

under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

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

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

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

(26) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code.

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

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

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

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

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

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

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

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual

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

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

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

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

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

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

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

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

consideration by the board.

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

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

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

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

(I) The certificate to practice issued to a physician assistant and the physician assistant's practice in this state are automatically suspended as of the date the physician assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another state for any of the following criminal offenses

in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

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

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

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

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

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

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

surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

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

Sec. 4730.252. (A)(1) If a physician assistant violates any section of this chapter other than section 4730.14 of the Revised Code or violates any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4730.25 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(5) of section 4730.25 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4731.07. (A) The state medical board shall keep a record of its proceedings. The minutes of a meeting of the board shall, on approval by the board, constitute an official record of its proceedings.

(B) The board shall keep a register of applicants for ~~certificates of registration and~~ certificates to practice issued under this chapter and Chapters 4730., 4760., 4762., and 4774. of the Revised Code and licenses issued under Chapter 4778. of the Revised Code. The register shall show the name of the applicant and whether the applicant was granted or refused a certificate or license. With respect to applicants to practice medicine and surgery or osteopathic medicine and surgery, the register shall show the

name of the institution that granted the applicant the degree of doctor of medicine or osteopathic medicine. The books and records of the board shall be prima-facie evidence of matters therein contained.

Sec. 4731.071. The state medical board shall develop and publish on its internet web site a directory containing the names of, and contact information for, all persons who hold current, valid certificates or licenses issued by the board under this chapter or Chapter 4730., 4760., 4762., 4774., or 4778. of the Revised Code. Except as provided in section 4731.10 of the Revised Code, the directory shall be the sole source for verifying that a person holds a current, valid certificate or license issued by the board.

~~Sec. 4731.141. Any person who was authorized in practice limited osteopathic medicine and surgery on January 1, 1980, may continue to practice in accordance with the statutory limitations in effect on that date. The state medical board shall regulate such practitioners and shall require them to register on or before the first day of June, 1983, and on or before the first day of June every second year thereafter, on a form prescribed by the board and pay at such time a biennial registration fee of twenty-five dollars. At least one month in advance of the date of registration, a written notice shall be sent to such practitioners, whether a resident of the state or not, at the last known address, that the biennial registration fee is due on or before the first day of June. All such practitioners shall provide the board written notice of any change of address. A holder of a certificate to practice under this section shall have the certificate automatically suspended if the registration fee is not paid by the first day of September of the same year, and continued practice after the suspension shall be considered as practicing without a license in violation of section 4731.43 of the Revised Code. An applicant for reinstatement of a certificate to practice suspended for failure to register shall submit the applicant's current and delinquent registration fees and a penalty in the sum of twenty-five dollars renew their certificates to practice in a manner that is substantially similar to the system the board uses under section 4731.281 of the Revised Code.~~

Any certificate to practice issued pursuant to this section may be ~~refused~~, limited, revoked, or suspended, an applicant may be denied certification or refused renewal or reinstatement, or the holder of a certificate may be reprimanded, or placed on probation as provided in section 4731.22 of the Revised Code.

Sec. 4731.15. (A)(1) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the

limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(2) As used in this chapter:

(a) "Cosmetic therapy" means the permanent removal of hair from the human body through the use of electric modalities approved by the board for use in cosmetic therapy, and additionally may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.

(b) "Massage therapy" means the treatment of disorders of the human body by the manipulation of soft tissue through the systematic external application of massage techniques including touch, stroking, friction, vibration, percussion, kneading, stretching, compression, and joint movements within the normal physiologic range of motion; and adjunctive thereto, the external application of water, heat, cold, topical preparations, and mechanical devices.

(B) A certificate to practice a limited branch of medicine issued by the state medical board is valid for a two-year period, except when an initial certificate is issued for a shorter period or when division (C)(2) of this section is applicable. The certificate may be renewed in accordance with division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section, all of the following apply with respect to the renewal of certificates to practice a limited branch of medicine:

(a) Each person seeking to renew a certificate to practice a limited branch of medicine shall apply for biennial ~~registration~~ renewal with the state medical board ~~on a renewal application form in a manner prescribed by the board. An applicant for renewal shall pay a biennial registration renewal fee of one hundred dollars.~~

(b) At least six months before a certificate expires, the board shall ~~mail or cause to be mailed~~ provide a renewal notice to the certificate ~~holder's last known address~~ holder.

(c) At least three months before a certificate expires, the certificate holder shall submit the renewal application and biennial ~~registration~~ renewal fee to the board.

(2) ~~Beginning with the 2009 registration period, the~~ The board shall implement a staggered renewal system that is substantially similar to the staggered renewal system the board uses under division ~~(B)~~ (A) of section 4731.281 of the Revised Code.

(D) All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board shall provide the board ~~written~~

notice of any change of address. The notice shall be submitted to the board not later than thirty days after the change of address.

(E) A certificate to practice a limited branch of medicine shall be automatically suspended if the certificate holder fails to renew the certificate in accordance with division (C) of this section. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code.

If a certificate to practice has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate the certificate upon an applicant's submission of a renewal application and payment of the biennial ~~registration~~ renewal fee and the applicable monetary penalty. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty for reinstatement shall be twenty-five dollars.

If a certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the Revised Code, the board may restore the certificate upon an applicant's submission of a restoration application, the biennial ~~registration~~ renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4731.17 of the Revised Code. The penalty for restoration is fifty dollars.

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

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to ~~register an individual~~ issue a

certificate to an individual, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

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

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

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

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports ~~to a child fatality review board~~ under sections 307.621 to 307.629 of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by ~~that~~ section 2305.33 or 4731.62 of the Revised Code upon a physician who makes ~~either type of a report in accordance with division (B) of that section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code.~~ As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical

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

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

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

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

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

(20) Except when civil penalties are imposed under section 4731.225 or ~~4731.281~~ 4731.282 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

maintain that notice in the patient's file;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or

judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

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

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

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

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The

president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

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

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

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

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

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

119.094 of the Revised Code.

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

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

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

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

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

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

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

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

(d) The disposition of the case.

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

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

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

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

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

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

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

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal,

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

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

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

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

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

(J) If the board is required by Chapter 119. of the Revised Code to give

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

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

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

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

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

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

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

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

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

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments 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 reviewers;

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

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

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

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

Sec. 4731.222. (A) This section applies to both of the following:

(1) An applicant seeking restoration of a certificate issued under this chapter that has been in a suspended or inactive state for any cause for more

than two years;

(2) An applicant seeking issuance of a certificate pursuant to section 4731.17, 4731.29, 4731.295, 4731.57, or 4731.571 of the Revised Code who for more than two years has not been engaged in the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine as any of the following:

(a) An active practitioner;

(b) A participant in a program of graduate medical education, as defined in section 4731.091 of the Revised Code;

(c) A student in a college of podiatry determined by the state medical board to be in good standing;

(d) A student in a school, college, or institution giving instruction in a limited branch of medicine determined by the board to be in good standing under section 4731.16 of the Revised Code.

(B) Before restoring a certificate to good standing for or issuing a certificate to an applicant subject to this section, the state medical board may impose terms and conditions including any one or more of the following:

(1) Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice;

(2) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(3) Requiring an assessment of the applicant's physical skills for purposes of determining whether the applicant's coordination, fine motor skills, and dexterity are sufficient for performing medical evaluations and procedures in a manner that meets the minimal standards of care;

(4) Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;

(5) Requiring the applicant to undergo a comprehensive physical examination, which may include an assessment of physical abilities, evaluation of sensory capabilities, or screening for the presence of neurological disorders;

(6) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity, in accordance with section 4731.08, 4731.19, or 4731.52 of the Revised Code. The board shall not restore a certificate under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

Sec. 4731.225. (A) If the holder of a certificate issued under this chapter violates division (A), (B), or (C) of section 4731.66 or section 4731.69 of

the Revised Code, or if any other person violates division (B) or (C) of section 4731.66 or section 4731.69 of the Revised Code, the state medical board, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, shall:

~~(A)~~(1) For a first violation, impose a civil penalty of not more than five thousand dollars;

~~(B)~~(2) For each subsequent violation, impose a civil penalty of not more than twenty thousand dollars and, if the violator is a certificate holder, proceed under division (B)(27) of section 4731.22 of the Revised Code.

(B)(1) If the holder of a certificate issued under this chapter violates any section of this chapter other than section 4731.281 or 4731.282 of the Revised Code or the sections specified in division (A) of this section, or violates any rule adopted under this chapter, the board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (B)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4731.22 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(C) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(26) of section 4731.22 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4731.24. Except as provided in sections 4731.281 and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. ~~Until July 1, 1998, the funds shall be deposited to the credit of the occupational licensing and regulatory fund. On and after July 1, 1998, the~~ The funds shall be deposited to the credit of the state medical board operating fund, which is hereby created ~~on July 1, 1998.~~ Except as provided in ~~section~~ sections 4730.252, 4731.225, 4731.24, 4760.133, 4762.133, 4774.133, and 4778.141 of the Revised Code, all funds deposited into the state treasury under this section shall be used solely for

the administration and enforcement of this chapter and Chapters 4730., 4760., 4762., 4774., and 4778. of the Revised Code by the board.

Sec. 4731.26. Upon application by the holder of a certificate to practice ~~or certificate of registration~~ issued under this chapter, the state medical board shall issue a duplicate certificate to replace one missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate certificate to practice ~~or duplicate certificate of registration~~ shall be thirty-five dollars.

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

~~In determining whether a course, program, or activity qualifies for credit as continuing medical education, the board shall approve all continuing medical education taken by persons holding a certificate to practice medicine and surgery that is certified by the Ohio state medical association, all continuing medical education taken by persons holding a certificate to practice osteopathic medicine and surgery that is certified by the Ohio osteopathic association, and all continuing medical education taken by persons holding a certificate to practice podiatric medicine and surgery that is certified by the Ohio podiatric medical association. Each person holding a certificate to practice under this chapter shall be given sufficient choice of continuing education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level.~~

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

~~(B)(1) Every~~ Each person holding a certificate under this chapter to

practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery wishing to renew that certificate shall apply to the board for ~~a certificate of registration upon an application furnished by the board, and pay to the board at the time of application a renewal.~~ Applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of three hundred five dollars. Applications shall be submitted according to the following schedule:

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

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

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

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

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

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

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

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

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

(2) The board shall ~~mail or cause to be mailed~~ provide to every person ~~registered holding a certificate~~ to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, a renewal notice of ~~registration renewal addressed to the person's last known address~~ or may

~~cause provide~~ the notice ~~to be sent~~ to the person through the secretary of any recognized medical, osteopathic, or podiatric society, according to the following schedule:

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

(b) To persons whose last name begins with the letters "C" through "D," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(c) To persons whose last name begins with the letters "E" through "G," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;

(d) To persons whose last name begins with the letters "H" through "K," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(e) To persons whose last name begins with the letters "L" through "M," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(f) To persons whose last name begins with the letters "N" through "R," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(g) To persons whose last name begins with the letter "S," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter;

(h) To persons whose last name begins with the letters "T" through "Z," on or before April 1, 1999, and the first day of April of every odd-numbered year thereafter.

(3) Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section.

(4) The board's notice shall inform the applicant of the renewal procedure. The board shall provide the application for ~~registration~~ renewal in a form determined by the board.

(5) The applicant shall provide in the application the applicant's full name, ~~principal practice address and; the applicant's~~ residence address, business address, and electronic mail address; the number of the applicant's certificate to practice;; and any other information required by the board.

(6)(a) Except as provided in division ~~(B)~~(A)(6)(b) of this section, in the case of an applicant who prescribes or personally furnishes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the applicant shall certify to the board whether the applicant has been

granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division ~~(B)~~(A)(6)(a) of this section does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state medical board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The applicant does not practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4731.22 of the Revised Code.

(7) The applicant shall include with the application a list of the names and addresses of any clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners with whom the applicant is currently collaborating, as defined in section 4723.01 of the Revised Code. ~~Every person registered under this section shall give written notice to the state medical board of any change of principal practice address or residence address or in the list within thirty days of the change.~~

(8) The applicant shall report any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last filing an application for a certificate of registration to practice or renewal of a certificate.

(9) The applicant shall execute and deliver the application to the board in a manner prescribed by the board.

~~(C)~~(B) The board shall ~~issue to any person holding~~ renew a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; upon application and qualification therefor in accordance with this section, ~~a certificate of registration under the seal of the board.~~ A certificate of registration renewal shall be valid for a two-year period.

~~(D)~~(C) Failure of any certificate holder to ~~register~~ renew and comply with this section shall operate automatically to suspend the holder's certificate to practice. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of section 4731.41, 4731.43, or 4731.60 of the Revised Code. If the certificate has been suspended pursuant to this division for two years or less, it may be

reinstated. The board shall reinstate a certificate to practice suspended for failure to ~~register~~ renew upon an applicant's submission of a renewal application, the biennial ~~registration~~ renewal fee, and the applicable monetary penalty. The penalty for reinstatement shall be ~~fifty~~ one hundred dollars. If the certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the Revised Code, the board may restore a certificate to practice suspended for failure to ~~register~~ renew upon an applicant's submission of a restoration application, the biennial ~~registration~~ renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4731.14, 4731.56, or 4731.57 of the Revised Code. The penalty for restoration shall be ~~one~~ two hundred dollars. The board shall deposit the penalties in accordance with section 4731.24 of the Revised Code.

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

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

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

~~(G)~~(F) Each mailing sent by the board under division ~~(B)~~(A)(2) of this section to a person ~~registered~~ holding a certificate to practice medicine and surgery or osteopathic medicine and surgery shall inform the applicant of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be

included on the application for ~~registration~~ renewal or on an accompanying page.

(G) Each person holding a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery shall give notice to the board of any of the following changes not later than thirty days after the change occurs:

(1) A change in the certificate holder's residence address, business address, or electronic mail address;

(2) A change in the list provided under division (B)(7) of this section of names and addresses of the nurses with whom the certificate holder is collaborating.

~~Sec. 4731.282. Not later than ninety days after the effective date of this section, the state medical board shall approve one or more continuing medical education courses of study included within the programs certified by the Ohio state medical association and the Ohio osteopathic association pursuant to section 4731.281 of the Revised Code that assist doctors of medicine and doctors of osteopathic medicine in recognizing (A)(1) Except as provided in division (D) of this section, each person holding a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by the state medical board shall complete biennially not less than one hundred hours of continuing medical education that has been approved by the board.~~

(2) Each person holding a certificate to practice shall be given sufficient choice of continuing education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level.

(B) In determining whether a course, program, or activity qualifies for credit as continuing medical education, the board shall approve all of the following:

(1) Continuing medical education completed by holders of certificates to practice medicine and surgery that is certified by the Ohio state medical association;

(2) Continuing medical education completed by holders of certificates to practice osteopathic medicine and surgery that is certified by the Ohio osteopathic association;

(3) Continuing medical education completed by holders of certificates to practice podiatric medicine and surgery that is certified by the Ohio podiatric medical association.

(C) The board shall approve one or more continuing medical education

courses of study included within the programs certified by the Ohio state medical association and the Ohio osteopathic association under divisions (B)(1) and (2) of this section that assist doctors of medicine and doctors of osteopathic medicine in both of the following:

(1) Recognizing the signs of domestic violence and its relationship to child abuse. ~~Doctors are not required to take the courses;~~

(2) Diagnosing and treating chronic pain, as defined in section 4731.052 of the Revised Code.

(D) The board shall adopt rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for certificate holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country. The board shall adopt the rules in accordance with Chapter 119. of the Revised Code.

(E) The board may require a random sample of holders of certificates to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery to submit materials documenting completion of the required number of hours of continuing medical education. This division does not limit the board's authority to conduct investigations pursuant to section 4731.22 of the Revised Code.

(F) The board may impose a civil penalty of not more than five thousand dollars if, through a random sample conducted under division (E) of this section or any other means, it finds that an individual falsely certified that the individual completed the number of hours and type of continuing medical education required for renewal of a certificate to practice. If the civil penalty is imposed in addition to any other action the board takes under section 4731.22 of the Revised Code, the board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six of its members.

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

Sec. 4731.293. (A) The state medical board may issue, without examination, a clinical research faculty certificate to any person who applies for the certificate and provides to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state or country;

(b) That the applicant has been appointed to serve in this state on the academic staff of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;

(c) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory.

(2) An affidavit and supporting documentation from the dean of the medical school or the department director or chairperson of a teaching hospital affiliated with the school that the applicant is qualified to perform teaching and research activities and will be permitted to work only under the authority of the department director or chairperson of a teaching hospital affiliated with the medical school where the applicant's teaching and research activities will occur;

(3) A description from the medical school or teaching hospital of the scope of practice in which the applicant will be involved, including the types of teaching, research, and procedures in which the applicant will be engaged;

(4) A description from the medical school or teaching hospital of the type and amount of patient contact that will occur in connection with the applicant's teaching and research activities.

(B) An applicant for an initial clinical research faculty certificate shall pay a fee of three hundred seventy-five dollars.

