary action" does not include any action taken for the 2730
sole reason of failure to maintain records on a timely basis or 2731
failure to attend staff or section meetings. 2732

The filing or nonfiling of a report with the board, 2733
investigation by the board, or any disciplinary action taken by 2734
the board, shall not preclude any action by a health care facility 2735
to suspend, restrict, or revoke the individual's clinical 2736
privileges. 2737

In the absence of fraud or bad faith, no individual or entity 2738

that provides patient records to the board shall be liable in 2739
damages to any person as a result of providing the records. 2740

(B) If any individual authorized to practice under this 2741
chapter or any professional association or society of such 2742
individuals believes that a violation of any provision of this 2743
chapter, Chapter 4730., 4760., 4762., or 4774. of the Revised 2744
Code, or any rule of the board has occurred, the individual, 2745
association, or society shall report to the board the information 2746
upon which the belief is based. This division does not require any 2747
treatment provider approved by the board under section 4731.25 of 2748
the Revised Code or any employee, agent, or representative of such 2749
a provider to make reports with respect to an impaired 2750
practitioner participating in treatment or aftercare for substance 2751
abuse as long as the practitioner maintains participation in 2752
accordance with the requirements of section 4731.25 of the Revised 2753
Code, and as long as the treatment provider or employee, agent, or 2754
representative of the provider has no reason to believe that the 2755
practitioner has violated any provision of this chapter or any 2756
rule adopted under it, other than the provisions of division 2757
(B)~~(26)~~(22) of section 4731.22 of the Revised Code. This division 2758
does not require reporting by any member of an impaired 2759
practitioner committee established by a health care facility or by 2760
any representative or agent of a committee or program sponsored by 2761
a professional association or society of individuals authorized to 2762
practice under this chapter to provide peer assistance to 2763
practitioners with substance abuse problems with respect to a 2764
practitioner who has been referred for examination to a treatment 2765
program approved by the board under section 4731.25 of the Revised 2766
Code if the practitioner cooperates with the referral for 2767
examination and with any determination that the practitioner 2768
should enter treatment and as long as the committee member, 2769
representative, or agent has no reason to believe that the 2770
practitioner has ceased to participate in the treatment program in 2771

accordance with section 4731.25 of the Revised Code or has 2772
violated any provision of this chapter or any rule adopted under 2773
it, other than the provisions of division (B)~~(26)~~(22) of section 2774
4731.22 of the Revised Code. 2775

(C) Any professional association or society composed 2776
primarily of doctors of medicine and surgery, doctors of 2777
osteopathic medicine and surgery, doctors of podiatric medicine 2778
and surgery, or practitioners of limited branches of medicine that 2779
suspends or revokes an individual's membership for violations of 2780
professional ethics, or for reasons of professional incompetence 2781
or professional malpractice, within sixty days after a final 2782
decision shall report to the board, on forms prescribed and 2783
provided by the board, the name of the individual, the action 2784
taken by the professional organization, and a summary of the 2785
underlying facts leading to the action taken. 2786

The filing of a report with the board or decision not to file 2787
a report, investigation by the board, or any disciplinary action 2788
taken by the board, does not preclude a professional organization 2789
from taking disciplinary action against an individual. 2790

(D) Any insurer providing professional liability insurance to 2791
an individual authorized to practice under this chapter, or any 2792
other entity that seeks to indemnify the professional liability of 2793
such an individual, shall notify the board within thirty days 2794
after the final disposition of any written claim for damages where 2795
such disposition results in a payment exceeding twenty-five 2796
thousand dollars. The notice shall contain the following 2797
information: 2798

(1) The name and address of the person submitting the 2799
notification; 2800

(2) The name and address of the insured who is the subject of 2801
the claim; 2802

(3) The name of the person filing the written claim;	2803
(4) The date of final disposition;	2804
(5) If applicable, the identity of the court in which the final disposition of the claim took place.	2805 2806
(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for medical malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the practicing individual.	2807 2808 2809 2810 2811 2812 2813 2814 2815 2816
(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an individual whose practice is regulated under this chapter, or in any subsequent trial or appeal of a board action or order.	2817 2818 2819 2820 2821 2822 2823 2824 2825 2826
The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing the individual or in reviewing the individual's clinical privileges. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as	2827 2828 2829 2830 2831 2832 2833

when maintained by the board. 2834

(G) Except for reports filed by an individual pursuant to 2835
division (B) of this section, the board shall send a copy of any 2836
reports or summaries it receives pursuant to this section to the 2837
individual who is the subject of the reports or summaries. The 2838
individual shall have the right to file a statement with the board 2839
concerning the correctness or relevance of the information. The 2840
statement shall at all times accompany that part of the record in 2841
contention. 2842

(H) An individual or entity that, pursuant to this section, 2843
reports to the board or refers an impaired practitioner to a 2844
treatment provider approved by the board under section 4731.25 of 2845
the Revised Code shall not be subject to suit for civil damages as 2846
a result of the report, referral, or provision of the information. 2847

(I) In the absence of fraud or bad faith, no professional 2848
association or society of individuals authorized to practice under 2849
this chapter that sponsors a committee or program to provide peer 2850
assistance to practitioners with substance abuse problems, no 2851
representative or agent of such a committee or program, and no 2852
member of the state medical board shall be held liable in damages 2853
to any person by reason of actions taken to refer a practitioner 2854
to a treatment provider approved under section 4731.25 of the 2855
Revised Code for examination or treatment. 2856

Sec. 4731.225. If the holder of a certificate issued under 2857
this chapter violates division (A), (B), or (C) of section 4731.66 2858
or section 4731.69 of the Revised Code, or if any other person 2859
violates division (B) or (C) of section 4731.66 or section 4731.69 2860
of the Revised Code, the state medical board, pursuant to an 2861
adjudication under Chapter 119. of the Revised Code and an 2862
affirmative vote of not fewer than six of its members, shall: 2863

(A) For a first violation, impose a civil penalty of not more 2864

than five thousand dollars; 2865

(B) For each subsequent violation, impose a civil penalty of 2866
not more than twenty thousand dollars and, if the violator is a 2867
certificate holder, proceed under division (B)~~(27)~~(23) of section 2868
4731.22 of the Revised Code. 2869

Sec. 4731.226. (A)(1) An individual whom the state medical 2870
board licenses, certificates, or otherwise legally authorizes to 2871
engage in the practice of medicine and surgery, osteopathic 2872
medicine and surgery, or podiatric medicine and surgery may render 2873
the professional services of a doctor of medicine and surgery, 2874
osteopathic medicine and surgery, or podiatric medicine and 2875
surgery within this state through a corporation formed under 2876
division (B) of section 1701.03 of the Revised Code, a limited 2877
liability company formed under Chapter 1705. of the Revised Code, 2878
a partnership, or a professional association formed under Chapter 2879
1785. of the Revised Code. Division (A)(1) of this section does 2880
not preclude an individual of that nature from rendering 2881
professional services as a doctor of medicine and surgery, 2882
osteopathic medicine and surgery, or podiatric medicine and 2883
surgery through another form of business entity, including, but 2884
not limited to, a nonprofit corporation or foundation, or in 2885
another manner that is authorized by or in accordance with this 2886
chapter, another chapter of the Revised Code, or rules of the 2887
state medical board adopted pursuant to this chapter. 2888

(2) An individual whom the state medical board authorizes to 2889
engage in the practice of mechanotherapy may render the 2890
professional services of a mechanotherapist within this state 2891
through a corporation formed under division (B) of section 1701.03 2892
of the Revised Code, a limited liability company formed under 2893
Chapter 1705. of the Revised Code, a partnership, or a 2894
professional association formed under Chapter 1785. of the Revised 2895

Code. Division (A)(2) of this section does not preclude an	2896
individual of that nature from rendering professional services as	2897
a mechanotherapist through another form of business entity,	2898
including, but not limited to, a nonprofit corporation or	2899
foundation, or in another manner that is authorized by or in	2900
accordance with this chapter, another chapter of the Revised Code,	2901
or rules of the state medical board adopted pursuant to this	2902
chapter.	2903
(B) A corporation, limited liability company, partnership, or	2904
professional association described in division (A) of this section	2905
may be formed for the purpose of providing a combination of the	2906
professional services of the following individuals who are	2907
licensed, certificated, or otherwise legally authorized to	2908
practice their respective professions:	2909
(1) Optometrists who are authorized to practice optometry	2910
under Chapter 4725. of the Revised Code;	2911
(2) Chiropractors who are authorized to practice chiropractic	2912
or acupuncture under Chapter 4734. of the Revised Code;	2913
(3) Psychologists who are authorized to practice psychology	2914
under Chapter 4732. of the Revised Code;	2915
(4) Registered or licensed practical nurses who are	2916
authorized to practice nursing as registered nurses or as licensed	2917
practical nurses under Chapter 4723. of the Revised Code;	2918
(5) Pharmacists who are authorized to practice pharmacy under	2919
Chapter 4729. of the Revised Code;	2920
(6) Physical therapists who are authorized to practice	2921
physical therapy under sections 4755.40 to 4755.56 of the Revised	2922
Code;	2923
(7) Occupational therapists who are authorized to practice	2924
occupational therapy under sections 4755.04 to 4755.13 of the	2925

Revised Code;	2926
(8) Mechanotherapists who are authorized to practice	2927
mechanotherapy under section 4731.151 of the Revised Code;	2928
(9) Doctors of medicine and surgery, osteopathic medicine and	2929
surgery, or podiatric medicine and surgery who are authorized for	2930
their respective practices under this chapter.	2931
(C) Division (B) of this section shall apply notwithstanding	2932
a provision of a code of ethics described in division (B) (13) <u>(14)</u>	2933
of section 4731.22 of the Revised Code that prohibits either of	2934
the following:	2935
(1) A doctor of medicine and surgery, osteopathic medicine	2936
and surgery, or podiatric medicine and surgery from engaging in	2937
the doctor's authorized practice in combination with a person who	2938
is licensed, certificated, or otherwise legally authorized to	2939
engage in the practice of optometry, chiropractic, acupuncture	2940
through the state chiropractic board, psychology, nursing,	2941
pharmacy, physical therapy, occupational therapy, or	2942
mechanotherapy, but who is not also licensed, certificated, or	2943
otherwise legally authorized to practice medicine and surgery,	2944
osteopathic medicine and surgery, or podiatric medicine and	2945
surgery.	2946
(2) A mechanotherapist from engaging in the practice of	2947
mechanotherapy in combination with a person who is licensed,	2948
certificated, or otherwise legally authorized to engage in the	2949
practice of optometry, chiropractic, acupuncture through the state	2950
chiropractic board, psychology, nursing, pharmacy, physical	2951
therapy, occupational therapy, medicine and surgery, osteopathic	2952
medicine and surgery, or podiatric medicine and surgery, but who	2953
is not also licensed, certificated, or otherwise legally	2954
authorized to engage in the practice of mechanotherapy.	2955

Sec. 4731.25. The state medical board, in accordance with 2956
Chapter 119. of the Revised Code, shall adopt and may amend and 2957
rescind rules establishing standards for approval of physicians 2958
and facilities as treatment providers for impaired practitioners 2959
who are regulated under this chapter or Chapter 4730., 4760., 2960
4762., or 4774. of the Revised Code. The rules shall include 2961
standards for both inpatient and outpatient treatment. The rules 2962
shall provide that in order to be approved, a treatment provider 2963
must have the capability of making an initial examination to 2964
determine what type of treatment an impaired practitioner 2965
requires. Subject to the rules, the board shall review and approve 2966
treatment providers on a regular basis. The board, at its 2967
discretion, may withdraw or deny approval subject to the rules. 2968

An approved impaired practitioner treatment provider shall: 2969

(A) Report to the board the name of any practitioner 2970
suffering or showing evidence of suffering impairment as described 2971
in division (B)(5) of section 4730.25 of the Revised Code, 2972
division (B)~~(26)~~(22) of section 4731.22 of the Revised Code, 2973
division (B)(6) of section 4760.13 of the Revised Code, division 2974
(B)(6) of section 4762.13 of the Revised Code, or division (B)(6) 2975
of section 4774.13 of the Revised Code who fails to comply within 2976
one week with a referral for examination; 2977

(B) Report to the board the name of any impaired practitioner 2978
who fails to enter treatment within forty-eight hours following 2979
the provider's determination that the practitioner needs 2980
treatment; 2981

(C) Require every practitioner who enters treatment to agree 2982
to a treatment contract establishing the terms of treatment and 2983
aftercare, including any required supervision or restrictions of 2984
practice during treatment or aftercare; 2985

(D) Require a practitioner to suspend practice upon entry 2986

into any required inpatient treatment; 2987

(E) Report to the board any failure by an impaired 2988
practitioner to comply with the terms of the treatment contract 2989
during inpatient or outpatient treatment or aftercare; 2990

(F) Report to the board the resumption of practice of any 2991
impaired practitioner before the treatment provider has made a 2992
clear determination that the practitioner is capable of practicing 2993
according to acceptable and prevailing standards of care; 2994

(G) Require a practitioner who resumes practice after 2995
completion of treatment to comply with an aftercare contract that 2996
meets the requirements of rules adopted by the board for approval 2997
of treatment providers; 2998

(H) Report the identity of any practitioner practicing under 2999
the terms of an aftercare contract to hospital administrators, 3000
medical chiefs of staff, and chairpersons of impaired practitioner 3001
committees of all health care institutions at which the 3002
practitioner holds clinical privileges or otherwise practices. If 3003
the practitioner does not hold clinical privileges at any health 3004
care institution, the treatment provider shall report the 3005
practitioner's identity to the impaired practitioner committee of 3006
the county medical society, osteopathic academy, or podiatric 3007
medical association in every county in which the practitioner 3008
practices. If there are no impaired practitioner committees in the 3009
county, the treatment provider shall report the practitioner's 3010
identity to the president or other designated member of the county 3011
medical society, osteopathic academy, or podiatric medical 3012
association. 3013

(I) Report to the board the identity of any practitioner who 3014
suffers a relapse at any time during or following aftercare. 3015

Any individual authorized to practice under this chapter who 3016
enters into treatment by an approved treatment provider shall be 3017

deemed to have waived any confidentiality requirements that would 3018
otherwise prevent the treatment provider from making reports 3019
required under this section. 3020

In the absence of fraud or bad faith, no person or 3021
organization that conducts an approved impaired practitioner 3022
treatment program, no member of such an organization, and no 3023
employee, representative, or agent of the treatment provider shall 3024
be held liable in damages to any person by reason of actions taken 3025
or recommendations made by the treatment provider or its 3026
employees, representatives, or agents. 3027

Sec. 4731.72. (A) As used in this section: 3028

(1) "Anatomic pathology services," "assignment of benefits," 3029
"histologic processing," "insurer," "physician," and "referring 3030
clinical laboratory" have the same meanings as in section 3701.86 3031
of the Revised Code. 3032

(2) "Professional component of an anatomic pathology service" 3033
means the entire anatomic pathology service other than histologic 3034
processing. 3035

(3) "Technical component of an anatomic pathology service" 3036
means only histologic processing. 3037

(B) No physician shall present or cause to be presented a 3038
claim, bill, or demand for payment for anatomic pathology services 3039
to any person or entity other than the following: 3040

(1) The patient who receives the services or another 3041
individual, such as a parent, spouse, or guardian, who is 3042
responsible for the patient's bills; 3043

(2) A responsible insurer or other third-party payor of a 3044
patient who receives the services; 3045

(3) A hospital, public health clinic, or not-for-profit 3046
health clinic ordering the services; 3047

(4) A referring clinical laboratory;	3048
(5) A governmental agency or any person acting on behalf of a governmental agency;	3049 3050
(6) A physician who is permitted to bill for the services under division (D) of this section.	3051 3052
(C) Except as provided in division (D) of this section, no physician shall charge, bill, or otherwise solicit payment, directly or indirectly, for anatomic pathology services unless the services are personally rendered by the physician or rendered under the on-site supervision of the physician.	3053 3054 3055 3056 3057
(D)(1) A physician who performs the professional component of an anatomic pathology service on a patient specimen may bill for the amount incurred in doing either of the following:	3058 3059 3060
(a) Having a clinical laboratory or another physician perform the technical component of the anatomic pathology service;	3061 3062
(b) Obtaining another physician's consultation regarding the patient specimen.	3063 3064
(2) A physician may bill for having a clinical laboratory or another physician perform an anatomic pathology service on a dermatology specimen, but only if the billing physician discloses to the person or entity being billed both of the following:	3065 3066 3067 3068
(a) The name and address of the clinical laboratory or physician who performed the service;	3069 3070
(b) The amount the billing physician was charged by or paid to the clinical laboratory or physician who performed the service.	3071 3072
(E) A violation of division (B) or (C) of this section constitutes a reason for taking action under division (B) (20) <u>(16)</u> of section 4731.22 of the Revised Code.	3073 3074 3075
(F) Nothing in this section shall be construed to mandate the assignment of benefits for anatomic pathology services.	3076 3077

Sec. 4732.17. (A) The state board of psychology may refuse to 3078
issue a license to any applicant, may issue a reprimand, or 3079
suspend or revoke the license of any licensed psychologist or 3080
licensed school psychologist, on any of the following grounds: 3081

(1) Conviction of ~~or plea of guilty to a felony, or of any~~ 3082
criminal offense involving moral turpitude that is substantially 3083
related to the practice of psychology, in a court of this or any 3084
other state or in a federal court; 3085

(2) Using fraud or deceit in the procurement of the license 3086
to practice psychology or school psychology or knowingly assisting 3087
another in the procurement of such a license through fraud or 3088
deceit; 3089

(3) Accepting commissions or rebates or other forms of 3090
remuneration for referring persons to other professionals; 3091

(4) Willful, unauthorized communication of information 3092
received in professional confidence; 3093

(5) Being negligent in the practice of psychology or school 3094
psychology; 3095

(6) Using any controlled substance or alcoholic beverage to 3096
an extent that such use impairs the person's ability to perform 3097
the work of a psychologist or school psychologist with safety to 3098
the public; 3099

(7) Subject to section 4732.28 of the Revised Code, violating 3100
any rule of professional conduct promulgated by the board; 3101

(8) Practicing in an area of psychology for which the person 3102
is clearly untrained or incompetent; 3103

(9) An adjudication by a court, as provided in section 3104
5122.301 of the Revised Code, that the person is incompetent for 3105
the purpose of holding the license. Such person may have the 3106
person's license issued or restored only upon determination by a 3107

court that the person is competent for the purpose of holding the 3108
license and upon the decision by the board that such license be 3109
issued or restored. The board may require an examination prior to 3110
such issuance or restoration. 3111

(10) Waiving the payment of all or any part of a deductible 3112
or copayment that a patient, pursuant to a health insurance or 3113
health care policy, contract, or plan that covers psychological 3114
services, would otherwise be required to pay if the waiver is used 3115
as an enticement to a patient or group of patients to receive 3116
health care services from that provider; 3117

(11) Advertising that the person will waive the payment of 3118
all or any part of a deductible or copayment that a patient, 3119
pursuant to a health insurance or health care policy, contract, or 3120
plan that covers psychological services, would otherwise be 3121
required to pay; 3122

(12) Notwithstanding ~~division~~ divisions (A)(10) and (11) of 3123
this section, sanctions shall not be imposed against any licensee 3124
who waives deductibles and copayments: 3125

(a) In compliance with the health benefit plan that expressly 3126
allows such a practice. Waiver of the deductibles or copays shall 3127
be made only with the full knowledge and consent of the plan 3128
purchaser, payer, and third-party administrator. Such consent 3129
shall be made available to the board upon request. 3130

(b) For professional services rendered to any other person 3131
licensed pursuant to this chapter to the extent allowed by this 3132
chapter and the rules of the board. 3133

(B) Except as provided in section 4732.171 of the Revised 3134
Code, before the board may deny, suspend, or revoke a license 3135
under this section, or otherwise discipline the holder of a 3136
license, written charges shall be filed with the board by the 3137
secretary and a hearing shall be had thereon in accordance with 3138

Chapter 119. of the Revised Code.	3139
<u>(C) As used in this section, a "criminal offense that is</u>	3140
<u>substantially related" has the same meaning as in section 4743.07</u>	3141
<u>of the Revised Code.</u>	3142
Sec. 4733.20. (A) Pursuant to this section, the state board	3143
of registration for professional engineers and surveyors may fine,	3144
revoke, suspend, refuse to renew, or limit the registration, or	3145
reprimand, place on probation, deny an applicant the opportunity	3146
to sit for an examination or to have an examination scored, or	3147
impose any combination of these disciplinary measures on any	3148
applicant or registrant, or revoke the certificate of	3149
authorization of any holder found to be or to have been engaged in	3150
any one or more of the following acts or practices:	3151
(1) Any fraud or deceit in obtaining registration or a	3152
certificate of authorization;	3153
(2) Any gross negligence, incompetency, or misconduct in the	3154
practice of professional engineering or professional surveying as	3155
a registered professional engineer or registered professional	3156
surveyor;	3157
(3) Aiding or abetting any person to practice professional	3158
engineering or professional surveying illegally in the state;	3159
(4) Conviction of or plea of guilty to any felony or crime	3160
involving moral turpitude <u>a criminal offense that is substantially</u>	3161
<u>related to the practice of professional engineering or</u>	3162
<u>professional surveying;</u>	3163
(5) Violation of this chapter or any rule adopted by the	3164
board;	3165
(6) Violation of any condition of limitation placed by the	3166
board upon the registration of any professional engineer or	3167
professional surveyor;	3168

(7) Failure to abide by or comply with examination 3169
instructions. 3170

(B) The board shall cause to have prepared and shall adopt a 3171
code of ethics, which it shall make known to every registrant. The 3172
board may revise and amend this code of ethics from time to time 3173
in accordance with Chapter 119. of the Revised Code. 3174

(C) Any person may file with the board a complaint alleging 3175
fraud, deceit, gross negligence, incompetency, misconduct, or 3176
violation of this chapter or any rule adopted by the board 3177
pursuant to section 4733.07 of the Revised Code. Complaints shall 3178
be in writing. 3179

(D) The board may investigate any registrant or holder of a 3180
certificate of authorization to determine whether the registrant 3181
or certificate holder is or has been engaged in any one or more of 3182
the acts or practices listed in division (A) of this section. The 3183
board, by subpoena, may compel witnesses to appear and testify in 3184
relation to any investigation under this chapter and may require, 3185
by subpoena duces tecum, the production and copying of any book, 3186
paper, or document pertaining to an investigation. If a person 3187
fails to comply with the subpoena or subpoena duces tecum, the 3188
board may apply to the Franklin county court of common pleas for 3189
an order compelling the person to comply or, for the failure to do 3190
so, to be held in contempt of court. 3191

(E) If the board determines there is cause to believe that an 3192
applicant, registrant, or a holder of a certificate of 3193
authorization is or has been engaged in any act or practice listed 3194
in division (A) of this section, the board shall issue a written 3195
charge and notify the applicant, registrant, or certificate holder 3196
of the right to an adjudication hearing, in accordance with 3197
Chapter 119. of the Revised Code. If the accused applicant, 3198
registrant, or holder of a certificate of authorization fails or 3199
refuses to appear, or does not request a hearing within the time 3200

period specified in Chapter 119. of the Revised Code, the board 3201
may determine the validity of the charge and issue an adjudication 3202
order in accordance with Chapter 119. of the Revised Code. 3203

(F) If a majority of the board votes in favor of sustaining 3204
the charge, the board shall impose one or any combination of the 3205
following disciplinary measures: 3206

(1) Reprimanding the individual; 3207

(2) Imposing a fine on the individual of not more than one 3208
thousand dollars for each offense committed by the individual; 3209

(3) Refusing to renew, suspending, or revoking the 3210
individual's registration, or revoking the holder's certificate of 3211
authorization; 3212

(4) Refusing to allow an applicant to take an examination; 3213

(5) Refusing to score an applicant's examination. 3214

The board, for good cause shown, may reregister any person or 3215
reissue a certificate of authorization to any corporation, firm, 3216
partnership, association, or limited liability company whose 3217
registration or certificate has been revoked or suspended. 3218

(G) Any applicant, registrant, or certificate holder 3219
aggrieved by any action of the board in fining the registrant or 3220
denying, suspending, refusing to renew, or revoking the 3221
registrant's registration or a certificate of authorization, or 3222
denying an applicant the opportunity to take an examination or to 3223
have an examination scored may appeal such action to the proper 3224
court under section 119.12 of the Revised Code. 3225

(H) A new certificate of authorization to replace any 3226
certificate revoked, lost, destroyed, or mutilated, may be issued, 3227
subject to the rules of the board, upon payment of a fee 3228
established by the board at an amount adequate to cover the 3229
expense of issuing a duplicate certificate of authorization. 3230

(I) As used in this section, a "criminal offense that is 3231
substantially related" has the same meaning as in section 4743.07 3232
of the Revised Code. 3233

Sec. 4734.31. (A) The state chiropractic board may take any 3234
of the actions specified in division (B) of this section against 3235
an individual who has applied for or holds a license to practice 3236
chiropractic in this state if any of the reasons specified in 3237
division (C) of this section for taking action against an 3238
individual are applicable. Except as provided in division (D) of 3239
this section, actions taken against an individual shall be taken 3240
in accordance with Chapter 119. of the Revised Code. The board may 3241
specify that any action it takes is a permanent action. The 3242
board's authority to take action against an individual is not 3243
removed or limited by the individual's failure to renew a license. 3244

(B) In its imposition of sanctions against an individual, the 3245
board may do any of the following: 3246

(1) Refuse to issue, renew, restore, or reinstate a license 3247
to practice chiropractic or a certificate to practice acupuncture; 3248

(2) Reprimand or censure a license holder; 3249

(3) Place limits, restrictions, or probationary conditions on 3250
a license holder's practice; 3251

(4) Impose a civil fine of not more than five thousand 3252
dollars according to a schedule of fines specified in rules that 3253
the board shall adopt in accordance with Chapter 119. of the 3254
Revised Code. 3255

(5) Suspend a license to practice chiropractic or a 3256
certificate to practice acupuncture for a limited or indefinite 3257
period; 3258

(6) Revoke a license to practice chiropractic or a 3259
certificate to practice acupuncture. 3260

(C) The board may take the actions specified in division (B) 3261
of this section for any of the following reasons: 3262

(1) A plea of guilty to, a judicial finding of guilt of, or a 3263
judicial finding of eligibility for intervention in lieu of 3264
conviction for, a ~~felony~~ criminal offense that is substantially 3265
related to the practice of chiropractic or acupuncture in any 3266
jurisdiction, in which case a certified copy of the court record 3267
shall be conclusive evidence of the conviction; 3268

(2) Commission of an act that constitutes a ~~felony~~ criminal 3269
offense that is substantially related to the practice of 3270
chiropractic or acupuncture in this state, regardless of the 3271
jurisdiction in which the act was committed; 3272

~~(3) A plea of guilty to, a judicial finding of guilt of, or a 3273
judicial finding of eligibility for intervention in lieu of 3274
conviction for, a misdemeanor involving moral turpitude, as 3275
determined by the board, in which case a certified copy of the 3276
court record shall be conclusive evidence of the matter; 3277~~

~~(4) Commission of an act involving moral turpitude that 3278
constitutes a misdemeanor in this state, regardless of the 3279
jurisdiction in which the act was committed; 3280~~

~~(5) A plea of guilty to, a judicial finding of guilt of, or a 3281
judicial finding of eligibility for intervention in lieu of 3282
conviction for, a misdemeanor committed in the course of practice, 3283
in which case a certified copy of the court record shall be 3284
conclusive evidence of the matter; 3285~~

~~(6) Commission of an act in the course of practice that 3286
constitutes a misdemeanor in this state, regardless of the 3287
jurisdiction in which the act was committed; 3288~~

~~(7) A violation or attempted violation of this chapter or the 3289
rules adopted under it governing the practice of chiropractic and 3290
the practice of acupuncture by a chiropractor licensed under this 3291~~

chapter;	3292
(8) (4) Failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if the board or a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	3293 3294 3295 3296 3297 3298 3299 3300 3301
(9) (5) Engaging in an ongoing professional relationship with a person or entity that violates any provision of this chapter or the rules adopted under it, unless the chiropractor makes a good faith effort to have the person or entity comply with the provisions;	3302 3303 3304 3305 3306
(10) (6) Retaliating against a chiropractor for the chiropractor's reporting to the board or any other agency with jurisdiction any violation of the law or for cooperating with the board of another agency in the investigation of any violation of the law;	3307 3308 3309 3310 3311
(11) (7) Aiding, abetting, assisting, counseling, or conspiring with any person in that person's violation of any provision of this chapter or the rules adopted under it, including the practice of chiropractic without a license, the practice of acupuncture without a certificate, or aiding, abetting, assisting, counseling, or conspiring with any person in that person's unlicensed practice of any other health care profession that has licensing requirements;	3312 3313 3314 3315 3316 3317 3318 3319
(12) (8) With respect to a report or record that is made, filed, or signed in connection with the practice of chiropractic or acupuncture, knowingly making or filing a report or record that	3320 3321 3322

is false, intentionally or negligently failing to file a report or 3323
record required by federal, state, or local law or willfully 3324
impeding or obstructing the required filing, or inducing another 3325
person to engage in any such acts; 3326

