

holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the person poses an immediate threat to the public. The physical therapy section may review the allegations and vote on the suspension by telephone conference call. If the physical therapy section votes to suspend a license under this division, the physical therapy section shall ~~issue~~ serve a written order of summary suspension to the person in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. If the person fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the physical therapy section shall enter a final order permanently revoking the person's license. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the physical therapy section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the physical therapy section pursuant to division (A) of this section becomes effective. The physical therapy section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

Sec. 4755.471. (A) An individual whom the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board licenses, certificates, or otherwise legally authorizes to engage in the practice of physical therapy may render the professional services of a physical therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under former Chapter 1705. of the Revised Code as that chapter existed prior to February 11, 2022, or Chapter 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a physical therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with sections 4755.40 to 4755.53 of the Revised Code, another chapter of the Revised Code, or rules of the Ohio occupational therapy, physical therapy, and athletic trainers board adopted pursuant to sections 4755.40 to 4755.53 of the Revised Code.

(B) A corporation, limited liability company, partnership, or

professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, ~~or marriage and family therapists,~~ art therapists, or music therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a physical therapist that prohibits a physical therapist from engaging in the practice of physical therapy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, ~~or marriage and family therapy,~~ art therapy, or music therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of physical therapy.

Sec. 4755.482. (A) Except as otherwise provided in divisions (B) and (C) of this section, a person shall not teach a physical therapy theory and procedures course in physical therapy education without obtaining a license as a physical therapist from the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board.

(B) A person who is registered or licensed as a physical therapist under the laws of another state shall not teach a physical therapy theory and procedures course in physical therapy education for more than one year without obtaining a license as a physical therapist from the physical therapy section.

(C) A person who is registered or licensed as a physical therapist under the laws of a foreign country and is not registered or licensed as a physical therapist in any state who wishes to teach a physical therapy theory and procedures course in physical therapy education in this state, or an institution that wishes the person to teach such a course at the institution, may apply to the physical therapy section to request authorization for the person to teach such a course for a period of not more than one year. Any member of the physical therapy section may approve the person's or institution's application. No person described in this division shall teach such a course for longer than one year without obtaining a license from the physical therapy section.

(D) The physical therapy section may investigate any person who allegedly has violated this section. The physical therapy section has the same powers to investigate an alleged violation of this section as those powers specified in section 4755.02 of the Revised Code. If, after investigation, the physical therapy section determines that reasonable evidence exists that a person has violated this section, within seven days after that determination, the physical therapy section shall ~~send~~ serve a written notice to that person in the same manner as prescribed in ~~section~~ sections 119.05 and 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

The physical therapy section shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the physical therapy section, after the hearing, determines a violation has occurred, the physical therapy section may discipline the person in the same manner as the physical therapy section disciplines licensees under section 4755.47 of the Revised Code. The physical therapy section's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

If a person who allegedly committed a violation of this section fails to appear for a hearing, the physical therapy section may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the physical therapy section for a hearing. If the physical therapy section assesses a person a civil penalty for a violation of this section and the person fails to pay that civil penalty within the time period prescribed by the physical therapy section, the physical therapy section shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty.

Sec. 4755.64. (A) In accordance with Chapter 119. of the Revised Code, the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or, except as provided in division (B) of this section, refuse to issue or renew an athletic trainers license, or reprimand, fine, or place a licensee on probation, for any of the following:

(1) Conviction of a felony or offense involving moral turpitude, regardless of the state or country in which the conviction occurred;

(2) Violation of sections 4755.61 to 4755.65 of the Revised Code or any order issued or rule adopted thereunder;

(3) Obtaining a license through fraud, false or misleading representation, or concealment of material facts;

(4) Negligence or gross misconduct in the practice of athletic training;

(5) Violating the standards of ethical conduct in the practice of athletic training as adopted by the athletic trainers section under section 4755.61 of the Revised Code;

(6) Using any controlled substance or alcohol to the extent that the ability to practice athletic training at a level of competency is impaired;

(7) Practicing in an area of athletic training for which the individual is untrained or incompetent, or practicing without the referral of a practitioner described in division (A) of section 4755.623 of the Revised Code;

(8) Employing, directing, or supervising a person in the performance of athletic training procedures who is not authorized to practice as a licensed athletic trainer under this chapter;

(9) Misrepresenting educational attainments or the functions the individual is authorized to perform for the purpose of obtaining some benefit related to the individual's athletic training practice;

(10) Failing the licensing examination;

- (11) Aiding or abetting the unlicensed practice of athletic training;
 - (12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;
 - (13) Regardless of whether it is consensual, engaging in any of the following with a patient other than the spouse of the athletic trainer:
 - (a) Sexual conduct, as defined in section 2907.01 of the Revised Code;
 - (b) Sexual contact, as defined in section 2907.01 of the Revised Code;
 - (c) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning;
 - (14) In the case of an athletic trainer who has entered into a collaboration agreement as described in section 4755.621 of the Revised Code, failing to practice in accordance with the agreement.
- (B) The athletic trainers section shall not refuse to issue a license to an applicant because of a criminal conviction unless the refusal is in accordance with section 9.79 of the Revised Code.
- (C) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed from probation and restored to unrestricted practice.
- (D) A licensee whose license has been revoked under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of revocation. The athletic trainers section may accept or deny the application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.
- (E) On receipt of a complaint that a person licensed by the athletic trainers section has committed any of the prohibited actions listed in division (A) of this section, the section may immediately suspend the license of a licensed athletic trainer prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the licensee poses an immediate threat to the public. The section may review the allegations and vote on the suspension by telephone conference call. If the section votes to suspend a license under this division, the section shall ~~issue~~ serve a written order of summary suspension to the licensed athletic trainer in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. If the individual whose license is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the section shall enter a final order permanently revoking the individual's

license. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the section pursuant to division (A) of this section becomes effective. The section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

Sec. 4757.01. As used in this chapter:

(A) "Practice of professional counseling" means rendering or offering to render to individuals, groups, organizations, or the general public a counseling service involving the application of clinical counseling principles, methods, or procedures to assist individuals in achieving more effective personal, social, educational, or career development and adjustment, including the diagnosis and treatment of mental and emotional disorders.

(B) "Clinical counseling principles, methods, or procedures" means an approach to counseling that emphasizes the counselor's role in systematically assisting clients through all of the following: assessing and analyzing background and current information, diagnosing mental and emotional disorders, exploring possible solutions, and developing and providing a treatment plan for mental and emotional adjustment or development. "Clinical counseling principles, methods, or procedures" includes at least counseling, appraisal, consulting, and referral.

(C) "Practice of social work" means the application of social work theory and specialized knowledge of human development and behavior and social, economic, and cultural systems in directly assisting individuals, families, and groups in a clinical setting to improve or restore their capacity for social functioning, including counseling, the use of psychosocial interventions, and the use of social psychotherapy, which includes the diagnosis and treatment of mental and emotional disorders.

(D) "Accredited educational institution" means an institution accredited by a national or regional accrediting agency accepted by the board of regents.

(E) "Scope of practice" means the services, methods, and techniques in which and the areas for which a person licensed or registered under this chapter is trained and qualified.

(F) "Mental and emotional disorders" means those disorders that are classified in accepted nosologies such as the international classification of diseases and the diagnostic and statistical manual of mental disorders and in future editions of those nosologies.

(G) "Marriage and family therapy" means the diagnosis, evaluation, assessment, counseling, management and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems, through the professional application of marriage and family therapies and techniques.

(H) "Practice of marriage and family therapy" means the diagnosis, treatment, evaluation, assessment, counseling, and management, of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems, to individuals, couples, and families, singly or in groups, whether those services are offered directly to the general public or through public or private organizations, for a fee, salary or other consideration through the professional application of marriage and family theories, therapies, and techniques, including, but not limited to psychotherapeutic theories, therapies and techniques that marriage and family therapists are educated and trained to perform.

(I) "Social functioning" means living up to the expectations that are made of an individual by the individual's own self, the immediate social environment, and by society at large. "Social functioning" includes meeting basic needs of the individual and the individual's dependents, including physical aspects, personal fulfillment, emotional needs, and an adequate self-concept.

(J)(1) "Art therapy" means the integrated use of psychotherapeutic principles and methods with art media and the creative process to assist individuals, families, or groups in doing any of the following:

(a) Improving cognitive and sensory-motor function;

(b) Increasing self-awareness and self-esteem;

(c) Coping with grief and traumatic experiences;

(d) Enhancing cognitive abilities;

(e) Resolving conflicts and distress;

(f) Enhancing social functioning;

(g) Identifying and assessing clients' needs to implement therapeutic intervention to meet developmental, behavioral, mental, and emotional needs.

(2) "Art therapy" includes therapeutic intervention to facilitate alternative modes of receptive and expressive communication and evaluation and assessment to define and implement art-based treatment

plans to address cognitive, behavioral, developmental, and emotional needs.

(K) "Practice of art therapy" means the rendering or offering to render art therapy in the prevention or treatment of cognitive, developmental, emotional, or behavioral disabilities or conditions.

(L) "Music therapy" means the clinical use of music interventions by an individual to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan developed for a client.

(M) "Music therapy services" means the services a licensee is authorized to provide to achieve the goals of music therapy.

Sec. 4757.02. (A) Except as provided in division (C) of this section and section 4757.41 of the Revised Code:

(1) No person shall engage in or claim to the public to be engaging in the practice of professional counseling for a fee, salary, or other consideration unless the person is currently licensed under this chapter as a licensed professional clinical counselor or licensed professional counselor.

(2) No person shall practice or claim to the public to be practicing social work for a fee, salary, or other consideration unless the person is currently licensed under this chapter as an independent social worker or a social worker.

(3) No person shall claim to the public to be a social work assistant unless the person is currently registered under this chapter as a social work assistant.

(4) No person shall engage in the practice of marriage and family therapy or claim to the public to be engaging in the practice of marriage and family therapy unless the person is currently licensed under this chapter as a marriage and family therapist.

(B)(1) No person shall use the title "licensed professional clinical counselor," "licensed professional counselor," or any other title or description incorporating the word "counselor" or any initials used to identify persons acting in those capacities unless currently authorized under this chapter by licensure to act in the capacity indicated by the title or initials.

(2) No person shall use the title "social worker," "independent social worker," "social work assistant," or any other title or description incorporating the words "social worker" or any initials used to identify persons acting in those capacities unless the person is currently authorized by licensure or registration under this chapter to act in the capacity indicated by the title or initials.

(3) No person shall use the title "marriage and family therapist" or any

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initials used to identify persons acting in that capacity unless the person is currently authorized by licensure under this chapter to act in the capacity indicated by the title or initials.

(C)(1) Divisions (A)(1) to (3) of this section do not apply to the practice of marriage and family therapy by a person holding a valid license or temporary license as a marriage and family therapist under this chapter or holding a valid license as an independent marriage and family therapist under this chapter.