(C) The holder of a clinical research faculty certificate may practice medicine and surgery or osteopathic medicine and surgery only as is incidental to the certificate holder's teaching or research duties at the medical school or a teaching hospital affiliated with the school. The board may revoke a certificate on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(D) A clinical research faculty certificate is valid for three years, except that the certificate ceases to be valid if the holder's appointment to the academic staff of the school is no longer valid or the certificate is revoked pursuant to division (C) of this section.

(E)(1) Three months before a clinical research faculty certificate expires, the board shall mail or cause to be mailed to the certificate holder a notice of renewal addressed to the certificate holder's last known address. Failure of a certificate holder to receive a notice of renewal from the board shall not excuse the certificate holder from the requirements contained in

this section. The notice shall inform the certificate holder of the renewal procedure. The notice also shall inform the certificate holder of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be included on the application for renewal or on an accompanying page.

(2) A clinical research faculty certificate may be renewed for an additional three-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board. The board shall provide the application for renewal in a form determined by the board.

(3) An applicant is eligible for renewal if the applicant does all of the following:

(a) Pays a renewal fee of three hundred seventy-five dollars;

(b) Reports any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last filing an application for a clinical research faculty certificate;

(c) Provides to the board an affidavit and supporting documentation from the dean of the medical school or the department director or chairperson of a teaching hospital affiliated with the school that the applicant is in compliance with the applicant's current clinical research faculty certificate;

(d) Provides evidence satisfactory to the board of all of the following:

(i) That the applicant continues to maintain a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state or country;

(ii) That the applicant's initial appointment to serve in this state on the academic staff of a medical school is still valid or has been renewed;

(iii) That the applicant has completed one hundred fifty hours of continuing medical education that meet the requirements set forth in section ~~4731.281~~ 4731.282 of the Revised Code.

(4) Regardless of whether the certificate has expired, a person who was granted a visiting medical faculty certificate under this section as it existed immediately prior to ~~the effective date of this amendment~~ June 6, 2012, may apply for a clinical research faculty certificate as a renewal. The board may issue the clinical research faculty certificate if the applicant meets the requirements of division (E)(3) of this section. The board may not issue a clinical research faculty certificate if the visiting medical faculty certificate was revoked.

(F) The board shall maintain a register of all persons who hold clinical

research faculty certificates.

(G) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4731.295. (A)(1) As used in this section, "indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license or certificate has expired with the person's intention of ceasing to practice medicine and surgery or osteopathic medicine and surgery for remuneration.

(B) The state medical board may issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide medical services to indigent and uninsured persons. The board shall deny issuance of a volunteer's certificate to a person who is not qualified under this section to hold a volunteer's certificate.

(C) An application for a volunteer's certificate shall include all of the following:

(1) A copy of the applicant's degree of medicine or osteopathic medicine.

(2) One of the following, as applicable:

(a) A copy of the applicant's most recent license or certificate authorizing the practice of medicine and surgery or osteopathic medicine and surgery issued by a jurisdiction in the United States that licenses persons to practice medicine and surgery or osteopathic medicine and surgery.

(b) A copy of the applicant's most recent license equivalent to a license to practice medicine and surgery or osteopathic medicine and surgery in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) That the applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice medicine and surgery or osteopathic medicine and surgery.

(b) That the applicant has practiced for at least ten years prior to retirement in good standing as a doctor of medicine and surgery or osteopathic medicine and surgery in one or more of the branches of the United States armed services.

(4) A notarized statement from the applicant, on a form prescribed by

the board, that the applicant will not accept any form of remuneration for any medical services rendered while in possession of a volunteer's certificate.

(D) The holder of a volunteer's certificate may provide medical services only to indigent and uninsured persons. The holder shall not accept any form of remuneration for providing medical services while in possession of the certificate. Except in a medical emergency, the holder shall not perform any operation or deliver babies. The board may revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the certificate.

(E)(1) A volunteer's certificate shall be valid for a period of three years, unless earlier revoked under division (D) of this section or pursuant to section 4731.22 of the Revised Code. A volunteer's certificate may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's certificate the holder of the certificate shall certify to the board completion of one hundred fifty hours of continuing medical education that meets the requirements of section ~~4731.281~~ 4731.282 of the Revised Code regarding certification by private associations and approval by the board. The board may not renew a certificate if the holder has not complied with the continuing medical education requirements. Any entity for which the holder provides medical services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing medical education credits.

(3) The board shall issue a volunteer's certificate to each person who qualifies under this section for ~~a volunteer's~~ the certificate ~~a wallet certificate and a wall~~. The certificate ~~that shall~~ state that the certificate holder is authorized to provide medical services pursuant to the laws of this state. The holder shall ~~keep the wallet certificate on the holder's person while providing medical services and shall display the wall certificate~~ prominently at the location where the holder primarily practices.

(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions in section 2305.234 of the Revised Code.

(F) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.

Sec. 4731.296. (A) For the purposes of this section, "the practice of telemedicine" means the practice of medicine in this state through the use of any communication, including oral, written, or electronic communication,

by a physician located outside this state.

(B) A person who wishes to practice telemedicine in this state shall file an application with the state medical board, together with a fee in the amount of the fee described in division (D) of section 4731.29 of the Revised Code and shall comply with sections 4776.01 to 4776.04 of the Revised Code. If the board, in its discretion, decides that the results of the criminal records check do not make the person ineligible for a telemedicine certificate, the board may issue, without examination, a telemedicine certificate to a person who meets all of the following requirements:

(1) The person holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state that requires license holders to complete at least fifty hours of continuing medical education every two years.

(2) The person's principal place of practice is in that state.

(3) The person does not hold a certificate issued under this chapter authorizing the practice of medicine and surgery or osteopathic medicine and surgery in this state.

(4) The person meets the same age, moral character, and educational requirements individuals must meet under sections 4731.08, 4731.09, 4731.091, and 4731.14 of the Revised Code and, if applicable, demonstrates proficiency in spoken English in accordance with division (E) of section 4731.29 of the Revised Code.

(C) The holder of a telemedicine certificate may engage in the practice of telemedicine in this state. A person holding a telemedicine certificate shall not practice medicine in person in this state without obtaining a special activity certificate under section 4731.294 of the Revised Code.

(D) The board may revoke a certificate issued under this section or take other disciplinary action against a certificate holder pursuant to section 4731.22 of the Revised Code on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

(E) A telemedicine certificate shall be valid for a period specified by the board, and the initial renewal shall be in accordance with a schedule established by the board. Thereafter, the certificate shall be valid for two years. A certificate may be renewed on application of the holder.

To be eligible for renewal, the holder of the certificate shall do both of the following:

(1) Pay a fee in the amount of the fee described in division ~~(B)~~(A)(1) of section 4731.281 of the Revised Code;

(2) Certify to the board compliance with the continuing medical education requirements of the state in which the holder's principal place of practice is located.

The board may require a random sample of persons holding a telemedicine certificate to submit materials documenting completion of the continuing medical education requirements described in this division.

(F) The board shall convert a telemedicine certificate to a certificate issued under section 4731.29 of the Revised Code on receipt of a written request from the certificate holder. Once the telemedicine certificate is converted, the holder is subject to all requirements and privileges attendant to a certificate issued under section 4731.29 of the Revised Code, including continuing medical education requirements.

Sec. 4731.297. (A) As used in this section:

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following:

(a) Provide the highest quality of patient care from expert physicians;

(b) Conduct groundbreaking research leading to medical advancements for current and future patients;

(c) Provide medical education and graduate medical education to educate and train physicians.

(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A)(1)(a) to (c) of this section.

(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state.

(C) To be eligible for a certificate of conceded eminence, an applicant shall provide to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory;

(b) That the applicant has been appointed to serve in this state as a full-time faculty member of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited

by the American osteopathic association;

(c) That the applicant has accepted an offer of employment with an academic medical center in this state or affiliated physician group practice in this state;

(d) That the applicant holds a license in good standing in another state or country authorizing the practice of medicine and surgery or osteopathic medicine and surgery;

(e) That the applicant has unique talents and extraordinary abilities not generally found within the applicant's specialty, as demonstrated by satisfying at least four of the following:

(i) The applicant has achieved educational qualifications beyond those that are required for entry into the applicant's specialty, including advanced degrees, special certifications, or other academic credentials.

(ii) The applicant has written multiple articles in journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.

(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research project.

(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.

(v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty.

(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine.

(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation.

(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award.

(f) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States;

(g) That the applicant has sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(h) That the applicant will have professional liability insurance through

the applicant's employment with the academic medical center or affiliated physician group practice.

(2) An affidavit from the applicant agreeing to practice only within the clinical setting of the academic medical center or for the affiliated physician group practice;

(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice;

(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C)(1) of this section and that the letters of reference submitted under division (C)(3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit;

(5) A fee of one thousand dollars for the certificate.

(D)(1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate holder is employed or for the affiliated physician group practice with which the certificate holder is employed.

(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced practice nurses, and physician assistants when performing clinical services in the certificate holder's area of specialty.

(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(F) A certificate of conceded eminence is valid for the shorter of two years or the duration of the certificate holder's employment with the academic medical center or affiliated physician group practice. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the academic medical center or affiliated physician group practice.

(G) A certificate of conceded eminence may be renewed for an additional two-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board and is eligible for renewal if the applicant does all of the following:

- (1) Pays the renewal fee of one thousand dollars;
  - (2) Provides to the board an affidavit and supporting documentation from the academic medical center or affiliated physician group practice of all of the following:
    - (a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed;
    - (b) That the applicant's clinical practice is consistent with the established standards in the field;
    - (c) That the applicant has demonstrated continued scholarly achievement;
    - (d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center.
  - (3) Satisfies the same continuing medical education requirements set forth in section ~~4731.281~~ 4731.282 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.
  - (4) Complies with any other requirements established by the board.
  - (H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.
- Sec. 4731.299. (A) The state medical board may issue, without examination, to an applicant who meets all of the requirements of this section an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement.
- (B) An individual who seeks an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement shall file with the board a written application on a form prescribed and supplied by the board. The application shall include all of the information the board considers necessary to process it.
- (C) To be eligible to receive an expedited certificate by endorsement, an applicant shall do both of the following:
- (1) Provide evidence satisfactory to the board that the applicant meets all of the following requirements:
    - (a) Has passed one of the following:
      - (i) Steps one, two, and three of the United States medical licensing examination;
      - (ii) Levels one, two, and three of the comprehensive osteopathic

medical licensing examination of the United States;

(iii) Any other medical licensing examination recognized by the board.

(b) For at least five years immediately preceding the date of application, has held a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by the licensing authority of another state or a Canadian province;

(c) For at least two years immediately preceding the date of application, has actively practiced medicine and surgery or osteopathic medicine and surgery in a clinical setting;

(d) Is in compliance with the medical education and training requirements in sections 4731.091 and 4731.14 of the Revised Code.

(2) Certify to the board that all of the following are the case:

(a) Not more than two malpractice claims have been filed against the applicant within a period of ten years and no malpractice claim against the applicant has resulted in total payment of more than five hundred thousand dollars.

(b) The applicant does not have a criminal record according to the criminal records check required by section 4731.081 of the Revised Code.

(c) The applicant does not have a medical condition that could affect the applicant's ability to practice according to acceptable and prevailing standards of care.

(d) No adverse action has been taken against the applicant by a health care institution.

(e) To the applicant's knowledge, no federal agency, medical society, medical association, or branch of the United States military has investigated or taken action against the applicant.

(f) No professional licensing or regulatory authority has filed a complaint against, investigated, or taken action against the applicant and the applicant has not withdrawn a professional license application.

(g) The applicant has not been suspended or expelled from any institution of higher education or school, including a medical school.

(D) An applicant for an expedited certificate by endorsement shall comply with section 4731.081 of the Revised Code.

(E) At the time of application, the applicant shall pay to the board a fee of one thousand dollars, no part of which shall be returned. No application shall be considered filed until the board receives the fee.

(F) The secretary and supervising member of the board shall review all applications received under this section. If

If the board determines secretary and supervising member determine that an applicant meets the requirements for an expedited certificate to

practice medicine and surgery or osteopathic medicine and surgery by endorsement, the board shall issue the certificate to the applicant. ~~Each~~

If the secretary and supervising member determine that an applicant does not meet the requirements for an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement, the application shall be treated as an application under section 4731.08 of the Revised Code.

~~(G)~~ Each certificate issued by the board under this section shall be signed by the president and secretary of the board and attested by ~~its~~ the board's seal.

~~(G)(H)~~ Within sixty days after ~~the effective date of this section~~ September 29, 2013, the board shall approve acceptable means of demonstrating compliance with sections 4731.091 and 4731.14 of the Revised Code as required by division (C)(1)(d) of this section.

Sec. 4731.41. ~~(A)~~ No person shall practice medicine and surgery, or any of its branches, without the appropriate certificate from the state medical board to engage in the practice. No person shall advertise or claim to the public to be a practitioner of medicine and surgery, or any of its branches, without a certificate from the board. No person shall open or conduct an office or other place for such practice without a certificate from the board. No person shall conduct an office in the name of some person who has a certificate to practice medicine and surgery, or any of its branches. No person shall practice medicine and surgery, or any of its branches, after the person's certificate has been revoked, or, if suspended, during the time of such suspension.

A certificate signed by the secretary of the board to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such certificate to practice medicine and surgery, or any of its branches, in this state has been issued to the person specified therein, or that a certificate to practice, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record of the board in any court or before any officer of the state.

(B) No certificate from the state medical board is required by a physician who comes into this state to practice medicine at a free-of-charge camp accredited by the SeriousFun children's network that specializes in providing therapeutic recreation, as defined in section 2305.231 of the Revised Code, for individuals with chronic illnesses as long as all of the following apply:

(1) The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice

medicine in another state:

(2) The physician provides services only at the camp or in connection with camp events or camp activities that occur off the grounds of the camp;

(3) The physician receives no compensation for the services;

(4) The physician provides those services within this state for not more than thirty days per calendar year;

(5) The camp has a medical director who holds an unrestricted license to practice medicine issued in accordance with division (A) of this section.

Sec. 4731.62. (A) As used in this section:

(1) "Controlled substance" and "controlled substance analog" have the same meanings as in section 3719.01 of the Revised Code.

(2) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

(3) "Mental health professional" has the same meaning as in section 340.032 of the Revised Code.

(B) A physician who is acting in a professional capacity and who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a patient is experiencing an overdose of a dangerous drug, controlled substance, controlled substance analog, or metabolite of a controlled substance may refer the patient to a mental health professional. If the physician refers the patient to a mental health professional, the physician shall promptly notify the mental health professional in writing of the referral. Within thirty days after receiving the written notification, the mental health professional shall inform the physician in writing of the status of treatment of the patient provided by the mental health professional.

(C) A communication between a physician and a mental health professional made under this section shall not be considered a breach of confidentiality between a physician or psychologist or other mental health professional and a patient or a waiver of a testimonial privilege by the patient.

(D) A physician or mental health professional is not liable in damages in a civil action for harm allegedly incurred as a result of a communication made under this section.

Sec. 4731.74. (A) As used in this section:

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

(2) "Drug" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(3) "Institutional facility" means a hospital as defined in section 3727.01

The above boxed and initialed text was disapproved.

Date: 6-30-15

John R. Kasich, Governor

of the Revised Code or a facility licensed by the state board of pharmacy and the department of health, the department of rehabilitation and correction, or the department of developmental disabilities, at which medical care is provided on site and a medical record documenting episodes of care, including drugs ordered and administered, is maintained.

(4) "Telehealth service" has the same meaning as in section 5164.95 of the Revised Code.

(B) Except as provided in divisions (C) and (D) of this section, a physician shall not prescribe, dispense, otherwise provide, or cause to be provided a prescription drug to a person on whom the physician has never conducted a medical evaluation.

(C) A physician may prescribe, dispense, otherwise provide, or cause to be provided a prescription drug that is not a controlled substance to a person on whom the physician has never conducted a medical evaluation, and who is at a location remote from the physician, if the physician meets all of the following requirements:

(1) In a manner that is consistent with the standard for in-person care by a physician, the remote physician shall complete and document a medical evaluation of the patient and collect clinical data as needed to establish a diagnosis, identify any underlying conditions, and identify any contraindications to the treatment that is recommended or provided.

(2)(a) Except as provided in division (C)(2)(b) of this section, the remote physician shall complete an examination of the patient using appropriate technology that is capable of all of the following:

(i) Transmitting images of the patient's condition in real-time;

(ii) Transmitting information regarding the patient's physical condition and other relevant clinical data needed for compliance with division (C)(1) of this section;

(iii) Being adjusted for better image quality and definition.

(b) If the patient has a designated primary care physician or designates a primary care physician with assistance from the remote physician, the remote physician may examine the patient over the telephone without the use of the technology required by division (C)(2)(a) of this section, if the remote physician meets all of the following requirements:

(i) The remote physician is physically located in this state.

