

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 89

Representatives Hillyer, Abdullahi

Cosponsors: Representatives Dean, Fowler Arthur

A BILL

To amend sections 4723.28, 4730.25, and 4731.22 and 1
to enact sections 4723.93, 4730.57, and 4731.77 2
of the Revised Code regarding intimate 3
examinations and anesthetized or unconscious 4
patients. 5

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

Section 1. That sections 4723.28, 4730.25, and 4731.22 be 6
amended and sections 4723.93, 4730.57, and 4731.77 of the 7
Revised Code be enacted to read as follows: 8

Sec. 4723.28. (A) The board of nursing, by a vote of a 9
quorum, may impose one or more of the following sanctions if it 10
finds that a person committed fraud in passing an examination 11
required to obtain a license or dialysis technician certificate 12
issued by the board or to have committed fraud, 13
misrepresentation, or deception in applying for or securing any 14
nursing license or dialysis technician certificate issued by the 15
board: deny, revoke, suspend, or place restrictions on any 16
nursing license or dialysis technician certificate issued by the 17
board; reprimand or otherwise discipline a holder of a nursing 18

license or dialysis technician certificate; or impose a fine of 19
not more than five hundred dollars per violation. 20

(B) Except as provided in section 4723.092 of the Revised 21
Code, the board of nursing, by a vote of a quorum, may impose 22
one or more of the following sanctions: deny, revoke, suspend, 23
or place restrictions on any nursing license or dialysis 24
technician certificate issued by the board; reprimand or 25
otherwise discipline a holder of a nursing license or dialysis 26
technician certificate; or impose a fine of not more than five 27
hundred dollars per violation. The sanctions may be imposed for 28
any of the following: 29

(1) Denial, revocation, suspension, or restriction of 30
authority to engage in a licensed profession or practice a 31
health care occupation, including nursing or practice as a 32
dialysis technician, for any reason other than a failure to 33
renew, in Ohio or another state or jurisdiction; 34

(2) Engaging in the practice of nursing or engaging in 35
practice as a dialysis technician, having failed to renew a 36
nursing license or dialysis technician certificate issued under 37
this chapter, or while a nursing license or dialysis technician 38
certificate is under suspension; 39

(3) Conviction of, a plea of guilty to, a judicial finding 40
of guilt of, a judicial finding of guilt resulting from a plea 41
of no contest to, or a judicial finding of eligibility for a 42
pretrial diversion or similar program or for intervention in 43
lieu of conviction for, a misdemeanor committed in the course of 44
practice; 45

(4) Conviction of, a plea of guilty to, a judicial finding 46
of guilt of, a judicial finding of guilt resulting from a plea 47

of no contest to, or a judicial finding of eligibility for a 48
pretrial diversion or similar program or for intervention in 49
lieu of conviction for, any felony or of any crime involving 50
gross immorality or moral turpitude; 51

(5) Selling, giving away, or administering drugs or 52
therapeutic devices for other than legal and legitimate 53
therapeutic purposes; or conviction of, a plea of guilty to, a 54
judicial finding of guilt of, a judicial finding of guilt 55
resulting from a plea of no contest to, or a judicial finding of 56
eligibility for a pretrial diversion or similar program or for 57
intervention in lieu of conviction for, violating any municipal, 58
state, county, or federal drug law; 59

(6) Conviction of, a plea of guilty to, a judicial finding 60
of guilt of, a judicial finding of guilt resulting from a plea 61
of no contest to, or a judicial finding of eligibility for a 62
pretrial diversion or similar program or for intervention in 63
lieu of conviction for, an act in another jurisdiction that 64
would constitute a felony or a crime of moral turpitude in Ohio; 65

(7) Conviction of, a plea of guilty to, a judicial finding 66
of guilt of, a judicial finding of guilt resulting from a plea 67
of no contest to, or a judicial finding of eligibility for a 68
pretrial diversion or similar program or for intervention in 69
lieu of conviction for, an act in the course of practice in 70
another jurisdiction that would constitute a misdemeanor in 71
Ohio; 72

(8) Self-administering or otherwise taking into the body 73
any dangerous drug, as defined in section 4729.01 of the Revised 74
Code, in any way that is not in accordance with a legal, valid 75
prescription issued for that individual, or self-administering 76
or otherwise taking into the body any drug that is a schedule I 77

controlled substance;	78
(9) Habitual or excessive use of controlled substances,	79
other habit-forming drugs, or alcohol or other chemical	80
substances to an extent that impairs the individual's ability to	81
provide safe nursing care or safe dialysis care;	82
(10) Impairment of the ability to practice according to	83
acceptable and prevailing standards of safe nursing care or safe	84
dialysis care because of the use of drugs, alcohol, or other	85
chemical substances;	86
(11) Impairment of the ability to practice according to	87
acceptable and prevailing standards of safe nursing care or safe	88
dialysis care because of a physical or mental disability;	89
(12) Assaulting or causing harm to a patient or depriving	90
a patient of the means to summon assistance;	91
(13) Misappropriation or attempted misappropriation of	92
money or anything of value in the course of practice;	93
(14) Adjudication by a probate court of being mentally ill	94
or mentally incompetent. The board may reinstate the person's	95
nursing license or dialysis technician certificate upon	96
adjudication by a probate court of the person's restoration to	97
competency or upon submission to the board of other proof of	98
competency.	99
(15) The suspension or termination of employment by the	100
United States department of defense or department of veterans	101
affairs for any act that violates or would violate this chapter;	102
(16) Violation of this chapter or any rules adopted under	103
it;	104
(17) Violation of any restrictions placed by the board on	105

a nursing license or dialysis technician certificate;	106
(18) Failure to use universal and standard precautions	107
established by rules adopted under section 4723.07 of the	108
Revised Code;	109
(19) Failure to practice in accordance with acceptable and	110
prevailing standards of safe nursing care or safe dialysis care;	111
(20) In the case of a registered nurse, engaging in	112
activities that exceed the practice of nursing as a registered	113
nurse;	114
(21) In the case of a licensed practical nurse, engaging	115
in activities that exceed the practice of nursing as a licensed	116
practical nurse;	117
(22) In the case of a dialysis technician, engaging in	118
activities that exceed those permitted under section 4723.72 of	119
the Revised Code;	120
(23) Aiding and abetting a person in that person's	121
practice of nursing without a license or practice as a dialysis	122
technician without a certificate issued under this chapter;	123
(24) In the case of an advanced practice registered nurse,	124
except as provided in division (M) of this section, either of	125
the following:	126
(a) Waiving the payment of all or any part of a deductible	127
or copayment that a patient, pursuant to a health insurance or	128
health care policy, contract, or plan that covers such nursing	129
services, would otherwise be required to pay if the waiver is	130
used as an enticement to a patient or group of patients to	131
receive health care services from that provider;	132
(b) Advertising that the nurse will waive the payment of	133

all or any part of a deductible or copayment that a patient, 134
pursuant to a health insurance or health care policy, contract, 135
or plan that covers such nursing services, would otherwise be 136
required to pay. 137

(25) Failure to comply with the terms and conditions of 138
participation in the substance use disorder monitoring program 139
established under section 4723.35 of the Revised Code; 140

(26) Failure to comply with the terms and conditions 141
required under the practice intervention and improvement program 142
established under section 4723.282 of the Revised Code; 143

(27) In the case of an advanced practice registered nurse: 144

(a) Engaging in activities that exceed those permitted for 145
the nurse's nursing specialty under section 4723.43 of the 146
Revised Code; 147

(b) Failure to meet the quality assurance standards 148
established under section 4723.07 of the Revised Code. 149

(28) In the case of an advanced practice registered nurse 150
other than a certified registered nurse anesthetist, failure to 151
maintain a standard care arrangement in accordance with section 152
4723.431 of the Revised Code or to practice in accordance with 153
the standard care arrangement; 154

(29) In the case of an advanced practice registered nurse 155
who is designated as a clinical nurse specialist, certified 156
nurse-midwife, or certified nurse practitioner, failure to 157
prescribe drugs and therapeutic devices in accordance with 158
section 4723.481 of the Revised Code; 159

(30) Prescribing any drug or device to perform or induce 160
an abortion, or otherwise performing or inducing an abortion; 161

(31) Failure to establish and maintain professional 162
boundaries with a patient, as specified in rules adopted under 163
section 4723.07 of the Revised Code; 164

(32) Regardless of whether the contact or verbal behavior 165
is consensual, engaging with a patient other than the spouse of 166
the registered nurse, licensed practical nurse, or dialysis 167
technician in any of the following: 168

(a) Sexual contact, as defined in section 2907.01 of the 169
Revised Code; 170

(b) Verbal behavior that is sexually demeaning to the 171
patient or may be reasonably interpreted by the patient as 172
sexually demeaning. 173

(33) Assisting suicide, as defined in section 3795.01 of 174
the Revised Code; 175

(34) Failure to comply with the requirements in section 176
3719.061 of the Revised Code before issuing for a minor a 177
prescription for an opioid analgesic, as defined in section 178
3719.01 of the Revised Code; 179

(35) Failure to comply with section 4723.487 of the 180
Revised Code, unless the state board of pharmacy no longer 181
maintains a drug database pursuant to section 4729.75 of the 182
Revised Code; 183

(36) The revocation, suspension, restriction, reduction, 184
or termination of clinical privileges by the United States 185
department of defense or department of veterans affairs or the 186
termination or suspension of a certificate of registration to 187
prescribe drugs by the drug enforcement administration of the 188
United States department of justice; 189

(37) In the case of an advanced practice registered nurse 190
who is designated as a clinical nurse specialist, certified 191
nurse-midwife, or certified nurse practitioner, failure to 192
comply with the terms of a consult agreement entered into with a 193
pharmacist pursuant to section 4729.39 of the Revised Code, 194