(2) Division (A)(4) of this section does not apply to the following persons licensed or registered under this chapter: licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, and social work assistants.

(D) Beginning one year after the effective date of this amendment, no person shall knowingly engage in the practice of art therapy or provide music therapy services or use the title "art therapist" or "music therapist" or a similar title unless the person holds a valid license issued under this chapter that is in good standing.

Sec. 4757.03. (A) There is hereby created the counselor, social worker, and marriage and family therapist board, consisting of ~~fifteen~~ twenty-one members. The governor shall appoint the members with the advice and consent of the senate.

(1) Four members shall be individuals licensed under this chapter as licensed professional clinical counselors or licensed professional counselors. At all times, the counselor membership shall include at least one individual who has received a doctoral degree in counseling from an accredited educational institution recognized by the board and holds a graduate level teaching position in a counselor education program.

(2) Four members shall be individuals licensed under this chapter as independent marriage and family therapists or marriage and family therapists. At all times, the marriage and family therapist membership shall include one educator who holds a teaching position in a master's degree marriage and family therapy program at an accredited educational institution recognized by the board.

(3) ~~Two~~ Four members shall be individuals licensed under this chapter as independent social workers. ~~Two members or social workers, provided that at least one member, at the time the member is appointed to the board, shall be individuals licensed under this chapter as a social workers, at least one of whom must hold a bachelor's or master's degree in social work from an accredited educational institution recognized by the board worker.~~ At all times, the social worker membership at least one of the members appointed

under this division shall include ~~one~~ an educator who holds a teaching position in a baccalaureate or master's degree social work program at an accredited educational institution recognized by the board.

(4) ~~Three~~ Five members shall be representatives of the general public who have not practiced professional counseling, marriage and family therapy, ~~or~~ social work, art therapy, or music therapy and have not been involved in the delivery of professional counseling, marriage and family therapy, ~~or~~ social work services, art therapy, or music therapy. At least one of the members representing the general public shall be at least sixty years of age. During their terms the public members shall not practice professional counseling, marriage and family therapy, ~~or~~ social work, art therapy, or music therapy or be involved in the delivery of professional counseling, marriage and family therapy, ~~or~~ social work services, art therapy, or music therapy.

(5) Two members shall be individuals licensed under this chapter as art therapists.

(6) Two members shall be individuals licensed under this chapter as music therapists.

(B) Both of the following apply to each member specified in divisions (A)(1), (2), ~~and (3)~~, (5), and (6) of this section:

(1) During the five years preceding appointment to the board, the member shall have actively engaged in the practice of the member's profession. A member holding a teaching position shall have actively engaged in the practice of the member's profession by conducting research in the member's profession or by educating and training master's, doctoral, or postdoctoral students in the member's profession, as applicable.

(2) During the two years immediately preceding appointment, the member shall have devoted the majority of their professional time to the activity described in division (B)(1) of this section while residing in this state.

(C) At least ~~three~~ five members, one from each of the board's professional standards committees, during the five years preceding appointment, shall have practiced at a public agency or at an organization that is certified or licensed by the department of developmental disabilities, the department of alcohol and drug addiction services, the department of job and family services, or the department of mental health.

(D) Not more than ~~eight~~ eleven members of the board may be members of the same political party ~~or sex~~.

(E) At least one member of the board shall be of African, Native American, Hispanic, or Asian descent.

(F) Terms of office shall be three years, each term ending on the same day of the same month of the year as did the term that it succeeds. As a result of the dates of initial appointment, the number of terms expiring each year are ~~four, five, or six~~, seven, or eight.

(G) A member shall hold office from the date of appointment until the end of the term for which the member was appointed. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office after the expiration date of the member's term until a successor takes office. Members may be reappointed, except that if a person has held office for two consecutive full terms, the person shall not be reappointed to the board sooner than one year after the expiration of the second full term as a member of the board.

Sec. 4757.04. Within the counselor, social worker, and marriage and family therapist board, there is hereby created the counselors professional standards committee, the social workers professional standards committee, ~~and the marriage and family therapist professional standards committee, the art therapist professional standards committee, and the music therapist professional standards committee.~~

The counselors professional standards committee consists of the board's licensed professional clinical counselor and licensed professional counselor members and one of the members representing the public who is not the member representing the public on the marriage and family therapist professional standards committee ~~or, the social workers professional standards committee, the art therapist professional standards committee, or the music therapist professional standards committee.~~ The committee has full authority to act on behalf of the board on all matters concerning professional clinical counselors and professional counselors.

The social workers professional standards committee consists of the board's independent social worker and social worker members and one of the members representing the public who is not the member representing the public on the counselors professional standards committee ~~or, the marriage and family therapist professional standards committee, the art therapist professional standards committee, or the music therapist professional standards committee.~~ The committee has full authority to act on behalf of the board on all matters concerning independent social workers, social workers, and social work assistants.

The marriage and family therapist professional standards committee consists of the board's marriage and family therapists and one of the members representing the public who is not the member representing the

public on the counselors professional standards committee ~~or~~, the social workers professional standards committee, the art therapist professional standards committee, or the music therapist professional standards committee. The committee has full authority to act on behalf of the board on all matters concerning independent marriage and family therapists and marriage and family therapists.

The art therapist professional standards committee consists of the board's licensed art therapist members and one of the members representing the public who is not the member representing the public on the marriage and family therapist professional standards committee, the social workers professional standards committee, the counselor professional standards committee, or the music therapist professional standards committee. The committee has full authority to act on behalf of the board on all matters concerning art therapy and art therapists.

The music therapist professional standards committee consists of the board's licensed music therapist members and one of the members representing the public who is not the member representing the public on the marriage and family therapist professional standards committee, the social workers professional standards committee, the counselor professional standards committee, or the art therapist professional standards committee. The committee has full authority to act on behalf of the board on all matters concerning music therapy and music therapists.

Sec. 4757.05. ~~(A)~~(A)(1) The counselor, social worker, and marriage and family therapist board shall meet as a whole to discuss and review issues regarding personnel, budgetary matters, administration, and any other matter pertaining to the operation of the entire board. The board shall hold at least one regular meeting every three months. Additional meetings may be held at such times as the board determines, upon call of the chairperson, or upon the written request of four or more members of the board to the executive director. If four or more members so request a meeting, the executive director shall call a meeting to commence in not more than seven days. ~~Eight~~ Eleven members of the board constitute a quorum to conduct business. Except as provided in section 4757.39 of the Revised Code, no action shall be taken without the concurrence of at least a quorum.

(2) The counselors professional standards committee, the social workers professional standards committee, ~~and~~ the marriage and family therapist professional standards committee, the art therapist professional standards committee, and the music therapist professional standards committee shall meet as necessary to fulfill their duties established by this chapter and the rules adopted under it. Three members of a committee constitute a quorum

for ~~that~~ the counselors professional standards committee, the social workers professional standards committee, and the marriage and family therapist professional standards committee to conduct business, and two members of a committee constitute a quorum for the art therapist professional standards committee and the music therapist professional standards committee to conduct business. No action shall be taken without the concurrence of at least a quorum.

(B) At its first meeting each year, the board shall elect a chairperson from among its members. At the first meeting held each year by the board's professional standards committees, each committee shall elect from among its members a chairperson. The chairpersons of the committees shall serve as co-vice-chairpersons of the board. Neither the board nor its committees shall elect a member to serve more than two consecutive terms in the same office.

(C) The board shall employ an executive director. The board may employ and prescribe the powers and duties of such employees and consultants as are necessary for it and its professional standards committees to carry out this chapter and rules adopted under it.

(D) The members of the board shall receive an amount fixed under division (J) of section 124.15 of the Revised Code for each day employed in the discharge of their official duties as board or committee members and shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(E) The board and each of its professional standards committees shall keep any records and minutes necessary to fulfill the duties established by this chapter and the rules adopted under it.

Sec. 4757.11. The counselor, social worker, and marriage and family therapist board shall establish a code of ethical practice for persons licensed under this chapter as licensed professional clinical counselors or licensed professional counselors. The board shall establish a code of ethical practice for persons licensed under this chapter as independent social workers or social workers, persons registered under this chapter as social work assistants, and persons licensed as independent marriage and family therapists or marriage and family therapists. The board shall establish a code of ethical practice for persons licensed under this chapter as art therapists. The board shall establish a code of ethical practice for persons licensed under this chapter as music therapists. The codes of ethical practice shall be established by adopting rules in accordance with Chapter 119. of the Revised Code. The codes of ethical practice shall define unprofessional conduct, which shall include engaging in a dual relationship with a client or

former client, committing an act of sexual abuse, misconduct, or exploitation of a client or former client, and, except as permitted by law, violating client confidentiality. The codes of ethical practice may be based on any codes of ethical practice developed by national organizations representing the interests of those involved in professional counseling, social work, ~~or~~ marriage and family therapy, art therapy, or music therapy. The board may establish standards in its codes of ethical practice that are more stringent than those established by national organizations.

Sec. 4757.15. The counselor, social worker, and marriage and family therapist board shall prepare, cause to be prepared, or procure the use of, and grade, have graded, or procure the grading of, examinations to determine the competence of applicants for licensure under this chapter. The board may administer separate examinations to reflect differences in educational degrees earned by applicants. The board may develop the examinations or use examinations prepared by state or national organizations that represent the interests of those involved in professional counseling, social work, ~~or~~ marriage and family therapy, art therapy, or music therapy. The board shall conduct examinations at least twice each year and shall determine the level of competence necessary for a passing score.

Sec. 4757.16. (A) A person seeking to be licensed under this chapter as a licensed professional clinical counselor or licensed professional counselor shall file with the counselors professional standards committee of the counselor, social worker, and marriage and family therapist board a written application on a form prescribed by the board. A person seeking to be licensed under this chapter as an independent social worker or social worker or registered under this chapter as a social work assistant shall file with the social workers professional standards committee of the board a written application on a form prescribed by the board. A person seeking to be licensed under this chapter as an independent marriage and family therapist or a marriage and family therapist shall file with the marriage and family therapist professional standards committee of the board a written application on a form prescribed by the board. A person seeking to be licensed under this chapter as a licensed art therapist shall file with the art therapist professional standards committee of the board a written application on a form prescribed by the board. A person seeking to be licensed under this chapter as a licensed music therapist shall file with the music therapist professional standards committee of the board a written application on a form prescribed by the board.

Each form prescribed by the board shall contain a statement informing

the applicant that a person who knowingly makes a false statement on the form is guilty of falsification under section 2921.13 of the Revised Code, a misdemeanor of the first degree.

(B) The professional standards committees shall adopt rules under Chapter 119. of the Revised Code concerning the process for review of each application received to determine whether the applicant meets the requirements to receive the license or certificate of registration for which application has been made.