(ii) The remote physician has received credentials to provide telehealth services pursuant to a process certified by the national committee for quality assurance.

(iii) The remote physician forwards the patient's electronic health record to the patient's designated primary care physician after the consultation.

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(iv) The remote physician is available to follow up with the patient after the consult as necessary.

(3) The remote physician shall document having had dialogue with the patient regarding treatment options and the risks and benefits of treatment sufficient to permit the patient to provide informed consent to treatment.

(4) The remote physician shall maintain a contemporaneous medical record that is readily available to the patient and to the patient's other health care providers.

(5) The remote physician shall include the electronic prescription information as part of the patient's medical record.

(6) As necessary, the remote physician shall follow-up with the patient to assess the therapeutic outcome.

(D) In addition to the circumstances described in division (C) of this section, a physician may prescribe, dispense, otherwise provide, or cause to be provided a prescription drug, including a controlled substance, to a person on whom the physician has never conducted a medical evaluation in the following situations:

(1) The person is a patient of a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between the physicians.

(2) The physician is consulting with another physician or health care provider who is authorized to practice in this state and is acting within the scope of that physician or provider's professional license, including having prescriptive authority if all of the following requirements are met:

(a) The physician shall establish that the other physician or health care provider has an ongoing professional relationship with the patient and has agreed to supervise the patient's use of the drug or drugs to be provided.

(b) If the health care provider is a physician assistant, the physician has a supervision agreement with the physician assistant.

(c) If the health care provider is an advanced practice registered nurse, the physician has a standard care arrangement with the advanced practice registered nurse.

(3) The physician is the medical director of a hospice care program licensed pursuant to Chapter 3712, of the Revised Code or is the attending physician of a hospice patient, enrolled in such a hospice care program, and the drugs are prescribed, dispensed, or otherwise provided to a hospice patient.

(4) The person has been admitted as an inpatient to or is a resident of an institutional facility.

(E) This section does not imply that a single in-person medical

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evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the course of professional practice.

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Sec. 4732.10. (A) The state board of psychology shall appoint an entrance examiner who shall determine the sufficiency of an applicant's qualifications for admission to the appropriate examination. A member of the board or the executive director may be appointed as the entrance examiner.

(B) Requirements for admission to examination for a psychologist license shall be that the applicant:

- (1) Is at least twenty-one years of age;
- (2) Is of good moral character;
- (3) Meets one of the following requirements:

(a) Received an earned doctoral degree from an institution accredited or recognized by a national or regional accrediting agency and a program accredited by any of the following:

- (i) The American psychological association, office of program consultation and accreditation;
- (ii) The accreditation office of the Canadian psychological association;
- (iii) A program listed by the association of state and provincial psychology boards/national register designation committee;
- (iv) The national association of school psychologists.

(b) Received an earned doctoral degree in psychology or school psychology from an institution accredited or recognized by a national or regional accrediting agency but the program does not meet the program accreditation requirements of division (B)(3)(a) of this section;

(c) Received from an academic institution outside of the United States or Canada a degree determined, under rules adopted by the board under division (E) of this section, to be equivalent to a doctoral degree in psychology from a program described in division (B)(3)(a) of this section;

~~(e)(d)~~ Held a psychologist license, certificate, or registration required for practice in another United States or Canadian jurisdiction for a minimum of ten years and meets educational, experience, and professional requirements established under rules adopted by the board.

~~(d) Enrolled, not later than sixty days after April 7, 2009, in an educational institution accredited or recognized by national or regional accrediting agencies as maintaining satisfactory standards and not later than eight years after April 7, 2009, received an earned doctoral degree in psychology or school psychology.~~

(4) Has had at least two years of supervised professional experience in psychological work of a type satisfactory to the board, at least one year of

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which must be a predoctoral internship. The board shall adopt guidelines for the kind of supervised professional experience ~~which~~ that fulfill this requirement.

(5) If applying under division (B)(3)(b) or (c) of this section, has had at least two years of supervised professional experience in psychological work of a type satisfactory to the board, at least one year of which must be postdoctoral. The board shall adopt guidelines for the kind of supervised professional experience that fulfill this requirement.

(C) Requirements for admission to examination for a school psychologist license shall be that the applicant:

(1) Has received from an educational institution accredited or recognized by national or regional accrediting agencies as maintaining satisfactory standards, including those approved by the state board of education for the training of school psychologists, at least a master's degree in school psychology, or a degree considered equivalent by the board;

(2) Is at least twenty-one years of age;

(3) Is of good moral character;

(4) Has completed at least sixty quarter hours, or the semester hours equivalent, at the graduate level, of accredited study in course work relevant to the study of school psychology;

(5) Has completed an internship in an educational institution approved by the Ohio department of education for school psychology supervised experience or one year of other training experience acceptable to the board, such as supervised professional experience under the direction of a licensed psychologist or licensed school psychologist;

(6) Furnishes proof of at least twenty-seven months, exclusive of internship, of full-time experience as a certificated school psychologist employed by a board of education or a private school meeting the standards prescribed by the state board of education, or of experience ~~which~~ that the board deems equivalent.

(D) If the entrance examiner finds that the applicant meets the requirements set forth in this section, the applicant shall be admitted to the appropriate examination.

(E) The board shall adopt under Chapter 119. of the Revised Code rules for determining for the purposes of division (B)(3)(b) of this section whether a degree is equivalent to a degree in psychology from an institution in the United States.

Sec. 4735.06. (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the

applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of one hundred dollars shall accompany the application for a real estate broker's license. The initial licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. However, if the applicant was an inactive or active salesperson immediately preceding application for a broker's license, then the initial licensing period shall commence at the time the broker's license is issued and ends on the date the licensee's continuing education is due as set when the applicant was a salesperson. The application fee shall be nonrefundable. A fee of one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(C) One dollar of each application fee for a real estate broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of

higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding two thousand dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ~~ten~~ twenty-five thousand dollars shall be lent from the fund in any one fiscal year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(2) of section 4735.10 of the Revised Code.

Sec. 4735.13. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and

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

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

(C) A licensee shall notify the superintendent in writing within fifteen days of any of the following occurrences:

- (1) The licensee is convicted of a felony.
- (2) The licensee is convicted of a crime involving moral turpitude.
- (3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing.
- (4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code.
- (5) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

(6) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may suspend the license of the licensee.

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

(D) In case of any change of business location, a broker shall give notice to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without

charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

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

A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation shall only act as a real estate broker for such partnership, association, limited liability company, limited liability partnership, or corporation.

(G)(1) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be

required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. ~~Any~~

Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge or within the amount of time equal to the total number of months the licensee spent on active duty, whichever is greater. The licensee shall submit proper documentation of active duty service and the length of that active duty service to the superintendent. The extension shall not exceed the total number of months that the licensee served in active duty. The superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(2) If a licensee is a spouse of a member of the armed forces and the spouse's service resulted in the licensee's absence from this state, both of the following apply:

(a) The licensee shall not be required to renew the license until the renewal date that follows the date of the spouse's discharge from the armed forces.

(b) If the licensee fails to meet the continuing education requirements of section 4735.141 of the Revised Code, the licensee shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months after the licensee's first birthday after the spouse's discharge or within the amount of time equal to the total number of months the licensee's spouse spent on active duty, whichever is greater. The licensee shall submit proper documentation of the spouse's active duty service and the length of that active duty service. This extension shall not exceed the total number of months that the licensee's spouse served in active duty.

(3) In the case of a licensee as described in division (G)(2) of this section, who holds the license through a reciprocity agreement with another state, the spouse's service shall have resulted in the licensee's absence from the licensee's state of residence for the provisions of that division to apply.

(4) As used in this division, "armed forces" means the armed forces of the United States or reserve component of the armed forces of the United States including the Ohio national guard or the national guard of any other state.

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

Sec. 4735.141. (A) Except as otherwise provided in this division and in section 4735.13 of the Revised Code and except for a licensee who has placed the licensee's license in resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year

degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated, and the superintendent then reactivates the broker's license as a real estate broker.

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Any person whose license is reactivated pursuant to this division shall comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education.

To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the disability. A licensee granted an extension pursuant to this division who is no longer a disabled licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

(1) To apply as a sanitarian-in-training, eighty dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~eighty~~ ninety

dollars.

(5) The renewal fee for sanitarians-in-training shall be ~~eighty~~ ninety dollars.

(6) For late application for renewal, an additional ~~fifty~~ seventy-five dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency;

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training;

(3) Additional copies of pocket identification cards and wall certificates.

Sec. 4741.03. (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings, and the executive director shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and vice-president from its veterinarian members and such other officers as the board prescribes by rule. Each officer shall serve for a term specified by board rule or until a successor is elected and qualified. A quorum of the board consists of four members of which at least three are members who are veterinarians. The concurrence of four members is necessary for the board to take any action.

(B) The board may appoint a person, not one of its members, to serve as its executive director. The executive director is in the unclassified service and serves at the pleasure of the board. The executive director shall serve as the board's secretary-treasurer ex officio. The board may employ additional employees for professional, technical, clerical, and special work as it considers necessary. The executive director shall give a surety bond to the

state in the sum the board requires, conditioned upon the faithful performance of the executive director's duties. The board shall pay the cost of the bond. The executive director shall keep a complete accounting of all funds received and of all vouchers presented by the board to the director of budget and management for the disbursement of funds. The president or executive director shall approve all vouchers of the board. All money received by the board shall be credited to the occupational licensing and regulatory fund.

(C) In addition to any other duty required under this chapter, the board shall do all of the following:

(1) Prescribe a seal;

(2) ~~Accept and review applications for admission to an examination in accordance with section 4741.09 of the Revised Code and review~~ Review the results of board-approved, nationally recognized examinations taken by applicants in accordance with rules adopted by the board.

(3) Keep a record of all of its meetings and proceedings;

(4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.

(5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and veterinary technology that are approved by the board;

(6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;

(7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;

(8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements;

(9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government and for the administration and enforcement of this chapter.

(D) The board may do all of the following:

(1) Subpoena witnesses and require their attendance and testimony, and require the production by witnesses of books, papers, public records, animal

patient records, and other documentary evidence and examine them, in relation to any matter that the board has authority to investigate, inquire into, or hear. Except for any officer or employee of the state or any political subdivision of the state, the treasurer of state shall pay all witnesses in any proceeding before the board, upon certification from the board, witness fees and mileage in the amount provided for under section 119.094 of the Revised Code.

(2) Examine and inspect books, papers, public records, animal patient records, and other documentary evidence at the location where the books, papers, records, and other evidence are normally stored or maintained.

(E) All registers, books, and records kept by the board are the property of the board and are open for public examination and inspection at all reasonable times in accordance with section 149.43 of the Revised Code. The registers, books, and records are prima-facie evidence of the matters contained in them.

Sec. 4741.11. Whenever an applicant for a license to practice veterinary medicine ~~passes the examination specified in section 4741.09 of the Revised Code, and~~ has graduated from a veterinary college approved by the state veterinary medical licensing board or accredited by the American veterinary medical association or has been issued a certificate on or after May 1, 1987, by the education commission for foreign veterinary graduates of the American veterinary medical association or by the program for the assessment of veterinary education equivalence of the American association of veterinary state boards, and is not in violation of this chapter, the board shall issue a certificate of license to that effect, signed by the members and bearing the seal of the board. The certificate shall show that the successful applicant has qualified under the laws of this state and the requirements of the board and that the applicant is duly licensed and qualified to practice veterinary medicine.

~~Upon request, the board shall furnish to an applicant for a license who fails to pass the examination a written report showing reasons for the applicant's failure in the examination.~~

Sec. 4741.12. The state veterinary medical licensing board may issue a license to practice veterinary medicine without the examination required pursuant to section 4741.11 of the Revised Code to an applicant from another state, territory, country, or the District of Columbia who furnishes satisfactory proof to the board that the applicant meets all of the following criteria:

(A) The applicant is a graduate of a veterinary college accredited by the American veterinary medical association or holds a certificate issued, on or

after May 1, 1987, by the education commission for foreign veterinary graduates of the American veterinary medical association or ~~issued by any other nationally recognized certification program the board approves by rule~~ by the program for the assessment of veterinary education equivalence of the American association of veterinary state boards.

(B) The applicant holds a license, which is not under suspension, revocation, or other disciplinary action, issued by an agency similar to this board of another state, territory, country, or the District of Columbia, having requirements equivalent to those of this state, provided the laws of such state, territory, country, or district accord equal rights to the holder of a license to practice in this state who removes to such state, territory, country, or district.

(C) The applicant is of good moral character, as determined by the board.

(D) The applicant is not under investigation for an act which would constitute a violation of this chapter that would require the revocation of or refusal to renew a license.

(E) The applicant has a thorough knowledge of the laws and rules governing the practice of veterinary medicine in this state, as determined by the board.

Sec. 4741.17. (A) Applicants or registrants shall pay to the state veterinary medical licensing board:

(1) For an initial veterinary license ~~based on examination~~, on or after the first day of March in an even-numbered year, ~~three hundred seventy-five~~ four hundred twenty-five dollars, and on or after the first day of March in an odd-numbered year, ~~two hundred fifty~~ three hundred dollars;

(2) For an initial limited license to practice veterinary medicine for an intern, resident in a veterinary specialty, or graduate student, thirty-five dollars;

(3) For an initial limited license to practice veterinary medicine for an instructor, researcher, or diagnostician, one hundred fifty-five dollars;

(4) ~~For a veterinary license by reciprocity issued on or after the first day of March in an even-numbered year, four hundred twenty-five dollars, and on or after the first day of March in an odd-numbered year, three hundred dollars;~~

(5) For a veterinary temporary permit, one hundred dollars;

(6)(5) For a duplicate license, thirty-five dollars;

(7)(6) For the veterinary license biennial renewal fee, where the application is postmarked no later than the first day of March, one hundred fifty-five dollars; where the application is postmarked after the first day of

March, but no later than the first day of April, two hundred twenty-five dollars; and where the application is postmarked after the first day of April, four hundred fifty dollars. Notwithstanding section 4741.25 of the Revised Code, the board shall deposit ten dollars of each veterinary license biennial renewal fee that it collects into the state treasury to the credit of the veterinarian loan repayment fund created in section 4741.46 of the Revised Code.

~~(8)~~(7) For the limited license to practice veterinary medicine biennial renewal fee, where the application is postmarked not later than the first day of July, one hundred fifty-five dollars; where the application is postmarked after the first day of July, but not later than the first day of August, two hundred twenty-five dollars; and where the application is postmarked after the first day of August, four hundred fifty dollars. Notwithstanding section 4741.25 of the Revised Code, the board shall deposit ten dollars of each limited license biennial renewal fee that it collects from instructors, researchers, and diagnosticians into the state treasury to the credit of the veterinarian loan repayment fund.

~~(9)~~(8) For an initial registered veterinary technician registration fee on or after the first day of March in an odd-numbered year, thirty-five dollars, and on or after the first day of March in an even-numbered year, twenty-five dollars;

~~(10)~~(9) For the biennial renewal registration fee of a registered veterinary technician, where the application is postmarked no later than the first day of March, thirty-five dollars; where the application is postmarked after the first day of March, but no later than the first day of April, forty-five dollars; and where the application is postmarked after the first day of April, sixty dollars;

~~(11)~~(10) For a specialist certificate, fifty dollars. The certificate is not subject to renewal.

~~(12)~~(11) For the reinstatement of a suspended license, or for reinstatement of a license that has lapsed more than one year, an additional fee of seventy-five dollars;

~~(13) For examinations offered by the board, a fee, which shall be established by the board, in an amount adequate to cover the expense of procuring, administering, and scoring examinations;~~

~~(14)~~(12) For a provisional veterinary graduate license, one hundred dollars.

(B) For the purposes of divisions (A)(~~6~~), (7), ~~(8)~~, and ~~(10)~~(9) of this section, a date stamp of the office of the board may serve in lieu of a postmark.

Sec. 4741.19. (A) Unless exempted under this chapter, no person shall practice veterinary medicine, or any of its branches, without a license or limited license issued by the state veterinary medical licensing board pursuant to sections 4741.11 to 4741.13 of the Revised Code, a temporary permit issued pursuant to section 4741.14 of the Revised Code, or a registration certificate issued pursuant to division (C) of this section, or with an inactive, expired, suspended, terminated, or revoked license, temporary permit, or registration.

(B) No veterinary student shall:

(1) Perform or assist surgery unless under direct veterinary supervision and unless the student has had the minimum education and experience prescribed by rule of the board;

(2) Engage in any other work related to the practice of veterinary medicine unless under veterinary supervision;

(3) Participate in the operation of a branch office, clinic, or allied establishment unless a licensed veterinarian is present on the establishment premises.

(C) No person shall act as a registered veterinary technician unless the person is registered with the board on a biennial basis and pays the biennial registration fee. A registered veterinary technician registration expires biennially on the first day of March in the odd-numbered years and may be renewed in accordance with the standard renewal procedures contained in Chapter 4745. of the Revised Code upon payment of the biennial registration fee and fulfillment of ten continuing education hours during the two years immediately preceding renewal for registration. Each registered veterinary technician shall notify in writing the executive director of the board of any change in the registered veterinary technician's office address or employment within ninety days after the change has taken place.