(38) Violation of section 4723.93 of the Revised Code. 195

(C) Disciplinary actions taken by the board under 196
divisions (A) and (B) of this section shall be taken pursuant to 197
an adjudication conducted under Chapter 119. of the Revised 198
Code, except that in lieu of a hearing, the board may enter into 199
a consent agreement with an individual to resolve an allegation 200
of a violation of this chapter or any rule adopted under it. A 201
consent agreement, when ratified by a vote of a quorum, shall 202
constitute the findings and order of the board with respect to 203
the matter addressed in the agreement. If the board refuses to 204
ratify a consent agreement, the admissions and findings 205
contained in the agreement shall be of no effect. 206

(D) The hearings of the board shall be conducted in 207
accordance with Chapter 119. of the Revised Code, the board may 208
appoint a hearing examiner, as provided in section 119.09 of the 209
Revised Code, to conduct any hearing the board is authorized to 210
hold under Chapter 119. of the Revised Code. 211

In any instance in which the board is required under 212
Chapter 119. of the Revised Code to give notice of an 213
opportunity for a hearing and the applicant, licensee, or 214
certificate holder does not make a timely request for a hearing 215
in accordance with section 119.07 of the Revised Code, the board 216
is not required to hold a hearing, but may adopt, by a vote of a 217
quorum, a final order that contains the board's findings. In the 218
final order, the board may order any of the sanctions listed in 219

division (A) or (B) of this section. 220

(E) If a criminal action is brought against a registered 221
nurse, licensed practical nurse, or dialysis technician for an 222
act or crime described in divisions (B)(3) to (7) of this 223
section and the action is dismissed by the trial court other 224
than on the merits, the board shall conduct an adjudication to 225
determine whether the registered nurse, licensed practical 226
nurse, or dialysis technician committed the act on which the 227
action was based. If the board determines on the basis of the 228
adjudication that the registered nurse, licensed practical 229
nurse, or dialysis technician committed the act, or if the 230
registered nurse, licensed practical nurse, or dialysis 231
technician fails to participate in the adjudication, the board 232
may take action as though the registered nurse, licensed 233
practical nurse, or dialysis technician had been convicted of 234
the act. 235

If the board takes action on the basis of a conviction, 236
plea, or a judicial finding as described in divisions (B)(3) to 237
(7) of this section that is overturned on appeal, the registered 238
nurse, licensed practical nurse, or dialysis technician may, on 239
exhaustion of the appeal process, petition the board for 240
reconsideration of its action. On receipt of the petition and 241
supporting court documents, the board shall temporarily rescind 242
its action. If the board determines that the decision on appeal 243
was a decision on the merits, it shall permanently rescind its 244
action. If the board determines that the decision on appeal was 245
not a decision on the merits, it shall conduct an adjudication 246
to determine whether the registered nurse, licensed practical 247
nurse, or dialysis technician committed the act on which the 248
original conviction, plea, or judicial finding was based. If the 249
board determines on the basis of the adjudication that the 250

registered nurse, licensed practical nurse, or dialysis 251
technician committed such act, or if the registered nurse, 252
licensed practical nurse, or dialysis technician does not 253
request an adjudication, the board shall reinstate its action; 254
otherwise, the board shall permanently rescind its action. 255

Notwithstanding the provision of division (D) (2) of 256
section 2953.32 or division (F) (1) of section 2953.39 of the 257
Revised Code specifying that if records pertaining to a criminal 258
case are sealed or expunged under that section the proceedings 259
in the case shall be deemed not to have occurred, sealing or 260
expungement of the following records on which the board has 261
based an action under this section shall have no effect on the 262
board's action or any sanction imposed by the board under this 263
section: records of any conviction, guilty plea, judicial 264
finding of guilt resulting from a plea of no contest, or a 265
judicial finding of eligibility for a pretrial diversion program 266
or intervention in lieu of conviction. 267

The board shall not be required to seal, destroy, redact, 268
or otherwise modify its records to reflect the court's sealing 269
or expungement of conviction records. 270

(F) The board may investigate an individual's criminal 271
background in performing its duties under this section. As part 272
of such investigation, the board may order the individual to 273
submit, at the individual's expense, a request to the bureau of 274
criminal identification and investigation for a criminal records 275
check and check of federal bureau of investigation records in 276
accordance with the procedure described in section 4723.091 of 277
the Revised Code. 278

(G) During the course of an investigation conducted under 279
this section, the board may compel any registered nurse, 280

licensed practical nurse, or dialysis technician or applicant 281
under this chapter to submit to a mental or physical 282
examination, or both, as required by the board and at the 283
expense of the individual, if the board finds reason to believe 284
that the individual under investigation may have a physical or 285
mental impairment that may affect the individual's ability to 286
provide safe nursing care. Failure of any individual to submit 287
to a mental or physical examination when directed constitutes an 288
admission of the allegations, unless the failure is due to 289
circumstances beyond the individual's control, and a default and 290
final order may be entered without the taking of testimony or 291
presentation of evidence. 292

If the board finds that an individual is impaired, the 293
board shall require the individual to submit to care, 294
counseling, or treatment approved or designated by the board, as 295
a condition for initial, continued, reinstated, or renewed 296
authority to practice. The individual shall be afforded an 297
opportunity to demonstrate to the board that the individual can 298
begin or resume the individual's occupation in compliance with 299
acceptable and prevailing standards of care under the provisions 300
of the individual's authority to practice. 301

For purposes of this division, any registered nurse, 302
licensed practical nurse, or dialysis technician or applicant 303
under this chapter shall be deemed to have given consent to 304
submit to a mental or physical examination when directed to do 305
so in writing by the board, and to have waived all objections to 306
the admissibility of testimony or examination reports that 307
constitute a privileged communication. 308

(H) The board shall investigate evidence that appears to 309
show that any person has violated any provision of this chapter 310

or any rule of the board. Any person may report to the board any 311
information the person may have that appears to show a violation 312
of any provision of this chapter or rule of the board. In the 313
absence of bad faith, any person who reports such information or 314
who testifies before the board in any adjudication conducted 315
under Chapter 119. of the Revised Code shall not be liable for 316
civil damages as a result of the report or testimony. 317

(I) All of the following apply under this chapter with 318
respect to the confidentiality of information: 319

(1) Information received by the board pursuant to a 320
complaint or an investigation is confidential and not subject to 321
discovery in any civil action, except that the board may 322
disclose information to law enforcement officers and government 323
entities for purposes of an investigation of either a licensed 324
health care professional, including a registered nurse, licensed 325
practical nurse, or dialysis technician, or a person who may 326
have engaged in the unauthorized practice of nursing or dialysis 327
care. No law enforcement officer or government entity with 328
knowledge of any information disclosed by the board pursuant to 329
this division shall divulge the information to any other person 330
or government entity except for the purpose of a government 331
investigation, a prosecution, or an adjudication by a court or 332
government entity. 333

(2) If an investigation requires a review of patient 334
records, the investigation and proceeding shall be conducted in 335
such a manner as to protect patient confidentiality. 336

(3) All adjudications and investigations of the board 337
shall be considered civil actions for the purposes of section 338
2305.252 of the Revised Code. 339

(4) Any board activity that involves continued monitoring 340
of an individual as part of or following any disciplinary action 341
taken under this section shall be conducted in a manner that 342
maintains the individual's confidentiality. Information received 343
or maintained by the board with respect to the board's 344
monitoring activities is not subject to discovery in any civil 345
action and is confidential, except that the board may disclose 346
information to law enforcement officers and government entities 347
for purposes of an investigation of a licensee or certificate 348
holder. 349

(J) Any action taken by the board under this section 350
resulting in a suspension from practice shall be accompanied by 351
a written statement of the conditions under which the person may 352
be reinstated to practice. 353

(K) When the board refuses to grant a license or 354
certificate to an applicant, revokes a license or certificate, 355
or refuses to reinstate a license or certificate, the board may 356
specify that its action is permanent. An individual subject to 357
permanent action taken by the board is forever ineligible to 358
hold a license or certificate of the type that was refused or 359
revoked and the board shall not accept from the individual an 360
application for reinstatement of the license or certificate or 361
for a new license or certificate. 362

(L) No unilateral surrender of a nursing license or 363
dialysis technician certificate issued under this chapter shall 364
be effective unless accepted by majority vote of the board. No 365
application for a nursing license or dialysis technician 366
certificate issued under this chapter may be withdrawn without a 367
majority vote of the board. The board's jurisdiction to take 368
disciplinary action under this section is not removed or limited 369

when an individual has a license or certificate classified as 370
inactive or fails to renew a license or certificate. 371

(M) Sanctions shall not be imposed under division (B) (24) 372
of this section against any licensee who waives deductibles and 373
copayments as follows: 374

(1) In compliance with the health benefit plan that 375
expressly allows such a practice. Waiver of the deductibles or 376
copayments shall be made only with the full knowledge and 377
consent of the plan purchaser, payer, and third-party 378
administrator. Documentation of the consent shall be made 379
available to the board upon request. 380

(2) For professional services rendered to any other person 381
licensed pursuant to this chapter to the extent allowed by this 382
chapter and the rules of the board. 383

Sec. 4723.93. (A) As used in this section, "intimate 384
examination" means a pelvic, prostate, or rectal examination. 385

(B) Except as provided in division (C) of this section, an 386
advanced practice registered nurse or a student currently 387
enrolled in and actively pursuing completion of an advanced 388
practice registered nursing education program shall not perform, 389
or authorize another individual to perform, an intimate 390
examination on an anesthetized or unconscious patient. 391

(C) Division (B) of this section does not apply in any of 392
the following circumstances: 393