Sec. 4757.24. (A) The art therapy professional standards committee of the counselor, social worker, and marriage and family therapist board shall issue a license as an art therapist to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements established under division (B) of this section.

The music therapy professional standards committee of the board shall issue a license as a music therapist to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements established under division (C) of this section.

(B) To be eligible for a license to practice art therapy under this chapter, an applicant shall meet all of the following requirements:

(1) Be at least eighteen years of age;

(2) Have attained a master's degree or higher degree from a graduate program in art therapy that one of the following applies to at the time the degree was conferred:

(a) The program is approved by the American art therapy association or its successor organization;

(b) The program is accredited by the commission on accreditation of allied health education programs or its successor organization;

(c) The board considers the program to be substantially equivalent to a program approved or accredited under division (B)(2)(a) or (b) of this section.

(3) Have completed at least two years of postgraduate supervised clinical experience in the experience requirements that the art therapy credentials board, its successor organization, or an equivalent organization recognized by the counselor, social worker, and marriage and family therapist board required for an individual to become a registered art therapist at the time the experience was completed;

(4) Have a board certification in good standing with the art therapy credentials board, its successor organization, or an equivalent organization

recognized by the counselor, social worker, and marriage and family therapist board;

(5) Have satisfied any other requirements established by the counselor, social worker, and marriage and family therapist board.

(C) To be eligible for a license to practice music therapy under this chapter, an applicant shall meet all of the following requirements:

(1) Be at least eighteen years of age;

(2) Have successfully completed an academic program with a bachelor's or higher degree in music therapy approved by the American music therapy association or its successor organization;

(3) Have passed the examination for board certification by the certification board for music therapists or its successor organization or obtained certification as a music therapist by that board on January 1, 1985;

(4) Be currently certified as a music therapist by the certification board for music therapists or its successor organization.

(5) Have successfully completed a minimum of one thousand two hundred hours of clinical training, with at least one hundred eighty hours in preinternship experience and at least nine hundred hours in internship experience, if the internship is approved by the American music therapy association or its successor organization, an academic institution, or both.

(D) Within sixty days after receiving the information described in division (B) or (C) of this section and receipt of proof of compliance with section 4757.101 of the Revised Code, the appropriate professional standards committee of the board shall issue a license to practice as an art therapist or music therapist as required under division (A) of this section.

(E) This section does not apply to members of other professions licensed, certified, or registered by this state while performing services within the recognized scope, standards, and ethics of their respective professions.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor, social worker, and marriage and family therapist board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a licensed professional clinical counselor, licensed professional counselor, marriage and family therapist, independent marriage and family therapist, social worker, or independent social worker;

(2) Initial licenses of licensed professional clinical counselors, licensed professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, ~~and~~ independent social workers, art therapists, and music therapists, except that the board shall

charge only one fee to a person who fulfills all requirements for more than one of the following initial licenses: an initial license as a social worker or independent social worker, an initial license as a licensed professional counselor or licensed professional clinical counselor, and an initial license as a marriage and family therapist or independent marriage and family therapist;

(3) Initial certificates of registration of social work assistants;

(4) Renewal and late renewal of licenses of licensed professional clinical counselors, licensed professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, ~~and independent social workers,~~ art therapists, and music therapists and renewal and late renewal of certificates of registration of social work assistants;

(5) Verification, to another jurisdiction, of a license or registration issued by the board;

(6) Continuing education programs offered by the board to licensees or registrants;

(7) Approval of continuing education programs;

(8) Approval of continuing education providers to be authorized to offer continuing education programs without prior approval from the board for each program offered;

(9) Issuance of a replacement copy of any wall certificate issued by the board;

(10) Late completion of continuing counselor, social worker, or marriage and family therapy education required under section 4757.33 of the Revised Code and the rules adopted under it.

(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2) to (9) of this section shall be nonrefundable and shall be established in amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed one hundred twenty-five dollars each, unless the board determines that amounts in excess of one hundred twenty-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred twenty-five dollars are approved by the controlling

board.

(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4757.34. The counselor, social worker, and marriage and family therapist board shall approve one or more continuing education courses of study that assist social workers, independent social workers, social work assistants, independent marriage and family therapists, marriage and family therapists, licensed professional clinical counselors, ~~and~~ licensed professional counselors, art therapists, and music therapists in recognizing the signs of domestic violence and its relationship to child abuse. Social workers, independent social workers, social work assistants, independent marriage and family therapists, marriage and family therapists, licensed professional clinical counselors, ~~and~~ licensed professional counselors, art therapists, and music therapists are not required to take the courses.

Sec. 4757.36. (A) The appropriate professional standards committee of the counselor, social worker, and marriage and family therapist board may, in accordance with Chapter 119. of the Revised Code, take any action specified in division (B) of this section for any reason described in division (C) of this section against an individual who has applied for or holds a license issued under this chapter; a master's level counselor trainee, social worker trainee, or marriage and family therapist trainee; or an individual or entity that is registered, or has applied for registration, in accordance with rules adopted under section 4757.33 of the Revised Code to provide continuing education programs approved by the board.

(B) In its imposition of sanctions against an individual or entity specified in division (A) of this section, the board may do any of the following:

(1) Refuse to issue or refuse to renew a license or certificate of registration;

(2) Suspend, revoke, or otherwise restrict a license or certificate of registration;

(3) Reprimand an individual holding a license or certificate of registration;

(4) Except as otherwise provided in division (J) of this section, impose a fine in accordance with the graduated system of fines established by the board in rules adopted under section 4757.10 of the Revised Code;

(5) Require an individual holding a license or certificate of registration to take corrective action courses.

(C) The appropriate professional standards committee of the board may take an action specified in division (B) of this section for any of the following reasons:

(1) Commission of an act that violates any provision of this chapter or rules adopted under it;

(2) Knowingly making a false statement on an application for licensure or registration, or for renewal of a license or certificate of registration;

(3) Accepting a commission or rebate for referring persons to any professionals licensed, certified, or registered by any court or board, commission, department, division, or other agency of the state, including, but not limited to, individuals practicing counseling, social work, ~~or marriage and family therapy, art therapy, and music therapy~~ or practicing in fields related to counseling, social work, ~~or marriage and family therapy, art therapy, and music therapy~~;

(4) A failure to comply with section 4757.13 of the Revised Code;

(5) A conviction in this or any other state of a crime that is a felony in this state;

(6) A failure to perform properly as a licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, ~~or independent social worker, art therapist, or music therapist~~ due to the use of alcohol or other drugs or any other physical or mental condition;

(7) A conviction in this state or in any other state of a misdemeanor committed in the course of practice as a licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, ~~or independent social worker, art therapist, or music therapist~~;

(8) Practicing outside the scope of practice applicable to that person;

(9) Practicing in violation of the supervision requirements specified under sections 4757.21 and 4757.26, and division (E) of section 4757.30, of the Revised Code;

(10) A violation of the person's code of ethical practice adopted by rule of the board pursuant to section 4757.11 of the Revised Code;

(11) Revocation or suspension of a license or certificate of registration, other disciplinary action against a license holder or registration, or the voluntary surrender of a license or certificate of registration in another state or jurisdiction for an offense that would be a violation of this chapter;

(12) Commission of a second or subsequent violation of division (B)(1) of section 959.07 or any violation of division (C) of section 959.09 of the Revised Code.

(D) Notwithstanding any provision of divisions (A) to (C) of this section to the contrary, the board shall not refuse to issue a license or certificate of registration to an applicant because of a criminal conviction unless the refusal is in accordance with section 9.79 of the Revised Code.

(E) A disciplinary action under division (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 appropriate professional standards committee may enter into a consent agreement with an individual or entity specified in division (A) of this section to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the appropriate professional standards committee, constitutes the findings and order of the board with respect to the matter addressed in the agreement. If a committee refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement are of no force or effect.

(F) In any instance in which a professional standards committee of the board is required by Chapter 119. of the Revised Code to give notice of the opportunity for a hearing and the individual or entity subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the committee may adopt a final order that contains the board's findings. In that final order, the committee may order any of the sanctions identified in division (B) of this section.

(G) One year or more after the date of suspension or revocation of a license or certificate of registration under this section, application may be made to the appropriate professional standards committee for reinstatement. The committee may approve or deny an application for reinstatement. If a license has been suspended or revoked, the committee may require an examination for reinstatement.

(H) On request of the board, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (B)(4) of this section that remains unpaid.

(I) All fines collected under division (B)(4) of this section shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund.

(J) A board shall impose a fine under division (B)(4) of this section for a violation specified in division (C)(12) of this section as follows:

(1) One hundred dollars for a second violation of division (B)(1) of section 959.07 of the Revised Code or a first violation of division (C) of section 959.09 of the Revised Code;

(2) Five hundred dollars for any subsequent violation of division (B)(1)

of section 959.07 or division (C) of section 959.09 of the Revised Code.

(K) Notwithstanding any provision of this section to the contrary, for a first violation of division (B)(1) of section 959.07 of the Revised Code, the board shall issue a confidential written warning and shall not take any other disciplinary action under this section. The board shall include in the warning an explanation of the violation and the reporting requirement specified under section 959.07 of the Revised Code.

Sec. 4757.361. (A) As used in this section, with regard to offenses committed in Ohio, "aggravated murder," "murder," "voluntary manslaughter," "felonious assault," "kidnapping," "rape," "sexual battery," "gross sexual imposition," "aggravated arson," "aggravated robbery," and "aggravated burglary" mean such offenses as defined in Title XXIX of the Revised Code; with regard to offenses committed in other jurisdictions, the terms mean offenses comparable to offenses defined in Title XXIX of the Revised Code.

(B) When there is clear and convincing evidence that continued practice by an individual licensed under this chapter presents a danger of immediate and serious harm to the public, as determined on consideration of the evidence by the professional standards committees of the counselor, social worker, and marriage and family therapist board, the appropriate committee shall impose on the individual a summary suspension without a hearing.

Immediately following the decision to impose a summary suspension, the appropriate committee shall ~~issue~~ serve a written order of suspension ~~and cause it to be delivered by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. The order shall not be subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the suspension requests an adjudication, the date set for the adjudication shall be within fifteen days but not earlier than seven days after the individual makes the request, unless another date is agreed to by both the individual and the committee imposing the suspension. The summary suspension shall remain in effect, unless reversed by the committee, until a final adjudication order issued by the committee pursuant to this section and Chapter 119. of the Revised Code becomes effective.

The committee shall issue its final adjudication order within ninety days after completion of the adjudication. If the committee does not issue a final order within the ninety-day period, the summary suspension shall be void, but any final adjudication order issued subsequent to the ninety-day period shall not be affected.

(C) The license issued to an individual under this chapter is

automatically suspended on that individual's conviction of, plea of guilty to, or 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 appropriate committee 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 committee shall enter a final order permanently revoking the person's license or certificate.