~~(13)~~(9) Making a false, fraudulent, or deceitful statement to 3327
the board or any agent of the board during any investigation or 3328
other official proceeding conducted by the board under this 3329
chapter or in any filing that must be submitted to the board; 3330

~~(14)~~(10) Attempting to secure a license to practice 3331
chiropractic or certificate to practice acupuncture or to corrupt 3332
the outcome of an official board proceeding through bribery or any 3333
other improper means; 3334

~~(15)~~(11) Willfully obstructing or hindering the board or any 3335
agent of the board in the discharge of the board's duties; 3336

~~(16)~~(12) Habitually using drugs or intoxicants to the extent 3337
that the person is rendered unfit for the practice of chiropractic 3338
or acupuncture; 3339

~~(17)~~(13) Inability to practice chiropractic or acupuncture 3340
according to acceptable and prevailing standards of care by reason 3341
of chemical dependency, mental illness, or physical illness, 3342
including conditions in which physical deterioration has adversely 3343
affected the person's cognitive, motor, or perceptive skills and 3344
conditions in which a chiropractor's continued practice may pose a 3345
danger to the chiropractor or the public; 3346

~~(18)~~(14) Any act constituting gross immorality relative to 3347
the person's practice of chiropractic or acupuncture, including 3348
acts involving sexual abuse, sexual misconduct, or sexual 3349
exploitation; 3350

~~(19)~~(15) Exploiting a patient for personal or financial gain; 3351

~~(20)~~(16) Failing to maintain proper, accurate, and legible 3352

records in the English language documenting each patient's care, 3353
including, as appropriate, records of the following: dates of 3354
treatment, services rendered, examinations, tests, x-ray reports, 3355
referrals, and the diagnosis or clinical impression and clinical 3356
treatment plan provided to the patient; 3357

~~(21)~~(17) Except as otherwise required by the board or by law, 3358
disclosing patient information gained during the chiropractor's 3359
professional relationship with a patient without obtaining the 3360
patient's authorization for the disclosure; 3361

~~(22)~~(18) Commission of willful or gross malpractice, or 3362
willful or gross neglect, in the practice of chiropractic or 3363
acupuncture; 3364

~~(23)~~(19) Failing to perform or negligently performing an act 3365
recognized by the board as a general duty or the exercise of due 3366
care in the practice of chiropractic or acupuncture, regardless of 3367
whether injury results to a patient from the failure to perform or 3368
negligent performance of the act; 3369

~~(24)~~(20) Engaging in any conduct or practice that impairs or 3370
may impair the ability to practice chiropractic or acupuncture 3371
safely and skillfully; 3372

~~(25)~~(21) Practicing, or claiming to be capable of practicing, 3373
beyond the scope of the practice of chiropractic or acupuncture as 3374
established under this chapter and the rules adopted under this 3375
chapter; 3376

~~(26)~~(22) Accepting and performing professional 3377
responsibilities as a chiropractor or chiropractor with a 3378
certificate to practice acupuncture when not qualified to perform 3379
those responsibilities, if the person knew or had reason to know 3380
that the person was not qualified to perform them; 3381

~~(27)~~(23) Delegating any of the professional responsibilities 3382
of a chiropractor or chiropractor with a certificate to practice 3383

acupuncture to an employee or other individual when the delegating	3384
chiropractor knows or had reason to know that the employee or	3385
other individual is not qualified by training, experience, or	3386
professional licensure to perform the responsibilities;	3387
(28) <u>(24)</u> Delegating any of the professional responsibilities	3388
of a chiropractor or chiropractor with a certificate to practice	3389
acupuncture to an employee or other individual in a negligent	3390
manner or failing to provide proper supervision of the employee or	3391
other individual to whom the responsibilities are delegated;	3392
(29) <u>(25)</u> Failing to refer a patient to another health care	3393
practitioner for consultation or treatment when the chiropractor	3394
knows or has reason to know that the referral is in the best	3395
interest of the patient;	3396
(30) <u>(26)</u> Obtaining or attempting to obtain any fee or other	3397
advantage by fraud or misrepresentation;	3398
(31) <u>(27)</u> Making misleading, deceptive, false, or fraudulent	3399
representations in the practice of chiropractic or acupuncture;	3400
(32) <u>(28)</u> Being guilty of false, fraudulent, deceptive, or	3401
misleading advertising or other solicitations for patients or	3402
knowingly having professional connection with any person that	3403
advertises or solicits for patients in such a manner;	3404
(33) <u>(29)</u> Violation of a provision of any code of ethics	3405
established or adopted by the board under section 4734.16 of the	3406
Revised Code;	3407
(34) <u>(30)</u> Failing to meet the examination requirements for	3408
receipt of a license specified under section 4734.20 of the	3409
Revised Code;	3410
(35) <u>(31)</u> Actions taken for any reason, other than nonpayment	3411
of fees, by the chiropractic or acupuncture licensing authority of	3412
another state or country;	3413

~~(36)~~(32) Failing to maintain clean and sanitary conditions at 3414
the clinic, office, or other place in which chiropractic services 3415
or acupuncture services are provided; 3416

~~(37)~~(33) Except as provided in division (G) of this section: 3417

(a) Waiving the payment of all or any part of a deductible or 3418
copayment that a patient, pursuant to a health insurance or health 3419
care policy, contract, or plan that covers the chiropractor's 3420
services, otherwise would be required to pay if the waiver is used 3421
as an enticement to a patient or group of patients to receive 3422
health care services from that chiropractor; 3423

(b) Advertising that the chiropractor will waive the payment 3424
of all or any part of a deductible or copayment that a patient, 3425
pursuant to a health insurance or health care policy, contract, or 3426
plan that covers the chiropractor's services, otherwise would be 3427
required to pay. 3428

~~(38)~~(34) Failure to supervise an acupuncturist in accordance 3429
with the provisions of section 4762.11 of the Revised Code that 3430
are applicable to the supervising chiropractor of an 3431
acupuncturist. 3432

(D) The adjudication requirements of Chapter 119. of the 3433
Revised Code apply to the board when taking actions against an 3434
individual under this section, except as follows: 3435

(1) An applicant is not entitled to an adjudication for 3436
failing to meet the conditions specified under section 4734.20 of 3437
the Revised Code for receipt of a license that involve the board's 3438
examination on jurisprudence or the examinations of the national 3439
board of chiropractic examiners. 3440

(2) A person is not entitled to an adjudication if the person 3441
fails to make a timely request for a hearing, in accordance with 3442
Chapter 119. of the Revised Code. 3443

(3) In lieu of an adjudication, the board may accept the 3444
surrender of a license to practice chiropractic or certificate to 3445
practice acupuncture from a chiropractor. 3446

(4) In lieu of an adjudication, the board may enter into a 3447
consent agreement with an individual to resolve an allegation of a 3448
violation of this chapter or any rule adopted under it. A consent 3449
agreement, when ratified by the board, shall constitute the 3450
findings and order of the board with respect to the matter 3451
addressed in the agreement. If the board refuses to ratify a 3452
consent agreement, the admissions and findings contained in the 3453
consent agreement shall be of no force or effect. 3454

(E) This section does not require the board to hire, contract 3455
with, or retain the services of an expert witness when the board 3456
takes action against a chiropractor concerning compliance with 3457
acceptable and prevailing standards of care in the practice of 3458
chiropractic or acupuncture. As part of an action taken concerning 3459
compliance with acceptable and prevailing standards of care, the 3460
board may rely on the knowledge of its members for purposes of 3461
making a determination of compliance, notwithstanding any expert 3462
testimony presented by the chiropractor that contradicts the 3463
knowledge and opinions of the members of the board. 3464

(F) The sealing of conviction records by a court shall have 3465
no effect on a prior board order entered under this section or on 3466
the board's jurisdiction to take action under this section if, 3467
based on a plea of guilty, a judicial finding of guilt, or a 3468
judicial finding of eligibility for intervention in lieu of 3469
conviction, the board issued a notice of opportunity for a hearing 3470
prior to the court's order to seal the records. The board shall 3471
not be required to seal, destroy, redact, or otherwise modify its 3472
records to reflect the court's sealing of conviction records. 3473

(G) Actions shall not be taken pursuant to division 3474

(C) ~~(37)~~ (33) of this section against any chiropractor who waives 3475

deductibles and copayments as follows: 3476

(1) In compliance with the health benefit plan that expressly 3477
allows a practice of that nature. Waiver of the deductibles or 3478
copayments shall be made only with the full knowledge and consent 3479
of the plan purchaser, payer, and third-party administrator. 3480
Documentation of the consent shall be made available to the board 3481
upon request. 3482

(2) For professional services rendered to any other person 3483
licensed pursuant to this chapter, to the extent allowed by this 3484
chapter and the rules of the board. 3485

(H) As used in this section, a "criminal offense that is 3486
substantially related" has the same meaning as in section 4743.07 3487
of the Revised Code. 3488

Sec. 4734.39. (A) For purposes of the state chiropractic 3489
board's enforcement of division (C)~~(16)~~(12) or ~~(17)~~(13) of section 3490
4734.31 of the Revised Code, an individual who applies for or 3491
receives a license to practice chiropractic or certificate to 3492
practice acupuncture under this chapter accepts the privilege of 3493
practicing chiropractic and, if applicable, acupuncture in this 3494
state and, by so doing, shall be deemed to have given consent to 3495
submit to a mental or physical examination when directed to do so 3496
in writing by the board in its enforcement of those divisions, and 3497
to have waived all objections to the admissibility of testimony or 3498
examination reports that constitute a privileged communication. 3499

(B) If the board has reason to believe that a chiropractor or 3500
applicant suffers an impairment described in division (C)~~(16)~~(12) 3501
or ~~(17)~~(13) of section 4734.31 of the Revised Code, the board may 3502
compel the individual to submit to a mental or physical 3503
examination, or both. The expense of the examination is the 3504
responsibility of the individual compelled to be examined. Any 3505
mental or physical examination required under this section shall 3506

be undertaken by a provider who is qualified to conduct the 3507
examination and who is chosen by the board. 3508

Failure to submit to a mental or physical examination ordered 3509
by the board constitutes an admission of the allegations against 3510
the individual unless the failure is due to circumstances beyond 3511
the individual's control. A default and final order may be entered 3512
without the taking of testimony or presentation of evidence. 3513

If the board determines that an individual's ability to 3514
practice is impaired, the board shall suspend the individual's 3515
license to practice chiropractic and, if applicable, certificate 3516
to practice acupuncture or deny the individual's application and 3517
shall require the individual, as a condition for initial, 3518
continued, reinstated, restored, or renewed certification to 3519
practice, to submit to care, counseling, or treatment. 3520

(C) Before being eligible to apply for reinstatement of a 3521
license or certificate suspended under division (C)~~(16)~~(12) of 3522
section 4734.31 of the Revised Code or the chemical dependency 3523
provisions of division (C)~~(17)~~(13) of section ~~4731.34~~ 4734.31 of 3524
the Revised Code, the impaired individual shall demonstrate to the 3525
board the ability to resume practice in compliance with acceptable 3526
and prevailing standards of care in the practice of chiropractic 3527
and, if applicable, acupuncture under this chapter. If rules have 3528
been adopted under section 4734.40 of the Revised Code, the 3529
demonstration shall include, but shall not be limited to, the 3530
following: 3531

(1) Certification from a treatment provider approved under 3532
section 4734.40 of the Revised Code that the individual has 3533
successfully completed any required inpatient treatment; 3534

(2) Evidence of continuing full compliance with an aftercare 3535
contract or consent agreement; 3536

(3) Two written reports indicating that the individual's 3537

ability to practice has been assessed and that the individual has 3538
been found capable of practicing according to acceptable and 3539
prevailing standards of care. The reports shall be made by 3540
individuals or providers approved by the board for making the 3541
assessments and shall describe the basis for their determination. 3542

The board may reinstate a license and, if applicable, 3543
certificate suspended under this division after that demonstration 3544
and after the individual has entered into a written consent 3545
agreement. 3546

When the impaired individual resumes practice, the board 3547
shall require continued monitoring of the individual. The 3548
monitoring shall include, but not be limited to, compliance with 3549
the written consent agreement entered into before reinstatement or 3550
with conditions imposed by board order after a hearing, and, upon 3551
termination of the consent agreement, submission to the board for 3552
at least two years of annual written progress reports made under 3553
penalty of perjury stating whether the individual has maintained 3554
sobriety. 3555

Sec. 4735.07. (A) The superintendent of real estate, with the 3556
consent of the Ohio real estate commission, may enter into 3557
agreements with recognized national testing services to administer 3558
the real estate broker's examination under the superintendent's 3559
supervision and control, consistent with the requirements of this 3560
chapter as to the contents of such examination. 3561

(B) No applicant for a real estate broker's license shall 3562
take the broker's examination who has not established to the 3563
satisfaction of the superintendent that the applicant: 3564

(1) Is honest, truthful, and of good reputation; 3565

(2)(a) Has not been convicted of or pleaded guilty to a 3566
felony or crime of moral turpitude criminal offense that is 3567

substantially related to practice as a real estate broker, or if 3568
the applicant has been so convicted or so pleaded guilty, the 3569
superintendent has disregarded the conviction or guilty plea 3570
because the applicant has proven to the superintendent, by a 3571
preponderance of the evidence, that the applicant's activities and 3572
employment record since the conviction or guilty plea show that 3573
the applicant is honest, truthful, and of good reputation, and 3574
there is no basis in fact for believing that the applicant again 3575
will violate the laws involved; 3576

(b) Has not been finally adjudged by a court to have violated 3577
any municipal, state, or federal civil rights laws relevant to the 3578
protection of purchasers or sellers of real estate or, if the 3579
applicant has been so adjudged, at least two years have passed 3580
since the court decision and the superintendent has disregarded 3581
the adjudication because the applicant has proven, by a 3582
preponderance of the evidence, that the applicant's activities and 3583
employment record since the adjudication show that the applicant 3584
is honest, truthful, and of good reputation, and there is no basis 3585
in fact for believing that the applicant will again violate the 3586
laws involved. 3587

(3) Has not, during any period in which the applicant was 3588
licensed under this chapter, violated any provision of, or any 3589
rule adopted pursuant to, this chapter, or, if the applicant has 3590
violated any such provision or rule, has established to the 3591
satisfaction of the superintendent that the applicant will not 3592
again violate such provision or rule; 3593

(4) Is at least eighteen years of age; 3594

(5) Has been a licensed real estate broker or salesperson for 3595
at least two years; during at least two of the five years 3596
preceding the person's application, has worked as a licensed real 3597
estate broker or salesperson for an average of at least thirty 3598
hours per week; and has completed one of the following: 3599

(a) At least twenty real estate transactions, in which 3600
property was sold for another by the applicant while acting in the 3601
capacity of a real estate broker or salesperson; 3602

(b) Such equivalent experience as is defined by rules adopted 3603
by the commission. 3604

(6)(a) If licensed as a real estate salesperson prior to 3605
August 1, 2001, successfully has completed at an institution of 3606
higher education all of the following: 3607

(i) Thirty hours of classroom instruction in real estate 3608
practice; 3609

(ii) Thirty hours of classroom instruction that includes the 3610
subjects of Ohio real estate law, municipal, state, and federal 3611
civil rights law, new case law on housing discrimination, 3612
desegregation issues, and methods of eliminating the effects of 3613
prior discrimination. If feasible, the classroom instruction in 3614
Ohio real estate law shall be taught by a member of the faculty of 3615
an accredited law school. If feasible, the classroom instruction 3616
in municipal, state, and federal civil rights law, new case law on 3617
housing discrimination, desegregation issues, and methods of 3618
eliminating the effects of prior discrimination shall be taught by 3619
a staff member of the Ohio civil rights commission who is 3620
knowledgeable with respect to those subjects. The requirements of 3621
this division do not apply to an applicant who is admitted to 3622
practice before the supreme court. 3623

(iii) Thirty hours of classroom instruction in real estate 3624
appraisal; 3625

(iv) Thirty hours of classroom instruction in real estate 3626
finance; 3627

(v) Three quarter hours, or its equivalent in semester hours, 3628
in financial management; 3629

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;	3630 3631
(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;	3632 3633
(viii) Three quarter hours, or its equivalent in semester hours, in business law.	3634 3635
(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:	3636 3637 3638
(i) Forty hours of classroom instruction in real estate practice;	3639 3640
(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.	3641 3642 3643 3644 3645 3646 3647 3648 3649 3650 3651 3652 3653 3654
(iii) Twenty hours of classroom instruction in real estate appraisal;	3655 3656
(iv) Twenty hours of classroom instruction in real estate finance;	3657 3658
(v) The training in the amount of hours specified under	3659

divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 3660

(c) Division (B)(6)(a) or (b) of this section does not apply 3661
to any applicant who holds a valid real estate salesperson's 3662
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 3663
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 3664
do not apply to any applicant who holds a valid real estate 3665
salesperson's license issued prior to January 3, 1984. 3666

(7) If licensed as a real estate salesperson on or after 3667
January 3, 1984, satisfactorily has completed a minimum of two 3668
years of post-secondary education, or its equivalent in semester 3669
or quarter hours, at an institution of higher education, and has 3670
fulfilled the requirements of division (B)(6)(a) or (b) of this 3671
section. The requirements of division (B)(6)(a) or (b) of this 3672
section may be included in the two years of post-secondary 3673
education, or its equivalent in semester or quarter hours, that is 3674
required by this division. 3675

(C) Each applicant for a broker's license shall be examined 3676
in the principles of real estate practice, Ohio real estate law, 3677
and financing and appraisal, and as to the duties of real estate 3678
brokers and real estate salespersons, the applicant's knowledge of 3679
real estate transactions and instruments relating to them, and the 3680
canons of business ethics pertaining to them. The commission from 3681
time to time shall promulgate such canons and cause them to be 3682
published in printed form. 3683

(D) Examinations shall be administered with reasonable 3684
accommodations in accordance with the requirements of the 3685
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 3686
U.S.C. 12101. The contents of an examination shall be consistent 3687
with the requirements of division (B)(6) of this section and with 3688
the other specific requirements of this section. An applicant who 3689
has completed the requirements of division (B)(6) of this section 3690
at the time of application shall be examined no later than twelve 3691

months after the applicant is notified of admission to the 3692
examination. 3693

(E) The superintendent may waive one or more of the 3694
requirements of this section in the case of an application from a 3695
nonresident real estate broker pursuant to a reciprocity agreement 3696
with the licensing authority of the state from which the 3697
nonresident applicant holds a valid real estate broker license. 3698

(F) There shall be no limit placed on the number of times an 3699
applicant may retake the examination. 3700

(G)(1) No later than twelve months after the date of issue of 3701
a real estate broker's license to a licensee, the licensee shall 3702
submit proof satisfactory to the superintendent, on forms made 3703
available by the superintendent, of the completion of ten hours of 3704
classroom instruction in real estate brokerage at an institution 3705
of higher education or any other institution that is approved by 3706
the commission. That instruction shall include, but not be limited 3707
to, current issues in managing a real estate company or office. 3708

If the required proof of completion is not submitted to the 3709
superintendent within twelve months of the date a license is 3710
issued under this section, the license of the real estate broker 3711
is suspended automatically without the taking of any action by the 3712
superintendent. The broker's license shall not be reactivated by 3713
the superintendent until it is established, to the satisfaction of 3714
the superintendent, that the requirements of this division have 3715
been met and that the licensee is in compliance with this chapter. 3716
A licensee's license is revoked automatically without the taking 3717
of any action by the superintendent if the licensee fails to 3718
submit proof of completion of the education requirements specified 3719
under division (G)(1) of this section within twelve months of the 3720
date the license is suspended. 3721

(2) If the license of a real estate broker is suspended 3722

pursuant to division (G)(1) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. However, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(a) That broker subsequently submits satisfactory proof to the superintendent that the broker has complied with the requirements of division (G)(1) of this section and requests that the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be associated with that broker and otherwise is in compliance with this chapter.

(H) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of or pleaded guilty to a felony or a crime involving moral turpitude criminal offense that is substantially

related to practice as a real estate salesperson, and has not been 3754
finally adjudged by a court to have violated any municipal, state, 3755
or federal civil rights laws relevant to the protection of 3756
purchasers or sellers of real estate, which conviction, guilty 3757
plea, or adjudication the applicant has not disclosed to the 3758
superintendent, and recommending that the applicant be admitted to 3759
the real estate salesperson examination. 3760

(B) A fee of sixty dollars shall accompany the application, 3761
which fee includes the fee for the initial year of the licensing 3762
period, if a license is issued. The application fee shall be 3763
retained by the superintendent if the applicant is admitted to the 3764
examination for the license or the examination requirement is 3765
waived, but, if an applicant is not so admitted and a waiver is 3766
not involved, one-half of the fee shall be retained by the 3767
superintendent to cover the expenses of processing the application 3768
and the other one-half shall be returned to the applicant. A fee 3769
of sixty dollars shall be charged by the superintendent for each 3770
successive application made by the applicant. One dollar of each 3771
application fee shall be credited to the real estate education and 3772
research fund. 3773

(C) There shall be no limit placed on the number of times an 3774
applicant may retake the examination. 3775

(D) The superintendent, with the consent of the commission, 3776
may enter into an agreement with a recognized national testing 3777
service to administer the real estate salesperson's examination 3778
under the superintendent's supervision and control, consistent 3779
with the requirements of this chapter as to the contents of the 3780
examination. 3781

If the superintendent, with the consent of the commission, 3782
enters into an agreement with a national testing service to 3783
administer the real estate salesperson's examination, the 3784
superintendent may require an applicant to pay the testing 3785

service's examination fee directly to the testing service. If the 3786
superintendent requires the payment of the examination fee 3787
directly to the testing service, each applicant shall submit to 3788
the superintendent a processing fee in an amount determined by the 3789
Ohio real estate commission pursuant to division (A)(1) of section 3790
4735.10 of the Revised Code. 3791

(E) The superintendent shall issue a real estate 3792
salesperson's license when satisfied that the applicant has 3793
received a passing score on each portion of the salesperson's 3794
examination as determined by rule by the real estate commission, 3795
except that the superintendent may waive one or more of the 3796
requirements of this section in the case of an applicant who is a 3797
licensed real estate salesperson in another state pursuant to a 3798
reciprocity agreement with the licensing authority of the state 3799
from which the applicant holds a valid real estate salesperson's 3800
license. 3801

(F) No applicant for a salesperson's license shall take the 3802
salesperson's examination who has not established to the 3803
satisfaction of the superintendent that the applicant: 3804

(1) Is honest, truthful, and of good reputation; 3805

(2)(a) Has not been convicted of or pleaded guilty to a 3806
~~felony or crime of moral turpitude~~ criminal offense that is 3807
substantially related to practice as a salesperson or, if the 3808
applicant has been so convicted or so pleaded guilty, the 3809
superintendent has disregarded the conviction or guilty plea 3810
because the applicant has proven to the superintendent, by a 3811
preponderance of the evidence, that the applicant's activities and 3812
employment record since the conviction or guilty plea show that 3813
the applicant is honest, truthful, and of good reputation, and 3814
there is no basis in fact for believing that the applicant again 3815
will violate the laws involved; 3816

(b) Has not been finally adjudged by a court to have violated 3817
any municipal, state, or federal civil rights laws relevant to the 3818
protection of purchasers or sellers of real estate or, if the 3819
applicant has been so adjudged, at least two years have passed 3820
since the court decision and the superintendent has disregarded 3821
the adjudication because the applicant has proven, by a 3822
preponderance of the evidence, that the applicant is honest, 3823
truthful, and of good reputation, and there is no basis in fact 3824
for believing that the applicant again will violate the laws 3825
involved. 3826

(3) Has not, during any period in which the applicant was 3827
licensed under this chapter, violated any provision of, or any 3828
rule adopted pursuant to this chapter, or, if the applicant has 3829
violated such provision or rule, has established to the 3830
satisfaction of the superintendent that the applicant will not 3831
again violate such provision or rule; 3832

(4) Is at least eighteen years of age; 3833

(5) If born after the year 1950, has a high school diploma or 3834
its equivalent as recognized by the state department of education; 3835

(6)(a) If beginning instruction prior to August 1, 2001, has 3836
successfully completed at an institution of higher education all 3837
of the following: 3838

(i) Thirty hours of classroom instruction in real estate 3839
practice; 3840

(ii) Thirty hours of classroom instruction that includes the 3841
subjects of Ohio real estate law, municipal, state, and federal 3842
civil rights law, new case law on housing discrimination, 3843
desegregation issues, and methods of eliminating the effects of 3844
prior discrimination. If feasible, the classroom instruction in 3845
Ohio real estate law shall be taught by a member of the faculty of 3846
an accredited law school. If feasible, the classroom instruction 3847

in municipal, state, and federal civil rights law, new case law on 3848
housing discrimination, desegregation issues, and methods of 3849
eliminating the effects of prior discrimination shall be taught by 3850
a staff member of the Ohio civil rights commission who is 3851
knowledgeable with respect to those subjects. The requirements of 3852
this division do not apply to an applicant who is admitted to 3853
practice before the supreme court. 3854

(iii) Thirty hours of classroom instruction in real estate 3855
appraisal; 3856

(iv) Thirty hours of classroom instruction in real estate 3857
finance. 3858

(b) Any person who has not been licensed as a real estate 3859
salesperson or broker within a four-year period immediately 3860
preceding the person's current application for the salesperson's 3861
examination shall have successfully completed the classroom 3862
instruction required by division (F)(6)(a) of this section within 3863
a ten-year period immediately preceding the person's current 3864
application for the salesperson's examination. 3865

(7) If beginning instruction, as determined by the 3866
superintendent, on or after August 1, 2001, has successfully 3867
completed at an institution of higher education all of the 3868
following: 3869

(a) Forty hours of classroom instruction in real estate 3870
practice; 3871

(b) Forty hours of classroom instruction that includes the 3872
subjects of Ohio real estate law, municipal, state, and federal 3873
civil rights law, new case law on housing discrimination, 3874
desegregation issues, and methods of eliminating the effects of 3875
prior discrimination. If feasible, the classroom instruction in 3876
Ohio real estate law shall be taught by a member of the faculty of 3877
an accredited law school. If feasible, the classroom instruction 3878

in municipal, state, and federal civil rights law, new case law on 3879
housing discrimination, desegregation issues, and methods of 3880
eliminating the effects of prior discrimination shall be taught by 3881
a staff member of the Ohio civil rights commission who is 3882
knowledgeable with respect to those subjects. The requirements of 3883
this division do not apply to an applicant who is admitted to 3884
practice before the supreme court. 3885

(c) Twenty hours of classroom instruction in real estate 3886
appraisal; 3887

(d) Twenty hours of classroom instruction in real estate 3888
finance. 3889

(G) No later than twelve months after the date of issue of a 3890
real estate salesperson license to a licensee, the licensee shall 3891
submit proof satisfactory to the superintendent, on forms made 3892
available by the superintendent, of completion, at an institution 3893
of higher education or any other institution approved by the 3894
commission, of ten hours of classroom instruction in real estate 3895
courses that cover current issues regarding consumers, real estate 3896
practice, ethics, and real estate law. 3897

If proof of completion of the required instruction is not 3898
submitted within twelve months of the date a license is issued 3899
under this section, the licensee's license is suspended 3900
automatically without the taking of any action by the 3901
superintendent. The superintendent immediately shall notify the 3902
broker with whom such salesperson is associated of the suspension 3903
of the salesperson's license. A salesperson whose license has been 3904
suspended under this division shall have twelve months after the 3905
date of the suspension of the salesperson's license to submit 3906
proof of successful completion of the instruction required under 3907
this division. No such license shall be reactivated by the 3908
superintendent until it is established, to the satisfaction of the 3909
superintendent, that the requirements of this division have been 3910

met and that the licensee is in compliance with this chapter. A 3911
licensee's license is revoked automatically without the taking of 3912
any action by the superintendent when the licensee fails to submit 3913
the required proof of completion of the education requirements 3914
under division (G) of this section within twelve months of the 3915
date the license is suspended. 3916

(H) Examinations shall be administered with reasonable 3917
accommodations in accordance with the requirements of the 3918
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 3919
U.S.C. 12101. The contents of an examination shall be consistent 3920
with the classroom instructional requirements of division (F)(6) 3921
or (7) of this section. An applicant who has completed the 3922
classroom instructional requirements of division (F)(6) or (7) of 3923
this section at the time of application shall be examined no later 3924
than twelve months after the applicant is notified of the 3925
applicant's admission to the examination. 3926

(I) As used in this section, a "criminal offense that is 3927
substantially related" has the same meaning as in section 4743.07 3928
of the Revised Code. 3929

Sec. 4735.13. (A) The license of a real estate broker shall 3930
be prominently displayed in the office or place of business of the 3931
broker, and no license shall authorize the licensee to do business 3932
except from the location specified in it. If the broker maintains 3933
more than one place of business within the state, the broker shall 3934
apply for and procure a duplicate license for each branch office 3935
maintained by the broker. Each branch office shall be in the 3936
charge of a licensed broker or salesperson. The branch office 3937
license shall be prominently displayed at the branch office 3938
location. 3939

(B) The license of each real estate salesperson shall be 3940
mailed to and remain in the possession of the licensed broker with 3941

whom the salesperson is or is to be associated until the licensee 3942
places the license on inactive, voluntary hold, or resigned status 3943
or until the salesperson leaves the brokerage or is terminated. 3944
The broker shall keep each salesperson's license in a way that it 3945
can, and shall on request, be made immediately available for 3946
public inspection at the office or place of business of the 3947
broker. Except as provided in divisions (G) and (H) of this 3948
section, immediately upon the salesperson's leaving the 3949
association or termination of the association of a real estate 3950
salesperson with the broker, the broker shall return the 3951
salesperson's license to the superintendent of real estate. 3952