(1) The performance of an intimate examination is within 394
the scope of care for the surgical procedure or diagnostic 395
examination to be performed on the patient. 396

(2) The patient or the patient's legal representative 397

gives specific, informed consent for the intimate examination. 398

(3) An intimate examination is required for diagnostic 399
purposes or treatment of the patient's medical condition. 400

(4) A court orders the intimate examination for the 401
purpose of collecting evidence. 402

Sec. 4730.25. (A) The state medical board, by an 403
affirmative vote of not fewer than six members, may revoke or 404
may refuse to grant a license to practice as a physician 405
assistant to a person found by the board to have committed 406
fraud, misrepresentation, or deception in applying for or 407
securing the license. 408

(B) Except as provided in division (N) of this section, 409
the board, by an affirmative vote of not fewer than six members, 410
shall, to the extent permitted by law, limit, revoke, or suspend 411
an individual's license to practice as a physician assistant or 412
prescriber number, refuse to issue a license to an applicant, 413
refuse to renew a license, refuse to reinstate a license, or 414
reprimand or place on probation the holder of a license for any 415
of the following reasons: 416

(1) Failure to practice in accordance with the supervising 417
physician's supervision agreement with the physician assistant, 418
including, if applicable, the policies of the health care 419
facility in which the supervising physician and physician 420
assistant are practicing; 421

(2) Failure to comply with the requirements of this 422
chapter, Chapter 4731. of the Revised Code, or any rules adopted 423
by the board; 424

(3) Violating or attempting to violate, directly or 425
indirectly, or assisting in or abetting the violation of, or 426

conspiring to violate, any provision of this chapter, Chapter 427
4731. of the Revised Code, or the rules adopted by the board; 428

(4) Inability to practice according to acceptable and 429
prevailing standards of care by reason of mental illness or 430
physical illness, including physical deterioration that 431
adversely affects cognitive, motor, or perceptive skills; 432

(5) Impairment of ability to practice according to 433
acceptable and prevailing standards of care because of habitual 434
or excessive use or abuse of drugs, alcohol, or other substances 435
that impair ability to practice; 436

(6) Administering drugs for purposes other than those 437
authorized under this chapter; 438

(7) Willfully betraying a professional confidence; 439

(8) Making a false, fraudulent, deceptive, or misleading 440
statement in soliciting or advertising for employment as a 441
physician assistant; in connection with any solicitation or 442
advertisement for patients; in relation to the practice of 443
medicine as it pertains to physician assistants; or in securing 444
or attempting to secure a license to practice as a physician 445
assistant. 446

As used in this division, "false, fraudulent, deceptive, 447
or misleading statement" means a statement that includes a 448
misrepresentation of fact, is likely to mislead or deceive 449
because of a failure to disclose material facts, is intended or 450
is likely to create false or unjustified expectations of 451
favorable results, or includes representations or implications 452
that in reasonable probability will cause an ordinarily prudent 453
person to misunderstand or be deceived. 454

(9) Representing, with the purpose of obtaining 455

compensation or other advantage personally or for any other 456
person, that an incurable disease or injury, or other incurable 457
condition, can be permanently cured; 458

(10) The obtaining of, or attempting to obtain, money or 459
anything of value by fraudulent misrepresentations in the course 460
of practice; 461

(11) A plea of guilty to, a judicial finding of guilt of, 462
or a judicial finding of eligibility for intervention in lieu of 463
conviction for, a felony; 464

(12) Commission of an act that constitutes a felony in 465
this state, regardless of the jurisdiction in which the act was 466
committed; 467

(13) A plea of guilty to, a judicial finding of guilt of, 468
or a judicial finding of eligibility for intervention in lieu of 469
conviction for, a misdemeanor committed in the course of 470
practice; 471

(14) A plea of guilty to, a judicial finding of guilt of, 472
or a judicial finding of eligibility for intervention in lieu of 473
conviction for, a misdemeanor involving moral turpitude; 474

(15) Commission of an act in the course of practice that 475
constitutes a misdemeanor in this state, regardless of the 476
jurisdiction in which the act was committed; 477

(16) Commission of an act involving moral turpitude that 478
constitutes a misdemeanor in this state, regardless of the 479
jurisdiction in which the act was committed; 480

(17) A plea of guilty to, a judicial finding of guilt of, 481
or a judicial finding of eligibility for intervention in lieu of 482
conviction for violating any state or federal law regulating the 483

possession, distribution, or use of any drug, including 484
trafficking in drugs; 485

(18) Any of the following actions taken by the state 486
agency responsible for regulating the practice of physician 487
assistants in another state, for any reason other than the 488
nonpayment of fees: the limitation, revocation, or suspension of 489
an individual's license to practice; acceptance of an 490
individual's license surrender; denial of a license; refusal to 491
renew or reinstate a license; imposition of probation; or 492
issuance of an order of censure or other reprimand; 493

(19) A departure from, or failure to conform to, minimal 494
standards of care of similar physician assistants under the same 495
or similar circumstances, regardless of whether actual injury to 496
a patient is established; 497

(20) Violation of the conditions placed by the board on a 498
license to practice as a physician assistant; 499

(21) Failure to use universal blood and body fluid 500
precautions established by rules adopted under section 4731.051 501
of the Revised Code; 502

(22) Failure to cooperate in an investigation conducted by 503
the board under section 4730.26 of the Revised Code, including 504
failure to comply with a subpoena or order issued by the board 505
or failure to answer truthfully a question presented by the 506
board at a deposition or in written interrogatories, except that 507
failure to cooperate with an investigation shall not constitute 508
grounds for discipline under this section if a court of 509
competent jurisdiction has issued an order that either quashes a 510
subpoena or permits the individual to withhold the testimony or 511
evidence in issue; 512

(23) Assisting suicide, as defined in section 3795.01 of	513
the Revised Code;	514
(24) Prescribing any drug or device to perform or induce	515
an abortion, or otherwise performing or inducing an abortion;	516
(25) Failure to comply with section 4730.53 of the Revised	517
Code, unless the board no longer maintains a drug database	518
pursuant to section 4729.75 of the Revised Code;	519
(26) Failure to comply with the requirements in section	520
3719.061 of the Revised Code before issuing for a minor a	521
prescription for an opioid analgesic, as defined in section	522
3719.01 of the Revised Code;	523
(27) Having certification by the national commission on	524
certification of physician assistants or a successor	525
organization expire, lapse, or be suspended or revoked;	526
(28) The revocation, suspension, restriction, reduction,	527
or termination of clinical privileges by the United States	528
department of defense or department of veterans affairs or the	529
termination or suspension of a certificate of registration to	530
prescribe drugs by the drug enforcement administration of the	531
United States department of justice;	532
(29) Failure to comply with terms of a consult agreement	533
entered into with a pharmacist pursuant to section 4729.39 of	534
the Revised Code;	535
<u>(30) Violation of section 4730.57 of the Revised Code.</u>	536
(C) Disciplinary actions taken by the board under	537
divisions (A) and (B) of this section shall be taken pursuant to	538
an adjudication under Chapter 119. of the Revised Code, except	539
that in lieu of an adjudication, the board may enter into a	540

consent agreement with a physician assistant or applicant to 541
resolve an allegation of a violation of this chapter or any rule 542
adopted under it. A consent agreement, when ratified by an 543
affirmative vote of not fewer than six members of the board, 544
shall constitute the findings and order of the board with 545
respect to the matter addressed in the agreement. If the board 546
refuses to ratify a consent agreement, the admissions and 547
findings contained in the consent agreement shall be of no force 548
or effect. 549

(D) For purposes of divisions (B) (12), (15), and (16) of 550
this section, the commission of the act may be established by a 551
finding by the board, pursuant to an adjudication under Chapter 552
119. of the Revised Code, that the applicant or license holder 553
committed the act in question. The board shall have no 554
jurisdiction under these divisions in cases where the trial 555
court renders a final judgment in the license holder's favor and 556
that judgment is based upon an adjudication on the merits. The 557
board shall have jurisdiction under these divisions in cases 558
where the trial court issues an order of dismissal upon 559
technical or procedural grounds. 560

(E) The sealing or expungement of conviction records by 561
any court shall have no effect upon a prior board order entered 562
under the provisions of this section or upon the board's 563
jurisdiction to take action under the provisions of this section 564
if, based upon a plea of guilty, a judicial finding of guilt, or 565
a judicial finding of eligibility for intervention in lieu of 566
conviction, the board issued a notice of opportunity for a 567
hearing prior to the court's order to seal or expunge the 568
records. The board shall not be required to seal, destroy, 569
redact, or otherwise modify its records to reflect the court's 570
sealing or expungement of conviction records. 571

(F) For purposes of this division, any individual who 572
holds a license issued under this chapter, or applies for a 573
license issued under this chapter, shall be deemed to have given 574
consent to submit to a mental or physical examination when 575
directed to do so in writing by the board and to have waived all 576
objections to the admissibility of testimony or examination 577
reports that constitute a privileged communication. 578

(1) In enforcing division (B) (4) of this section, the 579
board, upon a showing of a possible violation, may compel any 580
individual who holds a license issued under this chapter or who 581
has applied for a license pursuant to this chapter to submit to 582
a mental examination, physical examination, including an HIV 583
test, or both a mental and physical examination. The expense of 584
the examination is the responsibility of the individual 585
compelled to be examined. Failure to submit to a mental or 586
physical examination or consent to an HIV test ordered by the 587
board constitutes an admission of the allegations against the 588
individual unless the failure is due to circumstances beyond the 589
individual's control, and a default and final order may be 590
entered without the taking of testimony or presentation of 591
evidence. If the board finds a physician assistant unable to 592
practice because of the reasons set forth in division (B) (4) of 593
this section, the board shall require the physician assistant to 594
submit to care, counseling, or treatment by physicians approved 595
or designated by the board, as a condition for an initial, 596
continued, reinstated, or renewed license. An individual 597
affected under this division shall be afforded an opportunity to 598
demonstrate to the board the ability to resume practicing in 599
compliance with acceptable and prevailing standards of care. 600