(1) A registered veterinary technician operating under veterinary supervision may perform the following duties:

(a) Prepare or supervise the preparation of patients, instruments, equipment, and medications for surgery;

(b) Collect or supervise the collection of specimens and perform laboratory procedures as required by the supervising veterinarian;

(c) Apply wound dressings, casts, or splints as required by the supervising veterinarian;

(d) Assist a veterinarian in immunologic, diagnostic, medical, and surgical procedures;

(e) Suture skin incisions;

(f) Administer or supervise the administration of topical, oral, or

parenteral medication under the direction of the supervising veterinarian;

(g) Other ancillary veterinary technician functions that are performed pursuant to the order and control and under the full responsibility of a licensed veterinarian.

(h) Any additional duties as established by the board in rule.

(2) A registered veterinary technician operating under direct veterinary supervision may perform all of the following:

(a) Induce and monitor general anesthesia according to medically recognized and appropriate methods;

(b) Dental prophylaxis, periodontal care, and extraction not involving sectioning of teeth or resection of bone or both of these;

(c) Equine dental procedures, including the floating of molars, premolars, and canine teeth; removal of deciduous teeth; and the extraction of first premolars or wolf teeth.

The degree of supervision by a licensed veterinarian over the functions performed by the registered veterinary technician shall be consistent with the standards of generally accepted veterinary medical practices.

(D) A veterinarian licensed to practice in this state shall not present the person's self as or state a claim that the person is a specialist unless the veterinarian has previously met the requirements for certification by a specialty organization recognized by the American board of veterinary specialties for a specialty or such other requirements set by rule of the board and has paid the fee required by division (A)(11)(10) of section 4741.17 of the Revised Code.

(E) Notwithstanding division (A) of this section, any animal owner or the owner's designee may engage in the practice of embryo transfer on the owner's animal if a licensed veterinarian directly supervises the owner or the owner's designee and the means used to perform the embryo transfer are nonsurgical.

(F) Allied medical support may assist a licensed veterinarian to the extent to which the law that governs the individual providing the support permits, if all of the following apply:

(1) A valid veterinary-client-patient-relationship exists.

(2) The individual acts under direct veterinary supervision.

(3) The allied medical support individual receives informed, written, client consent.

(4) The veterinarian maintains responsibility for the patient and keeps the patient's medical records.

The board may inspect the facilities of an allied medical support individual in connection with an investigation based on a complaint received

in accordance with section 4741.26 of the Revised Code involving that individual.

Sec. 4741.22. ~~(A)~~ The state veterinary medical licensing board may refuse to issue or renew a license, limited license, registration, or temporary permit to or of any applicant who, and may issue a reprimand to, suspend or revoke the license, limited license, registration, or the temporary permit of, or impose a civil penalty pursuant to this section upon any person holding a license, limited license, or temporary permit to practice veterinary medicine or any person registered as a registered veterinary technician who:

~~(A)~~(1) In the conduct of the person's practice does not conform to the rules of the board or the standards of the profession governing proper, humane, sanitary, and hygienic methods to be used in the care and treatment of animals;

~~(B)~~(2) Uses fraud, misrepresentation, or deception in any application or examination for licensure, or any other documentation created in the course of practicing veterinary medicine;

~~(C)~~(3) Is found to be physically or psychologically addicted to alcohol or an illegal or controlled substance, as defined in section 3719.01 of the Revised Code, to such a degree as to render the person unfit to practice veterinary medicine;

~~(D)~~(4) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;

~~(E)~~(5) Obtains a fee on the assurance that an incurable disease can be cured;

~~(F)~~(6) Advertises in a manner that violates section 4741.21 of the Revised Code;

~~(G)~~(7) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;

~~(H)~~(8) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;

~~(I)~~(9) Is convicted of or pleads guilty to any felony or crime involving illegal or prescription drugs, or fails to report to the board within sixty days of the individual's conviction of, plea of guilty to, or treatment in lieu of conviction involving a felony, misdemeanor of the first degree, or offense involving illegal or prescription drugs;

~~(J)~~(10) Is convicted of any violation of section 959.13 of the Revised Code;

~~(K)~~(11) Swears falsely in any affidavit required to be made by the person in the course of the practice of veterinary medicine;

~~(L)~~(12) Fails to report promptly to the proper official any known reportable disease;

~~(M)~~(13) Fails to report promptly vaccinations or the results of tests when required to do so by law or rule;

~~(N)~~(14) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in Chapter 2111. of the Revised Code, and has not been restored to legal capacity for that purpose;

~~(O)~~(15) Permits a person who is not a licensed veterinarian, a veterinary student, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;

~~(P)~~(16) Is guilty of gross incompetence or gross negligence;

~~(Q)~~(17) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the District of Columbia;

~~(R)~~(18) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;

~~(S)~~(19) Represents self as a specialist unless certified as a specialist by the board;

~~(T)~~(20) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows is false or negligently or intentionally fails to file a report or record required by any applicable state or federal law;

~~(U)~~(21) Fails to use reasonable care in the administration of drugs or acceptable scientific methods in the selection of those drugs or other modalities for treatment of a disease or in conduct of surgery;

~~(V)~~(22) Makes available a dangerous drug, as defined in section 4729.01 of the Revised Code, to any person other than for the specific treatment of an animal patient;

~~(W)~~(23) Refuses to permit a board investigator or the board's designee to inspect the person's business premises during regular business hours, except as provided in division (A) of section 4741.26 of the Revised Code;

~~(X)~~(24) Violates any order of the board or fails to comply with a subpoena of the board;

~~(Y)~~(25) Fails to maintain medical records as required by rule of the board;

~~(Z)~~(26) Engages in cruelty to animals;

~~(AA)~~(27) Uses, prescribes, or sells any veterinary prescription drug or

biologic, or prescribes any extra-label use of any over-the-counter drug or dangerous drug in the absence of a valid veterinary-client-patient relationship.

Before (B) Except as provided in division (D) of this section, before the board may revoke, deny, refuse to renew, or suspend a license, registration, or temporary permit or otherwise discipline the holder of a license, registration, or temporary permit, the executive director shall file written charges with the board. The board shall conduct a hearing on the charges as provided in Chapter 119. of the Revised Code.

(C) If the board, after a hearing conducted pursuant to Chapter 119. of the Revised Code, revokes, refuses to renew, or suspends a license, registration, or temporary permit for a violation of this section, section 4741.23, division (C) or (D) of section 4741.19, or division (B), (C), or (D) of section 4741.21 of the Revised Code, the board may impose a civil penalty upon the holder of the license, permit, or registration of not less than one hundred dollars or more than one thousand dollars. In addition to the civil penalty and any other penalties imposed pursuant to this chapter, the board may assess any holder of a license, permit, or registration the costs of the hearing conducted under this section if the board determines that the holder has violated any provision for which the board may impose a civil penalty under this section.

(D) The executive director may recommend that the board suspend an individual's certificate of license without a prior hearing if the executive director determines both of the following:

(1) There is clear and convincing evidence that division (A)(3), (9), (14), (22), or (26) of this section applies to the individual.

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

The executive director shall prepare written allegations for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four of its members, may suspend the certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the suspension.

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

A suspension imposed under this division shall remain in effect, unless

reversed on appeal, until a final adjudicative order issued by the board under this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order not later than ninety days after completion of its hearing. Failure to issue the order within ninety days results in dissolution of the suspension order, but does not invalidate any subsequent, final adjudicative order.

(E) A license or registration issued to an individual under this chapter is automatically suspended upon that individual's conviction of or plea of guilty to or upon a judicial finding with regard to any of the following: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. The suspension shall remain in effect from the date of the conviction, plea, or finding until an adjudication is held under Chapter 119. of the Revised Code. If the board has knowledge that an automatic suspension has occurred, it shall notify the individual subject to the suspension. If the individual is notified and either fails to request an adjudication within the time periods established by Chapter 119. of the Revised Code or fails to participate in the adjudication, the board shall enter a final order permanently revoking the individual's license or registration.

Sec. 4741.31. The state veterinary medical licensing board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approving and designating physicians and facilities as treatment providers for veterinarians with substance abuse problems and shall approve and designate treatment providers in accordance with the rules. The rules shall include standards for both inpatient and outpatient treatment. The rules shall provide that to be approved, a treatment provider must be capable of making an initial examination to determine the type of treatment required for a veterinarian with substance abuse problems. Subject to the rules, the board shall review and approve treatment providers on a regular basis and may, at its discretion, withdraw or deny approval.

An approved treatment provider shall:

(A) Report to the board the name of any veterinarian suffering or showing evidence of suffering impairment by reason of alcohol or drug addiction as described in division ~~(C)~~(A)(3) of section 4741.22 of the Revised Code who fails to comply within one week with a referral for examination;

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

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

(D) Require a veterinarian to suspend practice on entering any required inpatient treatment;

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

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

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

(H) Report to the board any veterinarian who suffers a relapse at any time during or following aftercare.

Any veterinarian who enters into treatment by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

In the absence of fraud or bad faith, no professional association of veterinarians licensed under this chapter that sponsors a committee or program to provide peer assistance to veterinarians with substance abuse problems, no representative or agent of such a committee or program, and no member of the state veterinary medical licensing board shall be liable to any person for damages in a civil action by reason of actions taken to refer a veterinarian to a treatment provider designated by the board or actions or omissions of the provider in treating a veterinarian.

In the absence of fraud or bad faith, no person who reports to the board a veterinarian with a suspected substance abuse problem shall be liable to any person for damages in a civil action as a result of the report.

Sec. 4760.02. (A) Except as provided in division (B) of this section, no person shall practice as an anesthesiologist assistant unless the person holds a current, valid certificate ~~of registration~~ issued under this chapter to practice as an anesthesiologist assistant.

(B) Division (A) of this section does not apply to either of the following:

(1) A person participating in a training program leading toward

certification by the national commission for certification of anesthesiologist assistants, as long as the person is supervised by an anesthesiologist, an individual participating in a hospital residency program in preparation to practice as an anesthesiologist, or an anesthesiologist assistant who holds a current, valid certificate ~~of registration to practice~~ issued under this chapter;

(2) Any person who otherwise holds professional authority granted pursuant to the Revised Code to perform any of the activities that an anesthesiologist assistant is authorized to perform.

Sec. 4760.03. (A) An individual seeking a certificate ~~of registration to practice~~ as an anesthesiologist assistant shall file with the state medical board a written application on a form prescribed and supplied by the board. The application shall include all of the following information:

(1) Evidence satisfactory to the board that the applicant is at least twenty-one years of age and of good moral character;

(2) Evidence satisfactory to the board that the applicant has successfully completed the training necessary to prepare individuals to practice as anesthesiologist assistants, as specified in section 4760.031 of the Revised Code;

(3) Evidence satisfactory to the board that the applicant holds current certification from the national commission for certification of anesthesiologist assistants and that the requirements for receiving the certification included passage of an examination to determine the individual's competence to practice as an anesthesiologist assistant;

(4) Any other information the board considers necessary to process the application and evaluate the applicant's qualifications.

(B) At the time of making application for a certificate ~~of registration to practice~~, the applicant shall pay the board a fee of one hundred dollars, no part of which shall be returned.

(C) The board shall review all applications received under this section. Not later than sixty days after receiving a complete application, the board shall determine whether an applicant meets the requirements to receive a certificate ~~of registration to practice~~. The affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate. The board shall not issue a certificate ~~of registration~~ to an applicant unless the applicant is certified by the national commission for certification of anesthesiologist assistants or a successor organization that is recognized by the board.

Sec. 4760.031. As a condition of being eligible to receive a certificate ~~of registration to practice~~ as an anesthesiologist assistant, an individual must successfully complete the following training requirements:

(A) A baccalaureate or higher degree program at an institution of higher education accredited by an organization recognized by the board of regents. The program must have included courses in the following areas of study:

- (1) General biology;
- (2) General chemistry;
- (3) Organic chemistry;
- (4) Physics;
- (5) Calculus.

(B) A training program conducted for the purpose of preparing individuals to practice as anesthesiologist assistants. If the program was completed prior to ~~the effective date of this section~~ May 31, 2000, the program must have been completed at Case Western Reserve University or Emory University in Atlanta, Georgia. If the program is completed on or after ~~the effective date of this section~~ May 31, 2000, the program must be a graduate-level program accredited by the Commission on Accreditation of Allied Health Education Programs or any of the commission's successor organizations. In either case, the training program must have included at least all of the following components:

(1) Basic sciences of anesthesia: physiology, pathophysiology, anatomy, and biochemistry. The courses must be presented as a continuum of didactic courses designed to teach students the foundations of human biological existence on which clinical correlations to anesthesia practice are based.

(2) Pharmacology for the anesthetic sciences. The course must include instruction in the anesthetic principles of pharmacology, pharmacodynamics, pharmacokinetics, uptake and distribution, intravenous anesthetics and narcotics, and volatile anesthetics.

(3) Physics in anesthesia.

(4) Fundamentals of anesthetic sciences, presented as a continuum of courses covering a series of topics in basic medical sciences with special emphasis on the effects of anesthetics on normal physiology and pathophysiology.

(5) Patient instrumentation and monitoring, presented as a continuum of courses focusing on the design of, proper preparation of, and proper methods of resolving problems that arise with anesthesia equipment. The courses must provide a balance between the engineering concepts used in anesthesia instruments and the clinical application of anesthesia instruments.

(6) Clinically based conferences in which techniques of anesthetic management, quality assurance issues, and current professional literature are reviewed from the perspective of practice improvement.

(7) Clinical experience consisting of at least two thousand hours of

direct patient contact, presented as a continuum of courses throughout the entirety of the program, beginning with a gradual introduction of the techniques for the anesthetic management of patients and culminating in the assimilation of the graduate of the program into the work force. Areas of instruction must include the following:

- (a) Preoperative patient assessment;
  - (b) Indwelling vascular catheter placement, including intravenous and arterial catheters;
  - (c) Airway management, including mask airway and orotracheal intubation;
  - (d) Intraoperative charting;
  - (e) Administration and maintenance of anesthetic agents, narcotics, hypnotics, and muscle relaxants;
  - (f) Administration and maintenance of volatile anesthetics;
  - (g) Administration of blood products and fluid therapy;
  - (h) Patient monitoring;
  - (i) Postoperative management of patients;
  - (j) Regional anesthesia techniques;
  - (k) Administration of vasoactive substances for treatment of unacceptable patient hemodynamic status;
  - (l) Specific clinical training in all the subspecialties of anesthesia, including pediatrics, neurosurgery, cardiovascular surgery, trauma, obstetrics, orthopedics, and vascular surgery.
- (8) Basic life support that qualifies the individual to administer cardiopulmonary resuscitation to patients in need. The course must include the instruction necessary to be certified in basic life support by the American red cross or the American heart association.
- (9) Advanced cardiac life support that qualifies the individual to participate in the pharmacologic intervention and management resuscitation efforts for a patient in full cardiac arrest. The course must include the instruction necessary to be certified in advanced cardiac life support by the American red cross or the American heart association.

Sec. 4760.032. In addition to any other eligibility requirement set forth in this chapter, each applicant for a certificate ~~of registration to practice~~ as an anesthesiologist assistant shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state medical board shall not grant to an applicant a certificate ~~of registration to practice~~ as an anesthesiologist assistant unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4760.04 of the Revised Code.

Sec. 4760.04. If the state medical board determines under section 4760.03 of the Revised Code that an applicant meets the requirements for a certificate ~~of registration to practice~~ as an anesthesiologist assistant, the secretary of the board shall register the applicant as an anesthesiologist assistant and issue to the applicant a certificate ~~of registration to practice~~ as an anesthesiologist assistant. The certificate shall expire biennially and may be renewed in accordance with section 4760.06 of the Revised Code.

Sec. 4760.05. On application by the holder of a certificate ~~of registration to practice~~ as an anesthesiologist assistant, the state medical board shall issue a duplicate certificate to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate certificate is thirty-five dollars.

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

Applications shall be submitted to the board ~~on forms in a manner prescribed by the board shall prescribe and supply~~. Each application shall be accompanied by a biennial renewal fee of one hundred dollars.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate ~~of registration to practice~~ under section 4760.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate ~~of registration to practice~~ as an anesthesiologist assistant.

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

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

(D) A certificate ~~of registration to practice~~ that is not renewed on or before its expiration date is automatically suspended on its expiration date. If a certificate has been suspended pursuant to this division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a

certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial ~~registration~~ renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4760.04 of the Revised Code. The penalty for restoration is fifty dollars.

Sec. 4760.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate ~~of registration to practice~~ as an anesthesiologist assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

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

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

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

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

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

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

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

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate ~~of registration~~ to practice as an

anesthesiologist assistant.