Sec. 4757.37. (A) An individual whom the counselor, social worker, and marriage and family therapist board licenses, certificates, or otherwise legally authorizes to engage in the practice of professional counseling, social work, ~~or marriage and family therapy,~~ art therapy, or music therapy may render the professional services of a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, ~~or marriage and family therapist,~~ art therapist, or music therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude such an individual from rendering professional services as a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, ~~or marriage and family therapist,~~ art therapist, or music therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the counselor, social worker, and marriage and family therapist board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, ~~or~~ marriage and family therapists, art therapist, or music therapist who are authorized for their respective practices under this chapter.

This division applies notwithstanding a provision of a code of ethics applicable to an individual who is a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, ~~or~~ marriage and family therapist, art therapist, or music therapist that prohibits the individual from engaging in the individual's practice in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of professional counseling, social work, ~~or~~ marriage and family therapy, art therapy, or music therapy.

Sec. 4757.38. (A) The counselor, social worker, and marriage and family therapist board shall investigate alleged violations of this chapter or the rules adopted under it and alleged irregularities in the delivery of services related to professional counseling, social work, ~~or~~ marriage and

family therapy, art therapy, or music therapy by persons licensed or registered under this chapter. As part of its conduct of an investigation, the board may issue subpoenas, examine witnesses, and administer oaths.

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

(1) Information received by the board pursuant to a complaint or an investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities for purposes of an investigation of either an individual who holds a license or certificate of registration issued under this chapter or an individual or entity that may have engaged in the unauthorized practice of professional counseling, social work, ~~or~~ marriage and family therapy, art therapy, or music therapy. No law enforcement officer or government entity with knowledge of any information disclosed by the board pursuant to this division shall divulge the information to any other person or government entity except for the purpose of a government investigation, a prosecution, or an adjudication by a court or government entity.

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

(3) All adjudications and investigations of the board are civil actions for the purposes of section 2305.252 of the Revised Code.

(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under section ~~4755.36~~ 4757.36 of the Revised Code shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with respect to the board's monitoring activities is not subject to discovery in any civil action and is confidential, except that the board may disclose information to law enforcement officers and government entities for purposes of an investigation of an individual holding a license or certificate of registration issued under this chapter.

(C) The board may receive any information necessary to conduct an investigation under this section. If the board is investigating the provision of services to a couple or group, it is not necessary for both members of the couple or all members of the group to consent to the release of information relevant to the investigation.

(D) The board shall ensure that all records it holds pertaining to an investigation remain confidential. The board shall adopt rules establishing procedures to be followed in maintaining the confidentiality of its

investigative records. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4757.41. (A) This chapter shall not apply to the following:

(1) A person certified by the state board of education under Chapter 3319. of the Revised Code while performing any services within the person's scope of employment by a board of education or by a private school meeting the standards prescribed by the state board of education under division (D) of section 3301.07 of the Revised Code or in a program operated under Chapter 5126. of the Revised Code for training individuals with developmental disabilities;

(2) Psychologists, independent school psychologists, or school psychologists licensed under Chapter 4732. of the Revised Code;

(3) Members of other professions licensed, certified, or registered by this state while performing services within the recognized scope, standards, and ethics of their respective professions;

(4) Rabbis, priests, Christian science practitioners, clergy, or members of religious orders and other individuals participating with them in pastoral counseling when the counseling activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices or sponsorship of an established and legally cognizable church, denomination, or sect or an integrated auxiliary of a church as defined in federal tax regulations, paragraph (g)(5) of 26 C.F.R. 1.6033-2 (1995), and when the individual rendering the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary;

(5) Any person who is not licensed under this chapter as a licensed professional clinical counselor, licensed professional counselor, independent social worker, or social worker and is employed in the civil service as defined in section 124.01 of the Revised Code while engaging in professional counseling or social work as a civil service employee, if on July 10, 2014, the person has at least two years of service in that capacity;

(6) A student in an accredited educational institution while carrying out activities that are part of the student's prescribed course of study if the activities are supervised as required by the educational institution and if the student does not hold herself or himself out as a person licensed or registered under this chapter;

(7) An individual who holds a license or certificate under Chapter 4758. of the Revised Code who is acting within the scope of the individual's license or certificate as a member of the profession of chemical dependency counseling or prevention services;

(8) Any person employed by the American red cross while engaging in activities relating to services for military families and veterans and disaster relief, as described in the "American National Red Cross Act," 33 Stat. 599 (1905), 36 U.S.C.A. 1, as amended;

(9) Members of labor organizations who hold union counselor certificates while performing services in their official capacity as union counselors;

(10) Any person employed in a hospital as defined in section 3727.01 of the Revised Code or in a nursing home as defined in section 3721.01 of the Revised Code while providing as a hospital employee or nursing home employee, respectively, social services other than counseling and the use of psychosocial interventions and social psychotherapy;

(11) A vocational rehabilitation professional who is providing rehabilitation services to individuals under section 3304.17 of the Revised Code, or holds certification by the commission on rehabilitation counselor certification and is providing rehabilitation counseling services consistent with the commission's standards;

(12) A caseworker not licensed under this chapter as an independent social worker or social worker who is employed by a public children services agency under section 5153.112 of the Revised Code;

(13) A person completing supervised experience to qualify for a license as an art therapist or music therapist, provided that experience is completed under the supervision of a licensed art therapist or music therapist, as applicable.

(B) Divisions (A)(5) and (10) of this section do not prevent a person described in those divisions from obtaining a license or certificate of registration under this chapter.

(C) Except as provided in divisions (A) and (D) of this section, no employee in the service of the state, including public employees as defined by Chapter 4117. of the Revised Code, shall engage in the practice of professional counseling, social work, or marriage and family therapy without the appropriate license issued by the board. Failure to comply with this division constitutes nonfeasance under section 124.34 of the Revised Code or just cause under a collective bargaining agreement. Nothing in this division restricts the director of administrative services from developing new classifications related to this division or from reassigning affected employees to appropriate classifications based on the employee's duties and qualifications.

(D) Except as provided in division (A) of this section, an employee who was engaged in the practice of professional counseling, social work, or

marriage and family therapy in the service of the state prior to July 10, 2014, including public employees as defined by Chapter 4117. of the Revised Code, shall comply with division (C) of this section within two years after July 10, 2014. Any such employee who fails to comply shall be removed from employment.

(E) Nothing in this chapter prevents a public children services agency from employing as a caseworker a person not licensed under this chapter as an independent social worker or social worker who has the qualifications specified in section 5153.112 of the Revised Code.

Sec. 4757.43. Nothing in this chapter or the rules adopted under it shall be construed as authorizing a licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, marriage and family therapist, independent social worker, social worker, ~~or~~ social work assistant, art therapist, or music therapist to admit a patient to a hospital or as requiring a hospital to allow any of those individuals to admit a patient.

Sec. 4757.50. A professional clinical counselor, independent social worker, ~~or~~ independent marriage and family therapist, art therapist, or music therapist may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4759.05. (A) The state medical board shall adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:

(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration or any other examination;

(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration;

(4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;

(5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.

(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;

(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics;

(8) Formulation of an application form for licensure or license renewal;

(9) Procedures for license renewal;

(10) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(B)(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 4759.012 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, the board may issue subpoenas, question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and the 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.

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.

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.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent 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 license or limited permit 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.

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 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.

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 license, 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.

(C) The board shall keep records as are necessary to carry out the provisions of this chapter.

(D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.

Sec. 4759.07. (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:

(1) Except when civil penalties are imposed under section 4759.071 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 provision of this chapter or the rules adopted by the board;

(2) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of dietetics; or in securing or attempting to secure any license or permit issued by the board under this chapter.

As used in division (A)(2) of this section, "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.

(3) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;

(4) 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;

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

(6) 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;

(7) 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;

(8) 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;

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

(10) A record of engaging in incompetent or negligent conduct in the practice of dietetics;

(11) 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 a patient is established;

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

(13) Violation of the conditions of limitation placed by the board on a license or permit;

(14) 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;

(15) 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; 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;

(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;

(17) 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 (A)(11), (12), or (14) of this section;

(18) 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;

(19) Failure to cooperate in an investigation conducted by the board under division (B) of section 4759.05 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 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;

(20) 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.

(B) The board shall not refuse to issue a license or limited permit to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a

judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

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

(D) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, 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 or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.

(E) Disciplinary actions taken by the board under division (A) 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 license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(F) In enforcing division (A)(14) of this section, 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 division (A)(14) 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 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 license or permit. For the purpose of division (A)(14) of this section, any individual who applies for or receives a license or permit 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.

(G) For the purposes of division (A)(18) of this section, 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 license or permit 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 a license or permit 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 license or permit or deny the individual's application and shall require the

individual, as a condition for an initial, continued, reinstated, or renewed license or permit, to submit to treatment.

Before being eligible to apply for reinstatement of a license or permit 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 license or permit. The demonstration shall include, but shall not be limited to, the following:

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

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

(3) 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 license or permit 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.

(H) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or permit without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (A) 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 license or permit 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~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(I) 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 the final order, the board may order any of the sanctions identified under division (A) of this section.

(J) For purposes of divisions (A)(5), (7), and (9) 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.

(K) The sealing or expungement 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 or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise

modify its records to reflect the court's sealing or expungement of conviction records.

(L) If the board takes action under division (A)(4), (6), or (8) 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 for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. 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 (A) of this section.

(M) The license or permit issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of 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 license or permit.

The board shall ~~notify~~ serve the individual subject to the suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. If an individual whose license or permit 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 enter a final order permanently revoking the individual's license or permit.

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

(1) The surrender of a license or permit 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 license or permit. 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 or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a license or permit 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 license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

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 license 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 license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as an anesthesiologist assistant, 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 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 license 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) The board shall not refuse to issue a certificate to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) 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.

(E) 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.

(F) The sealing or expungement 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 or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) For purposes of this division, any individual who holds a license to practice issued under this chapter, or applies for a license 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 license to practice issued under this chapter or who has applied for a license 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 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 issued under this chapter or any applicant for a license 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 license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a license 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 license 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.

(H) 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 license 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 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~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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 license 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.

(I) 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 license 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.

(J) The license 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 license.

The board shall ~~notify~~ serve the individual subject to the suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(K) 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.

(L) 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 license 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.

(M) When the board refuses to grant or issue a license to practice as an anesthesiologist assistant to an applicant, revokes an individual's license, refuses to renew 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 an anesthesiologist assistant and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

(1) The surrender of a license to practice issued under this chapter is not effective unless or until accepted by the board. 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 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. 4760.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules 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 4760.15 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, 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. 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 the rules 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.

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.

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. When the person being served is an anesthesiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, 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.

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.

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

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

The board shall conduct all investigations 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.