The failure of a broker to return the license of a real 3953
estate salesperson or broker who leaves or who is terminated, via 3954
certified mail return receipt requested, within three business 3955
days of the receipt of a written request from the superintendent 3956
for the return of the license, is prima-facie evidence of 3957
misconduct under division (A)(6) of section 4735.18 of the Revised 3958
Code. 3959

(C) Any licensee who is convicted of or pleads guilty to a 3960
felony or a crime involving moral turpitude criminal offense that 3961
is substantially related to practice as a real estate broker or 3962
salesperson or of violating any federal, state, or municipal civil 3963
rights law pertaining to discrimination in housing, or any court 3964
that issues a finding of an unlawful discriminatory practice 3965
pertaining to housing accommodations described in division (H) of 3966
section 4112.02 of the Revised Code or that convicts a licensee of 3967
a violation of any municipal civil rights law pertaining to 3968
housing discrimination, shall notify the superintendent of the 3969
conviction, guilty plea, or finding within fifteen days. If a 3970
licensee fails to notify the superintendent within the required 3971
time, the superintendent immediately may revoke the license of the 3972
licensee. 3973

Any court that convicts a licensee of a violation of any 3974
municipal civil rights law pertaining to housing discrimination 3975
also shall notify the Ohio civil rights commission within fifteen 3976
days of the conviction. 3977

(D) In case of any change of business location, a broker 3978
shall give notice in writing to the superintendent, whereupon the 3979
superintendent shall issue new licenses for the unexpired period 3980
without charge. If a broker changes a business location without 3981
giving the required notice and without receiving new licenses that 3982
action is prima-facie evidence of misconduct under division (A)(6) 3983
of section 4735.18 of the Revised Code. 3984

(E) If a real estate broker desires to associate with another 3985
real estate broker in the capacity of a real estate salesperson, 3986
the broker shall apply to the superintendent to deposit the 3987
broker's real estate broker's license with the superintendent and 3988
for the issuance of a real estate salesperson's license. The 3989
application shall be made on a form prescribed by the 3990
superintendent and shall be accompanied by the recommendation of 3991
the real estate broker with whom the applicant intends to become 3992
associated and a fee of twenty-five dollars for the real estate 3993
salesperson's license. One dollar of the fee shall be credited to 3994
the real estate education and research fund. If the superintendent 3995
is satisfied that the applicant is honest, truthful, and of good 3996
reputation, has not been convicted of or pleaded guilty to a 3997
felony or a crime involving moral turpitude criminal offense that 3998
is substantially related to practice as a real estate broker or 3999
salesperson, and has not been finally adjudged by a court to have 4000
violated any municipal, state, or federal civil rights laws 4001
relevant to the protection of purchasers or sellers of real 4002
estate, and that the association of the real estate broker and the 4003
applicant will be in the public interest, the superintendent shall 4004
grant the application and issue a real estate salesperson's 4005

license to the applicant. Any license so deposited with the 4006
superintendent shall be subject to this chapter. A broker who 4007
intends to deposit the broker's license with the superintendent, 4008
as provided in this section, shall give written notice of this 4009
fact in a format prescribed by the superintendent to all 4010
salespersons associated with the broker when applying to place the 4011
broker's license on deposit. 4012

(F) If a real estate broker desires to become a member or 4013
officer of a partnership, association, limited liability company, 4014
limited liability partnership, or corporation that is or intends 4015
to become a licensed real estate broker, the broker shall notify 4016
the superintendent of the broker's intentions. The notice of 4017
intention shall be on a form prescribed by the superintendent and 4018
shall be accompanied by a fee of twenty-five dollars. One dollar 4019
of the fee shall be credited to the real estate education and 4020
research fund. 4021

No real estate broker who is a member or officer of a 4022
partnership, association, limited liability company, limited 4023
liability partnership, or corporation that is a licensed real 4024
estate broker shall perform any acts as a real estate broker other 4025
than as the agent of the partnership, association, limited 4026
liability company, limited liability partnership, or corporation, 4027
and such broker shall not have any real estate salespersons 4028
associated with the broker. 4029

(G) If a real estate broker or salesperson enters the armed 4030
forces, the broker or salesperson may place the broker's or 4031
salesperson's license on deposit with the Ohio real estate 4032
commission. The licensee shall not be required to renew the 4033
license until the renewal date that follows the date of discharge 4034
from the armed forces. Any license deposited with the commission 4035
shall be subject to this chapter. Any licensee whose license is on 4036
deposit under this division and who fails to meet the continuing 4037

education requirements of section 4735.141 of the Revised Code 4038
because the licensee is in the armed forces shall satisfy the 4039
commission that the licensee has complied with the continuing 4040
education requirements within twelve months of the licensee's 4041
discharge. The commission shall notify the licensee of the 4042
licensee's obligations under section 4735.141 of the Revised Code 4043
at the time the licensee applies for reactivation of the 4044
licensee's license. 4045

(H) If a licensed real estate salesperson submits an 4046
application to the superintendent to leave the association of one 4047
broker to associate with a different broker, the broker possessing 4048
the licensee's license need not return the salesperson's license 4049
to the superintendent. The superintendent may process the 4050
application regardless of whether the licensee's license is 4051
returned to the superintendent. 4052

(I) As used in this section, a "criminal offense that is 4053
substantially related" has the same meaning as in section 4743.07 4054
of the Revised Code. 4055

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised 4056
Code, the superintendent of real estate, upon the superintendent's 4057
own motion, may investigate the conduct of any licensee. Subject 4058
to section 4735.32 of the Revised Code, the Ohio real estate 4059
commission shall, pursuant to section 4735.051 of the Revised 4060
Code, impose disciplinary sanctions upon any licensee who, whether 4061
or not acting in the licensee's capacity as a real estate broker 4062
or salesperson, or in handling the licensee's own property, is 4063
found to have been convicted of ~~or pleaded guilty to a felony or a~~ 4064
~~crime of moral turpitude~~ criminal offenses that is substantially 4065
related to practice as a real estate broker or salesperson, and 4066
shall, pursuant to section 4735.051 of the Revised Code, impose 4067
disciplinary sanctions upon any licensee who, in the licensee's 4068

capacity as a real estate broker or salesperson, or in handling	4069
the licensee's own property, is found guilty of:	4070
(1) Knowingly making any misrepresentation;	4071
(2) Making any false promises with intent to influence,	4072
persuade, or induce;	4073
(3) A continued course of misrepresentation or the making of	4074
false promises through agents, salespersons, advertising, or	4075
otherwise;	4076
(4) Acting for more than one party in a transaction except as	4077
permitted by and in compliance with section 4735.71 of the Revised	4078
Code;	4079
(5) Failure within a reasonable time to account for or to	4080
remit any money coming into the licensee's possession which	4081
belongs to others;	4082
(6) Dishonest or illegal dealing, gross negligence,	4083
incompetency, or misconduct;	4084
(7)(a) By final adjudication by a court, a violation of any	4085
municipal or federal civil rights law relevant to the protection	4086
of purchasers or sellers of real estate or, by final adjudication	4087
by a court, any unlawful discriminatory practice pertaining to the	4088
purchase or sale of real estate prohibited by Chapter 4112. of the	4089
Revised Code, provided that such violation arose out of a	4090
situation wherein parties were engaged in bona fide efforts to	4091
purchase, sell, or lease real estate, in the licensee's practice	4092
as a licensed real estate broker or salesperson;	4093
(b) A second or subsequent violation of any unlawful	4094
discriminatory practice pertaining to the purchase or sale of real	4095
estate prohibited by Chapter 4112. of the Revised Code or any	4096
second or subsequent violation of municipal or federal civil	4097
rights laws relevant to purchasing or selling real estate whether	4098

or not there has been a final adjudication by a court, provided 4099
that such violation arose out of a situation wherein parties were 4100
engaged in bona fide efforts to purchase, sell, or lease real 4101
estate. For any second offense under this division, the commission 4102
shall suspend for a minimum of two months or revoke the license of 4103
the broker or salesperson. For any subsequent offense, the 4104
commission shall revoke the license of the broker or salesperson. 4105

(8) Procuring a license under this chapter, for the licensee 4106
or any salesperson by fraud, misrepresentation, or deceit; 4107

(9) Having violated or failed to comply with any provision of 4108
sections 4735.51 to 4735.74 of the Revised Code or having 4109
willfully disregarded or violated any other provisions of this 4110
chapter; 4111

(10) As a real estate broker, having demanded, without 4112
reasonable cause, other than from a broker licensed under this 4113
chapter, a commission to which the licensee is not entitled, or, 4114
as a real estate salesperson, having demanded, without reasonable 4115
cause, a commission to which the licensee is not entitled; 4116

(11) Except as permitted under section 4735.20 of the Revised 4117
Code, having paid commissions or fees to, or divided commissions 4118
or fees with, anyone not licensed as a real estate broker or 4119
salesperson under this chapter or anyone not operating as an 4120
out-of-state commercial real estate broker or salesperson under 4121
section 4735.022 of the Revised Code; 4122

(12) Having falsely represented membership in any real estate 4123
professional association of which the licensee is not a member; 4124

(13) Having accepted, given, or charged any undisclosed 4125
commission, rebate, or direct profit on expenditures made for a 4126
principal; 4127

(14) Having offered anything of value other than the 4128
consideration recited in the sales contract as an inducement to a 4129

person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;	4161 4162 4163
(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;	4164 4165 4166 4167
(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;	4168 4169 4170 4171 4172 4173 4174 4175 4176 4177
(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;	4178 4179 4180 4181
(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by	4182 4183 4184 4185 4186 4187 4188 4189 4190 4191 4192

section 1349.21 of the Revised Code. Funds deposited in the trust 4193
or special account in connection with a purchase agreement shall 4194
be maintained in accordance with section 4735.24 of the Revised 4195
Code. 4196

(27) Failure to maintain at all times a special or trust bank 4197
account in a depository in this state, to be used exclusively for 4198
the deposit and maintenance of all rents, security deposits, 4199
escrow funds, and other moneys received by the broker in a 4200
fiduciary capacity in the course of managing real property. This 4201
account shall be separate and distinct from any other account 4202
maintained by the broker. The name, account number, and location 4203
of the depository shall be submitted in writing to the 4204
superintendent. This account may earn interest, which shall be 4205
paid to the property owners on a pro rata basis. 4206

Division (A)(27) of this section does not apply to brokers 4207
who are not engaged in the management of real property on behalf 4208
of real property owners. 4209

(28) Having failed to put definite expiration dates in all 4210
written agency agreements to which the broker is a party; 4211

(29) Having an unsatisfied final judgment in any court of 4212
record against the licensee arising out of the licensee's conduct 4213
as a licensed broker or salesperson; 4214

(30) Failing to render promptly upon demand a full and 4215
complete statement of the expenditures by the broker or 4216
salesperson of funds advanced by or on behalf of a party to a real 4217
estate transaction to the broker or salesperson for the purpose of 4218
performing duties as a licensee under this chapter in conjunction 4219
with the real estate transaction; 4220

(31) Failure within a reasonable time, after the receipt of 4221
the commission by the broker, to render an accounting to and pay a 4222
real estate salesperson the salesperson's earned share of it; 4223

(32) Performing any service for another constituting the 4224
practice of law, as determined by any court of law; 4225

(33) Having been adjudicated incompetent for the purpose of 4226
holding the license by a court, as provided in section 5122.301 of 4227
the Revised Code. A license revoked or suspended under this 4228
division shall be reactivated upon proof to the commission of the 4229
removal of the disability. 4230

(34) Having authorized or permitted a person to act as an 4231
agent in the capacity of a real estate broker, or a real estate 4232
salesperson, who was not then licensed as a real estate broker or 4233
real estate salesperson under this chapter or who was not then 4234
operating as an out-of-state commercial real estate broker or 4235
salesperson under section 4735.022 of the Revised Code; 4236

(35) Having knowingly inserted or participated in inserting 4237
any materially inaccurate term in a document, including naming a 4238
false consideration; 4239

(36) Having failed to inform the licensee's client of the 4240
existence of an offer or counteroffer or having failed to present 4241
an offer or counteroffer in a timely manner, unless otherwise 4242
instructed by the client, provided the instruction of the client 4243
does not conflict with any state or federal law. 4244

(B) Whenever the commission, pursuant to section 4735.051 of 4245
the Revised Code, imposes disciplinary sanctions for any violation 4246
of this section, the commission also may impose such sanctions 4247
upon the broker with whom the salesperson is affiliated if the 4248
commission finds that the broker had knowledge of the 4249
salesperson's actions that violated this section. 4250

(C) The commission shall, pursuant to section 4735.051 of the 4251
Revised Code, impose disciplinary sanctions upon any foreign real 4252
estate dealer or salesperson who, in that capacity or in handling 4253
the dealer's or salesperson's own property, is found guilty of any 4254

of the acts or omissions specified or comprehended in division (A) 4255
of this section insofar as the acts or omissions pertain to 4256
foreign real estate. If the commission imposes such sanctions upon 4257
a foreign real estate salesperson for a violation of this section, 4258
the commission also may suspend or revoke the license of the 4259
foreign real estate dealer with whom the salesperson is affiliated 4260
if the commission finds that the dealer had knowledge of the 4261
salesperson's actions that violated this section. 4262

(D) The commission may suspend, in whole or in part, the 4263
imposition of the penalty of suspension of a license under this 4264
section. 4265

(E) The commission immediately shall notify the real estate 4266
appraiser board of any disciplinary action taken under this 4267
section against a licensee who also is a state-certified real 4268
estate appraiser under Chapter 4763. of the Revised Code. 4269

(F) As used in this section, a "criminal offense that is 4270
substantially related" has the same meaning as in section 4743.07 4271
of the Revised Code. 4272

Sec. 4735.27. (A) An application to act as a foreign real 4273
estate dealer shall be in writing and filed with the 4274
superintendent of real estate. It shall be in the form the 4275
superintendent prescribes and shall contain the following 4276
information: 4277

(1) The name and address of the applicant; 4278

(2) A description of the applicant, including, if the 4279
applicant is a partnership, unincorporated association, or any 4280
similar form of business organization, the names and the residence 4281
and business addresses of all partners, officers, directors, 4282
trustees, or managers of the organization, and the limitation of 4283
the liability of any partner or member; and if the applicant is a 4284

corporation, a list of its officers and directors, and the 4285
residence and business addresses of each, and, if it is a foreign 4286
corporation, a copy of its articles of incorporation in addition; 4287

(3) The location and addresses of the principal office and 4288
all other offices of the applicant; 4289

(4) A general description of the business of the applicant 4290
prior to the application, including a list of states in which the 4291
applicant is a licensed foreign real estate dealer; 4292

(5) The names and addresses of all ~~salesmen~~ salespersons of 4293
the applicant at the date of the application; 4294

(6) The nature of the business of the applicant, and its 4295
places of business, for the ten-year period preceding the date of 4296
application. 4297

(B) Every nonresident applicant shall name a person within 4298
this state upon whom process against the applicant may be served 4299
and shall give the complete residence and business address of the 4300
person designated. Every applicant shall file an irrevocable 4301
written consent, executed and acknowledged by an individual duly 4302
authorized to give such consent, that actions growing out of a 4303
fraud committed by the applicant in connection with the sale in 4304
this state of foreign real estate may be commenced against it, in 4305
the proper court of any county in this state in which a cause of 4306
action for such fraud may arise or in which the plaintiff in such 4307
action may reside, by serving on the secretary of state any proper 4308
process or pleading authorized by the laws of this state, in the 4309
event that the applicant if a resident of this state, or the 4310
person designated by the nonresident applicant, cannot be found at 4311
the address given. The consent shall stipulate that the service of 4312
process on the secretary of state shall be taken in all courts to 4313
be as valid and binding as if service had been made upon the 4314
foreign real estate dealer. If the applicant is a corporation or 4315

an unincorporated association, the consent shall be accompanied by 4316
a certified copy of the resolution of the board of directors, 4317
trustees, or managers of the corporation or association, 4318
authorizing such individual to execute the consent. 4319

(C) The superintendent may investigate any applicant for a 4320
dealer's license, and may require any additional information ~~he~~ 4321
the superintendent considers necessary to determine the business 4322
repute and qualifications of the applicant to act as a foreign 4323
real estate dealer. If the application for a dealer's license 4324
involves investigation outside this state, the superintendent may 4325
require the applicant to advance sufficient funds to pay any of 4326
the actual expenses of the investigation, and an itemized 4327
statement of such expense shall be furnished to the applicant. 4328

(D) Every applicant shall take a written examination, 4329
prescribed and conducted by the superintendent, which covers ~~his~~ 4330
the applicant's knowledge of the principles of real estate 4331
practice, real estate law, financing and appraisal, real estate 4332
transactions and instruments relating to them, canons of business 4333
ethics relating to real estate transactions, and the duties of 4334
foreign real estate dealers and ~~salesmen~~ salespersons. The fee for 4335
the examination, when administered by the superintendent, is 4336
seventy-five dollars. If the applicant does not appear for the 4337
examination, the fee shall be forfeited and a new application and 4338
fee shall be filed, unless good cause for the failure to appear is 4339
shown to the superintendent. The requirement of an examination may 4340
be waived in whole or in part by the superintendent if an 4341
applicant is licensed as a real estate broker by any state. 4342

Any applicant who fails the examination twice shall wait six 4343
months before applying to retake the examination. 4344

(E) No person shall take the foreign real estate dealer's 4345
examination who has not established to the satisfaction of the 4346
superintendent that ~~he~~ the person: 4347

(1) Has not been convicted of or pleaded guilty to a felony 4348
~~or a crime of moral turpitude~~ criminal offense that is 4349
substantially related to practice as a foreign real estate dealer 4350
or, if ~~he~~ the applicant has been so convicted or so pleaded 4351
guilty, the superintendent has disregarded the conviction or 4352
guilty plea because the applicant has proven to the 4353
superintendent, by a preponderance of the evidence, that ~~his~~ the 4354
applicant's activities and employment record since the conviction 4355
or guilty plea show that ~~he~~ the applicant is honest, truthful, and 4356
of good reputation, and there is no basis in fact for believing 4357
that ~~he~~ the applicant again will violate the laws involved; 4358

(2) Has not been finally adjudged by a court to have violated 4359
any municipal, state, or federal civil rights laws relevant to the 4360
protection of purchasers or sellers of real estate or, if ~~he~~ the 4361
applicant has been so adjudged, at least two years have passed 4362
since the court decision and the superintendent has disregarded 4363
the adjudication because the applicant has proven, by a 4364
preponderance of the evidence, that ~~his~~ the applicant's activities 4365
and employment record since the adjudication show that ~~he~~ the 4366
applicant is honest, truthful, and of good reputation, and there 4367
is no basis in fact for believing that ~~he~~ the applicant again will 4368
violate the laws involved; 4369

(3) Has not, during any period for which ~~he~~ the applicant was 4370
licensed under this chapter or any former section of the Revised 4371
Code applicable to licensed foreign real estate dealers or 4372
~~salesmen~~ salespersons, violated any provision of, or any rule 4373
adopted pursuant to, this chapter or that section, or, if ~~he~~ the 4374
applicant has violated any such provision or rule, has established 4375
to the satisfaction of the superintendent that ~~he~~ the applicant 4376
will not again violate the provision or rule. 4377

(F) If the superintendent finds that an applicant for a 4378
license as a foreign real estate dealer, or each named member, 4379

manager, or officer of a partnership, association, or corporate 4380
applicant is at least eighteen years of age, is of good business 4381
repute, has passed the examination required under this section or 4382
has had the requirement of an examination waived, and appears 4383
otherwise qualified, the superintendent shall issue a license to 4384
the applicant to engage in business in this state as a foreign 4385
real estate dealer. Dealers licensed pursuant to this section 4386
shall employ as ~~salesmen~~ salespersons of foreign real estate only 4387
persons licensed pursuant to section 4735.28 of the Revised Code. 4388
If at any time such ~~salesmen~~ salespersons resign or are discharged 4389
or new ~~salesmen~~ salespersons are added, the dealer forthwith shall 4390
notify the superintendent and shall file with the division of real 4391
estate the names and addresses of new ~~salesmen~~ salespersons. 4392

(G) If the applicant merely is renewing ~~his~~ the applicant's 4393
license for the previous year, the application need contain only 4394
the information required by divisions (A)(2), (3), and (6) of this 4395
section. 4396

(H) As used in this section, a "criminal offense that is 4397
substantially related" has the same meaning as in section 4743.07 4398
of the Revised Code. 4399

Sec. 4735.28. (A) An application to act as a foreign real 4400
estate ~~salesman~~ salesperson shall be in writing and filed with the 4401
superintendent of real estate. It shall be in the form the 4402
superintendent prescribes and shall contain the following 4403
information: 4404

(1) The name and complete residence and business addresses of 4405
the applicant; 4406

(2) The name of the foreign real estate dealer who is 4407
employing the applicant or who intends to employ ~~him~~ the 4408
applicant; 4409

(3) The age and education of the applicant, and ~~his~~ the 4410
applicant's experience in the sale of foreign real estate; whether 4411
~~he~~ the applicant has ever been licensed by the superintendent, and 4412
if so, when; whether ~~he~~ the applicant has ever been refused a 4413
license by the superintendent; and whether ~~he~~ the applicant has 4414
ever been licensed or refused a license or any similar permit by 4415
any division or superintendent of real estate, by whatsoever name 4416
known or designated, anywhere; 4417

(4) The nature of the employment, and the names and addresses 4418
of the employers, of the applicant for the period of ten years 4419
immediately preceding the date of the application. 4420

(B) Every applicant shall take a written examination, 4421
prescribed and conducted by the superintendent, which covers ~~his~~ 4422
the applicant's knowledge of the principles of real estate 4423
practice, real estate law, financing and appraisal, real estate 4424
transactions and instruments relating to them, canons of business 4425
ethics relating to real estate transactions, and the duties of 4426
foreign real estate ~~salesmen~~ salespersons. The fee for the 4427
examination, when administered by the superintendent, is fifty 4428
dollars. If the applicant does not appear for the examination, the 4429
fee shall be forfeited and a new application and fee shall be 4430
filed, unless good cause for the failure to appear is shown to the 4431
superintendent. The requirement of an examination may be waived in 4432
whole or in part by the superintendent if an applicant is licensed 4433
as a real estate broker or ~~salesman~~ salesperson by any state. 4434

Any applicant who fails the examination twice shall wait six 4435
months before applying to retake the examination. 4436

(C) No person shall take the foreign real estate ~~salesman's~~ 4437
salesperson's examination who has not established to the 4438
satisfaction of the superintendent that ~~he~~ the person: 4439

(1) Has not been convicted of or pleaded guilty to a felony 4440

~~or a crime of moral turpitude~~ criminal offense that is 4441
substantially related to practice as a foreign real estate 4442
salesperson or, if ~~he~~ the applicant has been so convicted or 4443
pleaded guilty, the superintendent has disregarded the conviction 4444
or guilty plea because the applicant has proven to the 4445
superintendent, by a preponderance of the evidence, that ~~his~~ the 4446
applicant's activities and employment record since the conviction 4447
or plea of guilty show that ~~he~~ the applicant is honest, truthful, 4448
and of good reputation, and there is no basis in fact for 4449
believing that ~~he~~ the applicant again will violate the laws 4450
involved; 4451

(2) Has not been finally adjudged by a court to have violated 4452
any municipal, state, or federal civil rights laws relevant to the 4453
protection of purchasers or sellers of real estate or, if ~~he~~ the 4454
applicant has been so adjudged, at least two years have passed 4455
since the court decision and the superintendent has disregarded 4456
the adjudication because the applicant has proven, by a 4457
preponderance of the evidence, that ~~his~~ the applicant's activities 4458
and employment record since the adjudication show that ~~he~~ the 4459
applicant is honest, truthful, and of good reputation, and there 4460
is no basis in fact for believing that ~~he~~ the applicant will again 4461
violate the laws; 4462

(3) Has not, during any period for which ~~he~~ the applicant was 4463
licensed under this chapter or any former section of the Revised 4464
Code ~~aplicable~~ applicable to licensed foreign real estate dealers 4465
or ~~salesmen~~ salespersons, violated any provision of, or any rule 4466
adopted pursuant to, this chapter or that section, or, if ~~he~~ the 4467
applicant has violated any such provision or rule, has established 4468
to the satisfaction of the superintendent that ~~he~~ the applicant 4469
will not again violate the provision or rule. 4470

(D) Every ~~salesman~~ salesperson of foreign real estate shall 4471
be licensed by the superintendent of real estate and shall be 4472

employed only by the licensed foreign real estate dealer specified 4473
on ~~his~~ the salesperson's license. 4474

(E) If the superintendent finds that the applicant is of good 4475
business repute, appears to be qualified to act as a foreign real 4476
estate ~~salesman~~ salesperson, and has fully complied with the 4477
provisions of this chapter, and that the dealer in the application 4478
is a licensed foreign real estate dealer, the superintendent, upon 4479
payment of the fees prescribed by section 4735.15 of the Revised 4480
Code, shall issue a license to the applicant authorizing ~~him~~ the 4481
applicant to act as ~~salesman~~ a salesperson for the dealer named in 4482
the application. 4483

(F) As used in this section, a "criminal offense that is 4484
substantially related" has the same meaning as in section 4743.07 4485
of the Revised Code. 4486

Sec. 4738.04. ~~Each~~ As used in this section, a "criminal 4487
offense that is substantially related" has the same meaning as in 4488
section 4743.07 of the Revised Code. 4489

Each person applying for a motor vehicle salvage dealer 4490
license or a salvage motor vehicle auction license or a salvage 4491
motor vehicle pool license shall make out and deliver to the 4492
registrar of motor vehicles, upon a blank to be furnished by the 4493
registrar for that purpose, a separate application for license for 4494
each county in which the business is to be conducted. The 4495
application for each type of license shall be in the form 4496
prescribed by the registrar and shall be signed and sworn to by 4497
the applicant. The application for a license for a motor vehicle 4498
salvage dealer, a salvage motor vehicle auction, or salvage motor 4499
vehicle pool, in addition to other information as is required by 4500
the registrar, shall include the following: 4501

(A) Name of applicant and location of principal place of 4502
business; 4503

(B) Name or style under which business is to be conducted	4504
and, if a corporation, the state of incorporation;	4505
(C) Name and address of each owner or partner and, if a	4506
corporation, the names of the officers and directors;	4507
(D) The county in which the business is to be conducted and	4508
the address of each place of business therein;	4509
(E) A financial statement of the applicant showing the true	4510
financial condition as of a date not earlier than six months prior	4511
to the date of the application;	4512
(F) A statement of the previous history, record, and	4513
association of the applicant and of each owner, partner, officer,	4514
and director, which statement shall be sufficient to establish to	4515
the satisfaction of the registrar the reputation in business of	4516
the applicant;	4517
(G) A statement showing whether the applicant has previously	4518
been convicted of <u>or pleaded guilty to a felony criminal offense</u>	4519
<u>that is substantially related to the operation of a motor vehicle</u>	4520
<u>salvage dealer, salvage motor vehicle auction, or salvage motor</u>	4521
<u>vehicle pool;</u>	4522
(H) A statement showing whether the applicant has previously	4523
applied for a license under this chapter and the result of the	4524
application, and whether the applicant has ever been the holder of	4525
any such license which was revoked or suspended;	4526
(I) If the applicant is a corporation or partnership, a	4527
statement showing whether any of the partners, officers, or	4528
directors have been refused a license under this chapter, or have	4529
been the holder of any such license which was revoked or	4530
suspended.	4531
Sec. 4738.07. <u>The As used in this section, a "criminal</u>	4532
<u>offense that is substantially related" has the same meaning as in</u>	4533

section 4743.07 of the Revised Code. 4534

The registrar of motor vehicles shall deny the application of 4535
any person for a license under this chapter and refuse to issue 4536
him a license if the registrar finds that the applicant: 4537

(A) Has made false statement of a material fact in his 4538
application; 4539

(B) Has not complied with sections 4738.01 to 4738.15 of the 4540
Revised Code: 4541

(C) Is of bad business repute or has habitually defaulted on 4542
financial obligations; 4543

(D) Has been convicted of or pleaded guilty to a felony 4544
criminal offense that is substantially related to the operation of 4545
a motor vehicle salvage dealer, salvage motor vehicle auction, or 4546
salvage motor vehicle pool; 4547

(E) Has been guilty of a fraudulent act in connection with 4548
dealing in salvage motor vehicles or when operating as a motor 4549
vehicle salvage dealer, salvage motor vehicle auction, or salvage 4550
motor vehicle pool; 4551

(F) Is insolvent; 4552

(G) Is of insufficient responsibility to assure the prompt 4553
payment of any final judgments which might reasonably be entered 4554
against him because of the transaction of his business during the 4555
period of the license applied for; 4556

(H) Has no established place of business; 4557

(I) Has less than twelve months prior to said application, 4558
been denied a license under this chapter. 4559