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

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

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

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

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

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

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

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

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

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

(18) Violation of the conditions placed by the board on a certificate of ~~registration to practice~~;

(19) Failure to use universal blood and body fluid precautions

established by rules adopted under section 4731.051 of the Revised Code;

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

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

(22) Failure to notify the state medical board of the revocation or failure to maintain certification from the national commission for certification of anesthesiologist assistants.

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

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

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

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

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

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a certificate ~~of registration to practice~~ issued under this chapter or who has applied for a certificate ~~of registration to practice~~ pursuant to this chapter to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an anesthesiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the anesthesiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate ~~of registration to practice~~. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

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

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control,

and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed certificate ~~of registration to practice~~, to submit to treatment.

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

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

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

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

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

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

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

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

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

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

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

(I) The certificate ~~of registration to practice~~ of an anesthesiologist assistant and the assistant's practice in this state are automatically suspended as of the date the anesthesiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another

jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

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

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

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

(L) When the board refuses to grant ~~or issue~~ a certificate ~~of registration to practice~~ as an anesthesiologist assistant to an applicant, revokes an individual's certificate ~~of registration~~, refuses to renew ~~a~~ an individual's certificate ~~of registration~~, or refuses to reinstate an individual's certificate ~~of registration~~, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate ~~of registration to practice~~ as an anesthesiologist assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

(1) The surrender of a certificate ~~of registration to practice~~ issued under this chapter is not effective unless or until accepted by the board.

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

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

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

Sec. 4760.131. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state medical board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate ~~of registration to practice~~ as an anesthesiologist assistant issued pursuant to this chapter.

Sec. 4760.132. If the state medical board has reason to believe that any person who has been granted a certificate ~~of registration to practice~~ as an anesthesiologist assistant under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which the person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of the board secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section.

If any person who has been granted a certificate ~~of registration to practice~~ is adjudged by a probate court to be mentally ill or mentally incompetent, the person's certificate shall be automatically suspended until the person has filed with the state medical board a certified copy of an adjudication by a probate court of the person's subsequent restoration to competency or has submitted to the board proof, satisfactory to the board, that the person has been discharged as having a restoration to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the probate court shall forthwith notify the state medical board of an adjudication of mental illness or mental incompetence, and shall note any suspension of a certificate in the margin of the court's record of such certificate.

Sec. 4760.133. (A)(1) If an anesthesiologist assistant violates any section of this chapter or any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division

(A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4760.13 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(6) of section 4760.13 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4760.15. (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

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

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

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

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

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

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

Sec. 4760.16. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by an insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid certificate ~~of registration to practice~~ as an anesthesiologist assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an anesthesiologist assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B) An anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an anesthesiologist assistant participating in treatment or aftercare for substance abuse as long as the anesthesiologist assistant maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to believe that the

anesthesiologist assistant has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of anesthesiologist assistants to provide peer assistance to anesthesiologist assistants with substance abuse problems with respect to an anesthesiologist assistant who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the anesthesiologist assistant cooperates with the referral for examination and with any determination that the anesthesiologist assistant should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the anesthesiologist assistant has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.

(C) Any professional association or society composed primarily of anesthesiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

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

(D) Any insurer providing professional liability insurance to any person holding a valid certificate of registration to practice as an anesthesiologist assistant or any other entity that seeks to indemnify the professional liability of an anesthesiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;

(5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the anesthesiologist assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an anesthesiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an anesthesiologist assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an anesthesiologist assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the anesthesiologist assistant. The anesthesiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

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

(I) In the absence of fraud or bad faith, a professional association or

society of anesthesiologist assistants that sponsors a committee or program to provide peer assistance to an anesthesiologist assistant with substance abuse problems, a representative or agent of such a committee or program, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an anesthesiologist assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4760.18. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in practicing as an anesthesiologist assistant without having first obtained a certificate of registration to practice pursuant to this chapter, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in unlawfully practicing as an anesthesiologist assistant by applying for an injunction in any court of competent jurisdiction.

Prior to application for an injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice by registered mail that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

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

Applications shall be submitted to the board ~~on forms~~ in a manner

prescribed by the board ~~shall prescribe and supply~~. Each application shall be accompanied by a biennial renewal fee of one hundred dollars.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate under section 4762.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist.

(B)(1) To be eligible for renewal of a certificate to practice as an oriental medicine practitioner, an applicant shall certify to the board both of the following, as applicable:

(a) That the applicant has maintained a current and active designation from the national certification commission for acupuncture and oriental medicine as either a diplomate in oriental medicine or diplomate of acupuncture and Chinese herbology;

(b) That the applicant has successfully completed one six-hour course in herb and drug interaction approved by the national certification commission for acupuncture and oriental medicine in the four years immediately preceding the expiration date of the applicant's current and active designation from the commission as a diplomate in oriental medicine or diplomate of acupuncture and Chinese herbology.

(2) To be eligible for renewal of a certificate to practice as an acupuncturist, an applicant shall certify to the board that the acupuncturist has maintained a current and active designation from the national certification commission for acupuncture and oriental medicine as a diplomate in acupuncture.

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

(D) A certificate to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date. If a certificate has been suspended pursuant to this division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial ~~registration~~ renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The

board shall not restore a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4762.04 of the Revised Code. The penalty for restoration is fifty dollars.

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

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

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

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

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

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

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

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

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is

intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

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

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

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

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

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

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

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

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

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

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

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

(20) Failure to use universal blood and body fluid precautions

established by rules adopted under section 4731.051 of the Revised Code;

(21) Failure to cooperate in an investigation conducted by the board under section 4762.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(22) Failure to comply with the standards of the national certification commission for acupuncture and oriental medicine regarding professional ethics, commitment to patients, commitment to the profession, and commitment to the public;

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

(24) Failure to maintain a current and active designation as a diplomate in oriental medicine, diplomate of acupuncture and Chinese herbology, or diplomate in acupuncture, as applicable, from the national certification commission for acupuncture and oriental medicine, including revocation by the commission of the individual's designation, failure by the individual to meet the commission's requirements for redesignation, or failure to notify the board that the appropriate designation has not been maintained.

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

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

under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

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

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

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

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

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

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

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

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

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

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

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

When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under

penalty of falsification stating whether the individual has maintained sobriety.

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

(1) That there is clear and convincing evidence that an oriental medicine practitioner or acupuncturist has violated division (B) of this section;

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

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

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

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

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board

finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

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

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

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

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

(L) When the board refuses to grant or issue a certificate to practice to an applicant, revokes an individual's certificate, refuses to renew a an individual's certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a

permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

(1) The surrender of a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a certificate in accordance with section 4762.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4762.133. (A)(1) If an oriental medicine practitioner or acupuncturist violates any section of this chapter or any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4762.13 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(6) of section 4762.13 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4763.01. As used in this chapter:

(A) "Real estate appraisal" or "appraisal" means an analysis, opinion, or

conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of identified real estate that is classified as either a valuation or an analysis.

(B) "Valuation" means an estimate of the value of real estate.

(C) "Analysis" means a study of real estate for purposes other than valuation.

(D) "Appraisal report" means a written communication of a real estate appraisal; or appraisal review, ~~or appraisal consulting service~~ or an oral communication of a real estate appraisal; or appraisal review, ~~or appraisal consulting service~~ that is documented by a writing that supports the oral communication.

(E) "Appraisal assignment" means an engagement for which a person licensed or certified under this chapter is employed, retained, or engaged to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased real estate appraisal.

(F) "Specialized services" means all appraisal services, other than appraisal assignments, including, but not limited to, valuation and analysis given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling, and specialized marketing, financing, and feasibility studies.

(G) "Real estate" has the same meaning as in section 4735.01 of the Revised Code.

(H) "Appraisal foundation" means a nonprofit corporation incorporated under the laws of the state of Illinois on November 30, 1987, for the purposes of establishing and improving uniform appraisal standards by defining, issuing, and promoting those standards; establishing appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting the qualification criteria and disseminating the qualification criteria to others; and developing or assisting in development of appropriate examinations for qualified appraisers.

(I) "Prepare" means to develop and communicate, whether through a personal physical inspection or through the act or process of critically studying a report prepared by another who made the physical inspection, an appraisal, analysis, or opinion, or specialized service and to report the results. If the person who develops and communicates the appraisal or specialized service does not make the personal inspection, the name of the person who does make the personal inspection shall be identified on the appraisal or specialized service reported.

(J) "Report" means any communication, written, oral, or by any other means of transmission of information, of a real estate appraisal, appraisal

review, ~~appraisal consulting service~~, or specialized service that is transmitted to a client or employer upon completion of the appraisal or service.

(K) "State-certified general real estate appraiser" means any person who satisfies the certification requirements of this chapter relating to the appraisal of all types of real property and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(L) "State-certified residential real estate appraiser" means any person who satisfies the certification requirements only relating to the appraisal of one to four units of single-family residential real estate without regard to transaction value or complexity and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(M) "State-licensed residential real estate appraiser" means any person who satisfies the licensure requirements of this chapter relating to the appraisal of noncomplex one-to-four unit single-family residential real estate having a transaction value of less than one million dollars and complex one-to-four unit single-family residential real estate having a transaction value of less than two hundred fifty thousand dollars and who holds a current and valid license or renewal license issued to the person pursuant to this chapter.

(N) "Certified or licensed real estate appraisal" means an appraisal prepared and reported by a certificate holder or licensee under this chapter acting within the scope of certification or licensure and as a disinterested third party.

(O) "State-registered real estate appraiser assistant" means any person, other than a state-certified general real estate appraiser, state-certified residential real estate appraiser, or a state-licensed residential real estate appraiser, who satisfies the registration requirements of this chapter for participating in the development and preparation of real estate appraisals and who holds a current and valid registration or renewal registration issued to the person pursuant to this chapter.

(P) "Institution of higher education" means a state university or college, a private college or university located in this state that possesses a certificate of authorization issued by the ~~Ohio board of regents~~ chancellor of higher education pursuant to Chapter 1713. of the Revised Code, or an accredited college or university located outside this state that is accredited by an accrediting organization or professional accrediting association recognized by the ~~Ohio board of regents~~ chancellor of higher education.

(Q) "Division of real estate" may be used interchangeably with, and for

all purposes has the same meaning as, "division of real estate and professional licensing."

(R) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(S) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal; or appraisal review; ~~or appraisal consulting assignment.~~

(T) ~~"Appraisal consulting" means the act or process of developing an analysis, recommendation, or opinion to solve a problem related to real estate.~~

(U) "Work file" means documentation used during the preparation of an appraisal report or necessary to support an appraiser's analyses, opinions, or conclusions.

Sec. 4763.07. (A) Every state-certified general real estate appraiser, state-certified residential real estate appraiser and state-licensed residential real estate appraiser shall submit proof of successfully completing a minimum of fourteen classroom hours of continuing education instruction in courses or seminars approved by the real estate appraiser board. The certificate holder and licensee shall have satisfied the fourteen-hour continuing education requirements within the one-year period immediately following the issuance of the initial certificate or license and shall satisfy those requirements annually thereafter. ~~A~~

In accordance with federal law, each state-registered real estate appraiser assistant who remains in this classification for more than two years shall satisfy in the third and successive years this section's requirements submit proof of successfully completing a minimum of fourteen classroom hours of continuing education instruction in courses or seminars approved by the real estate appraiser board. Each registrant shall satisfy the fourteen-hour continuing education requirements annually.

This division does not apply to an appraiser with a certification or license from another state that is temporarily recognized in this state pursuant to division (E)(2) of section 4763.05 of the Revised Code. A

A certificate holder, licensee, or registrant who fails to submit proof to the superintendent of meeting these requirements is ineligible to obtain a renewal certificate, license, or registration and shall comply with section

4763.05 of the Revised Code in order to regain a certificate, license, or registration, except that the certificate holder, licensee, or registrant may submit proof to the superintendent of meeting these requirements within three months after the date of expiration of the certificate, license, or registration, or by obtaining a medical exception under division (E) of this section, without having to comply with section 4763.05 of the Revised Code. A certificate holder, licensee, or registrant may not engage in any activities permitted by the certificate, license, or registration during the three-month period following the certificate's, license's, or registration's normal expiration date or during the time period for which a medical exception applies.

A certificate holder, licensee, or registrant may satisfy all or a portion of the required hours of classroom instruction in the following manner:

(1) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board;

(2) Participation, other than as a student, in educational processes or programs approved by the board that relate to real estate appraisal theory, practices, or techniques.

A certificate holder, licensee, or registrant shall present to the superintendent of real estate evidence of the manner in which the certificate holder, licensee, or registrant satisfied the requirements of division (A) of this section.

(B) The board shall adopt rules for implementing a continuing education program for state-certified general real estate appraisers, state-certified residential real estate appraisers, state-licensed residential real estate appraisers, and state-registered real estate appraiser assistants for the purpose of assuring that certificate holders, licensees, and registrants have current knowledge of real estate appraisal theories, practices, and techniques that will provide a high degree of service and protection to members of the public. In addition to any other provisions the board considers appropriate, the rules adopted by the board shall prescribe the following:

(1) Policies and procedures for obtaining board approval of courses of instruction and seminars;

(2) Standards, policies, and procedures to be applied in evaluating the alternative methods of complying with continuing education requirements set forth in divisions (A)(1) and (2) of this section;

(3) Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for continuing education credit.

(C) No amendment or rescission of a rule the board adopts pursuant to division (B) of this section shall operate to deprive a certificate holder or licensee of credit toward renewal of certification or licensure for any course of instruction completed by the certificate holder or licensee prior to the effective date of the amendment or rescission that would have qualified for credit under the rule as it existed prior to amendment or rescission.

(D) The superintendent of real estate shall not issue a renewal certificate, registration, or license to any person who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(E) The superintendent may grant a medical exception upon application by a person certified, registered, or licensed under this chapter. To receive an exception, the certificate holder, registrant, or licensee shall submit a request to the superintendent with proof satisfactory that a medical exception is warranted. If the superintendent makes a determination that satisfactory proof has not been presented, within fifteen days of the date of the denial of the medical exception, the certificate holder, registrant, or licensee may file with the division of real estate a request that the real estate appraiser board review the determination. The board may adopt reasonable rules in accordance with Chapter 119. of the Revised Code to implement this division.

Sec. 4765.161. The state board of emergency medical, fire, and transportation services shall adopt rules under section 4765.11 of the Revised Code to establish an expedited veterans paramedic certification program for any person who is a veteran of the armed forces of the United States and who, while serving in the armed forces of the United States, received training as what this state categorizes as a paramedic. The program shall provide for a method or procedure whereby, upon application by such a veteran, the veteran is evaluated to determine the extent of the training the veteran received while serving in the armed forces of the United States. If the evaluation indicates that the training the veteran received while serving in the armed forces of the United States was such that the veteran is eligible to be issued a certificate to practice as a paramedic, the board shall issue the veteran a certificate to practice as a paramedic as provided in section 4765.30 of the Revised Code upon payment of the appropriate fee.

If the evaluation indicates that the training the veteran received while serving in the armed forces of the United States was such that the veteran is not eligible to be issued a certificate to practice as a paramedic, the veteran shall receive credit for the training the veteran received while serving in the armed forces of the United States and shall be required to successfully

complete only the necessary additional training or instruction in order to be issued a certificate to practice as a paramedic.

Sec. 4765.361. An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic may perform medical services that the technician is authorized by law to perform in nonemergency situations if the services are performed under the direction of the technician's medical director or cooperating physician advisory board. In nonemergency situations, no medical director or cooperating physician advisory board shall delegate, instruct, or otherwise authorize a technician to perform any medical service that the technician is not authorized by law to perform.

Sec. 4774.06. (A) An individual seeking to renew a certificate to practice as a radiologist assistant shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall ~~send~~ provide renewal notices at least one month prior to the expiration date.

Renewal applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee specified by the board in rules adopted under section 4774.11 of the Revised Code.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate under section 4774.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to practice as a radiologist assistant.

(B) To be eligible for renewal, a radiologist assistant shall certify to the board that the assistant has maintained both of the following:

(1) A license as a radiographer under Chapter 4773. of the Revised Code;

(2) Certification as a registered radiologist assistant from the American registry of radiologic technologists by meeting the registry's requirements for annual registration, including completion of the continuing education requirements established by the registry.

(C) If an applicant submits a renewal application that the board considers to be complete and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed certificate to practice as a radiologist assistant.

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

the provisions of section 119.06 of the Revised Code specifying that an applicant who appropriately files a renewal application is not required to discontinue practicing merely because the board has failed to act on the application. If a certificate has been suspended pursuant to this division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a certificate unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4774.04 of the Revised Code. The penalty for restoration is fifty dollars.

Sec. 4774.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as a radiologist assistant to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

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

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

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

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

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

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

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

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant.

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

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

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

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

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

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

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

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

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

(17) Any of the following actions taken by the state agency responsible for regulating the practice of radiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an

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

(18) Violation of the conditions placed by the board on a certificate to practice as a radiologist assistant;

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

(20) Failure to cooperate in an investigation conducted by the board under section 4774.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to maintain a license as a radiographer under Chapter 4773. of the Revised Code;

(22) Failure to maintain certification as a registered radiologist assistant from the American registry of radiologic technologists, including revocation by the registry of the assistant's certification or failure by the assistant to meet the registry's requirements for annual registration, or failure to notify the board that the certification as a registered radiologist assistant has not been maintained;

(23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American registry of radiologic technologists, as those rules apply to an individual who holds the registry's certification as a registered radiologist assistant.