(2) For purposes of division (B) (5) of this section, if 601
the board has reason to believe that any individual who holds a 602

license issued under this chapter or any applicant for a license 603
suffers such impairment, the board may compel the individual to 604
submit to a mental or physical examination, or both. The expense 605
of the examination is the responsibility of the individual 606
compelled to be examined. Any mental or physical examination 607
required under this division shall be undertaken by a treatment 608
provider or physician qualified to conduct such examination and 609
chosen by the board. 610

Failure to submit to a mental or physical examination 611
ordered by the board constitutes an admission of the allegations 612
against the individual unless the failure is due to 613
circumstances beyond the individual's control, and a default and 614
final order may be entered without the taking of testimony or 615
presentation of evidence. If the board determines that the 616
individual's ability to practice is impaired, the board shall 617
suspend the individual's license or deny the individual's 618
application and shall require the individual, as a condition for 619
initial, continued, reinstated, or renewed licensure, to submit 620
to treatment. 621

Before being eligible to apply for reinstatement of a 622
license suspended under this division, the physician assistant 623
shall demonstrate to the board the ability to resume practice or 624
prescribing in compliance with acceptable and prevailing 625
standards of care. The demonstration shall include the 626
following: 627

(a) Certification from a treatment provider approved under 628
section 4731.25 of the Revised Code that the individual has 629
successfully completed any required inpatient treatment; 630

(b) Evidence of continuing full compliance with an 631
aftercare contract or consent agreement; 632

(c) Two written reports indicating that the individual's 633
ability to practice has been assessed and that the individual 634
has been found capable of practicing according to acceptable and 635
prevailing standards of care. The reports shall be made by 636
individuals or providers approved by the board for making such 637
assessments and shall describe the basis for their 638
determination. 639

The board may reinstate a license suspended under this 640
division after such demonstration and after the individual has 641
entered into a written consent agreement. 642

When the impaired physician assistant resumes practice or 643
prescribing, the board shall require continued monitoring of the 644
physician assistant. The monitoring shall include compliance 645
with the written consent agreement entered into before 646
reinstatement or with conditions imposed by board order after a 647
hearing, and, upon termination of the consent agreement, 648
submission to the board for at least two years of annual written 649
progress reports made under penalty of falsification stating 650
whether the physician assistant has maintained sobriety. 651

(G) If the secretary and supervising member determine that 652
there is clear and convincing evidence that a physician 653
assistant has violated division (B) of this section and that the 654
individual's continued practice or prescribing presents a danger 655
of immediate and serious harm to the public, they may recommend 656
that the board suspend the individual's license without a prior 657
hearing. Written allegations shall be prepared for consideration 658
by the board. 659

The board, upon review of those allegations and by an 660
affirmative vote of not fewer than six of its members, excluding 661
the secretary and supervising member, may suspend a license 662

without a prior hearing. A telephone conference call may be 663
utilized for reviewing the allegations and taking the vote on 664
the summary suspension. 665

The board shall issue a written order of suspension by 666
certified mail or in person in accordance with section 119.07 of 667
the Revised Code. The order shall not be subject to suspension 668
by the court during pendency of any appeal filed under section 669
119.12 of the Revised Code. If the physician assistant requests 670
an adjudicatory hearing by the board, the date set for the 671
hearing shall be within fifteen days, but not earlier than seven 672
days, after the physician assistant requests the hearing, unless 673
otherwise agreed to by both the board and the license holder. 674

A summary suspension imposed under this division shall 675
remain in effect, unless reversed on appeal, until a final 676
adjudicative order issued by the board pursuant to this section 677
and Chapter 119. of the Revised Code becomes effective. The 678
board shall issue its final adjudicative order within sixty days 679
after completion of its hearing. Failure to issue the order 680
within sixty days shall result in dissolution of the summary 681
suspension order, but shall not invalidate any subsequent, final 682
adjudicative order. 683

(H) If the board takes action under division (B) (11), 684
(13), or (14) of this section, and the judicial finding of 685
guilt, guilty plea, or judicial finding of eligibility for 686
intervention in lieu of conviction is overturned on appeal, upon 687
exhaustion of the criminal appeal, a petition for 688
reconsideration of the order may be filed with the board along 689
with appropriate court documents. Upon receipt of a petition and 690
supporting court documents, the board shall reinstate the 691
individual's license. The board may then hold an adjudication 692

under Chapter 119. of the Revised Code to determine whether the 693
individual committed the act in question. Notice of opportunity 694
for hearing shall be given in accordance with Chapter 119. of 695
the Revised Code. If the board finds, pursuant to an 696
adjudication held under this division, that the individual 697
committed the act, or if no hearing is requested, it may order 698
any of the sanctions identified under division (B) of this 699
section. 700

(I) The license to practice issued to a physician 701
assistant and the physician assistant's practice in this state 702
are automatically suspended as of the date the physician 703
assistant pleads guilty to, is found by a judge or jury to be 704
guilty of, or is subject to a judicial finding of eligibility 705
for intervention in lieu of conviction in this state or 706
treatment or intervention in lieu of conviction in another state 707
for any of the following criminal offenses in this state or a 708
substantially equivalent criminal offense in another 709
jurisdiction: aggravated murder, murder, voluntary manslaughter, 710
felonious assault, kidnapping, rape, sexual battery, gross 711
sexual imposition, aggravated arson, aggravated robbery, or 712
aggravated burglary. Continued practice after the suspension 713
shall be considered practicing without a license. 714

The board shall notify the individual subject to the 715
suspension by certified mail or in person in accordance with 716
section 119.07 of the Revised Code. If an individual whose 717
license is suspended under this division fails to make a timely 718
request for an adjudication under Chapter 119. of the Revised 719
Code, the board shall enter a final order permanently revoking 720
the individual's license to practice. 721

(J) In any instance in which the board is required by 722

Chapter 119. of the Revised Code to give notice of opportunity 723
for hearing and the individual subject to the notice does not 724
timely request a hearing in accordance with section 119.07 of 725
the Revised Code, the board is not required to hold a hearing, 726
but may adopt, by an affirmative vote of not fewer than six of 727
its members, a final order that contains the board's findings. 728
In that final order, the board may order any of the sanctions 729
identified under division (A) or (B) of this section. 730

(K) Any action taken by the board under division (B) of 731
this section resulting in a suspension shall be accompanied by a 732
written statement of the conditions under which the physician 733
assistant's license may be reinstated. The board shall adopt 734
rules in accordance with Chapter 119. of the Revised Code 735
governing conditions to be imposed for reinstatement. 736
Reinstatement of a license suspended pursuant to division (B) of 737
this section requires an affirmative vote of not fewer than six 738
members of the board. 739

(L) When the board refuses to grant or issue to an 740
applicant a license to practice as a physician assistant, 741
revokes an individual's license, refuses to renew an 742
individual's license, or refuses to reinstate an individual's 743
license, the board may specify that its action is permanent. An 744
individual subject to a permanent action taken by the board is 745
forever thereafter ineligible to hold the license and the board 746
shall not accept an application for reinstatement of the license 747
or for issuance of a new license. 748

(M) Notwithstanding any other provision of the Revised 749
Code, all of the following apply: 750

(1) The surrender of a license issued under this chapter 751
is not effective unless or until accepted by the board. 752

Reinstatement of a license surrendered to the board requires an 753
affirmative vote of not fewer than six members of the board. 754

(2) An application made under this chapter for a license 755
may not be withdrawn without approval of the board. 756

(3) Failure by an individual to renew a license in 757
accordance with section 4730.14 of the Revised Code shall not 758
remove or limit the board's jurisdiction to take disciplinary 759
action under this section against the individual. 760

(N) The board shall not refuse to issue a license to an 761
applicant because of a conviction, plea of guilty, judicial 762
finding of guilt, judicial finding of eligibility for 763
intervention in lieu of conviction, or the commission of an act 764
that constitutes a criminal offense, unless the refusal is in 765
accordance with section 9.79 of the Revised Code. 766

Sec. 4730.57. (A) As used in this section, "intimate 767
examination" means a pelvic, prostate, or rectal examination. 768

(B) Except as provided in division (C) of this section, a 769
physician assistant or student enrolled in a program or course 770
of study described in division (B) of section 4730.11 of the 771
Revised Code shall not perform, or authorize another individual 772
to perform, an intimate examination on an anesthetized or 773
unconscious patient. 774

(C) Division (B) of this section does not apply in any of 775
the following circumstances: 776

(1) The performance of an intimate examination is within 777
the scope of care for the surgical procedure or diagnostic 778
examination to be performed on the patient. 779

(2) The patient or the patient's legal representative 780

gives specific, informed consent for the intimate examination. 781

(3) An intimate examination is required for diagnostic 782
purposes or treatment of the patient's medical condition. 783

(4) A court orders the intimate examination for the 784
purpose of collecting evidence. 785

Sec. 4731.22. (A) The state medical board, by an 786
affirmative vote of not fewer than six of its members, may 787
limit, revoke, or suspend a license or certificate to practice 788
or certificate to recommend, refuse to grant a license or 789
certificate, refuse to renew a license or certificate, refuse to 790
reinstate a license or certificate, or reprimand or place on 791
probation the holder of a license or certificate if the 792
individual applying for or holding the license or certificate is 793
found by the board to have committed fraud during the 794
administration of the examination for a license or certificate 795
to practice or to have committed fraud, misrepresentation, or 796
deception in applying for, renewing, or securing any license or 797
certificate to practice or certificate to recommend issued by 798
the board. 799