If the applicant is a corporation or partnership, the 4560
registrar may refuse to issue a license if any officer, director, 4561
or partner of the applicant has been guilty of any act or omission 4562
which would be cause for refusing or revoking a license issued to 4563

the officer, director, or partner as an individual. The 4564
registrar's finding may be based upon facts contained in the 4565
application or upon any other information which he may have. 4566
Immediately upon denying an application for any of the reasons in 4567
this section, the registrar shall enter a final order together 4568
with his findings and certify the same to the motor vehicle 4569
salvage dealer's licensing board. 4570

An applicant who has been refused a license may appeal from 4571
the action of the registrar to the motor vehicle salvage dealer's 4572
licensing board in the manner prescribed in section 4738.12 of the 4573
Revised Code. 4574

Sec. 4738.12. The motor vehicle salvage dealer's licensing 4575
board shall hear appeals which may be taken from an order of the 4576
registrar of motor vehicles, refusing to issue a license. All 4577
appeals from any order of the registrar refusing to issue any 4578
license upon proper application made must be taken within thirty 4579
days from the date of the order, or the order is final and 4580
conclusive. All appeals from orders of the registrar must be by 4581
petition in writing and verified under oath by the applicant whose 4582
application for license has been denied, and must set forth the 4583
reason why, in the petitioner's opinion, the order of the 4584
registrar is not correct. In appeals the board may make 4585
investigation to determine the correctness and legality of the 4586
order of the registrar. 4587

The board may make rules governing its actions relative to 4588
the suspension and revocation of licenses and may, upon its own 4589
motion, and shall, upon the verified complaint in writing of any 4590
person, investigate the conduct of any licensee under this 4591
chapter. The board shall suspend or revoke or notify the registrar 4592
to refuse to renew any license if any ground existed upon which 4593
the license would have been refused, or if a ground exists which 4594

would be cause for refusal to issue a license. 4595

The board may suspend or revoke any license if the licensee 4596
has in any manner violated the rules issued pursuant to sections 4597
4738.01 to 4738.16 of the Revised Code, or has been convicted of 4598
~~committing a felony or violating any law which in any way relates~~ 4599
~~to the theft of motor vehicles~~ pleaded guilty to a criminal 4600
offense that is substantially related to the operation of a motor 4601
vehicle salvage dealer, salvage motor vehicle auction, or salvage 4602
motor vehicle pool. 4603

As used in this section, "a criminal offense that is 4604
substantially related" has the same meaning as in section 4743.07 4605
of the Revised Code. 4606

Sec. 4738.18. (A) Any person licensed under division (A) of 4607
section 4738.03 of the Revised Code who wishes to purchase salvage 4608
motor vehicles at salvage motor vehicle auctions or salvage motor 4609
vehicle pools shall make application to the registrar of motor 4610
vehicles for a buyer's identification card. The application shall 4611
be on a form prescribed by the registrar and shall contain the 4612
applicant's name, principal business address, the license number 4613
under which the applicant will be making purchases, and such other 4614
information as the registrar requires. In lieu of directly 4615
obtaining a buyer's identification card or in addition thereto, 4616
any person licensed under division (A) of section 4738.03 of the 4617
Revised Code may designate up to two employees to act as buyers 4618
for the licensee. The licensee shall make application for a 4619
buyer's identification card for each employee in the same manner 4620
as for a card for the licensee. 4621

(B) The fee for each buyer's identification card shall be 4622
thirty-five dollars. 4623

(C) Beginning on ~~the effective date of this amendment~~ 4624
September 16, 2004, each buyer's identification card shall expire 4625

biennially on a day within the two-year cycle that is prescribed 4626
by the registrar, unless sooner suspended or revoked. Before the 4627
first day after the day prescribed by the registrar in the year 4628
that the card expires, each cardholder shall file an application 4629
for renewal of the card, in a form that the registrar prescribes. 4630
A buyer's identification card is nontransferable. If the holder of 4631
a card no longer possesses a valid salvage motor vehicle dealer's 4632
license, or if an employee of the licensee leaves the employment 4633
of the licensee, the buyer's identification card of that person is 4634
invalid and the holder shall return the card to the registrar. 4635

(D) Any person who holds a valid salvage motor vehicle 4636
dealer's license from another state that imposes qualifications 4637
and requirements with respect to the license that are equivalent 4638
to those required by Chapter 4738. of the Revised Code may make 4639
application and receive a buyer's identification card. The person 4640
shall make application to the registrar who shall, based upon the 4641
registrar's investigation, issue a buyer's identification card to 4642
those applicants who the registrar determines are qualified. 4643

(E) All applicants for a buyer's identification card must be 4644
of good financial repute and not have been convicted of or pleaded 4645
guilty to a felony criminal offense that is substantially related 4646
to the purchase of salvage motor vehicles as verified by a report 4647
from a law enforcement agency and credit report furnished to the 4648
registrar by the applicant. 4649

(F) The registrar may revoke or suspend the license of any 4650
salvage motor vehicle dealer who allows the dealer's card or the 4651
card of any employee to be used by any unauthorized person. 4652

(G) As used in this section, a "criminal offense that is 4653
substantially related" has the same meaning as in section 4743.07 4654
of the Revised Code. 4655

Sec. 4740.06. (A) Any individual who applies for a license 4656

shall file a written application with the appropriate section of 4657
the Ohio construction industry licensing board, accompanied with 4658
the application fee as determined pursuant to section 4740.09 of 4659
the Revised Code. The individual shall file the application not 4660
more than sixty days nor less than thirty days prior to the date 4661
of the examination. The application shall be on the form the 4662
section prescribes and verified by the applicant's oath. The 4663
applicant shall provide information satisfactory to the section 4664
showing that the applicant meets the requirements of division (B) 4665
of this section. 4666

(B) To qualify to take an examination, an individual shall: 4667

(1) Be at least eighteen years of age; 4668

(2) Be a United States citizen or legal alien who produces 4669
valid documentation to demonstrate the individual is a legal 4670
resident of the United States; 4671

(3) Either have been a tradesperson in the type of licensed 4672
trade for which the application is filed for not less than five 4673
years immediately prior to the date the application is filed, be a 4674
currently registered engineer in this state with three years of 4675
business experience in the construction industry in the trade for 4676
which the engineer is applying to take an examination, or have 4677
other experience acceptable to the appropriate section of the 4678
board; 4679

(4) Maintain contractor's liability insurance, including 4680
without limitation, complete operations coverage, in an amount the 4681
appropriate section of the board determines; 4682

(5) Not have done any of the following: 4683

(a) Been convicted of or pleaded guilty to a ~~misdemeanor~~ 4684
~~involving moral turpitude or of any felony~~ criminal offense that 4685
is substantially related to practice as a contractor; 4686

(b) Violated this chapter or any rule adopted pursuant to it; 4687

(c) Obtained or renewed a license issued pursuant to this 4688
chapter, or any order, ruling, or authorization of the board or a 4689
section of the board by fraud, misrepresentation, or deception; 4690

(d) Engaged in fraud, misrepresentation, or deception in the 4691
conduct of business. 4692

(C) When an applicant for licensure as a contractor in a 4693
licensed trade meets the qualifications set forth in division (B) 4694
of this section and passes the required examination, the 4695
appropriate section of the board, within ninety days after the 4696
application was filed, shall authorize the administrative section 4697
of the board to license the applicant for the type of contractor's 4698
license for which the applicant qualifies. A section of the board 4699
may withdraw its authorization to the administrative section for 4700
issuance of a license for good cause shown, on the condition that 4701
notice of that withdrawal is given prior to the administrative 4702
section's issuance of the license. 4703

(D) All licenses a contractor holds pursuant to this chapter 4704
shall expire annually on the same date, which shall be the 4705
expiration date of the original license the contractor holds. An 4706
individual holding a valid, unexpired license may renew the 4707
license, without reexamination, by submitting an application to 4708
the appropriate section of the board not more than ninety calendar 4709
days before the expiration of the license, along with the renewal 4710
fee the section requires and proof of compliance with the 4711
applicable continuing education requirements. The applicant shall 4712
provide information in the renewal application satisfactory to 4713
demonstrate to the appropriate section that the applicant 4714
continues to meet the requirements of division (B) of this 4715
section. 4716

Upon application and within one calendar year after a license 4717

has expired, a section may waive any of the requirements for 4718
renewal of a license upon finding that an applicant substantially 4719
meets the renewal requirements or that failure to timely apply for 4720
renewal is due to excusable neglect. A section that waives 4721
requirements for renewal of a license may impose conditions upon 4722
the licensee and assess a late filing fee of not more than double 4723
the usual renewal fee. An applicant shall satisfy any condition 4724
the section imposes before a license is reissued. 4725

(E) An individual holding a valid license may request the 4726
section of the board that authorized that license to place the 4727
license in inactive status under conditions, and for a period of 4728
time, as that section determines. 4729

(F) Except for the ninety-day extension provided for a 4730
license assigned to a business entity under division (D) of 4731
section 4740.07 of the Revised Code, a license held by an 4732
individual immediately terminates upon the death of the 4733
individual. 4734

(G) Nothing in any license issued by the Ohio construction 4735
industry licensing board shall be construed to limit or eliminate 4736
any requirement of or any license issued by the Ohio fire marshal. 4737

(H) As used in this section, a "criminal offense that is 4738
substantially related" has the same meaning as in section 4743.07 4739
of the Revised Code. 4740

Sec. 4740.10. (A) The appropriate section of the Ohio 4741
construction industry licensing board, upon an affirmative vote of 4742
four of its members, may take any of the following actions against 4743
a licensee who violates Chapter 4740. of the Revised Code: 4744

(1) Impose a fine on the licensee, not exceeding one thousand 4745
dollars per violation per day; 4746

(2) Direct the administrative section to suspend the 4747

licensee's license for a period of time the section establishes; 4748

(3) Direct the administrative section to revoke the 4749
licensee's license; 4750

(4) Require the licensee to complete additional continuing 4751
education course work. Any continuing education course work 4752
completed pursuant to this division may not count toward any other 4753
continuing education requirements this chapter establishes. 4754

(5) Direct the administrative section to refuse to issue or 4755
renew a license if the section finds that the applicant or 4756
licensee has done any of the following: 4757

(a) Been convicted of or pleaded guilty to a misdemeanor 4758
~~involving moral turpitude or a felony~~ criminal offense that is 4759
substantially related to the construction profession; 4760

(b) Violated any provision of this chapter or the rules 4761
adopted pursuant thereto; 4762

(c) Obtained a license or any order, ruling, or authorization 4763
of the board by fraud, misrepresentation, or deception; 4764

(d) Engaged in fraud, misrepresentation, or deception in the 4765
conduct of business. 4766

(B) The appropriate section of the board shall determine the 4767
length of time that a license is to be suspended and whether or 4768
when an individual whose license has been revoked may apply for 4769
reinstatement. The appropriate section of the board may accept or 4770
refuse an application for reinstatement and may require an 4771
examination for reinstatement. 4772

(C) The appropriate section of the board may investigate any 4773
alleged violation of this chapter or the rules adopted pursuant to 4774
it. If, after an investigation, a section determines that any 4775
person has engaged or is engaging in any practice that violates 4776
this chapter or the rules adopted pursuant to it, that section may 4777

apply to the court of common pleas of the county in which the 4778
violation occurred or is occurring for an injunction or other 4779
appropriate relief to enjoin or terminate the violation. 4780

(D) Any person who wishes to make a complaint against a 4781
person who holds a license shall submit the complaint in writing 4782
to the appropriate section of the board within three years after 4783
the date of the action or event upon which the complaint is based. 4784

(E) As used in this section, a "criminal offense that is 4785
substantially related" has the same meaning as in section 4743.07 4786
of the Revised Code. 4787

Sec. 4741.22. The As used in this section, a "criminal 4788
offense that is substantially related" has the same meaning as in 4789
section 4743.07 of the Revised Code. 4790

The state veterinary medical licensing board may refuse to 4791
issue or renew a license, limited license, registration, or 4792
temporary permit to or of any applicant who, and may issue a 4793
reprimand to, suspend or revoke the license, limited license, 4794
registration, or the temporary permit of, or impose a civil 4795
penalty pursuant to this section upon any person holding a 4796
license, limited license, or temporary permit to practice 4797
veterinary medicine or any person registered as a registered 4798
veterinary technician who: 4799

(A) In the conduct of the person's practice does not conform 4800
to the rules of the board or the standards of the profession 4801
governing proper, humane, sanitary, and hygienic methods to be 4802
used in the care and treatment of animals; 4803

(B) Uses fraud, misrepresentation, or deception in any 4804
application or examination for licensure, or any other 4805
documentation created in the course of practicing veterinary 4806
medicine; 4807

(C) Is found to be physically or psychologically addicted to alcohol or an illegal or controlled substance, as defined in section 3719.01 of the Revised Code, to such a degree as to render the person unfit to practice veterinary medicine;

(D) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;

(E) Obtains a fee on the assurance that an incurable disease can be cured;

(F) Advertises in a manner that violates section 4741.21 of the Revised Code;

(G) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;

(H) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;

(I) Is convicted of or pleads guilty to ~~any felony or crime involving illegal or prescription drugs~~ a criminal offense that is substantially related to the practice of veterinary medicine or practice as a registered veterinary technician, or fails to report to the board within sixty days of the individual's conviction of, plea of guilty to, or treatment in lieu of conviction involving a ~~felony, misdemeanor of the first degree, or offense involving illegal or prescription drugs~~ criminal offense that is substantially related to the practice of veterinary medicine or practice as a registered veterinary technician;

(J) Is convicted of any violation of section 959.13 of the Revised Code;

(K) Swears falsely in any affidavit required to be made by the person in the course of the practice of veterinary medicine;

(L) Fails to report promptly to the proper official any known reportable disease;	4838 4839
(M) Fails to report promptly vaccinations or the results of tests when required to do so by law or rule;	4840 4841
(N) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in Chapter 2111. of the Revised Code, and has not been restored to legal capacity for that purpose;	4842 4843 4844 4845
(O) Permits a person who is not a licensed veterinarian, a veterinary student, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;	4846 4847 4848
(P) Is guilty of gross incompetence or gross negligence;	4849
(Q) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the District of Columbia;	4850 4851 4852 4853 4854 4855
(R) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;	4856 4857
(S) Represents self as a specialist unless certified as a specialist by the board;	4858 4859
(T) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows is false or negligently or intentionally fails to file a report or record required by any applicable state or federal law;	4860 4861 4862 4863 4864
(U) Fails to use reasonable care in the administration of drugs or acceptable scientific methods in the selection of those drugs or other modalities for treatment of a disease or in conduct	4865 4866 4867

of surgery; 4868

(V) Makes available a dangerous drug, as defined in section 4869
4729.01 of the Revised Code, to any person other than for the 4870
specific treatment of an animal patient; 4871

(W) Refuses to permit a board investigator or the board's 4872
designee to inspect the person's business premises during regular 4873
business hours, except as provided in division (A) of section 4874
4741.26 of the Revised Code; 4875

(X) Violates any order of the board or fails to comply with a 4876
subpoena of the board; 4877

(Y) Fails to maintain medical records as required by rule of 4878
the board; 4879

(Z) Engages in cruelty to animals; 4880

(AA) Uses, prescribes, or sells any veterinary prescription 4881
drug or biologic, or prescribes any extra-label use of any 4882
over-the-counter drug or dangerous drug in the absence of a valid 4883
veterinary-client-patient relationship. 4884

Before the board may revoke, deny, refuse to renew, or 4885
suspend a license, registration, or temporary permit or otherwise 4886
discipline the holder of a license, registration, or temporary 4887
permit, the executive director shall file written charges with the 4888
board. The board shall conduct a hearing on the charges as 4889
provided in Chapter 119. of the Revised Code. 4890

If the board, after a hearing conducted pursuant to Chapter 4891
119. of the Revised Code, revokes, refuses to renew, or suspends a 4892
license, registration, or temporary permit for a violation of this 4893
section, section 4741.23, division (C) or (D) of section 4741.19, 4894
or division (B), (C), or (D) of section 4741.21 of the Revised 4895
Code, the board may impose a civil penalty upon the holder of the 4896
license, permit, or registration of not less than one hundred 4897

dollars or more than one thousand dollars. In addition to the 4898
civil penalty and any other penalties imposed pursuant to this 4899
chapter, the board may assess any holder of a license, permit, or 4900
registration the costs of the hearing conducted under this section 4901
if the board determines that the holder has violated any provision 4902
for which the board may impose a civil penalty under this section. 4903

Sec. 4743.07. (A) As used in this section: 4904

(1) A "criminal offense that is substantially related" means 4905
that the nature of the felony or misdemeanor offense for which the 4906
person was convicted or to which the person pleaded guilty has a 4907
direct bearing on the fitness or ability of the person to perform 4908
one or more of the duties or responsibilities necessarily related 4909
to a particular occupation, profession, or trade regulated by 4910
Title XLVII of the Revised Code. 4911

(2) A "board, commission, or agency" includes only those 4912
boards, commissions, or agencies subject to section 4701.16, 4913
4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 4717.14, 4914
4719.03, 4723.28, 4725.19, 4725.53, 4727.15, 4728.13, 4729.16, 4915
4729.53, 4729.56, 4730.25, 4731.22, 4732.17, 4733.20, 4734.31, 4916
4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 4738.04, 4917
4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 4741.22, 4747.12, 4918
4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 4755.11, 4755.47, 4919
4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 4762.13, 4920
4763.11, 4765.18, 4765.301, 4774.13, 4779.28, or 4781.09 of the 4921
Revised Code. 4922

(B) Within ninety days of the effective date of this section, 4923
each board, commission, or agency shall adopt rules that identify 4924
each criminal offense that is substantially related to the 4925
occupation, profession, or trade under its supervision or 4926
regulation. 4927

(C) Each board, commission, or agency shall keep records of 4928

the number of licenses, permits, registrations, and certificates 4929
denied, revoked, or suspended because the applicant or license, 4930
permit, registration, or certificate holder is convicted of or 4931
pleads guilty to a criminal offense that is substantially related 4932
to the occupation, profession, or trade under the supervision or 4933
regulation of the board, commission, or agency and of the reasons 4934
for the denial, revocation, or suspension. 4935

(D) In the absence of fraud or bad faith, there is no private 4936
cause of action for damages against any board, commission, or 4937
agency; a current or former board, commission, or agency member; 4938
an agent of a board, commission, or agency; a person formally 4939
requested by a board, commission, or agency to be a representative 4940
of the entity; or an employee of a board, commission, or agency 4941
that grants a license, permit, registration, or certificate to a 4942
person who is convicted of or pleads guilty to a criminal offense 4943
if that person subsequent to receiving the license, permit, 4944
registration, or certificate commits another criminal offense. 4945

Sec. 4747.12. The As used in this section, a "criminal 4946
offense that is substantially related" has the same meaning as in 4947
section 4743.07 of the Revised Code. 4948

The hearing aid dealers and fitters licensing board may 4949
revoke or suspend a license or permit if the person who holds such 4950
license or permit: 4951

(A) Is convicted of or pleads guilty to a felony or a 4952
misdemeanor involving moral turpitude criminal offense that is 4953
substantially related to practice as a hearing aid dealer or 4954
fitter. The record of conviction or guilty plea, or a copy thereof 4955
certified by the clerk of the court or by the judge in whose court 4956
the conviction or guilty plea occurs, is conclusive evidence of 4957
such conviction; 4958

(B) Procured a license or permit by fraud or deceit practiced 4959

upon the board;	4960
(C) Obtained any fee or made any sale of a hearing aid by fraud or misrepresentation;	4961 4962
(D) Knowingly employed any person without a license or a person whose license was suspended or revoked to engage in the fitting or sale of hearing aids;	4963 4964 4965
(E) Used or caused or promoted the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive, or untruthful;	4966 4967 4968 4969 4970
(F) Advertised a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the specified model or type of hearing aid;	4971 4972 4973 4974
(G) Represented or advertised that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when such is not true, or using the words "doctor," "clinic," or similar words, abbreviations, or symbols which connote the medical profession when such use is not accurate;	4975 4976 4977 4978 4979 4980 4981
(H) Is found by the board to be a person of habitual intemperance or gross immorality;	4982 4983
(I) Advertised a manufacturer's product or used a manufacturer's name or trademark in a manner which suggested the existence of a relationship with the manufacturer which did not or does not exist;	4984 4985 4986 4987
(J) Fitted or sold, or attempted to fit or sell, a hearing aid to a person without first utilizing the appropriate procedures	4988 4989

and instruments required for proper fitting of hearing aids; 4990

(K) Engaged in the fitting and sale of hearing aids under a 4991
false name or an alias; 4992

(L) Engaged in the practice of dealing in or fitting of 4993
hearing aids while suffering from a contagious or infectious 4994
disease; 4995

(M) Was found by the board to be guilty of gross incompetence 4996
or negligence in the fitting or sale of hearing aids; 4997

(N) Permitted another person to use ~~his~~ the licensee's 4998
license. 4999

Sec. 4749.03. (A)(1) Any individual, including a partner in a 5000
partnership, may be licensed as a private investigator under a 5001
class B license, or as a security guard provider under a class C 5002
license, or as a private investigator and a security guard 5003
provider under a class A license, if the individual meets all of 5004
the following requirements: 5005

(a) Has a good reputation for integrity, has not been 5006
convicted of or pleaded guilty to a felony criminal offense that 5007
is substantially related to the business of private investigation 5008
or the business of security services within the last twenty years 5009
or any offense involving moral turpitude, and has not been 5010
adjudicated incompetent for the purpose of holding the license, as 5011
provided in section 5122.301 of the Revised Code, without having 5012
been restored to legal capacity for that purpose. 5013

(b) Depending upon the class of license for which application 5014
is made, for a continuous period of at least two years immediately 5015
preceding application for a license, has been engaged in 5016
investigatory or security services work for a law enforcement or 5017
other public agency engaged in investigatory activities, or for a 5018
private investigator or security guard provider, or engaged in the 5019

practice of law, or has acquired equivalent experience as 5020
determined by rule of the director of public safety. 5021

(c) Demonstrates competency as a private investigator or 5022
security guard provider by passing an examination devised for this 5023
purpose by the director, except that any individually licensed 5024
person who qualifies a corporation for licensure shall not be 5025
required to be reexamined if the person qualifies the corporation 5026
in the same capacity that the person was individually licensed. 5027

(d) Submits evidence of comprehensive general liability 5028
insurance coverage, or other equivalent guarantee approved by the 5029
director in such form and in principal amounts satisfactory to the 5030
director, but not less than one hundred thousand dollars for each 5031
person and three hundred thousand dollars for each occurrence for 5032
bodily injury liability, and one hundred thousand dollars for 5033
property damage liability. 5034

(e) Pays the requisite examination and license fees. 5035

(2) A corporation may be licensed as a private investigator 5036
under a class B license, or as a security guard provider under a 5037
class C license, or as a private investigator and a security guard 5038
provider under a class A license, if an application for licensure 5039
is filed by an officer of the corporation and the officer, another 5040
officer, or the qualifying agent of the corporation satisfies the 5041
requirements of divisions (A)(1) and (F)(1) of this section. 5042
Officers and the statutory agent of a corporation shall be 5043
determined in accordance with Chapter 1701. of the Revised Code. 5044

(3) At least one partner in a partnership shall be licensed 5045
as a private investigator, or as a security guard provider, or as 5046
a private investigator and a security guard provider. Partners in 5047
a partnership shall be determined as provided for in Chapter 1775. 5048
or 1776. of the Revised Code. 5049

(B) An application for a class A, B, or C license shall be 5050

completed in the form the director prescribes. In the case of an individual, the application shall state the applicant's name, birth date, citizenship, physical description, current residence, residences for the preceding ten years, current employment, employment for the preceding seven years, experience qualifications, the location of each of the applicant's offices in this state, and any other information that is necessary in order for the director to comply with the requirements of this chapter. In the case of a corporation, the application shall state the name of the officer or qualifying agent filing the application; the state in which the corporation is incorporated and the date of incorporation; the states in which the corporation is authorized to transact business; the name of its qualifying agent; the name of the officer or qualifying agent of the corporation who satisfies the requirements of divisions (A)(1) and (F)(1) of this section and the birth date, citizenship, physical description, current residence, residences for the preceding ten years, current employment, employment for the preceding seven years, and experience qualifications of that officer or qualifying agent; and other information that the director requires. A corporation may specify in its application information relative to one or more individuals who satisfy the requirements of divisions (A)(1) and (F)(1) of this section.

The application described in this division shall be accompanied by all of the following:

(1) One recent full-face photograph of the applicant or, in the case of a corporation, of each officer or qualifying agent specified in the application as satisfying the requirements of divisions (A)(1) and (F)(1) of this section;

(2) Character references from at least five reputable citizens for the applicant or, in the case of a corporation, for each officer or qualifying agent specified in the application as

satisfying the requirements of divisions (A)(1) and (F)(1) of this 5083
section, each of whom has known the applicant, officer, or 5084
qualifying agent for at least five years preceding the 5085
application, and none of whom are connected with the applicant, 5086
officer, or qualifying agent by blood or marriage; 5087

(3) An examination fee of twenty-five dollars for the 5088
applicant or, in the case of a corporation, for each officer or 5089
qualifying agent specified in the application as satisfying the 5090
requirements of divisions (A)(1) and (F)(1) of this section, and a 5091
license fee in the amount the director determines, not to exceed 5092
three hundred seventy-five dollars. The license fee shall be 5093
refunded if a license is not issued. 5094

(C)(1) Each individual applying for a license and each 5095
individual specified by a corporation as an officer or qualifying 5096
agent in an application shall submit one complete set of 5097
fingerprints directly to the superintendent of the bureau of 5098
criminal identification and investigation for the purpose of 5099
conducting a criminal records check. The individual shall provide 5100
the fingerprints using a method the superintendent prescribes 5101
pursuant to division (C)(2) of section 109.572 of the Revised Code 5102
and fill out the form the superintendent prescribes pursuant to 5103
division (C)(1) of section 109.572 of the Revised Code. An 5104
applicant who intends to carry a firearm as defined in section 5105
2923.11 of the Revised Code in the course of business or 5106
employment shall so notify the superintendent. This notification 5107
is in addition to any other requirement related to carrying a 5108
firearm that applies to the applicant. The individual or 5109
corporation requesting the criminal records check shall pay the 5110
fee the superintendent prescribes. 5111

(2) The superintendent shall conduct the criminal records 5112
check as set forth in division (B) of section 109.572 of the 5113
Revised Code. If an applicant intends to carry a firearm in the 5114

course of business or employment, the superintendent shall make a 5115
request to the federal bureau of investigation for any information 5116
and review the information the bureau provides pursuant to 5117
division (B)(2) of section 109.572 of the Revised Code. The 5118
superintendent shall submit all results of the completed 5119
investigation to the director of public safety. 5120

(3) If the director determines that the applicant, officer, 5121
or qualifying agent meets the requirements of divisions (A)(1)(a), 5122
(b), and (d) of this section and that an officer or qualifying 5123
agent meets the requirement of division (F)(1) of this section, 5124
the director shall notify the applicant, officer, or agent of the 5125
time and place for the examination. If the director determines 5126
that an applicant does not meet the requirements of divisions 5127
(A)(1)(a), (b), and (d) of this section, the director shall notify 5128
the applicant that the applicant's application is refused and 5129
refund the license fee. If the director determines that none of 5130
the individuals specified in the application of a corporation as 5131
satisfying the requirements of divisions (A)(1) and (F)(1) of this 5132
section meet the requirements of divisions (A)(1)(a), (b), and (d) 5133
and (F)(1) of this section, the director shall notify the 5134
corporation that its application is refused and refund the license 5135
fee. If the bureau assesses the director a fee for any 5136
investigation, the director, in addition to any other fee assessed 5137
pursuant to this chapter, may assess the applicant, officer, or 5138
qualifying agent, as appropriate, a fee that is equal to the fee 5139
assessed by the bureau. 5140

(D) If upon application, investigation, and examination, the 5141
director finds that the applicant or, in the case of a 5142
corporation, any officer or qualifying agent specified in the 5143
application as satisfying the requirements of divisions (A)(1) and 5144
(F)(1) of this section, meets the applicable requirements, the 5145
director shall issue the applicant or the corporation a class A, 5146

B, or C license. The director also shall issue an identification 5147
card to an applicant, but not an officer or qualifying agent of a 5148
corporation, who meets the applicable requirements. The license 5149
and identification card shall state the licensee's name, the 5150
classification of the license, the location of the licensee's 5151
principal place of business in this state, and the expiration date 5152
of the license, and, in the case of a corporation, it also shall 5153
state the name of each officer or qualifying agent who satisfied 5154
the requirements of divisions (A)(1) and (F)(1) of this section. 5155

Licenses expire on the first day of March following the date 5156
of initial issue, and on the first day of March of each year 5157
thereafter. Annual renewals shall be according to the standard 5158
renewal procedures contained in Chapter 4745. of the Revised Code, 5159
upon payment of an annual renewal fee the director determines, not 5160
to exceed two hundred seventy-five dollars. No license shall be 5161
renewed if the licensee or, in the case of a corporation, each 5162
officer or qualifying agent who qualified the corporation for 5163
licensure no longer meets the applicable requirements of this 5164
section. No license shall be renewed unless the licensee provides 5165
evidence of workers' compensation risk coverage and unemployment 5166
compensation insurance coverage, other than for clerical employees 5167
and excepting sole proprietors who are exempted therefrom, as 5168
provided for in Chapters 4123. and 4141. of the Revised Code, 5169
respectively, as well as the licensee's state tax identification 5170
number. No reexamination shall be required for renewal of a 5171
current license. 5172