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

(D) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the

applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

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

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

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a certificate to practice as a radiologist assistant issued under this chapter or who has applied for a certificate to practice to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a radiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the radiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has

reason to believe that any individual who holds a certificate to practice as a radiologist assistant issued under this chapter or any applicant for a certificate to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

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

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

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

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

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

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

When the impaired radiologist assistant resumes practice, the board shall require continued monitoring of the radiologist assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement,

submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the radiologist assistant has maintained sobriety.

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

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

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

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

(H) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice as a radiologist assistant. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under

this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

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

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

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

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

(L) When the board refuses to grant or issue a certificate to practice as a radiologist assistant to an applicant, revokes an individual's certificate, refuses to renew a an individual's certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent.

An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice as a radiologist assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

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

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

(3) Failure by an individual to renew a certificate to practice in accordance with section 4774.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4774.133. (A)(1) If a radiologist assistant violates any section of this chapter or any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4774.13 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(6) of section 4774.13 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4778.06. (A) An individual seeking to renew a license to practice as a genetic counselor shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the license. The state medical board shall ~~send~~ provide renewal notices at least one month prior to

the expiration date.

Renewal applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of one hundred fifty dollars.

The applicant shall report any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a license to practice as a genetic counselor.

(B) To be eligible for renewal, a genetic counselor shall certify to the board that the counselor has done both of the following:

(1) Maintained the counselor's status as a certified genetic counselor;

(2) Completed at least thirty hours of continuing education in genetic counseling that has been approved by the national society of genetic counselors or American board of genetic counseling.

(C) If an applicant submits a renewal application that the board considers to be complete and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed license to practice as a genetic counselor.

(D) The board may require a random sample of genetic counselors to submit materials documenting that their status as certified genetic counselors has been maintained and that the number of hours of continuing education required under division (B)(2) of this section has been completed.

If a genetic counselor certifies that the genetic counselor has completed the number of hours and type of continuing education required for renewal of a license, and the board finds through the random sample or any other means that the genetic counselor did not complete the requisite continuing education, the board may impose a civil penalty of not more than five thousand dollars. ~~The~~ If a civil penalty is imposed in addition to any other action the board takes under section 4778.14 of the Revised Code, the board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members. A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4778.14 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

Sec. 4778.14. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a genetic counselor to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing

the license.

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

- (1) Permitting the holder's name or license to be used by another person;
  - (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
  - (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
  - (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
  - (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
  - (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;
  - (7) Willfully betraying a professional confidence;
  - (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a genetic counselor.
- As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
- (9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;
  - (10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;
  - (11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;
  - (12) A plea of guilty to, a judicial finding of guilt of, or a judicial

finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

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

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

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

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

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

(18) Violation of the conditions placed by the board on a license to practice as a genetic counselor;

(19) Failure to cooperate in an investigation conducted by the board under section 4778.18 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Failure to maintain the individual's status as a certified genetic counselor;

(21) Failure to comply with the code of ethics established by the national society of genetic counselors.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may

enter into a consent agreement with a genetic counselor or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

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

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

(E) The sealing of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing or took other formal action under Chapter 119. of the Revised Code prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a license to practice as a genetic counselor, or applies for a license, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a license to practice as a genetic counselor or who has applied for a license to practice as a genetic counselor to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the

examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a genetic counselor unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the genetic counselor to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice as a genetic counselor or any applicant for a license suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

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

Before being eligible to apply for reinstatement of a license suspended under this division, the genetic counselor shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

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

(b) Evidence of continuing full compliance with an aftercare contract or

consent agreement;

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

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

When the impaired genetic counselor resumes practice, the board shall require continued monitoring of the genetic counselor. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the genetic counselor has maintained sobriety.

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

(1) That there is clear and convincing evidence that a genetic counselor has violated division (B) of this section;

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

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

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

A summary suspension imposed under this division shall remain in

effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice as a genetic counselor. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

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

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

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

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

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

(L) When the board refuses to grant or issue a license to practice as a genetic counselor to an applicant, revokes an individual's license, refuses to renew a an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as a genetic counselor and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

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

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

(3) Failure by an individual to renew a license in accordance with section 4778.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4778.141. (A)(1) If a genetic counselor violates any section of this chapter other than section 4778.06 of the Revised Code or violates any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with guidelines adopted under division (A)(2) of this section. The civil

penalty may be in addition to any other action the board may take under section 4778.14 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(6) of section 4778.14 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4905.71. (A) Every telephone or electric light company that is a public utility as defined by section 4905.02 of the Revised Code and, subject to section 4927.15 of the Revised Code, every incumbent local exchange carrier as defined by section 4927.01 of the Revised Code shall permit, upon reasonable terms and conditions and the payment of reasonable charges, the attachment of any wire, cable, facility, or apparatus to its poles, pedestals, or placement of same in conduit duct space, by any person or entity other than a public utility that is authorized and has obtained, under law, any necessary public or private authorization and permission to construct and maintain the attachment, so long as the attachment does not interfere, obstruct, or delay the service and operation of the ~~telephone or electric light company or carrier~~, or create a hazard to safety. Every such ~~telephone or electric light company or carrier~~ shall file tariffs with the public utilities commission containing the charges, terms, and conditions established for such use.

(B) The commission shall regulate the justness and reasonableness of the charges, terms, and conditions contained in any such tariff, and may, upon complaint of any persons in which it appears that reasonable grounds for complaint are stated, or upon its own initiative, investigate such charges, terms, and conditions and conduct a hearing to establish just and reasonable charges, terms, and conditions, and to resolve any controversy that may arise among the parties as to such attachment.

Sec. 4905.81. The public utilities commission shall:

(A) Supervise and regulate each motor carrier;

(B) Regulate the safety of operation of each motor carrier, and of each intermodal equipment provider as defined in section 4923.041 of the Revised Code;

(C) Adopt reasonable safety rules applicable to the highway transportation of persons or property in interstate and intrastate commerce by motor carriers;

(D) Adopt safety rules applicable to the transportation and offering for transportation of hazardous materials in interstate and intrastate commerce by motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation.

(E) Require the filing of reports and other data by motor carriers;

(F) Adopt reasonable rules for the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code applying to each motor carrier in this state;

(G) Supervise and regulate motor carriers in all other matters affecting the relationship between those carriers and the public to the exclusion of all local authorities, except as provided in this section. The commission, in the exercise of the jurisdiction conferred upon it by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, may adopt rules affecting motor carriers, notwithstanding the provisions of any ordinance, resolution, license, or permit enacted, adopted, or granted by any township, municipal corporation, municipal corporation and county, or county. In case of conflict between any such ordinance, resolution, license, or permit, the order or rule of the commission shall prevail. Local subdivisions may adopt reasonable local police rules within their respective boundaries not inconsistent with those chapters and rules adopted under them.

The commission has jurisdiction to receive, hear, and determine as a question of fact, upon complaint of any party or upon its own motion, and upon not less than fifteen days' notice of the time and place of the hearing and the matter to be heard, whether any corporation, company, association, joint-stock association, person, firm, or copartnership, or their lessees, legal or personal representatives, trustees, or receivers or trustees appointed by any court, is engaged as a motor carrier. The finding of the commission on such a question is a final order that may be reviewed as provided in section 4923.15 of the Revised Code.

Sec. 4909.161. (A) Notwithstanding the provisions of Chapters 4905. and 4909. of the Revised Code, the payment of any type of increased excise tax levy shall be considered to be a normal expense incurred by a public utility in the course of rendering service to the public, and may be recovered as such in accordance with an order of the public utilities commission. Any public utility required to pay any such increased excise tax levy may file with the public utilities commission revised rate schedules that will permit

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Date:

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full recovery on an interim or permanent basis in its rates, of the amount of any resultant increased tax payments and the commission shall promptly act to approve such schedules.

(B) Notwithstanding Chapters 4905. and 4909. of the Revised Code, the payment of the kilowatt-hour tax imposed by section 5727.81 of the Revised Code shall be considered a normal expense incurred by an electric distribution utility, as defined in section 4928.01 of the Revised Code, in the course of rendering service to the public, and may be recovered as such in accordance with an order of the commission. An electric distribution utility required to pay the kilowatt-hour tax may file with the commission revised rate schedules, consistent with Chapters 4905. and 4909. and division (A)(6) of section 4928.34 of the Revised Code, that will permit full recovery on a permanent basis in its rates, of the amount of any resultant tax payments, after taking into account any reductions of taxes in its rates resulting from Sub. S.B. No. 3 of the 123rd general assembly, and the commission shall act promptly to approve those schedules.

(C) Notwithstanding the provisions of Chapters 4905. and 4909. of the Revised Code, the payment of any increased tax on transmission and distribution property and energy conversion equipment that results from the amendment of divisions (E) and (H) of section 5727.111 of the Revised Code by H.B. 64 of the 131st general assembly shall be considered to be a normal expense incurred by an electric company in the course of rendering service to the public, and may be recovered as such in accordance with an order of the commission. Any electric company required to pay any such increased tax may file with the commission a request for a reconcilable rider that will permit full recovery of the amount of any resultant increased tax payments, and the commission shall promptly approve the rider.

Sec. 4923.04. (A)(1) The public utilities commission shall adopt rules applicable to ~~the~~ all of the following:

(1) The transportation of persons or property by motor carriers operating in interstate and intrastate commerce;

(2) The ~~commission shall adopt rules applicable to the~~ highway transportation and offering for transportation of hazardous materials by motor carriers, and persons engaging in the highway transportation and offering for transportation of hazardous materials, operating in interstate or intrastate commerce;

(3) The use and interchange of intermodal equipment, as those terms are defined in section 4923.041 of the Revised Code.

(B) The rules adopted under division (A) of this section shall not be incompatible with the requirements of the United States department of

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John R. Kasich, Governor

transportation.

(C) To achieve the purposes of this chapter and to assist the commission in the performance of any of its powers or duties, the commission, either through the public utilities commissioners or employees authorized by it, may do either or both of the following:

(1) Apply for, and any judge of a court of record of competent jurisdiction may issue, an appropriate search warrant;

(2) Examine under oath, at the offices of the commission, any officer, agent, or employee of any person subject to this chapter. The commission, by subpoena, also may compel the attendance of a witness for the purpose of the examination and, by subpoena duces tecum, may compel the production of all books, contracts, records, and documents that relate to ~~the transportation and offering for transportation of hazardous materials~~ compliance with this chapter or compliance with rules adopted under this chapter.

Sec. 4923.041. (A) As used in section 4923.04 of the Revised Code:

"Interchange" means the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider, but it does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.

"Intermodal equipment" means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.

(B) As used in this section:

"Intermodal equipment interchange agreement" means the uniform intermodal interchange and facilities access agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

"Intermodal equipment provider" means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

"Person" means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

Sec. 4927.01. (A) As used in this chapter:

(1) "Basic local exchange service" means residential-end-user access to

and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that does both of the following:

(a) Enables a customer to originate or receive voice communications within a local service area as that area exists on September 13, 2010, ~~the effective date of the amendment of this section by S.B. 162 of the 128th general assembly or as that area is changed with the approval of the public utilities commission;~~

(b) Consists of all of the following services:

(i) Local dial tone service;

(ii) For residential end users, flat-rate telephone exchange service;

(iii) Touch tone dialing service;

(iv) Access to and usage of 9-1-1 services, where such services are available;

(v) Access to operator services and directory assistance;

(vi) Provision of a telephone directory in any reasonable format for no additional charge and a listing in that directory, with reasonable accommodations made for private listings;

(vii) Per call, caller identification blocking services;

(viii) Access to telecommunications relay service; and

(ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies.

"Basic local exchange service" excludes any voice service to which customers are transitioned following a withdrawal of basic local exchange service under section 4927.10 of the Revised Code.

(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price.

(3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.

(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as

amended, for a family size equal to the size of the family of the person whose income is being determined.

(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) On February 8, 1996, provided telephone exchange service in such area; and

(b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or

(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in division (A)(5)(b)(i) of this section.

(6) "Internet protocol-enabled services" means any services, capabilities, functionalities, or applications that are provided using internet protocol or a successor protocol to enable an end user to send or receive communications in internet protocol format or a successor format, regardless of how any particular such service is classified by the federal communications commission, and includes voice over internet protocol service.

(7) "Interstate-access component" means the portion of carrier access that is within the jurisdiction of the federal communications commission.

(8) "Local exchange carrier" means any person engaged in the provision of telephone exchange service, or the offering of access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service.

~~(8)~~(9) "Local service area" means the geographic area that may encompass more than one exchange area and within which a telephone customer, by paying the rate for basic local exchange service, may complete calls to other telephone customers without being assessed long distance toll charges.

~~(9)~~(10) "Small business" means a nonresidential service customer with three or fewer service access lines.

~~(10)~~(11) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

~~(11)~~(12) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153.

~~(12)~~(13) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the

facilities used.

~~(13)~~(14) "Telephone company" means a company described in division (A) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code.

~~(14)~~(15) "Telephone exchange service" means telecommunications service that is within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or other facilities, or combination thereof, by which a customer can originate and terminate a telecommunications service.

~~(15)~~(16) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service.

~~(16)~~(17) "Voice over internet protocol service" means a service that ~~uses a broadband connection from an end user's location and~~ enables real-time, two-way, voice communications that originate or terminate from the user's location using internet protocol or a successor protocol, including, but not limited to, any such service that permits an end user to receive calls from and terminate calls to the public switched network.

~~(17)~~(18) "Voice service" includes all of the applicable functionalities described in 47 C.F.R. 54.101(a). "Voice service" is not the same as basic local exchange service.

(19) "Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3. Under division (A)~~(17)~~(19) of this section, commercial mobile radio service is specifically limited to mobile telephone, mobile cellular telephone, paging, personal communications services, and specialized mobile radio service provided by a common carrier in this state and excludes fixed wireless service.

~~(18)~~(20) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(B) The definitions of this section shall be applied consistent with the definitions in the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with federal decisions interpreting those definitions.

Sec. 4927.02. (A) It is the policy of this state to:

(1) Ensure the availability of adequate basic local exchange service or

voice service to citizens throughout the state;

(2) Provide incentives for competing providers of telecommunications service to provide advanced, high-quality telecommunications service to citizens throughout the state;

(3) Rely primarily on market forces, where they exist, to maintain reasonable service levels for telecommunications services at reasonable rates;

(4) Encourage innovation in the telecommunications industry and the deployment of advanced telecommunications services;

(5) Create a regulatory climate that provides incentives to create and maintain high technology jobs for Ohioans;

(6) Promote diversity and options in the supply of telecommunications services and equipment throughout the state;

(7) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of telecommunications services where appropriate;

(8) Consider the regulatory treatment of competing and functionally equivalent services and, to the extent practicable, provide for equivalent regulation of all telephone companies and services;

(9) Not unduly favor or advantage any provider and not unduly disadvantage providers of competing and functionally equivalent services; and

(10) Protect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs.

(B) The public utilities commission shall consider the policy set forth in this section in carrying out this chapter.

Sec. 4927.07. (A) A Except as provided under the notice requirements of section 4927.10 of the Revised Code, a telephone company may withdraw any telecommunications service if it gives at least thirty days' prior notice to the public utilities commission and to its affected customers.

(B) A Except as provided under the notice requirements of section 4927.10 of the Revised Code, a telephone company may abandon entirely telecommunications service in this state if it gives at least thirty days' prior notice to the commission, to its wholesale and retail customers, and to any telephone company wholesale provider of its services.

(C) Divisions (A) and (B) of this section do not apply to any of the following:

(1) ~~Basic local exchange service provided by an incumbent local exchange carrier;~~

(2) Pole attachments under section 4905.71 of the Revised Code;

~~(3)~~(2) Conduit occupancy under section 4905.71 of the Revised Code;  
~~(4)~~(3) Interconnection and resale agreements approved under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended.

(D) ~~An~~ Except as provided in section 4927.10 of the Revised Code, an incumbent local exchange carrier may not withdraw or abandon basic local exchange service.

(E) ~~A~~ Neither a telephone company nor an incumbent local exchange carrier may ~~not~~, without first filing a request with the commission and obtaining commission approval, withdraw any tariff filed with the commission for pole attachments or conduit occupancy under section 4905.71 of the Revised Code or abandon service provided under that section.

Sec. 4927.10. (A) Subject to division (B) of this section, if the federal communications commission adopts an order that allows an incumbent local exchange carrier to withdraw the interstate-access component of its basic local exchange service under 47 U.S.C. 214, neither of the following shall apply, beginning when the order is adopted, with regard to any exchange area in which an incumbent local exchange carrier withdraws that component:

(1) The prohibition contained in division (D) of section 4927.07 of the Revised Code against the withdrawal or abandonment of basic local exchange service by an incumbent local exchange carrier, provided that the carrier gives at least one hundred twenty days' prior notice to the public utilities commission and to its affected customers of the withdrawal or abandonment;

(2) The requirements contained in division (A) of section 4927.11 of the Revised Code.