The board may share any information it receives pursuant to an investigation, 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.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) 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:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) 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 is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4761.03. (A) The state medical board shall regulate the practice of respiratory care in this state and the persons to whom the board issues licenses and limited permits under this chapter. Rules adopted under this chapter that deal with the provision of respiratory care in a hospital, other than rules regulating the issuance of licenses or limited permits, shall be consistent with the conditions for participation under medicare, Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended, and with the respiratory care accreditation standards of the joint commission or the American osteopathic association.

(B) The board shall adopt, and may rescind or amend, rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter, including rules prescribing the following:

- (1) The form and manner for filing applications under sections 4761.05 and 4761.06 of the Revised Code;
- (2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;

(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;

(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country;

(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;

(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code;

(7) Standards of ethical conduct for the practice of respiratory care;

(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code;

(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit.

(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code.

(E)(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 4761.012 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 it, the board may issue subpoenas, administer oaths, question witnesses, conduct interviews, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, 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.

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.

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.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent 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 license or limited permit 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.

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 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.

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 license or limited permit, 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.

(F) The board shall keep records of its proceedings and do other things as are necessary and proper to carry out and enforce the provisions of this chapter.

(G) The board shall maintain and publish on its internet web site all of the following:

(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;

(2) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care.

Sec. 4761.09. (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:

(1) 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;

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

(3) 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;

(4) 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;

(5) 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;

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

(7) Except when civil penalties are imposed under section 4761.091 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

provision of this chapter or the rules adopted by the board;

(8) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of respiratory care; or in securing or attempting to secure any license or permit issued by the board under this chapter.

As used in division (A)(8) of this section, "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) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;

(10) 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 a patient is established;

(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;

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

(13) Violation of the conditions of limitation placed by the board upon a license or permit;

(14) 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;

(15) 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; 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;

(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;

(17) 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 (A)(10), (12), or (14) of this section;

(18) 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;

(19) Failure to cooperate in an investigation conducted by the board under division (E) of section 4761.03 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 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;

(20) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing in a manner that conflicts with section 4761.17 of the Revised Code;

(21) Employing, directing, or supervising a person who is not authorized to practice respiratory care under this chapter in the performance of respiratory care procedures;

(22) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care;

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

(24) 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.

Disciplinary actions taken by the board under division (A) 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 effect.

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

(B) The board shall not refuse to issue a license or limited permit to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

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

(D) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, 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 or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.

(E) 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 the final order, the board may order any of the sanctions identified under division (A) of this section.

(F) In enforcing division (A)(14) of this section, 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 division (A)(14) 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 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 license or permit. For the purpose of division (A)(14) of this section, any individual who applies for or receives a license or permit 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.

(G) For the purposes of division (A)(18) of this section, 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 license or permit 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 a license or permit 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 license or permit or deny the individual's application and shall require the

individual, as a condition for an initial, continued, reinstated, or renewed license or permit, to submit to treatment.

Before being eligible to apply for reinstatement of a license or permit 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 license or permit. The demonstration shall include, but shall not be limited to, the following:

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

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

(3) 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 license or permit 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.

(H) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or permit without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (A) 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 license or permit 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~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(I) For purposes of divisions (A)(2), (4), and (6) 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.

(J) The sealing or expungement 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 or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(K) If the board takes action under division (A)(1), (3), or (5) 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 for reconsideration and supporting court

documents, the board shall reinstate the individual's license or permit. 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 (A) of this section.

(L) The license or permit issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of 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 license or permit.

The board shall ~~notify~~ serve the individual subject to the suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. If an individual whose license or permit 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 enter a final order permanently revoking the individual's license or permit.

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

(1) The surrender of a license or permit 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 license or permit. 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 or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a license or permit 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 license or permit holder shall

immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

Sec. 4762.02. (A) Except as provided in division (B); or (C), ~~or (D)~~ of this section, no person shall ~~do either of the following~~:

~~(1) Engage in the practice of oriental medicine unless the person holds a valid license to practice as an oriental medicine practitioner issued by the state medical board under this chapter;~~

~~(2) Engage~~ engage in the practice of acupuncture unless the person holds a valid license to practice as an acupuncturist issued by the state medical board under this chapter.

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

~~(1) A physician;~~

~~(C) Division (A)(1) of this section does not apply to the following:~~

~~(1) A person who engages in activities included in the practice of oriental medicine as part of a training program in oriental medicine, but only if both of the following conditions are met:~~

~~(a) The training program is operated by an educational institution that holds an effective certificate of authorization issued by the chancellor of higher education under section 1713.02 of the Revised Code or a school that holds an effective certificate of registration issued by the state board of career colleges and schools under section 3332.05 of the Revised Code.~~

~~(b) The person engages in the activities under the general supervision of an individual who holds a license to practice as an oriental medicine practitioner issued under this chapter and is not practicing within the supervisory period required by section 4762.10 of the Revised Code.~~

~~(2) To the extent that acupuncture is a component of oriental medicine, an individual who holds a license to practice as an acupuncturist issued under this chapter or a chiropractor who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code.~~

~~(D) Division (A)(2) of this section does not apply to the following:~~

~~(1)(2)~~ A person who performs acupuncture as part of a training program in acupuncture, but only if both of the following conditions are met:

(a) The training program is operated by an educational institution that holds an effective certificate of authorization issued by the chancellor of higher education under section 1713.02 of the Revised Code or a school that holds an effective certificate of registration issued by the state board of career colleges and schools under section 3332.05 of the Revised Code.

(b) The person performs the acupuncture under the general supervision of an acupuncturist who holds a license to practice as an acupuncturist

issued under this chapter ~~and is not practicing within the supervisory period required by section 4762.10 of the Revised Code.~~

~~(2) An individual who holds a license to practice as an oriental medicine practitioner issued under this chapter.~~

(3) A chiropractor who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code.

(C)(1) A person who holds a valid license to practice as an acupuncturist issued by the state medical board under this chapter is permitted to engage in the practice of herbal therapy if the person has obtained designation from the national certification commission for acupuncture and oriental medicine as either a diplomate of chinese herbology or a diplomate of oriental medicine, or if the person holds an equivalent certification or credential as determined by the state medical board.

(2) Nothing in this chapter shall be construed to prohibit a nonlicensed person from selling or utilizing herbal therapy, so long as that person does not represent the person as licensed to practice herbal therapy.

(3) Nothing in this chapter shall be construed to prevent or restrict any person who is licensed by this state from practicing herbal therapy in a manner that is included in the scope of practice established by the license held.

~~Sec. 4762.10. The following, as applicable, apply to an individual who holds a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist:~~

~~(A) On receipt of an initial license to practice, the practice of the oriental medicine practitioner or acupuncturist is subject to a supervisory period. The supervisory period shall begin on the date the initial license is granted and end one year thereafter, except that if the oriental medicine practitioner or acupuncturist is subject during that year to disciplinary action taken by the state medical board pursuant to section 4762.13 of the Revised Code, the supervision shall continue until the practitioner or acupuncturist has not been subject to any disciplinary action for one year.~~

~~(B) During the supervisory period, both of the following apply to an oriental medicine practitioner's or acupuncturist's practice in addition to the applicable requirements of divisions (D) and (E) of this section:~~

~~(1) An oriental medicine practitioner shall perform oriental medicine or acupuncture for a patient only if the patient has received a written referral or prescription for oriental medicine or acupuncture from a physician or for acupuncture from a chiropractor. An acupuncturist shall perform acupuncture for a patient only if the patient has received a written referral or~~

~~prescription for acupuncture from a physician or chiropractor. As specified in the referral or prescription, the oriental medicine practitioner or acupuncturist shall provide reports to the physician or chiropractor on the patient's condition or progress in treatment and comply with the conditions or restrictions on the practitioner's or acupuncturist's course of treatment.~~

~~(2) The oriental medicine practitioner or acupuncturist shall perform oriental medicine or acupuncture under the general supervision of the patient's referring or prescribing physician or chiropractor, except that an oriental medicine practitioner using herbal therapy in the treatment of a patient shall not provide herbal therapy under the general supervision of a chiropractor. General supervision does not require that the oriental medicine practitioner or acupuncturist and supervising physician or chiropractor practice in the same office.~~

~~(C) After the supervisory period has ended, both~~ Both ~~of the following apply to an oriental medicine practitioner's or acupuncturist's practice in addition to the applicable requirements of divisions (D) and (E)(B) and (C) of this section:~~

~~(1) Before treating a patient for a particular condition, an oriental medicine practitioner or acupuncturist shall confirm whether the patient has undergone within the past six months a diagnostic examination that was related to the condition for which the patient is seeking oriental medicine or acupuncture and was performed by a physician or chiropractor acting within the physician's or chiropractor's scope of practice. Confirmation that the diagnostic examination was performed may be made by obtaining from the patient a signed form stating that the patient has undergone the examination.~~

~~(2) If the patient does not provide the signed form specified in division (C)(1)(A)(1) of this section or an oriental medicine practitioner or acupuncturist otherwise determines that the patient has not undergone the diagnostic examination specified in that division, the practitioner or acupuncturist shall provide to the patient a written recommendation to undergo a diagnostic examination by a physician or chiropractor.~~

~~(D)(B)~~ In an individual's practice of ~~oriental medicine or~~ acupuncture pursuant to a license to practice issued under this chapter, all of the following apply:

~~(1) Prior to treating a patient, the individual shall advise the patient that oriental medicine or acupuncture, as applicable, is not a substitute for conventional medical diagnosis and treatment.~~

~~(2) On initially meeting a patient in person, the individual shall provide in writing the individual's name, business address, and business telephone number, and information on oriental medicine or acupuncture, as applicable,~~

including the techniques that are used.

(3) While treating a patient, the individual shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the individual shall consult promptly with a physician.

(4) The individual shall maintain records for each patient treated. The records shall be confidential and shall be retained for not less than three years following termination of treatment. The individual shall include in a patient's records ~~the written referral or prescription pursuant to which the patient is treated during a supervisory period and~~ any written referral or prescription for ~~oriental medicine or~~ acupuncture received for a patient being treated ~~after the supervisory period.~~

~~(E)(C)~~ In ~~an individual's~~ a licensed acupuncturist's practice of ~~oriental medicine~~ acupuncture by using herbal therapy in the treatment of a patient, all of the following apply:

(1) The ~~oriental medicine practitioner~~ licensed acupuncturist practicing herbal therapy shall provide to the patient counseling and treatment instructions. The treatment instructions shall do all of the following:

- (a) Explain the need for herbal therapy;
- (b) Instruct the patient how to take the herbal therapy;
- (c) Explain possible contraindications to the herbal therapy and provide sources of care in case of an adverse reaction;
- (d) Instruct the patient to inform the patient's other health care providers, including the patient's pharmacist, of the herbal therapy that has been provided to the patient.

(2) The ~~oriental medicine practitioner~~ licensed acupuncturist practicing herbal therapy shall document all of the following in the patient's record:

- (a) The type, amount, and strength of herbal therapy recommended for the patient's use;
- (b) The counseling and treatment instructions provided to the patient under division ~~(E)(1)(C)(1)~~ of this section;
- (c) Any adverse reaction reported by the patient in conjunction with the use of herbal therapy.