For purposes of this chapter, a class A, B, or C license 5173
issued to a corporation shall be considered as also having 5174
licensed the individuals who qualified the corporation for 5175
licensure, for as long as they are associated with the 5176
corporation. 5177

For purposes of this division, "sole proprietor" means an 5178

individual licensed under this chapter who does not employ any 5179
other individual. 5180

(E) The director may issue a duplicate copy of a license 5181
issued under this section for the purpose of replacement of a 5182
lost, spoliated, or destroyed license, upon payment of a fee the 5183
director determines, not exceeding twenty-five dollars. Any change 5184
in license classification requires new application and application 5185
fees. 5186

(F)(1) In order to qualify a corporation for a class A, B, or 5187
C license, an officer or qualifying agent may qualify another 5188
corporation for similar licensure, provided that the officer or 5189
qualifying agent is actively engaged in the business of both 5190
corporations. 5191

(2) Each officer or qualifying agent who qualifies a 5192
corporation for class A, B, or C licensure shall surrender any 5193
personal license of a similar nature that the officer or 5194
qualifying agent possesses. 5195

(3) Upon written notification to the director, completion of 5196
an application similar to that for original licensure, surrender 5197
of the corporation's current license, and payment of a twenty-five 5198
dollar fee, a corporation's class A, B, or C license may be 5199
transferred to another corporation. 5200

(4) Upon written notification to the director, completion of 5201
an application similar to that for an individual seeking class A, 5202
B, or C licensure, payment of a twenty-five dollar fee, and, if 5203
the individual was the only individual that qualified a 5204
corporation for licensure, surrender of the corporation's license, 5205
any officer or qualifying agent who qualified a corporation for 5206
licensure under this chapter may obtain a similar license in the 5207
individual's own name without reexamination. A request by an 5208
officer or qualifying agent for an individual license shall not 5209

affect a corporation's license unless the individual is the only 5210
individual that qualified the corporation for licensure or all the 5211
other individuals who qualified the corporation for licensure 5212
submit such requests. 5213

(G) If a corporation is for any reason no longer associated 5214
with an individual who qualified it for licensure under this 5215
chapter, an officer of the corporation shall notify the director 5216
of that fact by certified mail, return receipt requested, within 5217
ten days after the association terminates. If the notification is 5218
so given, the individual was the only individual that qualified 5219
the corporation for licensure, and the corporation submits the 5220
name of another officer or qualifying agent to qualify the 5221
corporation for the license within thirty days after the 5222
association terminates, the corporation may continue to operate in 5223
the business of private investigation, the business of security 5224
services, or both businesses in this state under that license for 5225
ninety days after the association terminates. If the officer or 5226
qualifying agent whose name is submitted satisfies the 5227
requirements of divisions (A)(1) and (F)(1) of this section, the 5228
director shall issue a new license to the corporation within that 5229
ninety-day period. The names of more than one individual may be 5230
submitted. 5231

(H) As used in this section, a "criminal offense that is 5232
substantially related" has the same meaning as in section 4743.07 5233
of the Revised Code. 5234

Sec. 4749.04. (A) The director of public safety may revoke, 5235
suspend, or refuse to renew, when a renewal form has been 5236
submitted, the license of any private investigator or security 5237
guard provider, or the registration of any employee of a private 5238
investigator or security guard provider, for any of the following: 5239

(1) Violation of any of the provisions of division (B) or (C) 5240

of section 4749.13 of the Revised Code; 5241

(2) Conviction of or plea of guilty to a felony or a crime 5242
involving moral turpitude criminal offense that is substantially 5243
related to the business of private investigation or the business 5244
or security services; 5245

(3) Violation of any rule of the director governing private 5246
investigators, the business of private investigation, security 5247
guard providers, or the business of security services; 5248

(4) Testifying falsely under oath, or suborning perjury, in 5249
any judicial proceeding; 5250

(5) Failure to satisfy the requirements specified in division 5251
(D) of section 4749.03 of the Revised Code. 5252

Any person whose license or registration is revoked, 5253
suspended, or not renewed when a renewal form is submitted may 5254
appeal in accordance with Chapter 119. of the Revised Code. 5255

(B) In lieu of suspending, revoking, or refusing to renew the 5256
class A, B, or C license, or of suspending, revoking, or refusing 5257
to renew the registration of an employee of a class A, B, or C 5258
licensee, the director may impose a civil penalty of not more than 5259
one hundred dollars for each calendar day of a violation of any of 5260
the provisions of this section or of division (B) or (C) of 5261
section 4749.13 of the Revised Code or of a violation of any rule 5262
of the director governing private investigators, the business of 5263
private investigation, security guard providers, or the business 5264
of security services. 5265

(C) As used in this section, a "criminal offense that is 5266
substantially related" has the same meaning as in section 4743.07 5267
of the Revised Code. 5268

Sec. 4749.06. (A) Each class A, B, or C licensee shall 5269
register the licensee's investigator or security guard employees, 5270

with the department of public safety, which shall maintain a 5271
record of each licensee and registered employee and make it 5272
available, upon request, to any law enforcement agency. The class 5273
A, B, or C licensee shall file an application to register a new 5274
employee no sooner than three days nor later than seven calendar 5275
days after the date on which the employee is hired. 5276

(B)(1) Each employee's registration application shall be 5277
accompanied by one recent photograph of the employee, the 5278
employee's physical description, and the registration fee the 5279
director determines, not to exceed forty dollars. 5280

(2) The employee shall submit one complete set of 5281
fingerprints directly to the superintendent of the bureau of 5282
criminal identification and investigation for the purpose of 5283
conducting a criminal records check. The employee shall provide 5284
the fingerprints using a method the superintendent prescribes 5285
pursuant to division (C)(2) of section 109.572 of the Revised Code 5286
and fill out the form the superintendent prescribes pursuant to 5287
division (C)(1) of section 109.572 of the Revised Code. An 5288
employee who intends to carry a firearm as defined in section 5289
2923.11 of the Revised Code in the course of business or 5290
employment shall so notify the superintendent. This notification 5291
is in addition to any other requirement related to carrying a 5292
firearm that applies to the employee. The individual or 5293
corporation requesting the criminal records check shall pay the 5294
fee the superintendent prescribes. 5295

The superintendent shall conduct the criminal records check 5296
as set forth in division (B) of section 109.572 of the Revised 5297
Code. If an employee intends to carry a firearm in the course of 5298
business or employment, pursuant to division (B)(2) of section 5299
109.572 of the Revised Code the superintendent shall make a 5300
request of the federal bureau of investigation for any information 5301
and review the information the bureau provides. The superintendent 5302

shall submit all results of the completed investigation to the 5303
director of public safety. 5304

(3) If, after investigation, the bureau finds that the 5305
employee has not been convicted of or pleaded guilty to a felony 5306
criminal offense that is substantially related to the business of 5307
private investigation or the business security services within the 5308
last twenty years, the director shall issue to the employee an 5309
identification card bearing the license number and signature of 5310
the licensee, which in the case of a corporation shall be the 5311
signature of its president or its qualifying agent, and containing 5312
the employee's name, address, age, physical description, and right 5313
thumb print or other identifying mark as the director prescribes, 5314
a recent photograph of the employee, and the employee's signature. 5315
The director may issue a duplicate of a lost, spoliated, or 5316
destroyed identification card issued under this section, upon 5317
payment of a fee fixed by the director, not exceeding five 5318
dollars. 5319

(C) Except as provided in division (E) of this section, no 5320
class A, B, or C licensee shall permit an employee, other than an 5321
individual who qualified a corporation for licensure, to engage in 5322
the business of private investigation, the business of security 5323
services, or both businesses until the employee receives an 5324
identification card from the department, except that pending the 5325
issuance of an identification card, a class A, B, or C licensee 5326
may offer for hire security guard or investigator employees 5327
provided the licensee obtains a waiver from the person who 5328
receives, for hire, security guard or investigative services, 5329
acknowledging that the person is aware the employees have not 5330
completed their registration and agreeing to their employment. 5331

(D) If a class A, B, or C licensee, or a registered employee 5332
of a class A, B, or C licensee, intends to carry a firearm, as 5333
defined in section 2923.11 of the Revised Code, in the course of 5334

engaging in the business or employment, the licensee or registered 5335
employee shall satisfactorily complete a firearms basic training 5336
program that includes twenty hours of handgun training and five 5337
hours of training in the use of other firearms, if any other 5338
firearm is to be used, or equivalency training, if authorized, or 5339
shall be a former peace officer who previously had successfully 5340
completed a firearms training course, shall receive a certificate 5341
of satisfactory completion of that program or written evidence of 5342
approval of the equivalency training, shall file an application 5343
for registration, shall receive a firearm-bearer notation on the 5344
licensee's or registered employee's identification card, and shall 5345
annually requalify on a firearms range, all as described in 5346
division (A) of section 4749.10 of the Revised Code. A private 5347
investigator, security guard provider, or employee is authorized 5348
to carry a firearm only in accordance with that division. 5349

(E) This section does not apply to commissioned peace 5350
officers, as defined in division (B) of section 2935.01 of the 5351
Revised Code, working for, either as an employee or independent 5352
contractor, a class A, B, or C licensee. For purposes of this 5353
chapter, a commissioned peace officer is an employee exempt from 5354
registration. 5355

(F) The registration of an investigator or security guard 5356
employee expires annually on the anniversary date of its initial 5357
issuance. Annual renewals shall be made pursuant to procedures the 5358
director establishes by rule and upon payment of a renewal fee the 5359
director determines, not to exceed thirty-five dollars. The 5360
director shall not renew the registration of any investigator or 5361
security guard employee who no longer meets the requirements of 5362
this section. No background check is required for annual renewal, 5363
but an investigator or security guard employee shall report any 5364
felony conviction to the employer and the director of public 5365
safety as a condition of continued registration. 5366

(G) As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code. 5367
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Sec. 4751.10. The As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code. 5370
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The license or registration, or both, or the temporary license of any person practicing or offering to practice nursing home administration, shall be revoked or suspended by the board of examiners of nursing home administrators if such licensee or temporary licensee: 5373
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(A) Is unfit or incompetent by reason of negligence, habits, or other causes; 5378
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(B) Has willfully or repeatedly violated any of the provisions of Chapter 4751. of the Revised Code or the regulations adopted thereunder; or willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the nursing home in which ~~he~~ the licensee or temporary licensee is the administrator; 5380
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(C) Is guilty of fraud or deceit in the practice of nursing home administration or in ~~his~~ the licensee's or temporary licensee's admission to such practice; 5386
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(D) Has been convicted in a court of competent jurisdiction, either within or without this state, of or pleaded guilty to a felony criminal offense that is substantially related to the practice of nursing home administration. 5389
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Proceedings under this section shall be instituted by the board or shall be begun by filing with the board charges in writing and under oath. 5393
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Sec. 4753.10. ~~In~~ As used in this section, a "criminal offense that is substantially related" has the same meaning as in section 4743.07 of the Revised Code. 5396
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In accordance with Chapter 119. of the Revised Code, the 5399
board of speech-language pathology and audiology may reprimand or 5400
place on probation a speech-language pathologist or audiologist or 5401
suspend, revoke, or refuse to issue or renew the license of a 5402
speech-language pathologist or audiologist. Disciplinary actions 5403
may be taken by the board for conduct that may result from but not 5404
necessarily be limited to: 5405

(A) Fraud, deception, or misrepresentation in obtaining or 5406
attempting to obtain a license; 5407

(B) Fraud, deception, or misrepresentation in using a 5408
license; 5409

(C) Altering a license; 5410

(D) Aiding or abetting unlicensed practice; 5411

(E) Committing fraud, deception, or misrepresentation in the 5412
practice of speech-language pathology or audiology including: 5413

(1) Making or filing a false report or record in the practice 5414
of speech-language pathology or audiology; 5415

(2) Submitting a false statement to collect a fee; 5416

(3) Obtaining a fee through fraud, deception, or 5417
misrepresentation, or accepting commissions or rebates or other 5418
forms of remuneration for referring persons to others. 5419

(F) Using or promoting or causing the use of any misleading, 5420
deceiving, improbable, or untruthful advertising matter, 5421
promotional literature, testimonial, guarantee, warranty, label, 5422
brand, insignia, or any other representation; 5423

(G) Falsely representing the use or availability of services 5424

or advice of a physician;	5425
(H) Misrepresenting the applicant, licensee, or holder by	5426
using the word "doctor" or any similar word, abbreviation, or	5427
symbol if the use is not accurate or if the degree was not	5428
obtained from an accredited institution;	5429
(I) Committing any act of dishonorable, immoral, or	5430
unprofessional conduct while engaging in the practice of	5431
speech-language pathology or audiology;	5432
(J) Engaging in illegal, incompetent, or habitually negligent	5433
practice;	5434
(K) Providing professional services while:	5435
(1) Mentally incompetent;	5436
(2) Under the influence of alcohol;	5437
(3) Using any narcotic or controlled substance or other drug	5438
that is in excess of therapeutic amounts or without valid medical	5439
indication.	5440
(L) Providing services or promoting the sale of devices,	5441
appliances, or products to a person who cannot reasonably be	5442
expected to benefit from such services, devices, appliances, or	5443
products in accordance with results obtained utilizing appropriate	5444
assessment procedures and instruments;	5445
(M) Violating this chapter or any lawful order given or rule	5446
adopted by the board;	5447
(N) Being convicted of or pleading guilty or nolo contendere	5448
to a felony or to a crime involving moral turpitude <u>criminal</u>	5449
<u>offense that is substantially related to the practice of</u>	5450
<u>speech-language pathology or audiology</u> , whether or not any appeal	5451
or other proceeding is pending to have the conviction or plea set	5452
aside;	5453
(O) Being disciplined by a licensing or disciplinary	5454

authority of this or any other state or country or convicted or 5455
disciplined by a court of this or any other state or country for 5456
an act that would be grounds for disciplinary action under this 5457
section. 5458

After revocation of a license under this section, application 5459
may be made to the board for reinstatement. The board, in 5460
accordance with an order of revocation as issued under Chapter 5461
119. of the Revised Code, may require an examination for such 5462
reinstatement. 5463

If any person has engaged in any practice which constitutes 5464
an offense under the provisions of this chapter or rules 5465
promulgated thereunder by the board, the board may apply to the 5466
court of common pleas of the county for an injunction or other 5467
appropriate order restraining such conduct, and the court may 5468
issue such order. 5469

Any person who wishes to make a complaint against any person 5470
licensed pursuant to this chapter shall submit the complaint in 5471
writing to the board within one year from the date of the action 5472
or event upon which the complaint is based. The board shall 5473
determine whether the allegations in the complaint are of a 5474
sufficiently serious nature to warrant formal disciplinary charges 5475
against the licensee pursuant to this section. If the board 5476
determines that formal disciplinary charges are warranted, it 5477
shall proceed in accordance with the procedures established in 5478
Chapter 119. of the Revised Code. 5479

Sec. 4755.11. (A) In accordance with Chapter 119. of the 5480
Revised Code, the occupational therapy section of the Ohio 5481
occupational therapy, physical therapy, and athletic trainers 5482
board may suspend, revoke, or refuse to issue or renew an 5483
occupational therapist license, occupational therapy assistant 5484
license, occupational therapist limited permit, occupational 5485

therapy assistant limited permit, or reprimand, fine, or place a 5486
license or limited permit holder on probation, for any of the 5487
following: 5488

(1) Conviction of ~~an~~ or a plea of guilty to a criminal 5489
~~offense involving moral turpitude or a felony that is~~ 5490
substantially related to practice as an occupational therapist or 5491
occupational therapy assistant, regardless of the state or country 5492
in which the conviction or guilty plea occurred; 5493

(2) Violation of any provision of sections 4755.04 to 4755.13 5494
of the Revised Code; 5495

(3) Violation of any lawful order or rule of the occupational 5496
therapy section; 5497

(4) Obtaining or attempting to obtain a license or limited 5498
permit issued by the occupational therapy section by fraud or 5499
deception, including the making of a false, fraudulent, deceptive, 5500
or misleading statements in relation to these activities; 5501

(5) Negligence, unprofessional conduct, or gross misconduct 5502
in the practice of the profession of occupational therapy; 5503

(6) Accepting commissions or rebates or other forms of 5504
remuneration for referring persons to other professionals; 5505

(7) Communicating, without authorization, information 5506
received in professional confidence; 5507

(8) Using controlled substances, habit forming drugs, or 5508
alcohol to an extent that it impairs the ability to perform the 5509
work of an occupational therapist, occupational therapy assistant, 5510
occupational therapist limited permit holder, or occupational 5511
therapy assistant limited permit holder; 5512

(9) Practicing in an area of occupational therapy for which 5513
the individual is untrained or incompetent; 5514

(10) Failing the licensing or Ohio jurisprudence examination; 5515

(11) Aiding, abetting, directing, or supervising the unlicensed practice of occupational therapy;	5516 5517
(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including occupational therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;	5518 5519 5520 5521
(13) Except as provided in division (B) of this section:	5522
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	5523 5524 5525 5526 5527 5528
(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.	5529 5530 5531 5532 5533
(14) Working or representing oneself as an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder without a current and valid license or limited permit issued by the occupational therapy section;	5534 5535 5536 5537 5538
(15) Engaging in a deceptive trade practice, as defined in section 4165.02 of the Revised Code;	5539 5540
(16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;	5541 5542 5543
(17) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders,	5544 5545

whether or not actual injury to a patient is established; 5546

(18) An adjudication by a court that the applicant, licensee, 5547
or limited permit holder is incompetent for the purpose of holding 5548
a license or limited permit and has not thereafter been restored 5549
to legal capacity for that purpose; 5550

(19)(a) Except as provided in division (A)(19)(b) of this 5551
section, failure to cooperate with an investigation conducted by 5552
the occupational therapy section, including failure to comply with 5553
a subpoena or orders issued by the section or failure to answer 5554
truthfully a question presented by the section at a deposition or 5555
in written interrogatories. 5556

(b) Failure to cooperate with an investigation does not 5557
constitute grounds for discipline under this section if a court of 5558
competent jurisdiction issues an order that either quashes a 5559
subpoena or permits the individual to withhold the testimony or 5560
evidence at issue. 5561

~~(20) Conviction of a misdemeanor reasonably related to the 5562
practice of occupational therapy, regardless of the state or 5563
country in which the conviction occurred; 5564~~

~~(21) Inability to practice according to acceptable and 5565
prevailing standards of care because of mental or physical 5566
illness, including physical deterioration that adversely affects 5567
cognitive, motor, or perception skills; 5568~~

~~(22)~~(21) Violation of conditions, limitations, or agreements 5569
placed by the occupational therapy section on a license or limited 5570
permit to practice; 5571

~~(23)~~(22) Making a false, fraudulent, deceptive, or misleading 5572
statement in the solicitation of or advertising for patients in 5573
relation to the practice of occupational therapy; 5574

~~(24)~~(23) Failure to complete continuing education 5575

requirements as prescribed in rules adopted by the occupational 5576
therapy section under section 4755.06 of the Revised Code. 5577

(B) Sanctions shall not be imposed under division (A)(13) of 5578
this section against any individual who waives deductibles and 5579
copayments as follows: 5580

(1) In compliance with the health benefit plan that expressly 5581
allows such a practice. Waiver of the deductibles or copayments 5582
shall be made only with the full knowledge and consent of the plan 5583
purchaser, payer, and third-party administrator. Documentation of 5584
the consent shall be made available to the section upon request. 5585

(2) For professional services rendered to any other person 5586
licensed pursuant to sections 4755.04 to 4755.13 of the Revised 5587
Code to the extent allowed by those sections and the rules of the 5588
occupational therapy section. 5589

(C) Except as provided in division (D) of this section, the 5590
suspension or revocation of a license or limited permit under this 5591
section is not effective until either the order for suspension or 5592
revocation has been affirmed following an adjudication hearing, or 5593
the time for requesting a hearing has elapsed. 5594

When a license or limited permit is revoked under this 5595
section, application for reinstatement may not be made sooner than 5596
one year after the date of revocation. The occupational therapy 5597
section may accept or refuse an application for reinstatement and 5598
may require that the applicant pass an examination as a condition 5599
of reinstatement. 5600

When a license or limited permit holder is placed on 5601
probation under this section, the occupational therapy section's 5602
probation order shall be accompanied by a statement of the 5603
conditions under which the individual may be removed from 5604
probation and restored to unrestricted practice. 5605

(D) On receipt of a complaint that a person who holds a 5606

license or limited permit issued by the occupational therapy 5607
section has committed any of the prohibited actions listed in 5608
division (A) of this section, the section may immediately suspend 5609
the license or limited permit prior to holding a hearing in 5610
accordance with Chapter 119. of the Revised Code if it determines, 5611
based on the complaint, that the licensee or limited permit holder 5612
poses an immediate threat to the public. The section shall notify 5613
the licensee or limited permit holder of the suspension in 5614
accordance with section 119.07 of the Revised Code. If the 5615
individual whose license or limited permit is suspended fails to 5616
make a timely request for an adjudication under Chapter 119. of 5617
the Revised Code, the section shall enter a final order 5618
permanently revoking the individual's license or limited permit. 5619

(E) If any person other than a person who holds a license or 5620
limited permit issued under section 4755.08 of the Revised Code 5621
has engaged in any practice that is prohibited under sections 5622
4755.04 to 4755.13 of the Revised Code or the rules of the 5623
occupational therapy section, the section may apply to the court 5624
of common pleas of the county in which the violation occurred, for 5625
an injunction or other appropriate order restraining this conduct, 5626
and the court shall issue this order. 5627

(F) As used in this section, a "criminal offense that is 5628
substantially related" has the same meaning as in section 4743.07 5629
of the Revised Code. 5630

Sec. 4755.47. (A) In accordance with Chapter 119. of the 5631
Revised Code, the physical therapy section of the Ohio 5632
occupational therapy, physical therapy, and athletic trainers 5633
board may refuse to grant a license to an applicant for an initial 5634
or renewed license as a physical therapist or physical therapist 5635
assistant or, by an affirmative vote of not less than five 5636
members, may limit, suspend, or revoke the license of a physical 5637

therapist or physical therapist assistant or reprimand, fine, or 5638
place a license holder on probation, on any of the following 5639
grounds: 5640

(1) Habitual indulgence in the use of controlled substances, 5641
other habit-forming drugs, or alcohol to an extent that affects 5642
the individual's professional competency; 5643

(2) Conviction of or plea of guilty to a felony or a crime 5644
involving moral turpitude criminal offense that is substantially 5645
related to the practice of physical therapy, regardless of the 5646
state or country in which the conviction or guilty plea occurred; 5647

(3) Obtaining or attempting to obtain a license issued by the 5648
physical therapy section by fraud or deception, including the 5649
making of a false, fraudulent, deceptive, or misleading statement; 5650

(4) An adjudication by a court, as provided in section 5651
5122.301 of the Revised Code, that the applicant or licensee is 5652
incompetent for the purpose of holding the license and has not 5653
thereafter been restored to legal capacity for that purpose; 5654

(5) Subject to section 4755.471 of the Revised Code, 5655
violation of the code of ethics adopted by the physical therapy 5656
section; 5657

(6) Violating or attempting to violate, directly or 5658
indirectly, or assisting in or abetting the violation of or 5659
conspiring to violate sections 4755.40 to 4755.56 of the Revised 5660
Code or any order issued or rule adopted under those sections; 5661

(7) Failure of one or both of the examinations required under 5662
section 4755.43 or 4755.431 of the Revised Code; 5663

(8) Permitting the use of one's name or license by a person, 5664
group, or corporation when the one permitting the use is not 5665
directing the treatment given; 5666

(9) Denial, revocation, suspension, or restriction of 5667

authority to practice a health care occupation, including physical 5668
therapy, for any reason other than a failure to renew, in Ohio or 5669
another state or jurisdiction; 5670

(10) Failure to maintain minimal standards of practice in the 5671
administration or handling of drugs, as defined in section 4729.01 5672
of the Revised Code, or failure to employ acceptable scientific 5673
methods in the selection of drugs, as defined in section 4729.01 5674
of the Revised Code, or other modalities for treatment; 5675

(11) Willful betrayal of a professional confidence; 5676

(12) Making a false, fraudulent, deceptive, or misleading 5677
statement in the solicitation of or advertising for patients in 5678
relation to the practice of physical therapy; 5679

(13) A departure from, or the failure to conform to, minimal 5680
standards of care required of licensees when under the same or 5681
similar circumstances, whether or not actual injury to a patient 5682
is established; 5683

(14) Obtaining, or attempting to obtain, money or anything of 5684
value by fraudulent misrepresentations in the course of practice; 5685

(15) Violation of the conditions of limitation or agreements 5686
placed by the physical therapy section on a license to practice; 5687

(16) Failure to renew a license in accordance with section 5688
4755.46 of the Revised Code; 5689

(17) Except as provided in section 4755.471 of the Revised 5690
Code, engaging in the division of fees for referral of patients or 5691
receiving anything of value in return for a specific referral of a 5692
patient to utilize a particular service or business; 5693

(18) Inability to practice according to acceptable and 5694
prevailing standards of care because of mental illness or physical 5695
illness, including physical deterioration that adversely affects 5696
cognitive, motor, or perception skills; 5697

(19) The revocation, suspension, restriction, or termination of clinical privileges by the United States department of defense or department of veterans affairs;

(20) Termination or suspension from participation in the medicare or medicaid program established under Title XVIII and Title XIX, respectively, of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for an act or acts that constitute a violation of sections 4755.40 to 4755.56 of the Revised Code;

(21) Failure of a physical therapist to maintain supervision of a student, physical therapist assistant, unlicensed support personnel, other assistant personnel, or a license applicant in accordance with the requirements of sections 4755.40 to 4755.56 of the Revised Code and rules adopted under those sections;

(22) Failure to complete continuing education requirements as prescribed in section 4755.51 or 4755.511 of the Revised Code or to satisfy any rules applicable to continuing education requirements that are adopted by the physical therapy section;

~~(23) Conviction of a misdemeanor when the act that constitutes the misdemeanor occurs during the practice of physical therapy;~~

~~(24)~~(a) Except as provided in division (A)~~(24)~~(23)(b) of this section, failure to cooperate with an investigation conducted by the physical therapy section, including failure to comply with a subpoena or orders issued by the section or failure to answer truthfully a question presented by the section at a deposition or in written interrogatories.