(B) If a residential customer to whom notice has been given under this section will be unable to obtain reasonable and comparatively priced voice service upon the carrier's withdrawal or abandonment of basic local exchange service, the customer may file a petition with the public utilities commission not later than ninety days prior to the effective date of the withdrawal or abandonment. If a residential customer is identified by the collaborative process established under Section 749.10 of H.B. 64 of the 131st general assembly as a customer who will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of basic local exchange service, that customer shall be treated as though the customer filed a timely petition under this division.

(1) The public utilities commission shall issue an order disposing of the

petition not later than ninety days after the filing of the petition.

(a) If the public utilities commission determines after an investigation that no reasonable and comparatively priced voice service will be available to the affected customer at the customer's residence, the public utilities commission shall attempt to identify a willing provider of a reasonable and comparatively priced voice service to serve the customer.

(b) If no willing provider is identified, the public utilities commission may order the withdrawing or abandoning carrier to provide a reasonable and comparatively priced voice service to the customer at the customer's residence.

(c) The willing provider or the carrier, as applicable, may utilize any technology or service arrangement to provide the voice service.

(2) Except as provided in division (B)(2) of this section, an order adopted under division (B)(1)(b) of this section shall not be in effect for more than twelve months after the date that it is issued. If an order is issued under division (B)(1)(b) of this section, the public utilities commission shall evaluate, during the twelve-month period in which the order is effective, whether an alternative reasonable and comparatively priced voice service is found to exist for the affected customer. If no such voice service is available, the public utilities commission may extend the order for one additional twelve-month period. If, at the end of the second twelve-month period, no alternative reasonable and comparatively priced voice service is available, the public utilities commission may order the withdrawing or abandoning carrier to continue to provide a reasonable and comparatively priced voice service to the affected customer at the customer's residence, utilizing any technology or service arrangement to provide the voice service.

(3) For purposes of this division, the public utilities commission shall define the term "reasonable and comparatively priced voice service" to include service that provides voice grade access to the public switched network or its functional equivalent, access to 9-1-1, and that is competitively priced, when considering all the alternatives in the marketplace and their functionalities.

Sec. 4927.101. (A) Section 4927.10 of the Revised Code and the amendments to sections 4927.01, 4927.02, 4927.07, and 4927.11 of the Revised Code made by H.B. 64 of the 131st general assembly shall not affect any of the following:

(1) Any contractual obligation, including agreements under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 251 and 252, as amended;

(2) Any right or obligation under federal law or rules;

(3) The carrier-access requirements under section 4927.15 of the Revised Code;

(4) Any right or obligation under section 4905.71 of the Revised Code;

(5) Any state law or rule adopted under this title related to wholesale rights or obligations.

(B) The amendments to section 4927.15 of the Revised Code made by H.B. 64 of the 131st general assembly shall not affect the obligations and rights described in divisions (A)(1), (2), (4), and (5) of this section.

Sec. 4927.11. (A) Except as otherwise provided in this section and section 4927.10 of the Revised Code, an incumbent local exchange carrier shall provide basic local exchange service to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.

(B)(1) An incumbent local exchange carrier is not obligated to construct facilities and provide basic local exchange service, or any other telecommunications service, to the occupants of multitenant real estate, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of any other telecommunications service provider:

(a) Permits only one provider of telecommunications service to install the company's facilities or equipment during the construction or development phase of the multitenant real estate;

(b) Accepts or agrees to accept incentives or rewards that are offered by a telecommunications service provider to the owner, operator, developer, or occupants of the multitenant real estate and are contingent on the provision of telecommunications service by that provider to the occupants, to the exclusion of services provided by other telecommunications service providers;

(c) Collects from the occupants of the multitenant real estate any charges for the provision of telecommunications service to the occupants, including charges collected through rents, fees, or dues.

(2) A carrier not obligated to construct facilities and provide basic local exchange service pursuant to division (B)(1) of this section shall notify the public utilities commission of that fact within one hundred twenty days of receiving knowledge thereof.

(3) The commission by rule may establish a process for determining a necessary successor telephone company to provide service to real estate described in division (B)(1) of this section when the circumstances described in that division cease to exist.

(4) An incumbent local exchange carrier that receives a request from any person or entity to provide service under the circumstances described in division (B)(1) of this section shall, within fifteen days of such receipt, provide notice to the person or entity specifying whether the carrier will provide the requested service. If the carrier provides notice that it will not serve the person or entity, the notice shall describe the person's or entity's right to file a complaint with the commission under section 4927.21 of the Revised Code within thirty days after receipt of the notice. In resolving any such complaint, the commission's determination shall be limited to whether any circumstance described in divisions (B)(1)(a) to (c) of this section exists. Upon a finding by the commission that such a circumstance exists, the complaint shall be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy shall be provision by the carrier of the requested service within a reasonable time.

(C) An incumbent local exchange carrier may apply to the commission for a waiver from compliance with division (A) of this section. The application shall include, at a minimum, the reason for the requested waiver, the number of persons or entities who would be impacted by the waiver, and the alternatives that would be available to those persons or entities if the waiver were granted. The incumbent local exchange carrier applying for the waiver shall publish notice of the waiver application one time in a newspaper of general circulation throughout the service area identified in the application and shall provide additional notice to affected persons or entities as required by the commission in rules adopted under this division. The commission's rules shall define "affected" for purposes of this division. The commission shall afford such persons or entities a reasonable opportunity to comment to the commission on the application. This opportunity shall include a public hearing conducted in accordance with rules adopted under this division and conducted in the service area identified in the application. After a reasonable opportunity to comment has been provided, but not later than one hundred twenty days after the application is filed, the commission either shall issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or shall issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial. The commission shall adopt rules to implement division (C) of this section.

Sec. 4927.15. (A)(1) The rates, terms, and conditions for 9-1-1 service provided in this state by a telephone company or a telecommunications

carrier and each of the following provided in this state by a telephone company shall be approved and tarified in the manner prescribed by rule adopted by the public utilities commission and shall be subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission:

~~(1) Carrier access;~~

~~(2)(a) N-1-1 services, other than 9-1-1 service;~~

~~(3) Pole attachments and conduit occupancy under section 4905.71 of the Revised Code;~~

~~(4)(b) Pay telephone access lines;~~

~~(5)(c) Toll presubscription;~~

~~(6)(d) Telecommunications relay service.~~

(2) The rates, terms, and conditions for both of the following provided in this state by a telephone company or an incumbent local exchange carrier shall be approved and tarified in the manner prescribed by rule adopted by the public utilities commission and shall be subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission:

(a) Carrier access;

(b) Pole attachments and conduit occupancy under section 4905.71 of the Revised Code.

(B) The public utilities commission may order changes in a telephone company's rates for carrier access in this state subject to this division. In the event that the public utilities commission reduces a telephone company's rates for carrier access that are in effect on September 13, 2010, that reduction shall be on a revenue-neutral basis under terms and conditions established by the public utilities commission, and any resulting rate changes necessary to comply with division (B) or (C) of this section shall be in addition to any upward rate alteration made under section 4927.12 of the Revised Code.

(C) The public utilities commission has authority to address carrier access policy and to create and administer mechanisms for carrier access reform, including, but not limited to, high cost support.

Sec. 4928.54. ~~Beginning on the starting date of competitive retail electric service, the~~ The director of development may services shall aggregate percentage of income payment plan program customers for the purpose of competitively auctioning establishing a competitive procurement process for the supply of competitive retail electric generation service to for those customers. The process shall be an auction. Only bidders certified under section 4928.08 of the Revised Code and further qualified under

~~eligibility criteria the director prescribes by rule under division (B) of section 4928.53 of the Revised Code after consultation with the commission and electric light companies regarding any such rule. The objectives of may participate in the auction shall be to provide reliable retail electric generation service to customers, based on selection criteria that the winning bid provide the lowest cost and best value to customers. The rules adopted by the director under division (b) of section 4928.53 of the Revised Code shall ensure a fair and unbiased auction process and the performance of any winning bidder.~~

Sec. 4928.541. The competitive procurement process established under section 4928.54 of the Revised Code shall be conducted until a winning bid is or winning bids are selected.

Sec. 4928.542. The winning bid or bids selected through the competitive procurement process established under section 4928.54 of the Revised Code shall meet all of the following requirements:

(A) Be designed to provide reliable competitive retail electric service to percentage of income payment plan program customers;

(B) Reduce the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer established under sections 4928.141, 4928.142, and 4928.143 of the Revised Code;

(C) Result in the best value for persons paying the universal service rider under section 4928.52 of the Revised Code.

Sec. 4928.543. The director of development services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 4928.54, 4928.541, and 4928.542 of the Revised Code. The rules shall ensure a fair and unbiased auction process and the performance of the winning bidder or bidders.

Sec. 4928.544. (A) For the purpose of facilitating compliance with sections 4928.54, 4928.541, and 4928.542 of the Revised Code, and upon written request by the director of development services, the public utilities commission shall design, manage, and supervise the competitive procurement process required by section 4928.54 of the Revised Code. To the extent reasonably possible, and to minimize costs, the process may be designed based on any existing competitive procurement process for the establishment of the default generation supply price for electric distribution utilities.

This division does not preclude a process design that is based on a competitive procurement process that applies to the combined certified territories of electric distribution utilities subject to common ownership.

(B) The director of development services shall reimburse the

commission for its costs incurred under division (A) of this section. The reimbursements constitute administrative costs of the low-income customer assistance programs for the purpose of division (A) of section 4928.51 of the Revised Code.

Sec. 4928.55. The director of development services shall establish an energy efficiency and weatherization program targeted, to the extent practicable, to high-cost, high-volume use structures occupied by customers eligible for the percentage of income payment plan program, with the goal of reducing the energy bills of the occupants. Acceptance of energy efficiency and weatherization services provided by the program shall be a condition for the eligibility of any such customer to participate in the percentage of income payment plan program. ~~Any difference between universal service fund revenues under section 4928.51 of the Revised Code and any savings in percentage of income payment plan program costs as a result of competitive auctioning under section 4928.54 of the Revised Code shall be reinvested in the targeted energy efficiency and weatherization program.~~

Sec. 4928.581. (A) The public benefits advisory board shall conduct an independent investigation and analysis for the purpose of making the report required under division (B) of this section.

(B) With the approval of a majority of its voting members, the board shall prepare a written report containing all of the following:

(1) For each year since the establishment of the universal service fund and for each electric distribution utility, the annual amount of revenue collected from customers for the purpose of supporting the universal service fund and the low-income customer assistance programs.

(2) For 2016, 2017, and 2018, and for each electric distribution utility, a forecast of the annual amount of revenue that will be collected from customers for the purpose of supporting the universal service fund and the low-income customer assistance programs, assuming no changes are made to the programs. The forecast shall identify all assumptions, input variables, and values assigned to input variables. The forecast may include alternative outcomes based on variations in the assumptions, variables, and values, so as to show the sensitivity of the forecast to alternative inputs.

(3) A recommendation as to any changes that should be made to the design and implementation of the current universal service fund and the low-income customer assistance programs to ensure that energy services are provided to low-income and other consumers in this state in an affordable manner consistent with the policy specified in section 4928.02 of the Revised Code.

(C) The report required under division (B) of this section may include dissenting views and alternative recommendations.

(D) On or before December 15, 2015, the board shall submit the report required under division (B) of this section to the governor, the president of the senate, the speaker of the house of representatives, each member of the standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation, the director of development services, the chairperson of the public utilities commission, the Ohio consumers' counsel, and each member of the public benefits advisory board.

Sec. 4928.582. (A) To discharge the duties under section 4928.581 of the Revised Code, the public benefits advisory board may obtain professional services as the board determines appropriate. The professionals shall be promptly reimbursed by the director of development services for the actual and necessary expenses incurred in the performance of their duties under section 4928.581 of the Revised Code. The reimbursements constitute administrative costs of the low-income customer assistance programs for the purpose of division (A) of section 4928.51 of the Revised Code.

(B) The chairperson of the board may execute, subject to the advice and consent of the board, any professional-services retention agreements that the board determines appropriate.

Sec. 4928.583. The director of development services, the public utilities commission, and each electric distribution utility shall promptly respond to requests by the public benefits advisory board for information needed to prepare the report required under section 4928.581 of the Revised Code.

Sec. 4929.164. (A) A natural gas company may file an application with the public utilities commission for approval of an economic development project that has been ~~certified by~~ submitted to the director of development services under for the SiteOhio certification program, pursuant to section 122.9511 of the Revised Code. The company shall file the application prior to beginning the project.

(B) The commission may approve a project under this section if both of the following apply:

(1) The infrastructure development costs for the project are projected to generate a return on the company's investment that is less than the most recently authorized rate of return.

(2) The amount of infrastructure development costs to be incurred by the company per calendar year, for the project and all other projects previously approved under this section, is not projected to exceed the product of one dollar multiplied by the aggregate number of the company's

customers in this state.

(C) The commission shall adopt rules to provide for an accelerated review of an application filed under division (A) of this section. The rules shall provide for the automatic approval of the application not later than ninety days after the date of the application filing unless the commission suspends the application for good cause shown. If the application is suspended, the commission shall approve, deny, modify, or hold a hearing on the application not later than forty-five days after the date that the suspension begins.

Sec. 5101.072. There is hereby created in the state treasury the human services projects fund. The fund may consist of intrastate agency transfers, nonfederal grants, and other similar revenue sources. The department of job and family services shall use the fund to support program and administrative expenses related to the implementation of human services initiatives within the department.

~~Sec. 5101.073. There is hereby created in the state treasury the ODJFS general services administration audit settlements and operating contingency fund. The director of job and family services may submit a deposit modification and payment detail report to the treasurer of state after the completion of the reconciliation of all final transactions with the federal government regarding a federal grant for a program the department of job and family services administers and a final closeout for the grant. On receipt of the report, the treasurer of state shall transfer the money in the refunds and audit settlements fund that is the subject of the report to the ODJFS general services administration and operating fund. Money in the ODJFS general services administration and operating fund shall be used to pay for the expenses of the programs the department administers and the department's administrative expenses, including the costs of state hearings under section 5101.35 of the Revised Code, required audit adjustments audits, settlements, contingencies, and other related expenses. As necessary for the purposes of the fund, the director of job and family services may request the director of budget and management to transfer money from any of the funds used by the department of job and family services, except the general revenue fund, to the ODJFS audit settlements and contingency fund. Upon receipt of such a request, the director of budget and management may transfer the money requested. The director of budget and management, in consultation with the director of job and family services, may transfer money from the ODJFS audit settlements and contingency fund to any fund used by the department or to the general revenue fund.~~

Sec. 5101.54. (A) The director of job and family services shall

administer the supplemental nutrition assistance program in accordance with the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.). The department may:

(1) Prepare and submit to the secretary of the United States department of agriculture a plan for the administration of the supplemental nutrition assistance program;

(2) Prescribe forms for applications, certificates, reports, records, and accounts of county departments of job and family services, and other matters;

(3) Require such reports and information from each county department of job and family services as may be necessary and advisable;

(4) Administer and expend any sums appropriated by the general assembly for the purposes of the supplemental nutrition assistance program and all sums paid to the state by the United States as authorized by the Food and Nutrition Act of 2008;

(5) Conduct such investigations as are necessary;

(6) Enter into interagency agreements and cooperate with investigations conducted by the department of public safety, including providing information for investigative purposes, exchanging property and records, passing through federal financial participation, modifying any agreements with the United States department of agriculture, providing for the supply, security, and accounting of supplemental nutrition assistance program benefits for investigative purposes, and meeting any other requirements necessary for the detection and deterrence of illegal activities in the supplemental nutrition assistance program;

(7) Adopt rules in accordance with Chapter 119. of the Revised Code governing employment and training requirements of recipients of supplemental nutrition assistance program benefits, including rules specifying which recipients are subject to the requirements and establishing sanctions for failure to satisfy the requirements. The rules shall be consistent with 7 U.S.C. 2015, including its work and employment and training requirements, and, to the extent practicable, ~~may~~ shall provide for the recipients to participate in work activities, developmental activities, and alternative work activities ~~established under~~ described in sections 5107.40 to 5107.69 of the Revised Code that are comparable to programs authorized by 7 U.S.C. 2015(d)(4). The rules may reference rules adopted under section 5107.05 of the Revised Code governing work activities, developmental activities, and alternative work activities ~~established under~~ described in sections 5107.40 to 5107.69 of the Revised Code.