(B) Except as provided in division (P) of this section, 800
the board, by an affirmative vote of not fewer than six members, 801
shall, to the extent permitted by law, limit, revoke, or suspend 802
a license or certificate to practice or certificate to 803
recommend, refuse to issue a license or certificate, refuse to 804
renew a license or certificate, refuse to reinstate a license or 805
certificate, or reprimand or place on probation the holder of a 806
license or certificate for one or more of the following reasons: 807

(1) Permitting one's name or one's license or certificate 808
to practice to be used by a person, group, or corporation when 809

the individual concerned is not actually directing the treatment 810
given; 811

(2) Failure to maintain minimal standards applicable to 812
the selection or administration of drugs, or failure to employ 813
acceptable scientific methods in the selection of drugs or other 814
modalities for treatment of disease; 815

(3) Except as provided in section 4731.97 of the Revised 816
Code, selling, giving away, personally furnishing, prescribing, 817
or administering drugs for other than legal and legitimate 818
therapeutic purposes or a plea of guilty to, a judicial finding 819
of guilt of, or a judicial finding of eligibility for 820
intervention in lieu of conviction of, a violation of any 821
federal or state law regulating the possession, distribution, or 822
use of any drug; 823

(4) Willfully betraying a professional confidence. 824

For purposes of this division, "willfully betraying a 825
professional confidence" does not include providing any 826
information, documents, or reports under sections 307.621 to 827
307.629 of the Revised Code to a child fatality review board; 828
does not include providing any information, documents, or 829
reports under sections 307.631 to 307.6410 of the Revised Code 830
to a drug overdose fatality review committee, a suicide fatality 831
review committee, or hybrid drug overdose fatality and suicide 832
fatality review committee; does not include providing any 833
information, documents, or reports under sections 307.651 to 834
307.659 of the Revised Code to a domestic violence fatality 835
review board; does not include providing any information, 836
documents, or reports to the director of health pursuant to 837
guidelines established under section 3701.70 of the Revised 838
Code; does not include written notice to a mental health 839

professional under section 4731.62 of the Revised Code; and does 840
not include the making of a report of an employee's use of a 841
drug of abuse, or a report of a condition of an employee other 842
than one involving the use of a drug of abuse, to the employer 843
of the employee as described in division (B) of section 2305.33 844
of the Revised Code. Nothing in this division affects the 845
immunity from civil liability conferred by section 2305.33 or 846
4731.62 of the Revised Code upon a physician who makes a report 847
in accordance with section 2305.33 or notifies a mental health 848
professional in accordance with section 4731.62 of the Revised 849
Code. As used in this division, "employee," "employer," and 850
"physician" have the same meanings as in section 2305.33 of the 851
Revised Code. 852

(5) Making a false, fraudulent, deceptive, or misleading 853
statement in the solicitation of or advertising for patients; in 854
relation to the practice of medicine and surgery, osteopathic 855
medicine and surgery, podiatric medicine and surgery, or a 856
limited branch of medicine; or in securing or attempting to 857
secure any license or certificate to practice issued by the 858
board. 859

As used in this division, "false, fraudulent, deceptive, 860
or misleading statement" means a statement that includes a 861
misrepresentation of fact, is likely to mislead or deceive 862
because of a failure to disclose material facts, is intended or 863
is likely to create false or unjustified expectations of 864
favorable results, or includes representations or implications 865
that in reasonable probability will cause an ordinarily prudent 866
person to misunderstand or be deceived. 867

(6) A departure from, or the failure to conform to, 868
minimal standards of care of similar practitioners under the 869

same or similar circumstances, whether or not actual injury to a 870
patient is established; 871

(7) Representing, with the purpose of obtaining 872
compensation or other advantage as personal gain or for any 873
other person, that an incurable disease or injury, or other 874
incurable condition, can be permanently cured; 875

(8) The obtaining of, or attempting to obtain, money or 876
anything of value by fraudulent misrepresentations in the course 877
of practice; 878

(9) A plea of guilty to, a judicial finding of guilt of, 879
or a judicial finding of eligibility for intervention in lieu of 880
conviction for, a felony; 881

(10) Commission of an act that constitutes a felony in 882
this state, regardless of the jurisdiction in which the act was 883
committed; 884

(11) A plea of guilty to, a judicial finding of guilt of, 885
or a judicial finding of eligibility for intervention in lieu of 886
conviction for, a misdemeanor committed in the course of 887
practice; 888

(12) Commission of an act in the course of practice that 889
constitutes a misdemeanor in this state, regardless of the 890
jurisdiction in which the act was committed; 891

(13) A plea of guilty to, a judicial finding of guilt of, 892
or a judicial finding of eligibility for intervention in lieu of 893
conviction for, a misdemeanor involving moral turpitude; 894

(14) Commission of an act involving moral turpitude that 895
constitutes a misdemeanor in this state, regardless of the 896
jurisdiction in which the act was committed; 897

(15) Violation of the conditions of limitation placed by 898
the board upon a license or certificate to practice; 899

(16) Failure to pay license renewal fees specified in this 900
chapter; 901

(17) Except as authorized in section 4731.31 of the 902
Revised Code, engaging in the division of fees for referral of 903
patients, or the receiving of a thing of value in return for a 904
specific referral of a patient to utilize a particular service 905
or business; 906

(18) Subject to section 4731.226 of the Revised Code, 907
violation of any provision of a code of ethics of the American 908
medical association, the American osteopathic association, the 909
American podiatric medical association, or any other national 910
professional organizations that the board specifies by rule. The 911
state medical board shall obtain and keep on file current copies 912
of the codes of ethics of the various national professional 913
organizations. The individual whose license or certificate is 914
being suspended or revoked shall not be found to have violated 915
any provision of a code of ethics of an organization not 916
appropriate to the individual's profession. 917

For purposes of this division, a "provision of a code of 918
ethics of a national professional organization" does not include 919
any provision that would preclude the making of a report by a 920
physician of an employee's use of a drug of abuse, or of a 921
condition of an employee other than one involving the use of a 922
drug of abuse, to the employer of the employee as described in 923
division (B) of section 2305.33 of the Revised Code. Nothing in 924
this division affects the immunity from civil liability 925
conferred by that section upon a physician who makes either type 926
of report in accordance with division (B) of that section. As 927

used in this division, "employee," "employer," and "physician" 928
have the same meanings as in section 2305.33 of the Revised 929
Code. 930

(19) Inability to practice according to acceptable and 931
prevailing standards of care by reason of mental illness or 932
physical illness, including, but not limited to, physical 933
deterioration that adversely affects cognitive, motor, or 934
perceptive skills. 935

In enforcing this division, the board, upon a showing of a 936
possible violation, may compel any individual authorized to 937
practice by this chapter or who has submitted an application 938
pursuant to this chapter to submit to a mental examination, 939
physical examination, including an HIV test, or both a mental 940
and a physical examination. The expense of the examination is 941
the responsibility of the individual compelled to be examined. 942
Failure to submit to a mental or physical examination or consent 943
to an HIV test ordered by the board constitutes an admission of 944
the allegations against the individual unless the failure is due 945
to circumstances beyond the individual's control, and a default 946
and final order may be entered without the taking of testimony 947
or presentation of evidence. If the board finds an individual 948
unable to practice because of the reasons set forth in this 949
division, the board shall require the individual to submit to 950
care, counseling, or treatment by physicians approved or 951
designated by the board, as a condition for initial, continued, 952
reinstated, or renewed authority to practice. An individual 953
affected under this division shall be afforded an opportunity to 954
demonstrate to the board the ability to resume practice in 955
compliance with acceptable and prevailing standards under the 956
provisions of the individual's license or certificate. For the 957
purpose of this division, any individual who applies for or 958

receives a license or certificate to practice under this chapter 959
accepts the privilege of practicing in this state and, by so 960
doing, shall be deemed to have given consent to submit to a 961
mental or physical examination when directed to do so in writing 962
by the board, and to have waived all objections to the 963
admissibility of testimony or examination reports that 964
constitute a privileged communication. 965

(20) Except as provided in division (F) (1) (b) of section 966
4731.282 of the Revised Code or when civil penalties are imposed 967
under section 4731.225 of the Revised Code, and subject to 968
section 4731.226 of the Revised Code, violating or attempting to 969
violate, directly or indirectly, or assisting in or abetting the 970
violation of, or conspiring to violate, any provisions of this 971
chapter or any rule promulgated by the board. 972

This division does not apply to a violation or attempted 973
violation of, assisting in or abetting the violation of, or a 974
conspiracy to violate, any provision of this chapter or any rule 975
adopted by the board that would preclude the making of a report 976
by a physician of an employee's use of a drug of abuse, or of a 977
condition of an employee other than one involving the use of a 978
drug of abuse, to the employer of the employee as described in 979
division (B) of section 2305.33 of the Revised Code. Nothing in 980
this division affects the immunity from civil liability 981
conferred by that section upon a physician who makes either type 982
of report in accordance with division (B) of that section. As 983
used in this division, "employee," "employer," and "physician" 984
have the same meanings as in section 2305.33 of the Revised 985
Code. 986

(21) The violation of section 3701.79 of the Revised Code 987
or of any abortion rule adopted by the director of health 988

pursuant to section 3701.341 of the Revised Code; 989

(22) Any of the following actions taken by an agency 990
responsible for authorizing, certifying, or regulating an 991
individual to practice a health care occupation or provide 992
health care services in this state or another jurisdiction, for 993
any reason other than the nonpayment of fees: the limitation, 994
revocation, or suspension of an individual's license to 995
practice; acceptance of an individual's license surrender; 996
denial of a license; refusal to renew or reinstate a license; 997
imposition of probation; or issuance of an order of censure or 998
other reprimand; 999