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

evidence at issue. 5729

~~(25)~~(24) Regardless of whether the contact or verbal behavior 5730
is consensual, engaging with a patient other than the spouse of 5731
the physical therapist or physical therapist assistant, in any of 5732
the following: 5733

(a) Sexual contact, as defined in section 2907.01 of the 5734
Revised Code; 5735

(b) Verbal behavior that is sexually demeaning to the patient 5736
or may be reasonably interpreted by the patient as sexually 5737
demeaning. 5738

~~(26)~~(25) Failure to notify the physical therapy section of a 5739
change in name, business address, or home address within thirty 5740
days after the date of change; 5741

~~(27)~~(26) Except as provided in division (B) of this section: 5742

(a) Waiving the payment of all or any part of a deductible or 5743
copayment that a patient, pursuant to a health insurance or health 5744
care policy, contract, or plan that covers physical therapy, would 5745
otherwise be required to pay if the waiver is used as an 5746
enticement to a patient or group of patients to receive health 5747
care services from that provider; 5748

(b) Advertising that the individual will waive the payment of 5749
all or any part of a deductible or copayment that a patient, 5750
pursuant to a health insurance or health care policy, contract, or 5751
plan that covers physical therapy, would otherwise be required to 5752
pay; 5753

~~(28)~~(27) Violation of any section of this chapter or rule 5754
adopted under it. 5755

(B) Sanctions shall not be imposed under division (A)~~(27)~~(26) 5756
of this section against any individual who waives deductibles and 5757
copayments as follows: 5758

(1) In compliance with the health benefit plan that expressly 5759
allows such a practice. Waiver of the deductibles or copayments 5760
shall be made only with the full knowledge and consent of the plan 5761
purchaser, payer, and third-party administrator. Documentation of 5762
the consent shall be made available to the physical therapy 5763
section upon request. 5764

(2) For professional services rendered to any other person 5765
licensed pursuant to sections 4755.40 to 4755.56 of the Revised 5766
Code to the extent allowed by those sections and the rules of the 5767
physical therapy section. 5768

(C) When a license is revoked under this section, application 5769
for reinstatement may not be made sooner than one year after the 5770
date of revocation. The physical therapy section may accept or 5771
refuse an application for reinstatement and may require that the 5772
applicant pass an examination as a condition for reinstatement. 5773

When a license holder is placed on probation under this 5774
section, the physical therapy section's order for placement on 5775
probation shall be accompanied by a statement of the conditions 5776
under which the individual may be removed from probation and 5777
restored to unrestricted practice. 5778

(D) When an application for an initial or renewed license is 5779
refused under this section, the physical therapy section shall 5780
notify the applicant in writing of the section's decision to 5781
refuse issuance of a license and the reason for its decision. 5782

(E) On receipt of a complaint that a person licensed by the 5783
physical therapy section has committed any of the actions listed 5784
in division (A) of this section, the physical therapy section may 5785
immediately suspend the license of the physical therapist or 5786
physical therapist assistant prior to holding a hearing in 5787
accordance with Chapter 119. of the Revised Code if it determines, 5788
based on the complaint, that the person poses an immediate threat 5789

to the public. The physical therapy section shall notify the 5790
person of the suspension in accordance with section 119.07 of the 5791
Revised Code. If the person fails to make a timely request for an 5792
adjudication under Chapter 119. of the Revised Code, the physical 5793
therapy section shall enter a final order permanently revoking the 5794
person's license. 5795

(F) As used in this section, a "criminal offense that is 5796
substantially related" has the same meaning as in section 4743.07 5797
of the Revised Code. 5798

Sec. 4755.64. (A) In accordance with Chapter 119. of the 5799
Revised Code, the athletic trainers section of the Ohio 5800
occupational therapy, physical therapy, and athletic trainers 5801
board may suspend, revoke, or refuse to issue or renew an athletic 5802
trainers license, or reprimand, fine, or place a licensee on 5803
probation, for any of the following: 5804

(1) Conviction of or plea of guilty to a felony or criminal 5805
offense involving moral turpitude that is substantially related to 5806
the practice of athletic training, regardless of the state or 5807
country in which the conviction or guilty plea occurred; 5808

(2) Violation of sections 4755.61 to 4755.65 of the Revised 5809
Code or any order issued or rule adopted thereunder; 5810

(3) Obtaining a license through fraud, false or misleading 5811
representation, or concealment of material facts; 5812

(4) Negligence or gross misconduct in the practice of 5813
athletic training; 5814

(5) Violating the standards of ethical conduct in the 5815
practice of athletic training as adopted by the athletic trainers 5816
section under section 4755.61 of the Revised Code; 5817

(6) Using any controlled substance or alcohol to the extent 5818
that the ability to practice athletic training at a level of 5819

competency is impaired;	5820
(7) Practicing in an area of athletic training for which the individual is untrained, incompetent, or practicing without the referral of a practitioner licensed under Chapter 4731. of the Revised Code, a dentist licensed under Chapter 4715. of the Revised Code, a chiropractor licensed under Chapter 4734. of the Revised Code, or a physical therapist licensed under this chapter;	5821 5822 5823 5824 5825 5826
(8) Employing, directing, or supervising a person in the performance of athletic training procedures who is not authorized to practice as a licensed athletic trainer under this chapter;	5827 5828 5829
(9) Misrepresenting educational attainments or the functions the individual is authorized to perform for the purpose of obtaining some benefit related to the individual's athletic training practice;	5830 5831 5832 5833
(10) Failing the licensing examination;	5834
(11) Aiding or abetting the unlicensed practice of athletic training;	5835 5836
(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction.	5837 5838 5839 5840
(B) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed from probation and restored to unrestricted practice.	5841 5842 5843 5844 5845
(C) A licensee whose license has been revoked under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of revocation. The athletic trainers section may accept or deny the	5846 5847 5848 5849

application for reinstatement and may require that the applicant 5850
pass an examination as a condition for reinstatement. 5851

(D) On receipt of a complaint that a person licensed by the 5852
athletic trainers section has committed any of the prohibited 5853
actions listed in division (A) of this section, the section may 5854
immediately suspend the license of a licensed athletic trainer 5855
prior to holding a hearing in accordance with Chapter 119. of the 5856
Revised Code if it determines, based on the complaint, that the 5857
licensee poses an immediate threat to the public. The section 5858
shall notify the licensed athletic trainer of the suspension in 5859
accordance with section 119.07 of the Revised Code. If the 5860
individual whose license is suspended fails to make a timely 5861
request for an adjudication under Chapter 119. of the Revised 5862
Code, the section shall enter a final order permanently revoking 5863
the individual's license. 5864

(E) As used in this section, a "criminal offense that is 5865
substantially related" has the same meaning as in section 4743.07 5866
of the Revised Code. 5867

Sec. 4757.36. (A) The appropriate professional standards 5868
committee of the counselor, social worker, and marriage and family 5869
therapist board may, in accordance with Chapter 119. of the 5870
Revised Code, take any action specified in division (B) of this 5871
section against an individual who has applied for or holds a 5872
license to practice as a professional clinical counselor, 5873
professional counselor, independent marriage and family therapist, 5874
marriage and family therapist, social worker, or independent 5875
social worker, or a certificate of registration to practice as a 5876
social work assistant, for any reason described in division (C) of 5877
this section. 5878

(B) In its imposition of sanctions against an individual, the 5879
board may do any of the following: 5880

(1) Refuse to issue or refuse to renew a license or certificate of registration;	5881 5882
(2) Suspend, revoke, or otherwise restrict a license or certificate of registration;	5883 5884
(3) Reprimand an individual holding a license or certificate of registration;	5885 5886
(4) Impose a fine in accordance with the graduated system of fines established by the board in rules adopted under section 4757.10 of the Revised Code.	5887 5888 5889
(C) The appropriate professional standards committee of the board may take an action specified in division (B) of this section for any of the following reasons:	5890 5891 5892
(1) Commission of an act that violates any provision of this chapter or rules adopted under it;	5893 5894
(2) Knowingly making a false statement on an application for licensure or registration, or for renewal of a license or certificate of registration;	5895 5896 5897
(3) Accepting a commission or rebate for referring persons to any professionals licensed, certified, or registered by any court or board, commission, department, division, or other agency of the state, including, but not limited to, individuals practicing counseling, social work, or marriage and family therapy or practicing in fields related to counseling, social work, or marriage and family therapy;	5898 5899 5900 5901 5902 5903 5904
(4) A failure to comply with section 4757.12 of the Revised Code;	5905 5906
(5) A conviction <u>or guilty plea</u> in this or any other state of a crime <u>criminal offense</u> that is a felony <u>substantially related to the practice of professional counseling, social work, or marriage and family therapy</u> in this state;	5907 5908 5909 5910

(6) A failure to perform properly as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker due to the use of alcohol or other drugs or any other physical or mental condition;

~~(7) A conviction in this state or in any other state of a misdemeanor committed in the course of practice as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker;~~

~~(8)~~ Practicing outside the scope of practice applicable to that person;

~~(9)~~(8) Practicing in violation of the supervision requirements specified under sections 4757.21 and 4757.26, and division (E) of section 4757.30, of the Revised Code;

~~(10)~~(9) A violation of the person's code of ethical practice adopted by rule of the board pursuant to section 4757.11 of the Revised Code;

~~(11)~~(10) Revocation or suspension of a license or certificate of registration, or the voluntary surrender of a license or certificate of registration in another state or jurisdiction for an offense that would be a violation of this chapter.

(D) One year or more after the date of suspension or revocation of a license or certificate of registration under this section, application may be made to the appropriate professional standards committee for reinstatement. The committee may accept or refuse an application for reinstatement. If a license has been suspended or revoked, the committee may require an examination for reinstatement.

(E) On request of the board, the attorney general shall bring and prosecute to judgment a civil action to collect any fine

imposed under division (B)(4) of this section that remains unpaid. 5942

(F) All fines collected under division (B)(4) of this section 5943
shall be deposited into the state treasury to the credit of the 5944
occupational licensing and regulatory fund. 5945

(G) As used in this section, a "criminal offense that is 5946
substantially related" has the same meaning as in section 4743.07 5947
of the Revised Code. 5948

Sec. 4758.30. (A) The chemical dependency professionals 5949
board, in accordance with Chapter 119. of the Revised Code, may 5950
refuse to issue a license or certificate applied for under this 5951
chapter; refuse to renew a license or certificate issued under 5952
this chapter; suspend, revoke, or otherwise restrict a license or 5953
certificate issued under this chapter; or reprimand an individual 5954
holding a license or certificate issued under this chapter. These 5955
actions may be taken by the board regarding the applicant for a 5956
license or certificate or the individual holding a license or 5957
certificate for one or more of the following reasons: 5958

(1) Violation of any provision of this chapter or rules 5959
adopted under it; 5960

(2) Knowingly making a false statement on an application for 5961
a license or certificate or for renewal, restoration, or 5962
reinstatement of a license or certificate; 5963

(3) Acceptance of a commission or rebate for referring an 5964
individual to a person who holds a license or certificate issued 5965
by, or who is registered with, an entity of state government, 5966
including persons practicing chemical dependency counseling, 5967
alcohol and other drug prevention services, or fields related to 5968
chemical dependency counseling or alcohol and other drug 5969
prevention services; 5970

(4) Conviction in this or any other state of ~~any crime that~~ 5971

~~is a felony or plea of guilty in this state or any other state to~~ 5972
~~a criminal offense that is substantially related to the practice~~ 5973
~~of chemical dependency counseling or alcohol and other drug~~ 5974
~~clinical counseling in this state;~~ 5975

~~(5) Conviction in this or any other state of a misdemeanor~~ 5976
~~committed in the course of practice as an independent chemical~~ 5977
~~dependency counselor, chemical dependency counselor III, chemical~~ 5978
~~dependency counselor II, chemical dependency counselor I, chemical~~ 5979
~~dependency counselor assistant, prevention specialist II,~~ 5980
~~prevention specialist I, or registered applicant;~~ 5981

~~(6) Inability to practice as an independent chemical~~ 5982
~~dependency counselor, chemical dependency counselor III, chemical~~ 5983
~~dependency counselor II, chemical dependency counselor I, chemical~~ 5984
~~dependency counselor assistant, prevention specialist II,~~ 5985
~~prevention specialist I, or registered applicant due to abuse of~~ 5986
~~or dependency on alcohol or other drugs or other physical or~~ 5987
~~mental condition;~~ 5988

~~(7)(6) Practicing outside the individual's scope of practice;~~ 5989

~~(8)(7) Practicing without complying with the supervision~~ 5990
~~requirements specified under section 4758.56, 4758.59, or 4758.61~~ 5991
~~of the Revised Code;~~ 5992

~~(9)(8) Violation of the code of ethical practice and~~ 5993
~~professional conduct for chemical dependency counseling or alcohol~~ 5994
~~and other drug prevention services adopted by the board pursuant~~ 5995
~~to section 4758.23 of the Revised Code;~~ 5996

~~(10)(9) Revocation of a license or certificate or voluntary~~ 5997
~~surrender of a license or certificate in another state or~~ 5998
~~jurisdiction for an offense that would be a violation of this~~ 5999
~~chapter.~~ 6000

(B) An individual whose license or certificate has been 6001
suspended or revoked under this section may apply to the board for 6002

reinstatement after an amount of time the board shall determine in 6003
accordance with rules adopted under section 4758.20 of the Revised 6004
Code. The board may accept or refuse an application for 6005
reinstatement. The board may require an examination for 6006
reinstatement of a license or certificate that has been suspended 6007
or revoked. 6008

(C) As used in this section, a "criminal offense that is 6009
substantially related" has the same meaning as in section 4743.07 6010
of the Revised Code. 6011

Sec. 4759.07. (A) The Ohio board of dietetics may, in 6012
accordance with Chapter 119. of the Revised Code, refuse to issue, 6013
review, or renew, or may suspend, revoke, or impose probationary 6014
conditions upon any license or permit to practice dietetics, if 6015
the applicant has: 6016

(1) Violated sections 4759.02 to 4759.10 of the Revised Code 6017
or rules adopted under those sections; 6018

(2) Knowingly made a false statement in ~~his~~ an application 6019
for licensure or license renewal; 6020

(3) Been convicted of ~~any crime constituting a felony or~~ 6021
pleaded guilty to in this or any other state a criminal offense 6022
that is substantially related to the practice of dietetics; 6023

(4) Been impaired in ~~his~~ ability to perform as a licensed 6024
dietitian due to the use of a controlled substance or alcoholic 6025
beverage; 6026

(5) ~~Been convicted of a misdemeanor committed in the course~~ 6027
~~of his work as a dietitian in this or any other state;~~ 6028

~~(6)~~ A record of incompetent or negligent conduct in ~~his~~ the 6029
practice of dietetics. 6030

(B) One year or more after the date of suspension or 6031
revocation of a license or permit, an application for 6032

reinstatement of the license or permit may be made to the board. 6033
The board shall grant or deny reinstatement with a hearing, at the 6034
request of the applicant, in accordance with Chapter 119. of the 6035
Revised Code and may impose conditions upon the reinstatement, 6036
including the requirement of passing an examination approved by 6037
the board. 6038

(C) As used in this section, a "criminal offense that is 6039
substantially related" has the same meaning as in section 4743.07 6040
of the Revised Code. 6041

Sec. 4760.13. (A) The state medical board, by an affirmative 6042
vote of not fewer than six members, may revoke or may refuse to 6043
grant a certificate of registration as an anesthesiologist 6044
assistant to a person found by the board to have committed fraud, 6045
misrepresentation, or deception in applying for or securing the 6046
certificate. 6047

(B) The board, by an affirmative vote of not fewer than six 6048
members, shall, to the extent permitted by law, limit, revoke, or 6049
suspend an individual's certificate of registration as an 6050
anesthesiologist assistant, refuse to issue a certificate to an 6051
applicant, refuse to reinstate a certificate, or reprimand or 6052
place on probation the holder of a certificate for any of the 6053
following reasons: 6054

(1) Permitting the holder's name or certificate to be used by 6055
another person; 6056

(2) Failure to comply with the requirements of this chapter, 6057
Chapter 4731. of the Revised Code, or any rules adopted by the 6058
board; 6059

(3) Violating or attempting to violate, directly or 6060
indirectly, or assisting in or abetting the violation of, or 6061
conspiring to violate, any provision of this chapter, Chapter 6062

4731. of the Revised Code, or the rules adopted by the board; 6063

(4) A departure from, or failure to conform to, minimal 6064
standards of care of similar practitioners under the same or 6065
similar circumstances whether or not actual injury to the patient 6066
is established; 6067

(5) Inability to practice according to acceptable and 6068
prevailing standards of care by reason of mental illness or 6069
physical illness, including physical deterioration that adversely 6070
affects cognitive, motor, or perceptive skills; 6071

(6) Impairment of ability to practice according to acceptable 6072
and prevailing standards of care because of habitual or excessive 6073
use or abuse of drugs, alcohol, or other substances that impair 6074
ability to practice; 6075

(7) Willfully betraying a professional confidence; 6076

(8) Making a false, fraudulent, deceptive, or misleading 6077
statement in securing or attempting to secure a certificate of 6078
registration to practice as an anesthesiologist assistant. 6079

As used in this division, "false, fraudulent, deceptive, or 6080
misleading statement" means a statement that includes a 6081
misrepresentation of fact, is likely to mislead or deceive because 6082
of a failure to disclose material facts, is intended or is likely 6083
to create false or unjustified expectations of favorable results, 6084
or includes representations or implications that in reasonable 6085
probability will cause an ordinarily prudent person to 6086
misunderstand or be deceived. 6087

(9) The obtaining of, or attempting to obtain, money or a 6088
thing of value by fraudulent misrepresentations in the course of 6089
practice; 6090

(10) A plea of guilty to, a judicial finding of guilt of, or 6091
a judicial finding of eligibility for intervention in lieu of 6092

conviction for, a ~~felony~~ criminal offense that is substantially 6093
related to practice as an anesthesiologist assistant; 6094

(11) Commission of an act that constitutes a ~~felony~~ criminal 6095
offense that is substantially related to practice as an 6096
anesthesiologist assistant in this state, regardless of the 6097
jurisdiction in which the act was committed; 6098

~~(12) A plea of guilty to, a judicial finding of guilt of, or~~ 6099
~~a judicial finding of eligibility for intervention in lieu of~~ 6100
~~conviction for, a misdemeanor committed in the course of practice;~~ 6101

~~(13) A plea of guilty to, a judicial finding of guilt of, or~~ 6102
~~a judicial finding of eligibility for intervention in lieu of~~ 6103
~~conviction for, a misdemeanor involving moral turpitude;~~ 6104

~~(14) Commission of an act in the course of practice that~~ 6105
~~constitutes a misdemeanor in this state, regardless of the~~ 6106
~~jurisdiction in which the act was committed;~~ 6107

~~(15) Commission of an act involving moral turpitude that~~ 6108
~~constitutes a misdemeanor in this state, regardless of the~~ 6109
~~jurisdiction in which the act was committed;~~ 6110

~~(16)~~ A plea of guilty to, a judicial finding of guilt of, or 6111
a judicial finding of eligibility for intervention in lieu of 6112
conviction for violating any state or federal law regulating the 6113
possession, distribution, or use of any drug, including 6114
trafficking in drugs; 6115

~~(17)~~(13) Any of the following actions taken by the state 6116
agency responsible for regulating the practice of anesthesiologist 6117
assistants in another jurisdiction, for any reason other than the 6118
nonpayment of fees: the limitation, revocation, or suspension of 6119
an individual's license to practice; acceptance of an individual's 6120
license surrender; denial of a license; refusal to renew or 6121
reinstate a license; imposition of probation; or issuance of an 6122
order of censure or other reprimand; 6123

~~(18)~~(14) Violation of the conditions placed by the board on a certificate of registration; 6124
6125

~~(19)~~(15) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code; 6126
6127
6128

~~(20)~~(16) Failure to cooperate in an investigation conducted by the board under section 4760.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue; 6129
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~~(21)~~(17) Failure to comply with any code of ethics established by the national commission for the certification of anesthesiologist assistants; 6138
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~~(22)~~(18) Failure to notify the state medical board of the revocation or failure to maintain certification from the national commission for certification of anesthesiologist assistants. 6141
6142
6143

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an anesthesiologist assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the 6144
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consent agreement shall be of no force or effect. 6155

(D) For purposes of ~~divisions~~ division (B)(11), ~~(14)~~, and 6156
~~(15)~~ of this section, the commission of the act may be established 6157
by a finding by the board, pursuant to an adjudication under 6158
Chapter 119. of the Revised Code, that the applicant or 6159
certificate holder committed the act in question. The board shall 6160
have no jurisdiction under ~~these divisions~~ that division in cases 6161
where the trial court renders a final judgment in the certificate 6162
holder's favor and that judgment is based upon an adjudication on 6163
the merits. The board shall have jurisdiction under ~~these~~ 6164
~~divisions~~ that division in cases where the trial court issues an 6165
order of dismissal on technical or procedural grounds. 6166

(E) The sealing of conviction records by any court shall have 6167
no effect on a prior board order entered under the provisions of 6168
this section or on the board's jurisdiction to take action under 6169
the provisions of this section if, based upon a plea of guilty, a 6170
judicial finding of guilt, or a judicial finding of eligibility 6171
for intervention in lieu of conviction, the board issued a notice 6172
of opportunity for a hearing prior to the court's order to seal 6173
the records. The board shall not be required to seal, destroy, 6174
redact, or otherwise modify its records to reflect the court's 6175
sealing of conviction records. 6176

(F) For purposes of this division, any individual who holds a 6177
certificate of registration issued under this chapter, or applies 6178
for a certificate of registration, shall be deemed to have given 6179
consent to submit to a mental or physical examination when 6180
directed to do so in writing by the board and to have waived all 6181
objections to the admissibility of testimony or examination 6182
reports that constitute a privileged communication. 6183

(1) In enforcing division (B)(5) of this section, the board, 6184
on a showing of a possible violation, may compel any individual 6185
who holds a certificate of registration issued under this chapter 6186

or who has applied for a certificate of registration pursuant to 6187
this chapter to submit to a mental or physical examination, or 6188
both. A physical examination may include an HIV test. The expense 6189
of the examination is the responsibility of the individual 6190
compelled to be examined. Failure to submit to a mental or 6191
physical examination or consent to an HIV test ordered by the 6192
board constitutes an admission of the allegations against the 6193
individual unless the failure is due to circumstances beyond the 6194
individual's control, and a default and final order may be entered 6195
without the taking of testimony or presentation of evidence. If 6196
the board finds an anesthesiologist assistant unable to practice 6197
because of the reasons set forth in division (B)(5) of this 6198
section, the board shall require the anesthesiologist assistant to 6199
submit to care, counseling, or treatment by physicians approved or 6200
designated by the board, as a condition for an initial, continued, 6201
reinstated, or renewed certificate of registration. An individual 6202
affected by this division shall be afforded an opportunity to 6203
demonstrate to the board the ability to resume practicing in 6204
compliance with acceptable and prevailing standards of care. 6205

(2) For purposes of division (B)(6) of this section, if the 6206
board has reason to believe that any individual who holds a 6207
certificate of registration issued under this chapter or any 6208
applicant for a certificate of registration suffers such 6209
impairment, the board may compel the individual to submit to a 6210
mental or physical examination, or both. The expense of the 6211
examination is the responsibility of the individual compelled to 6212
be examined. Any mental or physical examination required under 6213
this division shall be undertaken by a treatment provider or 6214
physician qualified to conduct such examination and chosen by the 6215
board. 6216

Failure to submit to a mental or physical examination ordered 6217
by the board constitutes an admission of the allegations against 6218

the individual unless the failure is due to circumstances beyond 6219
the individual's control, and a default and final order may be 6220
entered without the taking of testimony or presentation of 6221
evidence. If the board determines that the individual's ability to 6222
practice is impaired, the board shall suspend the individual's 6223
certificate or deny the individual's application and shall require 6224
the individual, as a condition for an initial, continued, 6225
reinstated, or renewed certificate of registration, to submit to 6226
treatment. 6227

Before being eligible to apply for reinstatement of a 6228
certificate suspended under this division, the anesthesiologist 6229
assistant shall demonstrate to the board the ability to resume 6230
practice in compliance with acceptable and prevailing standards of 6231
care. The demonstration shall include the following: 6232

(a) Certification from a treatment provider approved under 6233
section 4731.25 of the Revised Code that the individual has 6234
successfully completed any required inpatient treatment; 6235

(b) Evidence of continuing full compliance with an aftercare 6236
contract or consent agreement; 6237

(c) Two written reports indicating that the individual's 6238
ability to practice has been assessed and that the individual has 6239
been found capable of practicing according to acceptable and 6240
prevailing standards of care. The reports shall be made by 6241
individuals or providers approved by the board for making such 6242
assessments and shall describe the basis for their determination. 6243

The board may reinstate a certificate suspended under this 6244
division after such demonstration and after the individual has 6245
entered into a written consent agreement. 6246

When the impaired anesthesiologist assistant resumes 6247
practice, the board shall require continued monitoring of the 6248
anesthesiologist assistant. The monitoring shall include 6249

monitoring of compliance with the written consent agreement 6250
entered into before reinstatement or with conditions imposed by 6251
board order after a hearing, and, on termination of the consent 6252
agreement, submission to the board for at least two years of 6253
annual written progress reports made under penalty of 6254
falsification stating whether the anesthesiologist assistant has 6255
maintained sobriety. 6256

(G) If the secretary and supervising member determine that 6257
there is clear and convincing evidence that an anesthesiologist 6258
assistant has violated division (B) of this section and that the 6259
individual's continued practice presents a danger of immediate and 6260
serious harm to the public, they may recommend that the board 6261
suspend the individual's certificate or registration without a 6262
prior hearing. Written allegations shall be prepared for 6263
consideration by the board. 6264

The board, on review of the allegations and by an affirmative 6265
vote of not fewer than six of its members, excluding the secretary 6266
and supervising member, may suspend a certificate without a prior 6267
hearing. A telephone conference call may be utilized for reviewing 6268
the allegations and taking the vote on the summary suspension. 6269

The board shall issue a written order of suspension by 6270
certified mail or in person in accordance with section 119.07 of 6271
the Revised Code. The order shall not be subject to suspension by 6272
the court during pendency of any appeal filed under section 119.12 6273
of the Revised Code. If the anesthesiologist assistant requests an 6274
adjudicatory hearing by the board, the date set for the hearing 6275
shall be within fifteen days, but not earlier than seven days, 6276
after the anesthesiologist assistant requests the hearing, unless 6277
otherwise agreed to by both the board and the certificate holder. 6278

A summary suspension imposed under this division shall remain 6279
in effect, unless reversed on appeal, until a final adjudicative 6280
order issued by the board pursuant to this section and Chapter 6281

119. of the Revised Code becomes effective. The board shall issue 6282
its final adjudicative order within sixty days after completion of 6283
its hearing. Failure to issue the order within sixty days shall 6284
result in dissolution of the summary suspension order, but shall 6285
not invalidate any subsequent, final adjudicative order. 6286

(H) If the board takes action under division (B)(11),~~(13)~~, 6287
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 6288
plea, or judicial finding of eligibility for intervention in lieu 6289
of conviction is overturned on appeal, on exhaustion of the 6290
criminal appeal, a petition for reconsideration of the order may 6291
be filed with the board along with appropriate court documents. On 6292
receipt of a petition and supporting court documents, the board 6293
shall reinstate the certificate of registration. The board may 6294
then hold an adjudication under Chapter 119. of the Revised Code 6295
to determine whether the individual committed the act in question. 6296
Notice of opportunity for hearing shall be given in accordance 6297
with Chapter 119. of the Revised Code. If the board finds, 6298
pursuant to an adjudication held under this division, that the 6299
individual committed the act, or if no hearing is requested, it 6300
may order any of the sanctions specified in division (B) of this 6301
section. 6302

(I) The certificate of registration of an anesthesiologist 6303
assistant and the assistant's practice in this state are 6304
automatically suspended as of the date the anesthesiologist 6305
assistant pleads guilty to, is found by a judge or jury to be 6306
guilty of, or is subject to a judicial finding of eligibility for 6307
intervention in lieu of conviction in this state or treatment of 6308
intervention in lieu of conviction in another jurisdiction for any 6309
of the following criminal offenses in this state or a 6310
substantially equivalent criminal offense in another jurisdiction: 6311
aggravated murder, murder, voluntary manslaughter, felonious 6312
assault, kidnapping, rape, sexual battery, gross sexual 6313

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

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

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

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

(L) When the board refuses to grant a certificate of
registration as an anesthesiologist assistant to an applicant,
revokes an individual's certificate of registration, refuses to
renew a certificate of registration, or refuses to reinstate an

individual's certificate of registration, the board may specify 6346
that its action is permanent. An individual subject to a permanent 6347
action taken by the board is forever thereafter ineligible to hold 6348
a certificate of registration as an anesthesiologist assistant and 6349
the board shall not accept an application for reinstatement of the 6350
certificate or for issuance of a new certificate. 6351

(M) Notwithstanding any other provision of the Revised Code, 6352
all of the following apply: 6353

(1) The surrender of a certificate of registration issued 6354
under this chapter is not effective unless or until accepted by 6355
the board. Reinstatement of a certificate surrendered to the board 6356
requires an affirmative vote of not fewer than six members of the 6357
board. 6358

(2) An application made under this chapter for a certificate 6359
of registration may not be withdrawn without approval of the 6360
board. 6361

(3) Failure by an individual to renew a certificate of 6362
registration in accordance with section 4760.06 of the Revised 6363
Code shall not remove or limit the board's jurisdiction to take 6364
disciplinary action under this section against the individual. 6365

(N) As used in this section, a "criminal offense that is 6366
substantially related" has the same meaning as in section 4743.07 6367
of the Revised Code. 6368

Sec. 4761.09. (A) The Ohio respiratory care board may refuse 6369
to issue or renew a license or a limited permit, may issue a 6370
reprimand, may suspend or permanently revoke a license or limited 6371
permit, or may place a license or limited permit holder on 6372
probation, on any of the following grounds: 6373

(1) A plea of guilty to, a judicial finding of guilt of, or a 6374
judicial finding of eligibility for intervention in lieu of 6375

conviction for ~~an a criminal~~ offense involving moral turpitude ~~or~~ 6376
~~of a felony~~ that is substantially related to the practice of 6377
respiratory care, in which case a certified copy of the court 6378
record shall be conclusive evidence of the matter; 6379

(2) Violating any provision of this chapter or an order or 6380
rule of the board; 6381

(3) Assisting another person in that person's violation of 6382
any provision of this chapter or an order or rule of the board; 6383

(4) Obtaining a license or limited permit by means of fraud, 6384
false or misleading representation, or concealment of material 6385
facts or making any other material misrepresentation to the board; 6386

(5) Being guilty of negligence or gross misconduct in the 6387
practice of respiratory care; 6388

(6) Violating the standards of ethical conduct adopted by the 6389
board, in the practice of respiratory care; 6390

(7) Engaging in dishonorable, unethical, or unprofessional 6391
conduct of a character likely to deceive, defraud, or harm the 6392
public; 6393

(8) Using any dangerous drug, as defined in section 4729.01 6394
of the Revised Code, or alcohol to the extent that the use impairs 6395
the ability to practice respiratory care at an acceptable level of 6396
competency; 6397

(9) Practicing respiratory care while mentally incompetent; 6398

(10) Accepting commissions, rebates, or other forms of 6399
remuneration for patient referrals; 6400

(11) Practicing in an area of respiratory care for which the 6401
person is clearly untrained or incompetent or practicing in a 6402
manner that conflicts with section 4761.17 of the Revised Code; 6403

(12) Employing, directing, or supervising a person who is not 6404
authorized to practice respiratory care under this chapter in the 6405

performance of respiratory care procedures; 6406

(13) Misrepresenting educational attainments or authorized 6407
functions for the purpose of obtaining some benefit related to the 6408
practice of respiratory care; 6409

(14) Assisting suicide as defined in section 3795.01 of the 6410
Revised Code. 6411