(8) Adopt rules in accordance with section 111.15 of the Revised Code

that are consistent with the Food and Nutrition Act of 2008, as amended, and regulations adopted thereunder governing the following:

(a) Eligibility requirements for the supplemental nutrition assistance program;

(b) Sanctions for failure to comply with eligibility requirements;

(c) Allotment of supplemental nutrition assistance program benefits;

(d) To the extent permitted under federal statutes and regulations, a system under which some or all recipients of supplemental nutrition assistance program benefits subject to employment and training requirements established by rules adopted under division (A)(7) of this section receive the benefits after satisfying the requirements;

(e) Administration of the program by county departments of job and family services;

(f) Other requirements necessary for the efficient administration of the program.

(9) Submit a plan to the United States secretary of agriculture for the department of job and family services to operate a simplified supplemental nutrition assistance program pursuant to 7 U.S.C. 2035 under which requirements governing the Ohio works first program established under Chapter 5107. of the Revised Code also govern the supplemental nutrition assistance program in the case of households receiving supplemental nutrition assistance program benefits and participating in Ohio works first.

(B) A household that is entitled to receive supplemental nutrition assistance program benefits and that is determined to be in immediate need of nutrition assistance, shall receive certification of eligibility for program benefits, pending verification, within twenty-four hours, or, if mitigating circumstances occur, within seventy-two hours, after application, if:

(1) The results of the application interview indicate that the household will be eligible upon full verification;

(2) Information sufficient to confirm the statements in the application has been obtained from at least one additional source, not a member of the applicant's household. Such information shall be recorded in the case file, and shall include:

(a) The name of the person who provided the name of the information source;

(b) The name and address of the information source;

(c) A summary of the information obtained.

The period of temporary eligibility shall not exceed one month from the date of certification of temporary eligibility. If eligibility is established by full verification, benefits shall continue without interruption as long as

eligibility continues.

At the time of application, the county department of job and family services shall provide to a household described in this division a list of community assistance programs that provide emergency food.

(C) All applications shall be approved or denied through full verification within thirty days from receipt of the application by the county department of job and family services.

(D) Nothing in this section shall be construed to prohibit the certification of households that qualify under federal regulations to receive supplemental nutrition assistance program benefits without charge under the Food and Nutrition Act of 2008.

(E) Any person who applies for the supplemental nutrition assistance program shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain when the caretaker obtained or exerted control over the adult or the adult's resources in any of the following ways:

(1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;

(2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;

(3) By deception;

(4) By threat;

(5) By intimidation.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may

include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of mental health and addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's

attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, member of the clergy, any employee of a community mental health facility, and any person engaged in professional counseling, social work, or marriage and family therapy having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in

writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

- (1) The name, address, and approximate age of the adult who is the subject of the report;
- (2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;
- (3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;
- (4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) ~~Neither the~~ The written or oral report provided for in this section ~~nor~~ and the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a are confidential and are not public record records, as defined in section 149.43 of the Revised Code. ~~Information In accordance with rules adopted by the department of job and family services, information~~ Information In accordance with rules adopted by the department of job and family services, information contained in the report shall upon request be made available to the adult who is the subject of the report, ~~to agencies authorized by the department to receive information contained in the report,~~ and to legal counsel for the adult.

(G) The county department of job and family services shall be available to receive the written or oral report provided for in this section twenty-four hours a day and seven days a week.

Sec. 5101.611. (A) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.61 or of an investigation conducted under sections 5101.62 to 5101.64 ~~or on the initiative of the department~~ of the Revised

Code is mentally retarded or developmentally disabled an individual with a developmental disability as defined in section 5126.01 of the Revised Code, the county department shall refer the case to the county board of developmental disabilities of that county for review pursuant to section 5126.31 of the Revised Code.

If a county board of developmental disabilities refers a case to the county department of job and family services in accordance with section 5126.31, the county department of job and family services shall proceed with the case in accordance with sections 5101.60 to 5101.71 of the Revised Code.

(B) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.61 or of an investigation conducted under sections 5101.62 to 5101.64 of the Revised Code is a resident of a long-term care facility, as defined in section 173.14 of the Revised Code, the department shall refer the case to the office of the state long-term care ombudsman program for review pursuant to section 173.19 of the Revised Code.

If the state ombudsman or regional long-term care ombudsman program refers a case to the county department of job and family services in accordance with rules adopted pursuant to section 173.20 of the Revised Code, the county department shall proceed with the case in accordance with sections 5101.60 to 5101.71 of the Revised Code.

(C) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.61 or of an investigation conducted under sections 5101.62 to 5101.64 of the Revised Code is a resident of a nursing home, as defined in section 3721.01 of the Revised Code, and has allegedly been abused, neglected, or exploited by an employee of the nursing home, the department shall refer the case to the department of health for investigation pursuant to section 3721.031 of the Revised Code.

(D) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.61 or of an investigation conducted under sections 5101.62 to 5101.64 of the Revised Code is a child, as defined in section 5153.01 of the Revised Code, the department shall refer the case to the public children services agency of that county.

(E) A referral by the county department of job and family services of a case to another public regulatory agency or investigatory entity pursuant to this section shall be made in accordance with rules adopted by the department of job and family services.

Sec. 5101.612. (A) The department of job and family services shall establish and maintain a uniform statewide automated adult protective services information system. The information system shall contain records regarding all of the following:

(1) All reports of abuse, neglect, or exploitation of adults made to county departments of job and family services under section 5101.61 of the Revised Code;

(2) Investigations conducted under section 5101.62 of the Revised Code;

(3) Protective services provided to adults pursuant to sections 5101.60 to 5101.71 of the Revised Code;

(4) Any other information related to adults in need of protective services that state or federal law, regulation, or rule requires the department or a county department to maintain.

(B) The department shall plan implementation of the information system on a county-by-county basis. The department shall promptly notify all county departments of the initiation and completion of statewide implementation of the information system.

(C) Except as provided in division (C)(3) of this section and in rules adopted by the department pursuant to that division:

(1) The information contained in or obtained from the information system is confidential and is not subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

(2) No person shall knowingly do either of the following:

(a) Access or use information contained in the information system;

(b) Disclose information obtained from the information system.

(3) Information contained in the information system may be accessed or used only in a manner, to the extent, and for the purposes, authorized by rules adopted by the department.

Sec. 5101.62. The county department of job and family services or its designee shall be responsible for the investigation of all reports provided for in section 173.20 or 5101.61 and all cases referred to it under section 5126.31 of the Revised Code and for evaluating the need for and, to the extent of available funds, providing or arranging for the provision of protective services. ~~The department may designate another agency to perform the department's duties under this section.~~

Investigation of the report provided for in section 5101.61 or a case referred to the department under section 5126.31 of the Revised Code shall be initiated within twenty-four hours after the department receives the report or case if any emergency exists; otherwise investigation shall be initiated

within three working days.

Investigation of the need for protective services shall include a face-to-face visit with the adult who is the subject of the report, preferably in the adult's residence, and consultation with the person who made the report, if feasible, and agencies or persons who have information about the adult's alleged abuse, neglect, or exploitation.

The department shall give written notice of the intent of the investigation and an explanation of the notice in language reasonably understandable to the adult who is the subject of the investigation, at the time of the initial interview with that person.

Upon completion of the investigation, the department shall determine from its findings whether or not the adult who is the subject of the report is in need of protective services. No adult shall be determined to be abused, neglected, or in need of protective services for the sole reason that, in lieu of medical treatment, the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the adult is a member or adherent. The department shall write a report which confirms or denies the need for protective services and states why it reached this conclusion.

Sec. 5101.621. (A) Each county department of job and family services shall prepare a memorandum of understanding that is signed by all of the following:

- (1) The director of the county department of job and family services;
- (2) If the county department has entered into an interagency agreement with a local agency pursuant to section 5101.622 of the Revised Code, the director of the local agency;
- (3) The county peace officer;
- (4) All chief municipal peace officers within the county;
- (5) Other law enforcement officers handling adult abuse, neglect, and exploitation cases in the county;
- (6) The prosecuting attorney of the county;
- (7) The coroner of the county.

(B) The memorandum of understanding shall set forth the procedures to be followed by the persons listed in division (A) of this section in the execution of their respective responsibilities related to cases of adult abuse, neglect, and exploitation. The memorandum of understanding shall establish all of the following:

- (1) An interdisciplinary team to coordinate efforts related to the prevention, reporting, and treatment of abuse, neglect, and exploitation of adults;

(2) The roles and responsibilities for handling cases that have been referred by the county department to another agency pursuant to section 5101.611 of the Revised Code;

(3) The roles and responsibilities for filing criminal charges against persons alleged to have abused, neglected, or exploited adults.

Failure to follow the procedure set forth in the memorandum of understanding is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from a report of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of a report of abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.

(C) The memorandum of understanding may, in addition, be signed by any of the following persons who are also members of the interdisciplinary team described in division (B)(1) of this section:

(1) A representative of the area agency on aging, as defined in section 173.14 of the Revised Code;

(2) The regional long-term care ombudsman;

(3) A representative of the board of alcohol, drug addiction, and mental health services;

(4) A representative of the board of health of a city or general health district;

(5) A representative of the county board of developmental disabilities;

(6) A representative of a victim assistance program;

(7) A representative of a local housing authority;

(8) Any other person whose participation furthers the goals of the memorandum of understanding.

Sec. 5101.622. The county department of job and family services may enter into an agreement or contract with another person or government entity to perform the following duties:

(A) In accordance with division (G) of section 5101.61 of the Revised Code, receive reports made under that section;

(B) Perform the county department's duties under section 5101.62 of the Revised Code;

(C) Petition the court pursuant to section 5101.65 or 5101.69 of the Revised Code for an order authorizing the provision of protective services.

Sec. 5101.69. (A) Upon petition by the county department of ~~human job and family services~~ or its designee, the court may issue an order authorizing the provision of protective services on an emergency basis to an adult. The petition for any emergency order shall include all of the following:

(1) The name, age, and address of the adult in need of protective

services;

- (2) The nature of the emergency;
- (3) The proposed protective services;
- (4) The petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the circumstances described in divisions (D)(1) to (3) of this section;
- (5) Facts showing the petitioner's attempts to obtain the adult's consent to the protective services.

(B) Notice of the filing and contents of the petition provided for in division (A) of this section, the rights of the person in the hearing provided for in division (C) of this section, and the possible consequences of a court order, shall be given to the adult. Notice shall also be given to the spouse of the adult or, if ~~he the adult~~ has none, to ~~his the adult's~~ adult children or next of kin, and ~~his the adult's~~ guardian, if any, if ~~his the guardian's~~ whereabouts are known. The notice shall be given in language reasonably understandable to its recipients at least twenty-four hours prior to the hearing provided for in this section. The court may waive the twenty-four ~~hour~~ hours' notice ~~requiement~~ requirement upon a showing that both of the following are the case:

(1) Immediate and irreparable physical harm or immediate and irreparable financial harm to the adult or others will result from the twenty-four hour delay; ~~and~~

(2) Reasonable attempts have been made to notify the adult, ~~his the~~ adult's spouse, or, if ~~he the adult~~ has none, ~~his the adult's~~ adult's adult children or next of kin, if any, and ~~his the adult's~~ adult's guardian, if any, if ~~his the guardian's~~ whereabouts are known.

Notice of the court's determination shall be given to all persons receiving notice of the filing of the petition provided for in this division.

(C) Upon receipt of a petition for an order for emergency services, the court shall hold a hearing no sooner than twenty-four and no later than seventy-two hours after the notice provided for in division (B) of this section has been given, unless the court has waived the notice. The adult who is the subject of the petition shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses.

(D) The court shall issue an order authorizing the provision of protective services on an emergency basis if it finds, on the basis of clear and convincing evidence, ~~that all of the following~~:

- (1) The adult is an incapacitated person;
- (2) An emergency exists;
- (3) No person authorized by law or court order to give consent for the

adult is available or willing to consent to emergency services.

(E) In issuing an emergency order, the court shall adhere to the following limitations:

(1) The court shall order only such protective services as are necessary and available locally to remove the conditions creating the emergency, and the court shall specifically designate those protective services the adult shall receive;

(2) The court shall not order any change of residence under this section unless the court specifically finds that a change of residence is necessary;

(3) The court may order emergency ~~series~~ services only for fourteen days. The county department or its designee may petition the court for a renewal of the order for a fourteen-day period upon a showing that continuation of the order is necessary to remove the emergency.

(4) In its order the court shall authorize the director of the county department ~~or his, the director's~~ designee, or a representative of the department's designee to give consent for the person for the approved emergency services until the expiration of the order;

(5) The court shall not order a person to a hospital or public hospital as defined in section 5122.01 of the Revised Code.

(F) If the county department or its designee determines that the adult continues to need protective services after the order provided for in division (D) of this section has expired, the county department or its designee may petition the court for an order to continue protective services, pursuant to section 5101.65 of the Revised Code. After the filing of the petition, the county department or its designee may continue to provide protective services pending a hearing by the court.

Sec. 5101.691. (A) A court, through a probate judge or a magistrate under the direction of a probate judge, may issue by telephone an ex parte emergency order authorizing the provision of protective services, including the relief available under division (B) of section 5101.692 of the Revised Code, to an adult on an emergency basis if all of the following are the case:

(1) The court receives notice from the county department of job and family services, an authorized employee of the county department, the department's designee, or an authorized employee of the department's designee, that the county department, designee, or employee believes an emergency order is needed as described in this section.

(2) There is reasonable cause to believe that the adult is incapacitated.

(3) There is reasonable cause to believe that there is a substantial risk to the adult of immediate and irreparable physical harm, immediate and irreparable financial harm, or death.

(B)(1) The judge or magistrate shall journalize any order issued under this section.

(2) An order issued under this section shall be in effect for not longer than twenty-four hours, except that if the day following the day on which the order is issued is not a working day, the order shall remain in effect until the next working day.

(C)(1) Except as provided in division (C)(2) of this section, not later than twenty-four hours after an order is issued under this section, a petition shall be filed with the court in accordance with division (A) of section 5101.69 of the Revised Code.

(2) If the day following the day on which the order was issued is not a working day, the petition shall be filed with the court on the next working day.

(3) Except as provided in section 5101.692 of the Revised Code, proceedings on the petition shall be conducted in accordance with section 5101.69 of the Revised Code.

Sec. 5101.692. (A) If an order is issued pursuant to section 5101.691 of the Revised Code, the court shall hold a hearing not later than twenty-four hours after the issuance to determine whether there is probable cause for the order, except that if the day following the day on which the order is issued is not a working day, the court shall hold the hearing on the next working day.

(B) At the hearing, the court:

(1) Shall determine whether protective services are the least restrictive alternative available for meeting the adult's needs;

(2) May issue temporary orders to protect the adult from immediate and irreparable physical harm or immediate and irreparable financial harm, including, but not limited to, temporary protection orders, evaluations, and orders requiring a party to vacate the adult's place of residence or legal settlement;

(3) May order emergency services;

(4) May freeze the financial assets of the adult.

(C) A temporary order issued pursuant to division (B)(2) of this section is effective for thirty days. The court may renew the order for an additional thirty-day period.

Information contained in the order may be entered into the law enforcement automated data system.

Sec. 5101.71. (A) The county departments of job and family services shall implement sections 5101.60 to 5101.71 of the Revised Code. The department of job and family services ~~may~~ shall provide a program of ongoing, comprehensive, formal training to ~~county departments and other~~

~~agencies authorized to implement~~ regarding the implementation of sections 5101.60 to 5101.71 of the Revised Code and require all adult protective services caseworkers and their supervisors to undergo the training. Training shall not be limited to the procedures for implementing section 5101.62 of the Revised Code. The department of job and family services shall adopt any rules it deems necessary regarding the training.

(B) The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code ~~governing the county departments' implementation to carry out the purposes~~ of sections 5101.60 to 5101.71 of the Revised Code. The rules adopted pursuant to this division may include a requirement that the county departments provide on forms prescribed by the rules a plan of proposed expenditures, and a report of actual expenditures, of funds necessary to implement sections 5101.60 to 5101.71 of the Revised Code and other requirements for intake procedures, investigations, case management, and the provision of protective services.

Sec. 5101.72. The department of job and family services, ~~to the extent of available funds,~~ may reimburse county departments of job and family services for all or part of the costs they incur in implementing sections 5101.60 to 5101.71 of the Revised Code. The director of job and family services shall adopt internal management rules in accordance with section 111.15 of the Revised Code that provide for reimbursement of county departments of job and family services under this section.

The director shall adopt internal management rules in accordance with section 111.15 of the Revised Code that do both of the following:

(A) Implement sections 5101.60 to 5101.71 of the Revised Code;

(B) Require the county departments to collect and submit to the department, or ensure that a designated agency collects and submits to the department, data concerning the implementation of sections 5101.60 to 5101.71 of the Revised Code.

Sec. 5101.91. (A) As used in sections 5101.91 and 5101.92 of the Revised Code:

(1) "Political subdivision" has the same meaning as in section 2744.01 of the Revised Code.

(2) "Publicly funded assistance program" means any physical health, behavioral health, social, employment, education, housing, or similar program funded or provided by the state or a political subdivision of the state.

(B) There is hereby created the Ohio healthier buckeye advisory council in the department of job and family services. The council shall meet at the discretion of the director of job and family services and shall consist of the