(3) The ~~oriental medicine practitioner~~ licensed acupuncturist practicing herbal therapy shall report to the state medical board any adverse reactions reported by the patient under division ~~(E)(2)(c)(C)(2)(c)~~ of this section.

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 license to practice as an oriental medicine practitioner or license 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 license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice, 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 soliciting or advertising for patients or in securing or attempting to secure a license to practice as an oriental medicine practitioner or license 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 license to practice as an oriental medicine practitioner or license 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) The board shall not refuse to issue a certificate to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) 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.

(E) 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 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 upon technical or procedural grounds.

(F) The sealing or expungement 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 or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) For purposes of this division, any individual who holds a license to practice issued under this chapter, or applies for a license 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 license to practice issued under this chapter or who has applied for a license 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 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 issued under this chapter 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 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 license 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.

(H) 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 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 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~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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 license 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.

(I) 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 license. 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.

(J) The license 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 license.

The board shall ~~notify~~ serve the individual subject to the suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(K) 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.

(L) 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 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.

(M) When the board refuses to grant or issue a license to an applicant, revokes an individual's license, refuses to renew 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 an oriental medicine practitioner or license to practice as an acupuncturist and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

(1) The surrender of a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist issued under this chapter is not effective unless or until accepted by the board. 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 may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license 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. 4762.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules 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 4762.17 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, 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. 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 the rules 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.

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.

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. When the person being served is an oriental medicine practitioner or acupuncturist, service of the subpoena may be made by certified mail, restricted delivery, 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.

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.

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

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

The board shall conduct all investigations 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.

The board may share any information it receives pursuant to an investigation, 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.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) 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:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) 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 is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4762.19. The state medical board may adopt any rules necessary to govern the practice of ~~oriental medicine, the practice of acupuncture, the supervisory relationship between oriental medicine practitioners or acupuncturists and supervising physicians,~~ the use of herbal therapy by ~~oriental medicine practitioners~~ licensed acupuncturists, and the administration and enforcement of this chapter. Rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4763.05. (A)(1)(a) A person shall make application for an initial state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The

application shall include the address of the applicant's principal place of business and all other addresses at which the applicant currently engages in the business of performing real estate appraisals and the address of the applicant's current residence. The superintendent shall retain the applicant's current residence address in a separate record which does not constitute a public record for purposes of section 149.43 of the Revised Code. The application shall indicate whether the applicant seeks certification as a general real estate appraiser or as a residential real estate appraiser, licensure as a residential real estate appraiser, or registration as a real estate appraiser assistant and be accompanied by the prescribed examination and certification, registration, or licensure fees set forth in section 4763.09 of the Revised Code. The application also shall include a pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter; and a statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter.

(b) Upon the filing of an application and payment of any examination and certification, registration, or licensure fees, the superintendent of real estate shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with section 109.572 of the Revised Code. Notwithstanding division ~~(K)~~(L) of section 121.08 of the Revised Code, the superintendent of real estate shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate, residential real estate appraiser certificate, or residential real estate appraiser license shall possess experience in real estate appraisal as the board prescribes by rule. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C) An applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, and truthful and shall present satisfactory evidence to the superintendent that the applicant has successfully completed any education requirements the board prescribes by rule.

(D) An applicant for an initial general real estate appraiser or residential real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to qualify for the certificate or license.

The board shall prescribe the examination requirements by rule.

(E)(1) A person who has obtained a residential real estate appraiser license, a residential real estate appraiser certificate, or a general real estate appraiser certificate from another state may apply to obtain a license or certificate issued under this chapter provided the state that issued the license or certificate has requirements that meet or exceed the requirements found in this chapter. The board shall adopt rules relating to this division. The application for obtaining a license or certificate under this division may include any of the following:

(a) A pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter;

(b) A statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter;

(c) A consent to service of process.

(2)(a) The board shall recognize on a temporary basis a certification or license issued in another state and shall register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

(i) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction.

(ii) The appraiser's business in this state is of a temporary nature.

(iii) The appraiser registers with the board pursuant to this division.

(b) An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal assignment in this state in connection with a federally related transaction.

(c) The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year. The application for obtaining a registration under this division may include any of the following:

(i) A pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter;

(ii) A statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter;

(iii) A consent to service of process.

(3) The board may enter into reciprocal agreements with other states. The board shall prescribe reciprocal agreement requirements by rule.

(F) The superintendent shall not issue a certificate, registration, or license to, or recognize on a temporary basis an appraiser from another state that is a corporation, partnership, or association. This prohibition shall not be construed to prevent a certificate holder or licensee from signing an appraisal report on behalf of a corporation, partnership, or association.

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not refuse to issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential

real estate appraiser license, or real estate appraiser assistant registration to any person because of a conviction of or plea of guilty to any criminal offense unless the refusal is in accordance with section 9.79 of the Revised Code.

Sec. 4763.11. (A) Within ten business days after a person files a written complaint against a person certified, registered, or licensed under this chapter with the division of real estate, the superintendent of real estate shall acknowledge receipt of the complaint by sending notice to the certificate holder, registrant, or licensee that includes a copy of the complaint. The acknowledgement to the complainant and the notice to the certificate holder, registrant, or licensee may state that an informal mediation meeting will be held with the complainant, the certificate holder, registrant, or licensee, and an investigator from the investigation and audit section of the division, if the complainant and certificate holder, registrant, or licensee both file a request for such a meeting within twenty calendar days after the acknowledgment and notice are mailed.

(B) If the complainant and certificate holder, registrant, or licensee both file with the division requests for an informal mediation meeting, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the date of the meeting, by regular mail. If the complainant and certificate holder, registrant, or licensee reach an accommodation at an informal mediation meeting, the investigator shall report the accommodation to the superintendent, the complainant, and the certificate holder, registrant, or licensee and the complaint file shall be closed upon the superintendent receiving satisfactory notice that the accommodation has been fulfilled.

(C) If the complainant and certificate holder, registrant, or licensee fail to agree to an informal mediation meeting or fail to reach an accommodation agreement, or fail to fulfill an accommodation agreement, the superintendent shall assign the complaint to an investigator for an investigation into the conduct of the certificate holder, registrant, or licensee against whom the complaint is filed.

(D) Upon the conclusion of the investigation, the investigator shall file a written report of the results of the investigation with the superintendent. The superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of division (G) of this section by the certificate holder, registrant, or licensee.

(1) If the superintendent finds evidence exists showing a violation of division (G) of this section by a certificate holder, registrant, or licensee, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the determination. The certificate holder, registrant, or

licensee may enter into a settlement agreement with the superintendent. The settlement agreement is subject to board approval, and the board shall prescribe requirements by rule for such settlement agreements. The certificate holder, registrant, or licensee may request a hearing pursuant to Chapter 119. of the Revised Code. If a formal hearing is conducted, the hearing examiner shall file a report that contains findings of fact and conclusions of law with the division hearing administrator. The division hearing administrator shall serve the hearing examiner report on the superintendent, the assistant attorney general representing the superintendent in the matter, the board, the complainant and the certificate holder, licensee, or registrant, and if applicable, counsel representing the complainant, certificate holder, licensee, or registrant. Service of the hearing examiner report on the complainant and on the certificate holder, licensee, or registrant shall comply with division (K) of this section. Service of the hearing examiner's report on the superintendent, the assistant attorney general representing the superintendent in the matter, and the board shall be by either regular mail or electronic means. Service of the hearing examiner report on counsel representing the complainant, certificate holder, licensee, or registrant shall be by regular mail.

Within ten calendar days of receipt by the assistant attorney general representing the superintendent of the copy of the hearing examiner's report served by the division hearing administrator, the assistant attorney general may file with the board written objections to the hearing examiner's report, which shall be considered by the board before approving, modifying, or rejecting the hearing examiner's report. Within ten calendar days of receipt by the certificate holder, licensee, or registrant of the copy of the hearing examiner's report served by the division hearing administrator, the certificate holder, licensee, or registrant may file with the board written objections to the hearing examiner's report, which shall be considered by the board before approving, modifying, or rejecting the hearing examiner's report. Within ten calendar days of receipt by the superintendent of the copy of the hearing examiner's report served by the division hearing administrator, the superintendent may grant an extension of time to file written objections to the hearing examiner's report for good cause shown.

(2) If the superintendent finds, following the conclusion of the investigation, that evidence does not exist showing a violation of division (G) of this section by the certificate holder, registrant, or licensee, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of that determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and

certificate holder, registrant, or licensee that such evidence does not exist, the complainant may file with the division a request that the real estate appraiser board review the determination. If the complainant files such request, the board shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed but no longer than six months after the request is filed. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee at the meeting upon the request of that party. If the board affirms the determination of the superintendent, the superintendent shall notify the complainant and the certificate holder, registrant, or licensee within five business days thereafter. If the board reverses the determination of the superintendent, the matter shall be returned to the superintendent for additional investigation or review.

(E) The board shall review the hearing examiner's report and the evidence at the next regularly scheduled board meeting held at least fifteen business days after receipt of the examiner's report. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee upon request. If the complainant is the Ohio civil rights commission, the board shall review the complaint.

(F) If the board determines that a licensee, registrant, or certificate holder has violated this chapter for which disciplinary action may be taken under division (G) of this section, after review of the hearing examiner's report and the evidence as provided in division (E) of this section, or after review of a settlement agreement entered into pursuant to division (D)(1) of this section, the board shall order the disciplinary action the board considers appropriate, which may include, but is not limited to, any of the following:

- (1) Reprimand of the certificate holder, registrant, or licensee;
- (2) Imposition of a fine, not exceeding, two thousand five hundred dollars per violation;
- (3) Requirement of the completion of additional education courses. Any course work imposed pursuant to this section shall not count toward continuing education requirements or prelicense or precertification requirements set forth in section 4763.05 of the Revised Code.
- (4) Suspension of the certificate, registration, or license for a specific period of time;

(5) Revocation or surrender of the certificate, registration, or license.

The decision and order of the board is final, except that following the review of the hearing examiner report and the evidence as provided in division (E) of this section, the decision and order of the board is subject to review in the manner provided for in Chapter 119. of the Revised Code and

appeal to any court of common pleas. If the board orders a disciplinary action as provided in division (F)(2) or (3) of this section, the superintendent may grant an extension of time to satisfy the board-ordered disciplinary action for good cause shown.