Before the board may take any action under this section, 6412
other than issuance of a summary suspension order under division 6413
(C) of this section, the executive director of the board shall 6414
prepare and file written charges with the board. Disciplinary 6415
actions taken by the board under this section shall be taken 6416
pursuant to an adjudication under Chapter 119. of the Revised 6417
Code, except that in lieu of an adjudication, the board may enter 6418
into a consent agreement to resolve an allegation of a violation 6419
of this chapter or any rule adopted under it. A consent agreement, 6420
when ratified by the board, shall constitute the findings and 6421
order of the board with respect to the matter addressed in the 6422
agreement. If the board refuses to ratify a consent agreement, the 6423
admissions and findings contained in the consent agreement shall 6424
be of no effect. 6425

(B) If the board orders a license or limited permit holder 6426
placed on probation, the order shall be accompanied by a written 6427
statement of the conditions under which the person may be restored 6428
to practice. 6429

The person may reapply to the board for original issuance of 6430
a license after one year following the date the license was 6431
denied. 6432

A person may apply to the board for the reinstatement of a 6433
license or limited permit after one year following the date of 6434
suspension or refusal to renew. The board may accept or refuse the 6435
application for reinstatement and may require that the applicant 6436

pass a reexamination as a condition of eligibility for 6437
reinstatement. 6438

(C) If the president and secretary of the board determine 6439
that there is clear and convincing evidence that a license or 6440
limited permit holder has committed an act that is grounds for 6441
board action under division (A) of this section and that continued 6442
practice by the license or permit holder presents a danger of 6443
immediate and serious harm to the public, the president and 6444
secretary may recommend that the board suspend the license or 6445
limited permit without a prior hearing. The president and 6446
secretary shall submit in writing to the board the allegations 6447
causing them to recommend the suspension. 6448

On review of the allegations, the board, by a vote of not 6449
less than seven of its members, may suspend a license or limited 6450
permit without a prior hearing. The board may review the 6451
allegations and vote on the suspension by a telephone conference 6452
call. 6453

If the board votes to suspend a license or limited permit 6454
under this division, the board shall issue a written order of 6455
summary suspension to the license or limited permit holder in 6456
accordance with section 119.07 of the Revised Code. If the license 6457
or limited permit holder requests a hearing by the board, the 6458
board shall conduct the hearing in accordance with Chapter 119. of 6459
the Revised Code. Notwithstanding section 119.12 of the Revised 6460
Code, a court of common pleas shall not grant a suspension of the 6461
board's order of summary suspension pending determination of an 6462
appeal filed under that section. 6463

Any order of summary suspension issued under this division 6464
shall remain in effect until a final adjudication order issued by 6465
the board pursuant to division (A) of this section becomes 6466
effective. The board shall issue its final adjudication order 6467
regarding an order of summary suspension issued under this 6468

division not later than sixty days after completion of its 6469
hearing. Failure to issue the order within sixty days shall result 6470
in immediate dissolution of the suspension order, but shall not 6471
invalidate any subsequent, final adjudication order. 6472

(D) As used in this section, a "criminal offense that is 6473
substantially related" has the same meaning as in section 4743.07 6474
of the Revised Code. 6475

Sec. 4762.13. (A) The state medical board, by an affirmative 6476
vote of not fewer than six members, may revoke or may refuse to 6477
grant a certificate to practice as an acupuncturist to a person 6478
found by the board to have committed fraud, misrepresentation, or 6479
deception in applying for or securing the certificate. 6480

(B) The board, by an affirmative vote of not fewer than six 6481
members, shall, to the extent permitted by law, limit, revoke, or 6482
suspend an individual's certificate to practice as an 6483
acupuncturist, refuse to issue a certificate to an applicant, 6484
refuse to reinstate a certificate, or reprimand or place on 6485
probation the holder of a certificate for any of the following 6486
reasons: 6487

(1) Permitting the holder's name or certificate to be used by 6488
another person; 6489

(2) Failure to comply with the requirements of this chapter, 6490
Chapter 4731. of the Revised Code, or any rules adopted by the 6491
board; 6492

(3) Violating or attempting to violate, directly or 6493
indirectly, or assisting in or abetting the violation of, or 6494
conspiring to violate, any provision of this chapter, Chapter 6495
4731. of the Revised Code, or the rules adopted by the board; 6496

(4) A departure from, or failure to conform to, minimal 6497
standards of care of similar practitioners under the same or 6498

similar circumstances whether or not actual injury to the patient 6499
is established; 6500

(5) Inability to practice according to acceptable and 6501
prevailing standards of care by reason of mental illness or 6502
physical illness, including physical deterioration that adversely 6503
affects cognitive, motor, or perceptive skills; 6504

(6) Impairment of ability to practice according to acceptable 6505
and prevailing standards of care because of habitual or excessive 6506
use or abuse of drugs, alcohol, or other substances that impair 6507
ability to practice; 6508

(7) Willfully betraying a professional confidence; 6509

(8) Making a false, fraudulent, deceptive, or misleading 6510
statement in soliciting or advertising for patients or in securing 6511
or attempting to secure a certificate to practice as an 6512
acupuncturist. 6513

As used in this division, "false, fraudulent, deceptive, or 6514
misleading statement" means a statement that includes a 6515
misrepresentation of fact, is likely to mislead or deceive because 6516
of a failure to disclose material facts, is intended or is likely 6517
to create false or unjustified expectations of favorable results, 6518
or includes representations or implications that in reasonable 6519
probability will cause an ordinarily prudent person to 6520
misunderstand or be deceived. 6521

(9) Representing, with the purpose of obtaining compensation 6522
or other advantage personally or for any other person, that an 6523
incurable disease or injury, or other incurable condition, can be 6524
permanently cured; 6525

(10) The obtaining of, or attempting to obtain, money or a 6526
thing of value by fraudulent misrepresentations in the course of 6527
practice; 6528

(11) A plea of guilty to, a judicial finding of guilt of, or 6529
a judicial finding of eligibility for intervention in lieu of 6530
conviction for, a felony criminal offense that is substantially 6531
related to the practice of acupuncture; 6532

(12) Commission of an act that constitutes a felony criminal 6533
offense that is substantially related to the practice of 6534
acupuncture in this state, regardless of the jurisdiction in which 6535
the act was committed; 6536

~~(13) A plea of guilty to, a judicial finding of guilt of, or 6537
a judicial finding of eligibility for intervention in lieu of 6538
conviction for, a misdemeanor committed in the course of practice;~~ 6539

~~(14) A plea of guilty to, a judicial finding of guilt of, or 6540
a judicial finding of eligibility for intervention in lieu of 6541
conviction for, a misdemeanor involving moral turpitude;~~ 6542

~~(15) Commission of an act in the course of practice that 6543
constitutes a misdemeanor in this state, regardless of the 6544
jurisdiction in which the act was committed;~~ 6545

~~(16) Commission of an act involving moral turpitude that 6546
constitutes a misdemeanor in this state, regardless of the 6547
jurisdiction in which the act was committed;~~ 6548

~~(17) A plea of guilty to, a judicial finding of guilt of, or 6549
a judicial finding of eligibility for intervention in lieu of 6550
conviction for violating any state or federal law regulating the 6551
possession, distribution, or use of any drug, including 6552
trafficking in drugs;~~ 6553

~~(18)~~(14) Any of the following actions taken by the state 6554
agency responsible for regulating the practice of acupuncture in 6555
another jurisdiction, for any reason other than the nonpayment of 6556
fees: the limitation, revocation, or suspension of an individual's 6557
license to practice; acceptance of an individual's license 6558
surrender; denial of a license; refusal to renew or reinstate a 6559

license; imposition of probation; or issuance of an order of 6560
censure or other reprimand; 6561

~~(19)~~(15) Violation of the conditions placed by the board on a 6562
certificate to practice as an acupuncturist; 6563

~~(20)~~(16) Failure to use universal blood and body fluid 6564
precautions established by rules adopted under section 4731.051 of 6565
the Revised Code; 6566

~~(21)~~(17) Failure to cooperate in an investigation conducted 6567
by the board under section 4762.14 of the Revised Code, including 6568
failure to comply with a subpoena or order issued by the board or 6569
failure to answer truthfully a question presented by the board at 6570
a deposition or in written interrogatories, except that failure to 6571
cooperate with an investigation shall not constitute grounds for 6572
discipline under this section if a court of competent jurisdiction 6573
has issued an order that either quashes a subpoena or permits the 6574
individual to withhold the testimony or evidence in issue; 6575

~~(22)~~(18) Failure to comply with the standards of the national 6576
certification commission for acupuncture and oriental medicine 6577
regarding professional ethics, commitment to patients, commitment 6578
to the profession, and commitment to the public; 6579

~~(23)~~(19) Failure to have adequate professional liability 6580
insurance coverage in accordance with section 4762.22 of the 6581
Revised Code. 6582

(C) Disciplinary actions taken by the board under divisions 6583
(A) and (B) of this section shall be taken pursuant to an 6584
adjudication under Chapter 119. of the Revised Code, except that 6585
in lieu of an adjudication, the board may enter into a consent 6586
agreement with an acupuncturist or applicant to resolve an 6587
allegation of a violation of this chapter or any rule adopted 6588
under it. A consent agreement, when ratified by an affirmative 6589
vote of not fewer than six members of the board, shall constitute 6590

the findings and order of the board with respect to the matter 6591
addressed in the agreement. If the board refuses to ratify a 6592
consent agreement, the admissions and findings contained in the 6593
consent agreement shall be of no force or effect. 6594

(D) For purposes of ~~divisions~~ division (B)(12), ~~(15), and~~ 6595
~~(16)~~ of this section, the commission of the act may be established 6596
by a finding by the board, pursuant to an adjudication under 6597
Chapter 119. of the Revised Code, that the applicant or 6598
certificate holder committed the act in question. The board shall 6599
have no jurisdiction under ~~these divisions~~ that division in cases 6600
where the trial court renders a final judgment in the certificate 6601
holder's favor and that judgment is based upon an adjudication on 6602
the merits. The board shall have jurisdiction under ~~these~~ 6603
~~divisions~~ that division in cases where the trial court issues an 6604
order of dismissal upon technical or procedural grounds. 6605

(E) The sealing of conviction records by any court shall have 6606
no effect upon a prior board order entered under the provisions of 6607
this section or upon the board's jurisdiction to take action under 6608
the provisions of this section if, based upon a plea of guilty, a 6609
judicial finding of guilt, or a judicial finding of eligibility 6610
for intervention in lieu of conviction, the board issued a notice 6611
of opportunity for a hearing prior to the court's order to seal 6612
the records. The board shall not be required to seal, destroy, 6613
redact, or otherwise modify its records to reflect the court's 6614
sealing of conviction records. 6615

(F) For purposes of this division, any individual who holds a 6616
certificate to practice issued under this chapter, or applies for 6617
a certificate to practice, shall be deemed to have given consent 6618
to submit to a mental or physical examination when directed to do 6619
so in writing by the board and to have waived all objections to 6620
the admissibility of testimony or examination reports that 6621
constitute a privileged communication. 6622

(1) In enforcing division (B)(5) of this section, the board, 6623
upon a showing of a possible violation, may compel any individual 6624
who holds a certificate to practice issued under this chapter or 6625
who has applied for a certificate pursuant to this chapter to 6626
submit to a mental examination, physical examination, including an 6627
HIV test, or both a mental and physical examination. The expense 6628
of the examination is the responsibility of the individual 6629
compelled to be examined. Failure to submit to a mental or 6630
physical examination or consent to an HIV test ordered by the 6631
board constitutes an admission of the allegations against the 6632
individual unless the failure is due to circumstances beyond the 6633
individual's control, and a default and final order may be entered 6634
without the taking of testimony or presentation of evidence. If 6635
the board finds an acupuncturist unable to practice because of the 6636
reasons set forth in division (B)(5) of this section, the board 6637
shall require the acupuncturist to submit to care, counseling, or 6638
treatment by physicians approved or designated by the board, as a 6639
condition for an initial, continued, reinstated, or renewed 6640
certificate to practice. An individual affected by this division 6641
shall be afforded an opportunity to demonstrate to the board the 6642
ability to resume practicing in compliance with acceptable and 6643
prevailing standards of care. 6644

(2) For purposes of division (B)(6) of this section, if the 6645
board has reason to believe that any individual who holds a 6646
certificate to practice issued under this chapter or any applicant 6647
for a certificate suffers such impairment, the board may compel 6648
the individual to submit to a mental or physical examination, or 6649
both. The expense of the examination is the responsibility of the 6650
individual compelled to be examined. Any mental or physical 6651
examination required under this division shall be undertaken by a 6652
treatment provider or physician qualified to conduct such 6653
examination and chosen by the board. 6654

Failure to submit to a mental or physical examination ordered 6655
by the board constitutes an admission of the allegations against 6656
the individual unless the failure is due to circumstances beyond 6657
the individual's control, and a default and final order may be 6658
entered without the taking of testimony or presentation of 6659
evidence. If the board determines that the individual's ability to 6660
practice is impaired, the board shall suspend the individual's 6661
certificate or deny the individual's application and shall require 6662
the individual, as a condition for an initial, continued, 6663
reinstated, or renewed certificate, to submit to treatment. 6664

Before being eligible to apply for reinstatement of a 6665
certificate suspended under this division, the acupuncturist shall 6666
demonstrate to the board the ability to resume practice in 6667
compliance with acceptable and prevailing standards of care. The 6668
demonstration shall include the following: 6669

(a) Certification from a treatment provider approved under 6670
section 4731.25 of the Revised Code that the individual has 6671
successfully completed any required inpatient treatment; 6672

(b) Evidence of continuing full compliance with an aftercare 6673
contract or consent agreement; 6674

(c) Two written reports indicating that the individual's 6675
ability to practice has been assessed and that the individual has 6676
been found capable of practicing according to acceptable and 6677
prevailing standards of care. The reports shall be made by 6678
individuals or providers approved by the board for making such 6679
assessments and shall describe the basis for their determination. 6680

The board may reinstate a certificate suspended under this 6681
division after such demonstration and after the individual has 6682
entered into a written consent agreement. 6683

When the impaired acupuncturist resumes practice, the board 6684
shall require continued monitoring of the acupuncturist. The 6685

monitoring shall include monitoring of compliance with the written 6686
consent agreement entered into before reinstatement or with 6687
conditions imposed by board order after a hearing, and, upon 6688
termination of the consent agreement, submission to the board for 6689
at least two years of annual written progress reports made under 6690
penalty of falsification stating whether the acupuncturist has 6691
maintained sobriety. 6692

(G) If the secretary and supervising member determine that 6693
there is clear and convincing evidence that an acupuncturist has 6694
violated division (B) of this section and that the individual's 6695
continued practice presents a danger of immediate and serious harm 6696
to the public, they may recommend that the board suspend the 6697
individual's certificate to practice without a prior hearing. 6698
Written allegations shall be prepared for consideration by the 6699
board. 6700

The board, upon review of the allegations and by an 6701
affirmative vote of not fewer than six of its members, excluding 6702
the secretary and supervising member, may suspend a certificate 6703
without a prior hearing. A telephone conference call may be 6704
utilized for reviewing the allegations and taking the vote on the 6705
summary suspension. 6706

The board shall issue a written order of suspension by 6707
certified mail or in person in accordance with section 119.07 of 6708
the Revised Code. The order shall not be subject to suspension by 6709
the court during pendency of any appeal filed under section 119.12 6710
of the Revised Code. If the acupuncturist requests an adjudicatory 6711
hearing by the board, the date set for the hearing shall be within 6712
fifteen days, but not earlier than seven days, after the 6713
acupuncturist requests the hearing, unless otherwise agreed to by 6714
both the board and the certificate holder. 6715

A summary suspension imposed under this division shall remain 6716
in effect, unless reversed on appeal, until a final adjudicative 6717

order issued by the board pursuant to this section and Chapter 6718
119. of the Revised Code becomes effective. The board shall issue 6719
its final adjudicative order within sixty days after completion of 6720
its hearing. Failure to issue the order within sixty days shall 6721
result in dissolution of the summary suspension order, but shall 6722
not invalidate any subsequent, final adjudicative order. 6723

(H) If the board takes action under division (B)(11), ~~(13),~~ 6724
~~or (14)~~ of this section, and the judicial finding of guilt, guilty 6725
plea, or judicial finding of eligibility for intervention in lieu 6726
of conviction is overturned on appeal, upon exhaustion of the 6727
criminal appeal, a petition for reconsideration of the order may 6728
be filed with the board along with appropriate court documents. 6729
Upon receipt of a petition and supporting court documents, the 6730
board shall reinstate the certificate to practice. The board may 6731
then hold an adjudication under Chapter 119. of the Revised Code 6732
to determine whether the individual committed the act in question. 6733
Notice of opportunity for hearing shall be given in accordance 6734
with Chapter 119. of the Revised Code. If the board finds, 6735
pursuant to an adjudication held under this division, that the 6736
individual committed the act, or if no hearing is requested, it 6737
may order any of the sanctions specified in division (B) of this 6738
section. 6739

(I) The certificate to practice of an acupuncturist and the 6740
acupuncturist's practice in this state are automatically suspended 6741
as of the date the acupuncturist pleads guilty to, is found by a 6742
judge or jury to be guilty of, or is subject to a judicial finding 6743
of eligibility for intervention in lieu of conviction in this 6744
state or treatment or intervention in lieu of conviction in 6745
another jurisdiction for any of the following criminal offenses in 6746
this state or a substantially equivalent criminal offense in 6747
another jurisdiction: aggravated murder, murder, voluntary 6748
manslaughter, felonious assault, kidnapping, rape, sexual battery, 6749

gross sexual imposition, aggravated arson, aggravated robbery, or 6750
aggravated burglary. Continued practice after the suspension shall 6751
be considered practicing without a certificate. 6752

The board shall notify the individual subject to the 6753
suspension by certified mail or in person in accordance with 6754
section 119.07 of the Revised Code. If an individual whose 6755
certificate is suspended under this division fails to make a 6756
timely request for an adjudication under Chapter 119. of the 6757
Revised Code, the board shall enter a final order permanently 6758
revoking the individual's certificate to practice. 6759

(J) In any instance in which the board is required by Chapter 6760
119. of the Revised Code to give notice of opportunity for hearing 6761
and the individual subject to the notice does not timely request a 6762
hearing in accordance with section 119.07 of the Revised Code, the 6763
board is not required to hold a hearing, but may adopt, by an 6764
affirmative vote of not fewer than six of its members, a final 6765
order that contains the board's findings. In the final order, the 6766
board may order any of the sanctions identified under division (A) 6767
or (B) of this section. 6768

(K) Any action taken by the board under division (B) of this 6769
section resulting in a suspension shall be accompanied by a 6770
written statement of the conditions under which the 6771
acupuncturist's certificate to practice may be reinstated. The 6772
board shall adopt rules in accordance with Chapter 119. of the 6773
Revised Code governing conditions to be imposed for reinstatement. 6774
Reinstatement of a certificate suspended pursuant to division (B) 6775
of this section requires an affirmative vote of not fewer than six 6776
members of the board. 6777

(L) When the board refuses to grant a certificate to practice 6778
as an acupuncturist to an applicant, revokes an individual's 6779
certificate, refuses to renew a certificate, or refuses to 6780
reinstate an individual's certificate, the board may specify that 6781

its action is permanent. An individual subject to a permanent 6782
action taken by the board is forever thereafter ineligible to hold 6783
a certificate to practice as an acupuncturist and the board shall 6784
not accept an application for reinstatement of the certificate or 6785
for issuance of a new certificate. 6786

(M) Notwithstanding any other provision of the Revised Code, 6787
all of the following apply: 6788

(1) The surrender of a certificate to practice as an 6789
acupuncturist issued under this chapter is not effective unless or 6790
until accepted by the board. Reinstatement of a certificate 6791
surrendered to the board requires an affirmative vote of not fewer 6792
than six members of the board. 6793

(2) An application made under this chapter for a certificate 6794
may not be withdrawn without approval of the board. 6795

(3) Failure by an individual to renew a certificate in 6796
accordance with section 4762.06 of the Revised Code shall not 6797
remove or limit the board's jurisdiction to take disciplinary 6798
action under this section against the individual. 6799

(N) As used in this section, a "criminal offense that is 6800
substantially related" has the same meaning as in section 4743.07 6801
of the Revised Code. 6802

Sec. 4763.11. (A) Within ten business days after a person 6803
files a written complaint against a person certified, registered, 6804
or licensed under this chapter with the division of real estate, 6805
the superintendent of real estate shall acknowledge receipt of the 6806
complaint by sending notice to the certificate holder, registrant, 6807
or licensee that includes a copy of the complaint. The 6808
acknowledgement to the complainant and the notice to the 6809
certificate holder, registrant, or licensee may state that an 6810
informal mediation meeting will be held with the complainant, the 6811

certificate holder, registrant, or licensee, and an investigator 6812
from the investigation and audit section of the division, if the 6813
complainant and certificate holder, registrant, or licensee both 6814
file a request for such a meeting within twenty calendar days 6815
after the acknowledgment and notice are mailed. 6816

(B) If the complainant and certificate holder, registrant, or 6817
licensee both file with the division requests for an informal 6818
mediation meeting, the superintendent shall notify the complainant 6819
and certificate holder, registrant, or licensee of the date of the 6820
meeting, by regular mail. If the complainant and certificate 6821
holder, registrant, or licensee reach an accommodation at an 6822
informal mediation meeting, the investigator shall report the 6823
accommodation to the superintendent, the complainant, and the 6824
certificate holder, registrant, or licensee and the complaint file 6825
shall be closed upon the superintendent receiving satisfactory 6826
notice that the accommodation has been fulfilled. 6827

(C) If the complainant and certificate holder, registrant, or 6828
licensee fail to agree to an informal mediation meeting or fail to 6829
reach an accommodation agreement, or fail to fulfill an 6830
accommodation agreement, the superintendent shall assign the 6831
complaint to an investigator for an investigation into the conduct 6832
of the certificate holder, registrant, or licensee against whom 6833
the complaint is filed. 6834

(D) Upon the conclusion of the investigation, the 6835
investigator shall file a written report of the results of the 6836
investigation with the superintendent. The superintendent shall 6837
review the report and determine whether there exists reasonable 6838
and substantial evidence of a violation of division (G) of this 6839
section by the certificate holder, registrant, or licensee. If the 6840
superintendent finds such evidence exists, the superintendent 6841
shall notify the complainant and certificate holder, registrant, 6842
or licensee of the determination. The certificate holder, 6843

registrant, or licensee may request a hearing pursuant to Chapter 6844
119. of the Revised Code. If a formal hearing is conducted, the 6845
hearing examiner shall file a report of findings of fact and 6846
conclusions of law with the superintendent, the board, the 6847
complainant and the certificate holder, licensee, or registrant 6848
after the conclusion of the formal hearing. Within ten calendar 6849
days of receipt of the copy of the hearing examiner's finding of 6850
fact and conclusions of law, the certificate holder, licensee, or 6851
registrant or the division may file with the board written 6852
objections to the hearing examiner's report, which shall be 6853
considered by the board before approving, modifying, or rejecting 6854
the hearing examiner's report. If the superintendent finds that 6855
such evidence does not exist, the superintendent shall notify the 6856
complainant and certificate holder, registrant, or licensee of 6857
that determination and the basis for the determination. Within 6858
fifteen business days after the superintendent notifies the 6859
complainant and certificate holder, registrant, or licensee that 6860
such evidence does not exist, the complainant may file with the 6861
division a request that the real estate appraiser board review the 6862
determination. If the complainant files such request, the board 6863
shall review the determination at the next regularly scheduled 6864
meeting held at least fifteen business days after the request is 6865
filed but no longer than six months after the request is filed. 6866
The board may hear the testimony of the complainant, certificate 6867
holder, registrant, or licensee at the meeting upon the request of 6868
that party. If the board affirms the determination of the 6869
superintendent, the superintendent shall notify the complainant 6870
and the certificate holder, registrant, or licensee within five 6871
business days thereafter. If the board reverses the determination 6872
of the superintendent, a hearing before a hearing examiner shall 6873
be held and the complainant and certificate holder, registrant, or 6874
licensee notified as provided in this division. 6875

(E) The board shall review the referee's or hearing 6876

examiner's report and the evidence at the next regularly scheduled 6877
board meeting held at least fifteen business days after receipt of 6878
the referee's or examiner's report. The board may hear the 6879
testimony of the complainant, certificate holder, registrant, or 6880
licensee upon request. If the complainant is the Ohio civil rights 6881
commission, the board shall review the complaint. 6882

(F) If the board determines that a licensee, registrant, or 6883
certificate holder has violated this chapter for which 6884
disciplinary action may be taken under division (G) of this 6885
section, after review of the referee's or examiner's report and 6886
the evidence as provided in division (E) of this section, the 6887
board shall order the disciplinary action the board considers 6888
appropriate, which may include, but is not limited to, any of the 6889
following: 6890

(1) Reprimand of the certificate holder, registrant, or 6891
licensee; 6892

(2) Imposition of a fine, not exceeding, two thousand five 6893
hundred dollars per violation; 6894

(3) Requirement of the completion of additional education 6895
courses. Any course work imposed pursuant to this section shall 6896
not count toward continuing education requirements or prelicense 6897
or precertification requirements set forth in section 4763.05 of 6898
the Revised Code. 6899

(4) Suspension of the certificate, registration, or license 6900
for a specific period of time; 6901

(5) Revocation of the certificate, registration, or license. 6902

The decision and order of the board is final, subject to 6903
review in the manner provided for in Chapter 119. of the Revised 6904
Code and appeal to any court of common pleas. 6905

(G) The board shall take any disciplinary action authorized 6906

by this section against a certificate holder, registrant, or 6907
licensee who is found to have committed any of the following acts, 6908
omissions, or violations during the appraiser's certification, 6909
registration, or licensure: 6910

(1) Procuring or attempting to procure a certificate, 6911
registration, or license pursuant to this chapter by knowingly 6912
making a false statement, submitting false information, refusing 6913
to provide complete information in response to a question in an 6914
application for certification, registration, or licensure, or by 6915
any means of fraud or misrepresentation; 6916

(2) Paying, or attempting to pay, anything of value, other 6917
than the fees or assessments required by this chapter, to any 6918
member or employee of the board for the purpose of procuring a 6919
certificate, registration, or license; 6920

(3) Being convicted in a criminal proceeding for or pleading 6921
guilty to a felony or a crime involving moral turpitude criminal 6922
offense that is substantially related to the practice of real 6923
estate appraisal; 6924

(4) Dishonesty, fraud, or misrepresentation, with the intent 6925
to either benefit the certificate holder, registrant, or licensee 6926
or another person or injure another person; 6927

(5) Violation of any of the standards for the development, 6928
preparation, communication, or reporting of an appraisal report 6929
set forth in this chapter and rules of the board; 6930

(6) Failure or refusal to exercise reasonable diligence in 6931
developing, preparing, or communicating an appraisal report; 6932

(7) Negligence or incompetence in developing, preparing, 6933
communicating, or reporting an appraisal report; 6934

(8) Violating or willfully disregarding chapter or the rules 6935
adopted thereunder; 6936

(9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the consequences resulting from the appraisal assignment;

(10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by a governmental agency;

(11) Entry of final judgment against the certificate holder, registrant, or licensee on the grounds of fraud, deceit, misrepresentation, or gross negligence in the making of any appraisal of real estate;

(12) Violating any federal or state civil rights law;

(13) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any appraisal or specialized service;

(14) Failing to provide copies of records to the superintendent or failing to maintain records as required by section 4763.14 of the Revised Code. Failure of a certificate holder, licensee, or registrant to comply with a subpoena issued under division (C)(1) of section 4763.03 of the Revised Code is prima-facie evidence of a violation of division (G)(14) of section 4763.11 of the Revised Code.

(15) Failing to provide notice to the board as required in division (I) of this section.