(23) The violation of section 2919.12 of the Revised Code 1000
or the performance or inducement of an abortion upon a pregnant 1001
woman with actual knowledge that the conditions specified in 1002
division (B) of section 2317.56 of the Revised Code have not 1003
been satisfied or with a heedless indifference as to whether 1004
those conditions have been satisfied, unless an affirmative 1005
defense as specified in division (H)(2) of that section would 1006
apply in a civil action authorized by division (H)(1) of that 1007
section; 1008

(24) The revocation, suspension, restriction, reduction, 1009
or termination of clinical privileges by the United States 1010
department of defense or department of veterans affairs or the 1011
termination or suspension of a certificate of registration to 1012
prescribe drugs by the drug enforcement administration of the 1013
United States department of justice; 1014

(25) Termination or suspension from participation in the 1015
medicare or medicaid programs by the department of health and 1016
human services or other responsible agency; 1017

(26) Impairment of ability to practice according to 1018
acceptable and prevailing standards of care because of habitual 1019
or excessive use or abuse of drugs, alcohol, or other substances 1020
that impair ability to practice. 1021

For the purposes of this division, any individual 1022
authorized to practice by this chapter accepts the privilege of 1023
practicing in this state subject to supervision by the board. By 1024
filing an application for or holding a license or certificate to 1025
practice under this chapter, an individual shall be deemed to 1026
have given consent to submit to a mental or physical examination 1027
when ordered to do so by the board in writing, and to have 1028
waived all objections to the admissibility of testimony or 1029
examination reports that constitute privileged communications. 1030

If it has reason to believe that any individual authorized 1031
to practice by this chapter or any applicant for licensure or 1032
certification to practice suffers such impairment, the board may 1033
compel the individual to submit to a mental or physical 1034
examination, or both. The expense of the examination is the 1035
responsibility of the individual compelled to be examined. Any 1036
mental or physical examination required under this division 1037
shall be undertaken by a treatment provider or physician who is 1038
qualified to conduct the examination and who is chosen by the 1039
board. 1040

Failure to submit to a mental or physical examination 1041
ordered by the board constitutes an admission of the allegations 1042
against the individual unless the failure is due to 1043
circumstances beyond the individual's control, and a default and 1044
final order may be entered without the taking of testimony or 1045
presentation of evidence. If the board determines that the 1046
individual's ability to practice is impaired, the board shall 1047

suspend the individual's license or certificate or deny the 1048
individual's application and shall require the individual, as a 1049
condition for initial, continued, reinstated, or renewed 1050
licensure or certification to practice, to submit to treatment. 1051

Before being eligible to apply for reinstatement of a 1052
license or certificate suspended under this division, the 1053
impaired practitioner shall demonstrate to the board the ability 1054
to resume practice in compliance with acceptable and prevailing 1055
standards of care under the provisions of the practitioner's 1056
license or certificate. The demonstration shall include, but 1057
shall not be limited to, the following: 1058

(a) Certification from a treatment provider approved under 1059
section 4731.25 of the Revised Code that the individual has 1060
successfully completed any required inpatient treatment; 1061

(b) Evidence of continuing full compliance with an 1062
aftercare contract or consent agreement; 1063

(c) Two written reports indicating that the individual's 1064
ability to practice has been assessed and that the individual 1065
has been found capable of practicing according to acceptable and 1066
prevailing standards of care. The reports shall be made by 1067
individuals or providers approved by the board for making the 1068
assessments and shall describe the basis for their 1069
determination. 1070

The board may reinstate a license or certificate suspended 1071
under this division after that demonstration and after the 1072
individual has entered into a written consent agreement. 1073

When the impaired practitioner resumes practice, the board 1074
shall require continued monitoring of the individual. The 1075
monitoring shall include, but not be limited to, compliance with 1076

the written consent agreement entered into before reinstatement 1077
or with conditions imposed by board order after a hearing, and, 1078
upon termination of the consent agreement, submission to the 1079
board for at least two years of annual written progress reports 1080
made under penalty of perjury stating whether the individual has 1081
maintained sobriety. 1082

(27) A second or subsequent violation of section 4731.66 1083
or 4731.69 of the Revised Code; 1084

(28) Except as provided in division (N) of this section: 1085

(a) Waiving the payment of all or any part of a deductible 1086
or copayment that a patient, pursuant to a health insurance or 1087
health care policy, contract, or plan that covers the 1088
individual's services, otherwise would be required to pay if the 1089
waiver is used as an enticement to a patient or group of 1090
patients to receive health care services from that individual; 1091

(b) Advertising that the individual will waive the payment 1092
of all or any part of a deductible or copayment that a patient, 1093
pursuant to a health insurance or health care policy, contract, 1094
or plan that covers the individual's services, otherwise would 1095
be required to pay. 1096

(29) Failure to use universal blood and body fluid 1097
precautions established by rules adopted under section 4731.051 1098
of the Revised Code; 1099

(30) Failure to provide notice to, and receive 1100
acknowledgment of the notice from, a patient when required by 1101
section 4731.143 of the Revised Code prior to providing 1102
nonemergency professional services, or failure to maintain that 1103
notice in the patient's medical record; 1104

(31) Failure of a physician supervising a physician 1105

assistant to maintain supervision in accordance with the 1106
requirements of Chapter 4730. of the Revised Code and the rules 1107
adopted under that chapter; 1108

(32) Failure of a physician or podiatrist to enter into a 1109
standard care arrangement with a clinical nurse specialist, 1110
certified nurse-midwife, or certified nurse practitioner with 1111
whom the physician or podiatrist is in collaboration pursuant to 1112
section 4731.27 of the Revised Code or failure to fulfill the 1113
responsibilities of collaboration after entering into a standard 1114
care arrangement; 1115

(33) Failure to comply with the terms of a consult 1116
agreement entered into with a pharmacist pursuant to section 1117
4729.39 of the Revised Code; 1118

(34) Failure to cooperate in an investigation conducted by 1119
the board under division (F) of this section, including failure 1120
to comply with a subpoena or order issued by the board or 1121
failure to answer truthfully a question presented by the board 1122
in an investigative interview, an investigative office 1123
conference, at a deposition, or in written interrogatories, 1124
except that failure to cooperate with an investigation shall not 1125
constitute grounds for discipline under this section if a court 1126
of competent jurisdiction has issued an order that either 1127
quashes a subpoena or permits the individual to withhold the 1128
testimony or evidence in issue; 1129

(35) Failure to supervise an acupuncturist in accordance 1130
with Chapter 4762. of the Revised Code and the board's rules for 1131
providing that supervision; 1132

(36) Failure to supervise an anesthesiologist assistant in 1133
accordance with Chapter 4760. of the Revised Code and the 1134

board's rules for supervision of an anesthesiologist assistant; 1135

(37) Assisting suicide, as defined in section 3795.01 of 1136
the Revised Code; 1137

(38) Failure to comply with the requirements of section 1138
2317.561 of the Revised Code; 1139

(39) Failure to supervise a radiologist assistant in 1140
accordance with Chapter 4774. of the Revised Code and the 1141
board's rules for supervision of radiologist assistants; 1142

(40) Performing or inducing an abortion at an office or 1143
facility with knowledge that the office or facility fails to 1144
post the notice required under section 3701.791 of the Revised 1145
Code; 1146

(41) Failure to comply with the standards and procedures 1147
established in rules under section 4731.054 of the Revised Code 1148
for the operation of or the provision of care at a pain 1149
management clinic; 1150

(42) Failure to comply with the standards and procedures 1151
established in rules under section 4731.054 of the Revised Code 1152
for providing supervision, direction, and control of individuals 1153
at a pain management clinic; 1154

(43) Failure to comply with the requirements of section 1155
4729.79 or 4731.055 of the Revised Code, unless the state board 1156
of pharmacy no longer maintains a drug database pursuant to 1157
section 4729.75 of the Revised Code; 1158

(44) Failure to comply with the requirements of section 1159
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 1160
to submit to the department of health in accordance with a court 1161
order a complete report as described in section 2919.171 or 1162

2919.202 of the Revised Code; 1163

(45) Practicing at a facility that is subject to licensure 1164
as a category III terminal distributor of dangerous drugs with a 1165
pain management clinic classification unless the person 1166
operating the facility has obtained and maintains the license 1167
with the classification; 1168

(46) Owning a facility that is subject to licensure as a 1169
category III terminal distributor of dangerous drugs with a pain 1170
management clinic classification unless the facility is licensed 1171
with the classification; 1172

(47) Failure to comply with any of the requirements 1173
regarding making or maintaining medical records or documents 1174
described in division (A) of section 2919.192, division (C) of 1175
section 2919.193, division (B) of section 2919.195, or division 1176
(A) of section 2919.196 of the Revised Code; 1177

(48) Failure to comply with the requirements in section 1178
3719.061 of the Revised Code before issuing for a minor a 1179
prescription for an opioid analgesic, as defined in section 1180
3719.01 of the Revised Code; 1181

(49) Failure to comply with the requirements of section 1182
4731.30 of the Revised Code or rules adopted under section 1183
4731.301 of the Revised Code when recommending treatment with 1184
medical marijuana; 1185

(50) Practicing at a facility, clinic, or other location 1186
that is subject to licensure as a category III terminal 1187
distributor of dangerous drugs with an office-based opioid 1188
treatment classification unless the person operating that place 1189
has obtained and maintains the license with the classification; 1190