(G) The board shall take any disciplinary action authorized by this section against a certificate holder, registrant, or licensee or an applicant who obtains a certificate, registration, or license pursuant to this chapter who is found to have committed any of the following acts, omissions, or violations:

(1) As an applicant, procuring or attempting to procure a certificate, registration, or license pursuant to section 4763.05, 4763.06, or 4763.07 of the Revised Code by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, registration, or licensure, or by any means of fraud or misrepresentation;

(2) Paying, or attempting to pay, anything of value, other than the fees or assessments required by this chapter, to any member or employee of the board for the purpose of procuring a certificate, registration, or license;

(3) In a criminal proceeding, being convicted of or pleading guilty or no contest to a felony; a crime involving moral turpitude; or a crime involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to such an offense;

(4) Dishonesty, fraud, or misrepresentation, with the intent to either benefit the certificate holder, registrant, or licensee or another person or injure another person;

(5) Violation of any of the standards for the development, preparation, communication, or reporting of an appraisal report set forth in this chapter and rules of the board;

(6) Failure or refusal to exercise reasonable diligence in developing, preparing, or communicating an appraisal report;

(7) Negligence or incompetence in developing, preparing, communicating, or reporting an appraisal report;

(8) Violating this chapter or the rules adopted thereunder;

(9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the

consequences resulting from the appraisal assignment;

(10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by a governmental agency;

(11) Entry of final judgment against the certificate holder, registrant, or licensee on the grounds of fraud, deceit, misrepresentation, or gross negligence in performing any appraisal of real estate;

(12) Violating any federal or state civil rights law;

(13) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any appraisal or specialized service;

(14) Failing to provide copies of records to the superintendent or failing to maintain records as required by section 4763.14 of the Revised Code. Failure of a certificate holder, licensee, or registrant to comply with a subpoena issued under division (C)(1) of section 4763.03 of the Revised Code is prima-facie evidence of a violation of division (G)(14) of section 4763.11 of the Revised Code.

(15) Failing to provide notice to the board as required in division (I) of this section;

(16) In the case of a certificate holder acting as a supervisory appraiser, refusing to sign an appraiser experience log required by rule for a person making application for an initial state-certified general real estate appraiser certificate, state-certified residential real estate appraiser certificate, or state-licensed residential real estate appraiser license, unless there is reasonable and substantial evidence that there is false information contained within the log;

(17) Being sanctioned or disciplined in another jurisdiction as a real estate appraiser;

(18) Failing to provide assistance, whenever possible, to the members and staff of the board or to the division of real estate in the enforcement of this chapter and the rules adopted under it.

(H) The board immediately shall notify the superintendent of real estate of any disciplinary action taken under this section against a certificate holder, registrant, or licensee who also is licensed under Chapter 4735. of the Revised Code, and also shall notify any other federal, state, or local agency and any other public or private association that the board determines is responsible for licensing or otherwise regulating the professional or business activity of the appraiser. Additionally, the board shall notify the complainant and any other party who may have suffered financial loss

because of the certificate holder's, registrant's, or licensee's violations, that the complainant or other party may sue for recovery under section 4763.16 of the Revised Code. The notice provided under this division shall specify the conduct for which the certificate holder, registrant, or licensee was disciplined and the disciplinary action taken by the board and the result of that conduct.

(I) A certificate holder, registrant, or licensee shall notify the board within fifteen days of the agency's issuance of an order revoking or permanently surrendering any professional license, certificate, or registration by any public entity other than the division of real estate. A certificate holder, registrant, or licensee who is convicted of or pleads guilty or no contest to a crime as described in division (G)(3) of this section shall notify the board of the conviction or plea within fifteen days of the conviction or plea.

(J) If the board determines that a certificate holder, registrant, or licensee has violated this chapter for which disciplinary action may be taken under division (G) of this section as a result of an investigation conducted by the superintendent upon the superintendent's own motion or upon the request of the board, the superintendent shall notify the certificate holder, registrant, or licensee of the certificate holder's, registrant's, or licensee's right to a hearing pursuant to Chapter 119. of the Revised Code and, if applicable, to an appeal of a final determination of such administrative proceedings to any court of common pleas.

(K) Notwithstanding ~~section~~ sections 119.05 and 119.07 of the Revised Code, acknowledgment of complaint notices issued under division (A) of this section and continuance notices associated with hearings conducted under this section may be sent by regular mail and a certificate of mailing shall be obtained for the notices. All other notices issued to a complainant and to a certificate holder, registrant, licensee, or other party pursuant to this section shall be mailed via certified mail, return receipt requested. When any notice is sent by certified mail, return receipt requested, and is returned because the notice was unclaimed, then that notice is deemed served if the superintendent subsequently sends the notice by regular mail and a certificate of mailing is obtained for the notice. If a notice, whether sent by certified mail, return receipt requested, or by regular mail with a certificate of mailing, is returned for failure of delivery, then the superintendent shall make personal delivery of the notice by an employee or agent of the department of commerce or shall cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last

known address of the party is located. When notice is given by publication, a proof of publication affidavit, with the first publication of the notice set forth in the affidavit, shall be mailed by regular mail to the party at the party's last known address. The notice shall be deemed received as of the date of the last publication of the summary. An employee or agent of the department of commerce may make personal delivery of the notice upon the party at any time. Refusal of delivery by personal service or by mail is not failure of delivery and service is deemed to be complete. Failure of delivery occurs only when a mailed notice is returned by the postal authorities marked undeliverable, address or addressee unknown, or forwarding address unknown or expired.

Sec. 4763.15. Except for moneys required to be transferred into the real estate appraiser recovery fund pursuant to section 4763.16 of the Revised Code ~~or as required pursuant to this section~~, the superintendent of real estate may deposit all fees collected under this chapter into the state treasury to the credit of the real estate ~~appraiser~~ operating fund, ~~which is hereby created under section 4735.211 of the Revised Code~~. All operating expenses of the real estate appraiser board and the superintendent of real estate relating to the administration and enforcement of this chapter and Chapter 4768. of the Revised Code shall be paid from this the real estate operating fund. ~~The fund shall be assessed a proportionate share of the administrative cost of the department of commerce in accordance with procedures prescribed by the director of commerce, and the assessment shall be paid from the operating fund to the division of administration fund.~~

~~If, in any biennium, the director of commerce determines that moneys in the operating fund exceed those necessary to fund the activities of the board and of the superintendent of real estate that relate to this chapter and Chapter 4768. of the Revised Code, the director may pay the excess funds to the real estate appraiser recovery fund.~~

Sec. 4763.16. (A) The real estate appraiser recovery fund is hereby created in the state treasury, to be administered by the superintendent of real estate. The treasurer of state shall credit to the fund amounts collected by the superintendent as prescribed in this section and interest earned on the assets of the fund. The superintendent shall ascertain the balance of the fund as of the first day of October of each year. If that balance is less than two hundred thousand dollars at any time, the director of budget and management, upon the request of the superintendent and approval of the controlling board, may transfer from the real estate ~~appraiser~~ operating fund created under section 4735.211 of the Revised Code to the real estate appraiser recovery fund a sum as will bring the real estate appraiser recovery fund to that amount.

(B) When any person obtains a final judgment in any court of competent jurisdiction against a certificate holder, registrant, or licensee, based upon conduct that is in violation of this chapter or the rules adopted under it, which conduct occurred on or after the date of their certification, registration, or licensure, and that is associated with an act or transaction of a certificate holder, registrant, or licensee specified in this chapter, that person may file a verified complaint, as described in this division, in the Franklin county court of common pleas for an order directing payment out of the real estate appraiser recovery fund of the portion of the judgment that remains unpaid and that represents the actual and direct loss of the person for the act or transaction upon which the underlying judgment was based, and court costs, if awarded in the underlying judgment, provided that no person shall receive more than ten thousand dollars from the fund for any one judgment. A bonding or insurance company or any partnership, corporation, or association that uses any tool to develop a valuation of real property for purposes of a loan or that employs, retains, or engages as an independent contractor a person licensed, registered, or certified as a real estate appraiser in its usual or occasional operations may not seek an order directing, and is not eligible for, payment out of the fund. Punitive or exemplary damages are not recoverable from the fund.

The complaint shall specify the nature of the act or transaction upon which the underlying judgment was based, the activities of the applicant in pursuit of remedies available under law for the collection of judgments, and the amount of the fee paid by the applicant to the certificate holder, registrant, or licensee. The applicant shall attach to the complaint a copy of each pleading and order in the underlying court action.

The Franklin county court of common pleas shall order the superintendent to make payments out of the fund when the person seeking the order has shown all of the following:

- (1) The person has obtained a judgment, as provided in this division;
- (2) All appeals from the judgment have been exhausted and the person has given notice to the superintendent, as required by division (C) of this section;
- (3) The person is not a spouse of the certificate holder, registrant, or licensee, or the personal representative of the spouse;
- (4) The person has diligently pursued the person's remedies against all the certificate holders, registrants, licensees, and all other persons liable to the person in the transaction for which the person seeks recovery from the fund;
- (5) The person is making a complaint not more than one year after

termination of all proceedings, including appeals, in connection with the judgment.

(C) A person who applies to the Franklin county court of common pleas for an order directing payment out of the fund shall file notice of the complaint with the superintendent. The superintendent shall send notice to the affected certificate holder, registrant, or licensee, where possible. The superintendent may defend the action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses. The superintendent may move the court at any time to dismiss the complaint when it appears there are no triable issues and the complaint is without merit. The motion may be supported by affidavit of any person having knowledge of the facts and may be made on the basis that the complaint, including the judgment referred to in the complaint, does not form the basis for a meritorious recovery claim. The superintendent may, subject to court approval, compromise a claim based upon the complaint of an aggrieved party. The superintendent is not bound by any prior compromise or stipulation of the certificate holder, registrant, or licensee. Upon petition of the superintendent, the court may require all claimants and prospective claimants against one certificate holder, registrant, or licensee to be joined in one action, to the end that the respective rights of all such claimants to the fund may be equitably adjudicated and settled.

(D) If the superintendent pays from the fund any amount in settlement of a claim or toward satisfaction of a judgment against a certificate holder, registrant, or licensee, the certificate, registration, or license of the certificate holder, registrant, or licensee automatically is suspended upon the date of payment from the fund. No certificate, registration, or license that has been suspended pursuant to this division shall be reinstated until the certificate holder, registrant, or licensee has repaid in full, plus interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code, the amount paid from the fund on the certificate holder's, registrant's, or licensee's account. A discharge in bankruptcy does not relieve a person from the suspension and requirements for reinstatement provided in this section.

(E) If, at any time, the money deposited in the fund is insufficient to satisfy any duly authorized claim or portion of a claim, the superintendent shall, when sufficient money has been deposited in the fund, satisfy the unpaid claims or portions, in the order that the claims or portions were originally filed, plus accumulated interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code.

(F) When, upon the order of the court, the superintendent has paid from

the fund any sum to the judgment creditor, the superintendent is subrogated to all of the rights of the judgment creditor to the extent of the amount so paid, and the judgment creditor shall assign all of the judgment creditor's right, title, and interest in the judgment to the superintendent to the extent of the amount so paid. The superintendent shall deposit in the fund any amount and interest so recovered by the superintendent on the judgment.