(H) The board immediately shall notify the superintendent of real estate of any disciplinary action taken under this section against a certificate holder, registrant, or licensee who also is

licensed under Chapter 4735. of the Revised Code, and also shall 6968
notify any other federal, state, or local agency and any other 6969
public or private association that the board determines is 6970
responsible for licensing or otherwise regulating the professional 6971
or business activity of the appraiser. Additionally, the board 6972
shall notify the complainant and any other party who may have 6973
suffered financial loss because of the certificate holder's, 6974
registrant's, or licensee's violations, that the complainant or 6975
other party may sue for recovery under section 4763.16 of the 6976
Revised Code. The notice provided under this division shall 6977
specify the conduct for which the certificate holder, registrant, 6978
or licensee was disciplined and the disciplinary action taken by 6979
the board and the result of that conduct. 6980

(I) A certificate holder, registrant, or licensee shall 6981
notify the board within fifteen days of the agency's issuance of 6982
an order revoking or permanently surrendering any professional 6983
license, certificate, or registration by any public entity other 6984
than the division of real estate. A certificate holder, 6985
registrant, or licensee ~~who is convicted of a felony or crime of~~ 6986
~~moral turpitude as~~ shall notify the board of a conviction or 6987
guilty plea of the type described in division (G)(3) of this 6988
section ~~shall notify the board of the conviction~~ within fifteen 6989
days of the conviction or guilty plea. 6990

(J) If the board determines that a certificate holder, 6991
registrant, or licensee has violated this chapter for which 6992
disciplinary action may be taken under division (G) of this 6993
section as a result of an investigation conducted by the 6994
superintendent upon the superintendent's own motion or upon the 6995
request of the board, the superintendent shall notify the 6996
certificate holder, registrant, or licensee of the certificate 6997
holder's, registrant's, or licensee's right to a hearing pursuant 6998
to Chapter 119. of the Revised Code and to an appeal of a final 6999

determination of such administrative proceedings to any court of 7000
common pleas. 7001

(K) All notices, written reports, and determinations issued 7002
pursuant to this section shall be mailed via certified mail, 7003
return receipt requested. If the certified notice is returned 7004
because of failure of delivery or was unclaimed, the notice, 7005
written reports, or determinations are deemed served if the 7006
superintendent sends the notice, written reports, or determination 7007
via regular mail and obtains a certificate of mailing of the 7008
notice, written reports, or determination. Refusal of delivery by 7009
personal service or by mail is not failure of delivery and service 7010
is deemed to be complete. 7011

(L) As used in this section, a "criminal offense that is 7012
substantially related" has the same meaning as in section 4743.07 7013
of the Revised Code. 7014

Sec. 4765.18. The As used in this section, a "criminal 7015
offense that is substantially related" has the same meaning as in 7016
section 4743.07 of the Revised Code. 7017

The state board of emergency medical services may suspend or 7018
revoke a certificate of accreditation or a certificate of approval 7019
issued under section 4765.17 of the Revised Code for any of the 7020
following reasons: 7021

(A) Violation of this chapter or any rule adopted under it; 7022

(B) Furnishing of false, misleading, or incomplete 7023
information to the board; 7024

(C) The signing of an application or the holding of a 7025
certificate of accreditation by a person who has pleaded guilty to 7026
or has been convicted of a ~~felony, or has pleaded guilty to or~~ 7027
~~been convicted of a crime involving moral turpitude~~ criminal 7028
offense that is substantially related to the practice of emergency 7029

<u>medical services;</u>	7030
(D) The signing of an application or the holding of a certificate of accreditation by a person who is addicted to the use of any controlled substance or has been adjudicated incompetent for that purpose by a court, as provided in section 5122.301 of the Revised Code;	7031 7032 7033 7034 7035
(E) Violation of any commitment made in an application for a certificate of accreditation or certificate of approval;	7036 7037
(F) Presentation to prospective students of misleading, false, or fraudulent information relating to the emergency medical services training program or emergency medical services continuing education program, employment opportunities, or opportunities for enrollment in accredited institutions of higher education after entering or completing courses offered by the operator of a program;	7038 7039 7040 7041 7042 7043 7044
(G) Failure to maintain in a safe and sanitary condition premises and equipment used in conducting courses of study;	7045 7046
(H) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study or to retain a sufficient number of certified instructors;	7047 7048 7049
(I) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin.	7050 7051
Sec. 4765.301. (A) An appointing authority may request the superintendent of BCII to conduct a criminal records check with respect to any person who is under consideration for appointment or employment as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic.	7052 7053 7054 7055 7056 7057
(B)(1) The appointing authority may request that the superintendent of BCII obtain information from the federal bureau	7058 7059

of investigation as a part of the criminal records check requested 7060
pursuant to division (A) of this section. 7061

(2) An appointing authority authorized by division (A) of 7062
this section to request a criminal records check shall provide to 7063
each person for whom the appointing authority intends to request a 7064
criminal records check a copy of the form prescribed pursuant to 7065
division (C)(1) of section 109.578 of the Revised Code and a 7066
standard impression sheet to obtain fingerprint impressions 7067
prescribed pursuant to division (C)(2) of section 109.578 of the 7068
Revised Code, obtain the completed form and impression sheet from 7069
the person, and forward the completed form and impression sheet to 7070
the superintendent of BCII at the time the criminal records check 7071
is requested. 7072

(3) Any person subject to a criminal records check who 7073
receives a copy of the form and a copy of the impression sheet 7074
pursuant to division (B)(2) of this section and who is requested 7075
to complete the form and provide a set of fingerprint impressions 7076
shall complete the form or provide all the information necessary 7077
to complete the form and shall provide the impression sheet with 7078
the impressions of the person's fingerprints. If a person fails to 7079
provide the information necessary to complete the form or fails to 7080
provide impressions of the person's fingerprints, the appointing 7081
authority shall not appoint or employ the person as an emergency 7082
medical technician-basic, an emergency medical 7083
technician-intermediate, or an emergency medical 7084
technician-paramedic. 7085

(C)(1) Except as otherwise provided in division (C)(2) of 7086
this section, an appointing authority shall not appoint or employ 7087
a person as an emergency medical technician-basic, an emergency 7088
medical technician-intermediate, or an emergency medical 7089
technician-paramedic if the appointing authority has requested a 7090
criminal records check pursuant to division (A) of this section 7091

and the criminal records check indicates that the person 7092
previously has been convicted of or pleaded guilty to ~~any of the~~ 7093
~~following:~~ 7094

~~(a) A felony;~~ 7095

~~(b) A violation of section 2909.03 of the Revised Code;~~ 7096

~~(c) A violation of an existing or former law of this state,~~ 7097
~~any other state, or the United States that is substantially~~ 7098
~~equivalent to any of the offenses described in division (C)(1)(a)~~ 7099
~~or (b) of this section~~ a criminal offense in any jurisdiction that 7100
is substantially related to practice as an emergency medical 7101
technician-basic, emergency medical technician-intermediate, or 7102
emergency medical technician-paramedic. 7103

(2) Notwithstanding division (C)(1) of this section, an 7104
appointing authority may appoint or employ a person as an 7105
emergency medical technician-basic, an emergency medical 7106
technician-intermediate, or an emergency medical 7107
technician-paramedic if all of the following apply: 7108

(a) The appointing authority has requested a criminal records 7109
check pursuant to division (A) of this section. 7110

(b) The criminal records check indicates that the person 7111
previously has been convicted of or pleaded guilty to ~~any of the~~ 7112
~~offenses described in division (C)(1) of this section~~ a criminal 7113
offense in any jurisdiction that is substantially related to 7114
practice as an emergency medical technician-basic, emergency 7115
medical technician-intermediate, or emergency medical 7116
technician-paramedic. 7117

(c) The person meets rehabilitation standards established in 7118
rules adopted under division (E) of this section. 7119

(3) If an appointing authority requests a criminal records 7120
check pursuant to division (A) of this section, the appointing 7121

authority may appoint or employ a person as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic conditionally until the criminal records check is completed and the appointing authority receives the results. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the person subject to the criminal records check is disqualified from appointment or employment, the appointing authority shall release the person from appointment or employment.

(D) The appointing authority shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.578 of the Revised Code for each criminal records check conducted in accordance with that section. The appointing authority may charge the applicant who is subject to the criminal records check a fee for the costs the appointing authority incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the appointing authority pays for the criminal records check. If a fee is charged under this division, the appointing authority shall notify the applicant at the time of the applicant's initial application for appointment or employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for appointment or employment.

(E) The appointing authority shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (C)(1) of this section must meet for the appointing authority to appoint or employ the person as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic.

(F) An appointing authority that intends to request a

criminal records check for an applicant shall inform each 7154
applicant, at the time of the person's initial application for 7155
appointment or employment, that the applicant is required to 7156
provide a set of impressions of the person's fingerprints and that 7157
the appointing authority requires a criminal records check to be 7158
conducted and satisfactorily completed in accordance with section 7159
109.578 of the Revised Code. 7160

(G) As used in this section: 7161

(1) "Appointing authority" means any person or body that has 7162
the authority to hire, appoint, or employ emergency medical 7163
technicians-basic, emergency medical technicians-intermediate, or 7164
emergency medical technicians-paramedic. 7165

(2) "Criminal offense that is substantially related" has the 7166
same meaning as in section 4743.07 of the Revised Code. 7167

(3) Criminal records check" has the same meaning as in 7168
section 109.578 of the Revised Code. 7169

~~(3)~~(4) "Superintendent of BCII" has the same meaning as in 7170
section 2151.86 of the Revised Code. 7171

Sec. 4774.13. (A) The state medical board, by an affirmative 7172
vote of not fewer than six members, may revoke or may refuse to 7173
grant a certificate to practice as a radiologist assistant to an 7174
individual found by the board to have committed fraud, 7175
misrepresentation, or deception in applying for or securing the 7176
certificate. 7177

(B) The board, by an affirmative vote of not fewer than six 7178
members, shall, to the extent permitted by law, limit, revoke, or 7179
suspend an individual's certificate to practice as a radiologist 7180
assistant, refuse to issue a certificate to an applicant, refuse 7181
to reinstate a certificate, or reprimand or place on probation the 7182
holder of a certificate for any of the following reasons: 7183

(1) Permitting the holder's name or certificate to be used by another person;	7184 7185
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	7186 7187 7188
(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;	7189 7190 7191 7192
(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;	7193 7194 7195 7196
(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	7197 7198 7199 7200
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	7201 7202 7203 7204
(7) Willfully betraying a professional confidence;	7205
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant.	7206 7207 7208
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,	7209 7210 7211 7212 7213

or includes representations or implications that in reasonable 7214
probability will cause an ordinarily prudent person to 7215
misunderstand or be deceived. 7216

(9) The obtaining of, or attempting to obtain, money or a 7217
thing of value by fraudulent misrepresentations in the course of 7218
practice; 7219

(10) A plea of guilty to, a judicial finding of guilt of, or 7220
a judicial finding of eligibility for intervention in lieu of 7221
conviction for, a felony criminal offense that is substantially 7222
related to practice as a radiologist assistant; 7223

(11) Commission of an act that constitutes a felony criminal 7224
offense that is substantially related to practice as a radiologist 7225
assistant in this state, regardless of the jurisdiction in which 7226
the act was committed; 7227

~~(12) A plea of guilty to, a judicial finding of guilt of, or 7228
a judicial finding of eligibility for intervention in lieu of 7229
conviction for, a misdemeanor committed in the course of practice;~~ 7230

~~(13) A plea of guilty to, a judicial finding of guilt of, or 7231
a judicial finding of eligibility for intervention in lieu of 7232
conviction for, a misdemeanor involving moral turpitude;~~ 7233

~~(14) Commission of an act in the course of practice that 7234
constitutes a misdemeanor in this state, regardless of the 7235
jurisdiction in which the act was committed;~~ 7236

~~(15) Commission of an act involving moral turpitude that 7237
constitutes a misdemeanor in this state, regardless of the 7238
jurisdiction in which the act was committed;~~ 7239

~~(16) A plea of guilty to, a judicial finding of guilt of, or 7240
a judicial finding of eligibility for intervention in lieu of 7241
conviction for violating any state or federal law regulating the 7242
possession, distribution, or use of any drug, including 7243~~

trafficking in drugs;	7244
(17) <u>(13)</u> Any of the following actions taken by the state	7245
agency responsible for regulating the practice of radiologist	7246
assistants in another jurisdiction, for any reason other than the	7247
nonpayment of fees: the limitation, revocation, or suspension of	7248
an individual's license to practice; acceptance of an individual's	7249
license surrender; denial of a license; refusal to renew or	7250
reinstate a license; imposition of probation; or issuance of an	7251
order of censure or other reprimand;	7252
(18) <u>(14)</u> Violation of the conditions placed by the board on a	7253
certificate to practice as a radiologist assistant;	7254
(19) <u>(15)</u> Failure to use universal blood and body fluid	7255
precautions established by rules adopted under section 4731.051 of	7256
the Revised Code;	7257
(20) <u>(16)</u> Failure to cooperate in an investigation conducted	7258
by the board under section 4774.14 of the Revised Code, including	7259
failure to comply with a subpoena or order issued by the board or	7260
failure to answer truthfully a question presented by the board at	7261
a deposition or in written interrogatories, except that failure to	7262
cooperate with an investigation shall not constitute grounds for	7263
discipline under this section if a court of competent jurisdiction	7264
has issued an order that either quashes a subpoena or permits the	7265
individual to withhold the testimony or evidence in issue;	7266
(21) <u>(17)</u> Failure to maintain a license as a radiographer	7267
under Chapter 4773. of the Revised Code;	7268
(22) <u>(18)</u> Failure to maintain certification as a registered	7269
radiologist assistant from the American registry of radiologic	7270
technologists, including revocation by the registry of the	7271
assistant's certification or failure by the assistant to meet the	7272
registry's requirements for annual registration, or failure to	7273
notify the board that the certification as a registered	7274

radiologist assistant has not been maintained; 7275

~~(23)~~(19) Failure to comply with any of the rules of ethics 7276
included in the standards of ethics established by the American 7277
registry of radiologic technologists, as those rules apply to an 7278
individual who holds the registry's certification as a registered 7279
radiologist assistant. 7280

(C) Disciplinary actions taken by the board under divisions 7281
(A) and (B) of this section shall be taken pursuant to an 7282
adjudication under Chapter 119. of the Revised Code, except that 7283
in lieu of an adjudication, the board may enter into a consent 7284
agreement with a radiologist assistant or applicant to resolve an 7285
allegation of a violation of this chapter or any rule adopted 7286
under it. A consent agreement, when ratified by an affirmative 7287
vote of not fewer than six members of the board, shall constitute 7288
the findings and order of the board with respect to the matter 7289
addressed in the agreement. If the board refuses to ratify a 7290
consent agreement, the admissions and findings contained in the 7291
consent agreement shall be of no force or effect. 7292

(D) For purposes of ~~divisions~~ division (B)(11), ~~(14)~~, and 7293
~~(15)~~ of this section, the commission of the act may be established 7294
by a finding by the board, pursuant to an adjudication under 7295
Chapter 119. of the Revised Code, that the applicant or 7296
certificate holder committed the act in question. The board shall 7297
have no jurisdiction under ~~these divisions~~ that division in cases 7298
where the trial court renders a final judgment in the certificate 7299
holder's favor and that judgment is based upon an adjudication on 7300
the merits. The board shall have jurisdiction under ~~these~~ 7301
~~divisions~~ that division in cases where the trial court issues an 7302
order of dismissal on technical or procedural grounds. 7303

(E) The sealing of conviction records by any court shall have 7304
no effect on a prior board order entered under the provisions of 7305
this section or on the board's jurisdiction to take action under 7306

the provisions of this section if, based upon a plea of guilty, a 7307
judicial finding of guilt, or a judicial finding of eligibility 7308
for intervention in lieu of conviction, the board issued a notice 7309
of opportunity for a hearing prior to the court's order to seal 7310
the records. The board shall not be required to seal, destroy, 7311
redact, or otherwise modify its records to reflect the court's 7312
sealing of conviction records. 7313

(F) For purposes of this division, any individual who holds a 7314
certificate to practice as a radiologist assistant issued under 7315
this chapter, or applies for a certificate to practice, shall be 7316
deemed to have given consent to submit to a mental or physical 7317
examination when directed to do so in writing by the board and to 7318
have waived all objections to the admissibility of testimony or 7319
examination reports that constitute a privileged communication. 7320

(1) In enforcing division (B)(5) of this section, the board, 7321
on a showing of a possible violation, may compel any individual 7322
who holds a certificate to practice as a radiologist assistant 7323
issued under this chapter or who has applied for a certificate to 7324
practice to submit to a mental or physical examination, or both. A 7325
physical examination may include an HIV test. The expense of the 7326
examination is the responsibility of the individual compelled to 7327
be examined. Failure to submit to a mental or physical examination 7328
or consent to an HIV test ordered by the board constitutes an 7329
admission of the allegations against the individual unless the 7330
failure is due to circumstances beyond the individual's control, 7331
and a default and final order may be entered without the taking of 7332
testimony or presentation of evidence. If the board finds a 7333
radiologist assistant unable to practice because of the reasons 7334
set forth in division (B)(5) of this section, the board shall 7335
require the radiologist assistant to submit to care, counseling, 7336
or treatment by physicians approved or designated by the board, as 7337
a condition for an initial, continued, reinstated, or renewed 7338

certificate to practice. An individual affected by this division 7339
shall be afforded an opportunity to demonstrate to the board the 7340
ability to resume practicing in compliance with acceptable and 7341
prevailing standards of care. 7342

(2) For purposes of division (B)(6) of this section, if the 7343
board has reason to believe that any individual who holds a 7344
certificate to practice as a radiologist assistant issued under 7345
this chapter or any applicant for a certificate to practice 7346
suffers such impairment, the board may compel the individual to 7347
submit to a mental or physical examination, or both. The expense 7348
of the examination is the responsibility of the individual 7349
compelled to be examined. Any mental or physical examination 7350
required under this division shall be undertaken by a treatment 7351
provider or physician qualified to conduct such examination and 7352
chosen by the board. 7353

Failure to submit to a mental or physical examination ordered 7354
by the board constitutes an admission of the allegations against 7355
the individual unless the failure is due to circumstances beyond 7356
the individual's control, and a default and final order may be 7357
entered without the taking of testimony or presentation of 7358
evidence. If the board determines that the individual's ability to 7359
practice is impaired, the board shall suspend the individual's 7360
certificate or deny the individual's application and shall require 7361
the individual, as a condition for an initial, continued, 7362
reinstated, or renewed certificate to practice, to submit to 7363
treatment. 7364

Before being eligible to apply for reinstatement of a 7365
certificate suspended under this division, the radiologist 7366
assistant shall demonstrate to the board the ability to resume 7367
practice in compliance with acceptable and prevailing standards of 7368
care. The demonstration shall include the following: 7369

(a) Certification from a treatment provider approved under 7370

section 4731.25 of the Revised Code that the individual has 7371
successfully completed any required inpatient treatment; 7372

(b) Evidence of continuing full compliance with an aftercare 7373
contract or consent agreement; 7374

(c) Two written reports indicating that the individual's 7375
ability to practice has been assessed and that the individual has 7376
been found capable of practicing according to acceptable and 7377
prevailing standards of care. The reports shall be made by 7378
individuals or providers approved by the board for making such 7379
assessments and shall describe the basis for their determination. 7380

The board may reinstate a certificate suspended under this 7381
division after such demonstration and after the individual has 7382
entered into a written consent agreement. 7383

When the impaired radiologist assistant resumes practice, the 7384
board shall require continued monitoring of the radiologist 7385
assistant. The monitoring shall include monitoring of compliance 7386
with the written consent agreement entered into before 7387
reinstatement or with conditions imposed by board order after a 7388
hearing, and, on termination of the consent agreement, submission 7389
to the board for at least two years of annual written progress 7390
reports made under penalty of falsification stating whether the 7391
radiologist assistant has maintained sobriety. 7392

(G) If the secretary and supervising member determine that 7393
there is clear and convincing evidence that a radiologist 7394
assistant has violated division (B) of this section and that the 7395
individual's continued practice presents a danger of immediate and 7396
serious harm to the public, they may recommend that the board 7397
suspend the individual's certificate to practice without a prior 7398
hearing. Written allegations shall be prepared for consideration 7399
by the board. 7400

The board, on review of the allegations and by an affirmative 7401

vote of not fewer than six of its members, excluding the secretary 7402
and supervising member, may suspend a certificate without a prior 7403
hearing. A telephone conference call may be utilized for reviewing 7404
the allegations and taking the vote on the summary suspension. 7405

The board shall issue a written order of suspension by 7406
certified mail or in person in accordance with section 119.07 of 7407
the Revised Code. The order shall not be subject to suspension by 7408
the court during pendency of any appeal filed under section 119.12 7409
of the Revised Code. If the radiologist assistant requests an 7410
adjudicatory hearing by the board, the date set for the hearing 7411
shall be within fifteen days, but not earlier than seven days, 7412
after the radiologist assistant requests the hearing, unless 7413
otherwise agreed to by both the board and the certificate holder. 7414

A summary suspension imposed under this division shall remain 7415
in effect, unless reversed on appeal, until a final adjudicative 7416
order issued by the board pursuant to this section and Chapter 7417
119. of the Revised Code becomes effective. The board shall issue 7418
its final adjudicative order within sixty days after completion of 7419
its hearing. Failure to issue the order within sixty days shall 7420
result in dissolution of the summary suspension order, but shall 7421
not invalidate any subsequent, final adjudicative order. 7422

(H) If the board takes action under division (B)(10), ~~(12)~~, 7423
~~or (13)~~ of this section, and the judicial finding of guilt, guilty 7424
plea, or judicial finding of eligibility for intervention in lieu 7425
of conviction is overturned on appeal, on exhaustion of the 7426
criminal appeal, a petition for reconsideration of the order may 7427
be filed with the board along with appropriate court documents. On 7428
receipt of a petition and supporting court documents, the board 7429
shall reinstate the certificate to practice as a radiologist 7430
assistant. The board may then hold an adjudication under Chapter 7431
119. of the Revised Code to determine whether the individual 7432
committed the act in question. Notice of opportunity for hearing 7433

shall be given in accordance with Chapter 119. of the Revised 7434
Code. If the board finds, pursuant to an adjudication held under 7435
this division, that the individual committed the act, or if no 7436
hearing is requested, it may order any of the sanctions specified 7437
in division (B) of this section. 7438

(I) The certificate to practice of a radiologist assistant 7439
and the assistant's practice in this state are automatically 7440
suspended as of the date the radiologist assistant pleads guilty 7441
to, is found by a judge or jury to be guilty of, or is subject to 7442
a judicial finding of eligibility for intervention in lieu of 7443
conviction in this state or treatment of intervention in lieu of 7444
conviction in another jurisdiction for any of the following 7445
criminal offenses in this state or a substantially equivalent 7446
criminal offense in another jurisdiction: aggravated murder, 7447
murder, voluntary manslaughter, felonious assault, kidnapping, 7448
rape, sexual battery, gross sexual imposition, aggravated arson, 7449
aggravated robbery, or aggravated burglary. Continued practice 7450
after the suspension shall be considered practicing without a 7451
certificate. 7452

The board shall notify the individual subject to the 7453
suspension by certified mail or in person in accordance with 7454
section 119.07 of the Revised Code. If an individual whose 7455
certificate is suspended under this division fails to make a 7456
timely request for an adjudication under Chapter 119. of the 7457
Revised Code, the board shall enter a final order permanently 7458
revoking the individual's certificate to practice. 7459

(J) In any instance in which the board is required by Chapter 7460
119. of the Revised Code to give notice of opportunity for hearing 7461
and the individual subject to the notice does not timely request a 7462
hearing in accordance with section 119.07 of the Revised Code, the 7463
board is not required to hold a hearing, but may adopt, by an 7464
affirmative vote of not fewer than six of its members, a final 7465

order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

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

(L) When the board refuses to grant a certificate to practice as a radiologist assistant to an applicant, revokes an individual's certificate, refuses to renew a certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice as a radiologist assistant 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 to practice as a radiologist assistant issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a certificate to 7497
practice in accordance with section 4774.06 of the Revised Code 7498
shall not remove or limit the board's jurisdiction to take 7499
disciplinary action under this section against the individual. 7500

(N) As used in this section, a "criminal offense that is 7501
substantially related" has the same meaning as in section 4743.07 7502
of the Revised Code. 7503

Sec. 4779.28. (A) The board may, pursuant to an adjudication 7504
under Chapter 119. of the Revised Code and by a vote of not fewer 7505
than four of its members, limit, revoke, or suspend a license 7506
issued under this chapter, refuse to issue a license to an 7507
applicant, or reprimand or place on probation a license holder for 7508
any of the following reasons: 7509

(1) Conviction of, or a plea of guilty to, a ~~misdemeanor or~~ 7510
~~felony involving moral turpitude~~ criminal offense that is 7511
substantially related to the practice of orthotics, prosthetics, 7512
or pedorthics; 7513

(2) Any violation of this chapter; 7514

(3) Committing fraud, misrepresentation, or deception in 7515
applying for or securing a license issued under this chapter; 7516

(4) Habitual use of drugs or intoxicants to the extent that 7517
it renders the person unfit to practice; 7518

(5) Violation of any rule adopted by the board under section 7519
4779.08 of the Revised Code; 7520

(6) A departure from, or failure to conform to, minimal 7521
standards of care of similar orthotists, prosthetists, 7522
orthotists-prosthetists, or pedorthists under the same or similar 7523
circumstances, regardless of whether actual injury to a patient is 7524
established; 7525

(7) Obtaining or attempting to obtain money or anything of 7526

value by fraudulent misrepresentation in the course of practice; 7527

(8) Publishing a false, fraudulent, deceptive, or misleading 7528
statement; 7529

(9) Waiving the payment of all or part of a deductible or 7530
copayment that a patient, pursuant to a health insurance or health 7531
care policy, contract, or plan, would otherwise be required to 7532
pay, if the waiver is used as an enticement to a patient or group 7533
of patients to receive health care services from a person who 7534
holds a license issued under this chapter; 7535

(10) Advertising that a person who holds a license issued 7536
under this chapter will waive the payment of all or part of a 7537
deductible or copayment that a patient, pursuant to a health 7538
insurance or health care policy, contract, or plan, that covers 7539
the person's services, would otherwise be required to pay. 7540

(B) For the purpose of investigating whether a person is 7541
engaging or has engaged in conduct described in division (A) of 7542
this section, the board may administer oaths, order the taking of 7543
depositions, issue subpoenas, examine witnesses, and compel the 7544
attendance of witnesses and production of books, accounts, papers, 7545
records, documents, and testimony. 7546

(C) As used in this section, a "criminal offense that is 7547
substantially related" has the same meaning as in section 4743.07 7548
of the Revised Code. 7549

Sec. 4781.09. (A) The manufactured homes commission may deny, 7550
suspend, revoke, or refuse to renew the license of any 7551
manufactured home installer for any of the following reasons: 7552

(1) Failure to satisfy the requirements of section 4781.08 or 7553
4781.10 of the Revised Code; 7554

(2) Violation of this chapter or any rule adopted pursuant to 7555
it; 7556

(3) Making a material misstatement in an application for a license;	7557 7558
(4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;	7559 7560 7561
(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;	7562 7563 7564
(6) Conviction of a felony or a crime involving moral turpitude <u>or plea of guilty to a criminal offense that is substantially related to practice as a manufactured home installer;</u>	7565 7566 7567 7568
(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;	7569 7570
(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;	7571 7572
(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.	7573 7574
(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.	7575 7576 7577
(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to division (C) of this section may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code.	7578 7579 7580 7581 7582 7583
(2) Any licensee or applicant may appeal an order made pursuant to an adjudication hearing in the manner provided in section 119.12 of the Revised Code.	7584 7585 7586

(C) As an alternative to suspending, revoking, or refusing to 7587
renew a manufactured housing ~~installer's~~ installer license, the 7588
commission may impose a civil penalty of not less than one hundred 7589
dollars or more than five hundred dollars per violation of this 7590
chapter or any rule adopted pursuant to it. The commission shall 7591
deposit penalties in the occupational licensing and regulatory 7592
fund pursuant to section 4743.05 of the Revised Code. 7593

(D) A person whose license is suspended, revoked, or not 7594
renewed may apply for a new license two years after the date on 7595
which the license was suspended, revoked, or not renewed. 7596

(E) As used in this section, a "criminal offense that is 7597
substantially related" has the same meaning as in section 4743.07 7598
of the Revised Code. 7599

Section 2. That existing sections 3923.233, 3923.301, 7600
4701.16, 4703.15, 4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 7601
4717.14, 4719.03, 4723.07, 4723.28, 4723.34, 4725.19, 4725.53, 7602
4727.15, 4728.13, 4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 7603
4731.224, 4731.225, 4731.226, 4731.25, 4731.72, 4732.17, 4733.20, 7604
4734.31, 4734.39, 4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 7605
4735.28, 4738.04, 4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 7606
4741.22, 4747.12, 4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 7607
4755.11, 4755.47, 4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 7608
4761.09, 4762.13, 4763.11, 4765.18, 4765.301, 4774.13, 4779.28, 7609
and 4781.09 of the Revised Code are hereby repealed. 7610

Section 3. Sections 3923.233, 3923.301, 4701.16, 4703.15, 7611
4707.02, 4707.15, 4709.13, 4712.03, 4715.30, 4717.14, 4719.03, 7612
4723.07, 4723.28, 4723.34, 4725.19, 4725.53, 4727.15, 4728.13, 7613
4729.16, 4729.53, 4729.56, 4730.25, 4731.22, 4731.224, 4731.225, 7614
4731.226, 4731.25, 4731.72, 4732.17, 4733.20, 4734.31, 4734.39, 7615
4735.07, 4735.09, 4735.13, 4735.18, 4735.27, 4735.28, 4738.04, 7616

4738.07, 4738.12, 4738.18, 4740.06, 4740.10, 4741.22, 4747.12, 7617
4749.03, 4749.04, 4749.06, 4751.10, 4753.10, 4755.11, 4755.47, 7618
4755.64, 4757.36, 4758.30, 4759.07, 4760.13, 4761.09, 4762.13, 7619
4763.11, 4765.18, 4765.301, 4774.13, 4779.28, and 4781.09 of the 7620
Revised Code, as amended by this act, shall take effect ninety 7621
days after the effective date of this act. 7622

Section 4. Section 4731.22 of the Revised Code is presented 7623
in this act as a composite of the section as amended by Am. Sub. 7624
H.B. 280, Sub. H.B. 525, and Sub. S.B. 229 of the 127th General 7625
Assembly. The General Assembly, applying the principle stated in 7626
division (B) of section 1.52 of the Revised Code that amendments 7627
are to be harmonized if reasonably capable of simultaneous 7628
operation, finds that the composite is the resulting version of 7629
the section in effect prior to the effective date of the section 7630
as presented in this act. 7631