(51) Owning a facility, clinic, or other location that is 1191

subject to licensure as a category III terminal distributor of 1192
dangerous drugs with an office-based opioid treatment 1193
classification unless that place is licensed with the 1194
classification; 1195

(52) A pattern of continuous or repeated violations of 1196
division (E) (2) or (3) of section 3963.02 of the Revised Code; 1197

(53) Failure to fulfill the responsibilities of a 1198
collaboration agreement entered into with an athletic trainer as 1199
described in section 4755.621 of the Revised Code; 1200

(54) Failure to take the steps specified in section 1201
4731.911 of the Revised Code following an abortion or attempted 1202
abortion in an ambulatory surgical facility or other location 1203
that is not a hospital when a child is born alive; 1204

(55) Violation of section 4731.77 of the Revised Code. 1205

(C) Disciplinary actions taken by the board under 1206
divisions (A) and (B) of this section shall be taken pursuant to 1207
an adjudication under Chapter 119. of the Revised Code, except 1208
that in lieu of an adjudication, the board may enter into a 1209
consent agreement with an individual to resolve an allegation of 1210
a violation of this chapter or any rule adopted under it. A 1211
consent agreement, when ratified by an affirmative vote of not 1212
fewer than six members of the board, shall constitute the 1213
findings and order of the board with respect to the matter 1214
addressed in the agreement. If the board refuses to ratify a 1215
consent agreement, the admissions and findings contained in the 1216
consent agreement shall be of no force or effect. 1217

A telephone conference call may be utilized for 1218
ratification of a consent agreement that revokes or suspends an 1219
individual's license or certificate to practice or certificate 1220

to recommend. The telephone conference call shall be considered 1221
a special meeting under division (F) of section 121.22 of the 1222
Revised Code. 1223

If the board takes disciplinary action against an 1224
individual under division (B) of this section for a second or 1225
subsequent plea of guilty to, or judicial finding of guilt of, a 1226
violation of section 2919.123 or 2919.124 of the Revised Code, 1227
the disciplinary action shall consist of a suspension of the 1228
individual's license or certificate to practice for a period of 1229
at least one year or, if determined appropriate by the board, a 1230
more serious sanction involving the individual's license or 1231
certificate to practice. Any consent agreement entered into 1232
under this division with an individual that pertains to a second 1233
or subsequent plea of guilty to, or judicial finding of guilt 1234
of, a violation of that section shall provide for a suspension 1235
of the individual's license or certificate to practice for a 1236
period of at least one year or, if determined appropriate by the 1237
board, a more serious sanction involving the individual's 1238
license or certificate to practice. 1239

(D) For purposes of divisions (B) (10), (12), and (14) of 1240
this section, the commission of the act may be established by a 1241
finding by the board, pursuant to an adjudication under Chapter 1242
119. of the Revised Code, that the individual committed the act. 1243
The board does not have jurisdiction under those divisions if 1244
the trial court renders a final judgment in the individual's 1245
favor and that judgment is based upon an adjudication on the 1246
merits. The board has jurisdiction under those divisions if the 1247
trial court issues an order of dismissal upon technical or 1248
procedural grounds. 1249

(E) The sealing or expungement of conviction records by 1250

any court shall have no effect upon a prior board order entered 1251
under this section or upon the board's jurisdiction to take 1252
action under this section if, based upon a plea of guilty, a 1253
judicial finding of guilt, or a judicial finding of eligibility 1254
for intervention in lieu of conviction, the board issued a 1255
notice of opportunity for a hearing prior to the court's order 1256
to seal or expunge the records. The board shall not be required 1257
to seal, expunge, destroy, redact, or otherwise modify its 1258
records to reflect the court's sealing of conviction records. 1259

(F) (1) The board shall investigate evidence that appears 1260
to show that a person has violated any provision of this chapter 1261
or any rule adopted under it. Any person may report to the board 1262
in a signed writing any information that the person may have 1263
that appears to show a violation of any provision of this 1264
chapter or any rule adopted under it. In the absence of bad 1265
faith, any person who reports information of that nature or who 1266
testifies before the board in any adjudication conducted under 1267
Chapter 119. of the Revised Code shall not be liable in damages 1268
in a civil action as a result of the report or testimony. Each 1269
complaint or allegation of a violation received by the board 1270
shall be assigned a case number and shall be recorded by the 1271
board. 1272

(2) Investigations of alleged violations of this chapter 1273
or any rule adopted under it shall be supervised by the 1274
supervising member elected by the board in accordance with 1275
section 4731.02 of the Revised Code and by the secretary as 1276
provided in section 4731.39 of the Revised Code. The president 1277
may designate another member of the board to supervise the 1278
investigation in place of the supervising member. No member of 1279
the board who supervises the investigation of a case shall 1280
participate in further adjudication of the case. 1281

(3) In investigating a possible violation of this chapter 1282
or any rule adopted under this chapter, or in conducting an 1283
inspection under division (E) of section 4731.054 of the Revised 1284
Code, the board may question witnesses, conduct interviews, 1285
administer oaths, order the taking of depositions, inspect and 1286
copy any books, accounts, papers, records, or documents, issue 1287
subpoenas, and compel the attendance of witnesses and production 1288
of books, accounts, papers, records, documents, and testimony, 1289
except that a subpoena for patient record information shall not 1290
be issued without consultation with the attorney general's 1291
office and approval of the secretary and supervising member of 1292
the board. 1293

(a) Before issuance of a subpoena for patient record 1294
information, the secretary and supervising member shall 1295
determine whether there is probable cause to believe that the 1296
complaint filed alleges a violation of this chapter or any rule 1297
adopted under it and that the records sought are relevant to the 1298
alleged violation and material to the investigation. The 1299
subpoena may apply only to records that cover a reasonable 1300
period of time surrounding the alleged violation. 1301

(b) On failure to comply with any subpoena issued by the 1302
board and after reasonable notice to the person being 1303
subpoenaed, the board may move for an order compelling the 1304
production of persons or records pursuant to the Rules of Civil 1305
Procedure. 1306

(c) A subpoena issued by the board may be served by a 1307
sheriff, the sheriff's deputy, or a board employee or agent 1308
designated by the board. Service of a subpoena issued by the 1309
board may be made by delivering a copy of the subpoena to the 1310
person named therein, reading it to the person, or leaving it at 1311

the person's usual place of residence, usual place of business, 1312
or address on file with the board. When serving a subpoena to an 1313
applicant for or the holder of a license or certificate issued 1314
under this chapter, service of the subpoena may be made by 1315
certified mail, return receipt requested, and the subpoena shall 1316
be deemed served on the date delivery is made or the date the 1317
person refuses to accept delivery. If the person being served 1318
refuses to accept the subpoena or is not located, service may be 1319
made to an attorney who notifies the board that the attorney is 1320
representing the person. 1321

(d) A sheriff's deputy who serves a subpoena shall receive 1322
the same fees as a sheriff. Each witness who appears before the 1323
board in obedience to a subpoena shall receive the fees and 1324
mileage provided for under section 119.094 of the Revised Code. 1325

(4) All hearings, investigations, and inspections of the 1326
board shall be considered civil actions for the purposes of 1327
section 2305.252 of the Revised Code. 1328

(5) A report required to be submitted to the board under 1329
this chapter, a complaint, or information received by the board 1330
pursuant to an investigation or pursuant to an inspection under 1331
division (E) of section 4731.054 of the Revised Code is 1332
confidential and not subject to discovery in any civil action. 1333

The board shall conduct all investigations or inspections 1334
and proceedings in a manner that protects the confidentiality of 1335
patients and persons who file complaints with the board. The 1336
board shall not make public the names or any other identifying 1337
information about patients or complainants unless proper consent 1338
is given or, in the case of a patient, a waiver of the patient 1339
privilege exists under division (B) of section 2317.02 of the 1340
Revised Code, except that consent or a waiver of that nature is 1341

not required if the board possesses reliable and substantial 1342
evidence that no bona fide physician-patient relationship 1343
exists. 1344

The board may share any information it receives pursuant 1345
to an investigation or inspection, including patient records and 1346
patient record information, with law enforcement agencies, other 1347
licensing boards, and other governmental agencies that are 1348
prosecuting, adjudicating, or investigating alleged violations 1349
of statutes or administrative rules. An agency or board that 1350
receives the information shall comply with the same requirements 1351
regarding confidentiality as those with which the state medical 1352
board must comply, notwithstanding any conflicting provision of 1353
the Revised Code or procedure of the agency or board that 1354
applies when it is dealing with other information in its 1355
possession. In a judicial proceeding, the information may be 1356
admitted into evidence only in accordance with the Rules of 1357
Evidence, but the court shall require that appropriate measures 1358
are taken to ensure that confidentiality is maintained with 1359
respect to any part of the information that contains names or 1360
other identifying information about patients or complainants 1361
whose confidentiality was protected by the state medical board 1362
when the information was in the board's possession. Measures to 1363
ensure confidentiality that may be taken by the court include 1364
sealing its records or deleting specific information from its 1365
records. 1366

(6) On a quarterly basis, the board shall prepare a report 1367
that documents the disposition of all cases during the preceding 1368
three months. The report shall contain the following information 1369
for each case with which the board has completed its activities: 1370

(a) The case number assigned to the complaint or alleged 1371

violation; 1372

(b) The type of license or certificate to practice, if 1373
any, held by the individual against whom the complaint is 1374
directed; 1375

(c) A description of the allegations contained in the 1376
complaint; 1377

(d) The disposition of the case. 1378

The report shall state how many cases are still pending 1379
and shall be prepared in a manner that protects the identity of 1380
each person involved in each case. The report shall be a public 1381
record under section 149.43 of the Revised Code. 1382

(G) If the secretary and supervising member determine both 1383
of the following, they may recommend that the board suspend an 1384
individual's license or certificate to practice or certificate 1385
to recommend without a prior hearing: 1386

(1) That there is clear and convincing evidence that an 1387
individual has violated division (B) of this section; 1388

(2) That the individual's continued practice presents a 1389
danger of immediate and serious harm to the public. 1390

Written allegations shall be prepared for consideration by 1391
the board. The board, upon review of those allegations and by an 1392
affirmative vote of not fewer than six of its members, excluding 1393
the secretary and supervising member, may suspend a license or 1394
certificate without a prior hearing. A telephone conference call 1395
may be utilized for reviewing the allegations and taking the 1396
vote on the summary suspension. 1397

The board shall issue a written order of suspension by 1398
certified mail or in person in accordance with section 119.07 of 1399

the Revised Code. The order shall not be subject to suspension 1400
by the court during pendency of any appeal filed under section 1401
119.12 of the Revised Code. If the individual subject to the 1402
summary suspension requests an adjudicatory hearing by the 1403
board, the date set for the hearing shall be within fifteen 1404
days, but not earlier than seven days, after the individual 1405
requests the hearing, unless otherwise agreed to by both the 1406
board and the individual. 1407

Any summary suspension imposed under this division shall 1408
remain in effect, unless reversed on appeal, until a final 1409
adjudicative order issued by the board pursuant to this section 1410
and Chapter 119. of the Revised Code becomes effective. The 1411
board shall issue its final adjudicative order within seventy- 1412
five days after completion of its hearing. A failure to issue 1413
the order within seventy-five days shall result in dissolution 1414
of the summary suspension order but shall not invalidate any 1415
subsequent, final adjudicative order. 1416

(H) If the board takes action under division (B) (9), (11), 1417
or (13) of this section and the judicial finding of guilt, 1418
guilty plea, or judicial finding of eligibility for intervention 1419
in lieu of conviction is overturned on appeal, upon exhaustion 1420
of the criminal appeal, a petition for reconsideration of the 1421
order may be filed with the board along with appropriate court 1422
documents. Upon receipt of a petition of that nature and 1423
supporting court documents, the board shall reinstate the 1424
individual's license or certificate to practice. The board may 1425
then hold an adjudication under Chapter 119. of the Revised Code 1426
to determine whether the individual committed the act in 1427
question. Notice of an opportunity for a hearing shall be given 1428
in accordance with Chapter 119. of the Revised Code. If the 1429
board finds, pursuant to an adjudication held under this 1430

division, that the individual committed the act or if no hearing 1431
is requested, the board may order any of the sanctions 1432
identified under division (B) of this section. 1433

(I) The license or certificate to practice issued to an 1434
individual under this chapter and the individual's practice in 1435
this state are automatically suspended as of the date of the 1436
individual's second or subsequent plea of guilty to, or judicial 1437
finding of guilt of, a violation of section 2919.123 or 2919.124 1438
of the Revised Code. In addition, the license or certificate to 1439
practice or certificate to recommend issued to an individual 1440
under this chapter and the individual's practice in this state 1441
are automatically suspended as of the date the individual pleads 1442
guilty to, is found by a judge or jury to be guilty of, or is 1443
subject to a judicial finding of eligibility for intervention in 1444
lieu of conviction in this state or treatment or intervention in 1445
lieu of conviction in another jurisdiction for any of the 1446
following criminal offenses in this state or a substantially 1447
equivalent criminal offense in another jurisdiction: aggravated 1448
murder, murder, voluntary manslaughter, felonious assault, 1449
kidnapping, rape, sexual battery, gross sexual imposition, 1450
aggravated arson, aggravated robbery, or aggravated burglary. 1451
Continued practice after suspension shall be considered 1452
practicing without a license or certificate. 1453

The board shall notify the individual subject to the 1454
suspension by certified mail or in person in accordance with 1455
section 119.07 of the Revised Code. If an individual whose 1456
license or certificate is automatically suspended under this 1457
division fails to make a timely request for an adjudication 1458
under Chapter 119. of the Revised Code, the board shall do 1459
whichever of the following is applicable: 1460

(1) If the automatic suspension under this division is for 1461
a second or subsequent plea of guilty to, or judicial finding of 1462
guilt of, a violation of section 2919.123 or 2919.124 of the 1463
Revised Code, the board shall enter an order suspending the 1464
individual's license or certificate to practice for a period of 1465
at least one year or, if determined appropriate by the board, 1466
imposing a more serious sanction involving the individual's 1467
license or certificate to practice. 1468

(2) In all circumstances in which division (I) (1) of this 1469
section does not apply, enter a final order permanently revoking 1470
the individual's license or certificate to practice. 1471

(J) If the board is required by Chapter 119. of the 1472
Revised Code to give notice of an opportunity for a hearing and 1473
if the individual subject to the notice does not timely request 1474
a hearing in accordance with section 119.07 of the Revised Code, 1475
the board is not required to hold a hearing, but may adopt, by 1476
an affirmative vote of not fewer than six of its members, a 1477
final order that contains the board's findings. In that final 1478
order, the board may order any of the sanctions identified under 1479
division (A) or (B) of this section. 1480

(K) Any action taken by the board under division (B) of 1481
this section resulting in a suspension from practice shall be 1482
accompanied by a written statement of the conditions under which 1483
the individual's license or certificate to practice may be 1484
reinstated. The board shall adopt rules governing conditions to 1485
be imposed for reinstatement. Reinstatement of a license or 1486
certificate suspended pursuant to division (B) of this section 1487
requires an affirmative vote of not fewer than six members of 1488
the board. 1489

(L) When the board refuses to grant or issue a license or 1490

certificate to practice to an applicant, revokes an individual's 1491
license or certificate to practice, refuses to renew an 1492
individual's license or certificate to practice, or refuses to 1493
reinstate an individual's license or certificate to practice, 1494
the board may specify that its action is permanent. An 1495
individual subject to a permanent action taken by the board is 1496
forever thereafter ineligible to hold a license or certificate 1497
to practice and the board shall not accept an application for 1498
reinstatement of the license or certificate or for issuance of a 1499
new license or certificate. 1500

(M) Notwithstanding any other provision of the Revised 1501
Code, all of the following apply: 1502

(1) The surrender of a license or certificate issued under 1503
this chapter shall not be effective unless or until accepted by 1504
the board. A telephone conference call may be utilized for 1505
acceptance of the surrender of an individual's license or 1506
certificate to practice. The telephone conference call shall be 1507
considered a special meeting under division (F) of section 1508
121.22 of the Revised Code. Reinstatement of a license or 1509
certificate surrendered to the board requires an affirmative 1510
vote of not fewer than six members of the board. 1511

(2) An application for a license or certificate made under 1512
the provisions of this chapter may not be withdrawn without 1513
approval of the board. 1514

(3) Failure by an individual to renew a license or 1515
certificate to practice in accordance with this chapter or a 1516
certificate to recommend in accordance with rules adopted under 1517
section 4731.301 of the Revised Code shall not remove or limit 1518
the board's jurisdiction to take any disciplinary action under 1519
this section against the individual. 1520

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

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

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

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

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

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

(2) Select providers of educational and assessment

services, including a quality intervention program panel of case 1550
reviewers; 1551

(3) Make referrals to educational and assessment service 1552
providers and approve individual educational programs 1553
recommended by those providers. The board shall monitor the 1554
progress of each individual undertaking a recommended individual 1555
educational program. 1556

(4) Determine what constitutes successful completion of an 1557
individual educational program and require further monitoring of 1558
the individual who completed the program or other action that 1559
the board determines to be appropriate; 1560

(5) Adopt rules in accordance with Chapter 119. of the 1561
Revised Code to further implement the quality intervention 1562
program. 1563

An individual who participates in an individual 1564
educational program pursuant to this division shall pay the 1565
financial obligations arising from that educational program. 1566

(P) The board shall not refuse to issue a license to an 1567
applicant because of a conviction, plea of guilty, judicial 1568
finding of guilt, judicial finding of eligibility for 1569
intervention in lieu of conviction, or the commission of an act 1570
that constitutes a criminal offense, unless the refusal is in 1571
accordance with section 9.79 of the Revised Code. 1572

Sec. 4731.77. (A) As used in this section, "intimate 1573
examination" means a pelvic, prostate, or rectal examination. 1574

(B) Except as provided in division (C) of this section, a 1575
physician, student enrolled in a medical school or osteopathic 1576
medical school, or participant in a program of graduate medical 1577
education shall not perform, or authorize another individual to 1578

perform, an intimate examination on an anesthetized or 1579
unconscious patient. 1580

(C) Division (B) of this section does not apply in any of 1581
the following circumstances: 1582

(1) The performance of an intimate examination is within 1583
the scope of care for the surgical procedure or diagnostic 1584
examination to be performed on the patient. 1585

(2) The patient or the patient's legal representative 1586
gives specific, informed consent for the intimate examination. 1587

(3) An intimate examination is required for diagnostic 1588
purposes or treatment of the patient's medical condition. 1589

(4) A court orders the intimate examination for the 1590
purpose of collecting evidence. 1591

Section 2. That existing sections 4723.28, 4730.25, and 1592
4731.22 of the Revised Code are hereby repealed. 1593

Section 3. Section 4731.22 of the Revised Code is 1594
presented in this act as a composite of the section as amended 1595
by both H.B. 254 and S.B. 288 of the 134th General Assembly. The 1596
General Assembly, applying the principle stated in division (B) 1597
of section 1.52 of the Revised Code that amendments are to be 1598
harmonized if reasonably capable of simultaneous operation, 1599
finds that the composite is the resulting version of the section 1600
in effect prior to the effective date of the section as 1601
presented in this act. 1602