(G) Nothing contained in this section shall limit the authority of the real estate appraiser board to take disciplinary action against a certificate holder, registrant, or licensee under other provisions of this chapter. The repayment in full of all obligations to the fund by a certificate holder, registrant, or licensee does not nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter, unless repayment is imposed as a condition in that proceeding.

(H) The superintendent shall collect from the fund a service fee in an amount equivalent to the interest rate specified in division (A) of section 1343.03 of the Revised Code multiplied by the annual interest earned on the assets of the fund, to defray the expenses incurred in the administration of the fund.

Sec. 4764.04. (A) There is hereby created the Ohio home inspector board consisting of seven members. The governor shall appoint five members who are licensed home inspectors. The president of the senate and the speaker of the house of representatives each shall appoint one member who represents the public and has no financial interest in the home inspection industry. Not more than four members of the board shall be members of the same political party.

(B) The governor, president of the senate, and speaker of the house of representatives shall make the initial appointments to the board not later than ninety days after ~~the effective date of this section~~ April 5, 2019. Of the initial appointments to the board, the governor shall appoint one member to a term ending one year after ~~the effective date of this section~~ April 5, 2019, two members to a term ending three years after that date, and two members to a term ending five years after that date. The president of the senate shall appoint one member to a term ending two years after that date, and the speaker of the house of representatives shall appoint one member to a term ending four years after that date. Thereafter, each term shall be for five years, ending on the same day of the same month as the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy prior to the expiration of a term shall hold office

for the remainder of that term. A member shall continue in office subsequent to the expiration of the term until the member's successor takes office.

(C) Annually, at the first regularly scheduled board meeting following the first day of September, the board shall organize by selecting from among its members a chairperson and a vice chairperson by majority vote. The board shall meet at least once per calendar quarter to conduct its business. A majority of the members of the board constitutes a quorum to transact and vote on all business that comes before the board.

(D) The members of the board shall not be compensated but shall be reimbursed for actual expenses reasonably incurred in the performance of their duties as members.

(E) The person who, or office that, appointed a member may remove that member for misconduct, neglect of duty, incapacity, or malfeasance.

(F) The Ohio home inspector board is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the board, or the director may designate the superintendent of real estate and professional licensing to act as executive officer of the board.

Sec. 4764.06. (A) The superintendent of real estate and professional licensing shall do all of the following:

- (1) Administer this chapter;
- (2) Provide the Ohio home inspector board with meeting space, staff services, and other technical assistance required by the board to carry out the duties of the board under this chapter;
- (3) Provide each applicant for a home inspector license with a copy of the requirements for home inspections specified in rules adopted by the board pursuant to division (A)(10) of section 4764.05 of the Revised Code, and make those requirements available to the public by posting them on the web site maintained by the department of commerce;
- (4) In accordance with division (B) of this section, issue a home inspector license to, or renew a home inspector license for, any person who satisfies the requirements specified in this chapter for such licensure or renewal, and make a list of those licensed home inspectors available to the public by posting the list on the web site maintained by the department of commerce;
- (5) Administer the home inspector recovery fund created under section 4764.21 of the Revised Code;
- (6) Establish procedures, in accordance with division ~~(K)~~(L) of section 121.08 of the Revised Code, to have fingerprint-based criminal records checks conducted by the bureau of criminal identification and investigation

for all applicants for licensure;

(7) In accordance with the procedures specified in rules adopted by the board in accordance with division (A)(7) of section 4764.05 of the Revised Code, approve an institution or organization wishing to provide continuing education courses or programs if that institution or organization satisfies the requirements specified in rules adopted by the board in accordance with that division and pays the fee established in rules adopted by the board pursuant to division (A)(2)(c) of that section;

(8) In accordance with the procedures specified in rules adopted by the board in accordance with division (A)(8) of section 4764.05 of the Revised Code, approve a course or program that a licensed home inspector may complete to satisfy the continuing education requirements specified in section 4764.08 of the Revised Code if all of the following are satisfied:

(a) The course or program is offered by an institution or organization approved by the superintendent pursuant to division (A)(7) of this section.

(b) The course or program satisfies the standards established in rules adopted by the board pursuant to division (A)(8) of section 4764.05 of the Revised Code.

(c) The institution or organization pays the fee established in rules adopted by the board pursuant to division (A)(2)(d) of section 4764.05 of the Revised Code.

(9) Issue all orders necessary to implement this chapter;

(10) In accordance with section 4764.12 of the Revised Code, investigate complaints concerning an alleged violation of this chapter or the conduct of any licensee and subpoena witnesses in connection with those investigations, as provided in that section. The subpoena may contain a direction that the witness produce and bring any documents, work files, inspection reports, records, or papers mentioned in the subpoena.

(11) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The superintendent shall utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code to assist in performing the duties specified in division (A)(10) of this section.

(12) Specify the information that must be provided on an application for licensure under this chapter;

(13) Establish procedures for processing, approving, and denying applications for licensure under this chapter;

(14) Specify the format and content of all affidavits and other

documents required for the administration of this chapter;

(15) Appoint a hearing officer for any proceeding involving a determination under section 3123.47 of the Revised Code, disciplinary action arising under section 4764.02 or division (A)(6) of section 4764.14 of the Revised Code, or a proceeding under section 4764.16 of the Revised Code.

(B) The superintendent shall not issue a license to a corporation, limited liability company, partnership, or association, although a licensed home inspector may sign a home inspection report in a representative capacity on behalf of any of those types of entities.

Sec. 4764.07. (A) To obtain a license to perform home inspections, a person shall submit both of the following to the superintendent of real estate and professional licensing:

(1) An application meeting the requirements of division (D) of this section on a form the superintendent provides;

(2) The fee established in rules adopted by the Ohio home inspector board pursuant to division (A)(2)(a) of section 4764.05 of the Revised Code.

(B) Each person applying for a license shall submit one complete set of fingerprints directly to the superintendent of the bureau of criminal identification and investigation for the purpose of conducting a criminal records check. The person shall provide the fingerprints using a method the superintendent of the bureau of criminal identification and investigation prescribes pursuant to division (C)(2) of section 109.572 of the Revised Code and fill out the form the superintendent of the bureau of criminal identification and investigation prescribes pursuant to division (C)(1) of section 109.572 of the Revised Code. Upon receiving an application under this section, the superintendent of real estate and professional licensing shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprint impressions in accordance with division (A)(15) of section 109.572 of the Revised Code. Notwithstanding division ~~(K)~~(L) of section 121.08 of the Revised Code, the superintendent of real estate and professional licensing shall request that criminal record information based on the applicant's fingerprints be obtained from the federal bureau of investigation as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(C) The superintendent shall issue a license to perform home inspections to applicants who satisfy the requirements set forth in this section, subject to section 4768.14 of the Revised Code.

(D) Except as otherwise specified in division (E) of this section, the application shall include all of the following:

(1) A pledge the applicant signs, agreeing to comply with the rules adopted by the board pursuant to division (A)(10) of section 4764.05 of the Revised Code;

(2) A statement that the applicant understands the grounds for any disciplinary action that may be initiated under this chapter;

(3) Proof of holding a comprehensive general liability insurance policy or a commercial general liability insurance policy in accordance with division (A) of section 4764.11 of the Revised Code;

(4) Proof of successfully passing, within two years before the date of the application, the national home inspector examination;

(5) Proof of successfully completing a curriculum of education approved by the board in accordance with rules the board adopts pursuant to division (A)(3) of section 4764.05 of the Revised Code;

(6) Proof that the applicant has experience in the field of home inspections through either of the following:

(a) Successful completion of a curriculum of experience approved by the board in accordance with rules the board adopts pursuant to divisions (A)(4) and (D) of section 4764.05 of the Revised Code;

(b) Successful completion of ten parallel inspections or equivalent experience as determined by the board pursuant to division (A)(5) of section 4764.05 of the Revised Code;

(7) Proof that the applicant is at least eighteen years of age;

(8) Proof that the applicant has graduated from the twelfth grade, received a general educational development diploma, or satisfactorily completed a program that is the equivalent to graduating from the twelfth grade or receiving a general educational development diploma;

(9) Any other information the board requires that the board determines is relevant to receiving a license to practice as a licensed home inspector.

(E) The superintendent shall not require a person described in division (B) or (C) of section 4764.03 of the Revised Code who wishes to obtain a license to perform home inspections under this chapter to submit proof of education and experience as required under divisions (D)(5) and (6) of this section in the person's application in order for that person to receive a license. Such a person, however, shall satisfy all other requirements specified in divisions (A) and (D) of this section and provide proof of licensure in good standing described in division (B) or (C) of section 4764.03 of the Revised Code to receive a license.

(F) The act of submitting an application to the superintendent does not

create, shall not be construed as creating, and is not intended to indicate licensure as a home inspector.

Sec. 4764.16. (A) Upon receipt of a written complaint or upon the motion of the superintendent of real estate and professional licensing, the superintendent may investigate any person who is not a licensed home inspector who has allegedly violated section 4764.02 of the Revised Code.

(B) The superintendent has the same powers to investigate an alleged violation of section 4764.02 of the Revised Code by a person who is not licensed as a home inspector as those powers are specified in section 4764.12 of the Revised Code. If, after an investigation pursuant to section 4764.12 of the Revised Code, the superintendent determines that reasonable evidence exists that an unlicensed person has violated section 4764.02 of the Revised Code, within seven days after that determination, the superintendent shall ~~send~~ serve a written notice ~~to that person by regular mail in accordance with sections 119.05 and 119.07 of the Revised Code~~ and shall include in the notice the information specified in section 119.07 of the Revised Code for notices given to licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(C) The Ohio home inspector board shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the board, after the hearing, determines a violation has occurred, the board may impose a civil penalty on the person, not exceeding five hundred dollars per violation which is distinct from any criminal fine imposed pursuant to section 4764.99 of the Revised Code. Each day a violation occurs or continues is a separate violation. The superintendent may approve a payment plan if the unlicensed person requests such. The board shall maintain a transcript of the proceedings of the hearing and issue a written order to all parties, citing its findings and grounds for any action taken. The board's determination regarding a violation of section 4764.02 of the Revised Code is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(D) If the unlicensed person who allegedly committed a violation of section 4764.02 of the Revised Code fails to appear for a hearing, the board may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the board for a hearing.

(E) If the board assesses an unlicensed person a civil penalty for a violation of section 4764.02 of the Revised Code and the person fails to pay that civil penalty within the time period prescribed by the board, the superintendent shall forward to the attorney general the name of the person

and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty.

If the board finds, or an unlicensed person admits to the board, a violation of section 4764.02 of the Revised Code, the superintendent shall not issue to the person a home inspector license without prior board approval.

Sec. 4764.18. Except as provided in section 4764.21 of the Revised Code, the superintendent of real estate and professional licensing shall deposit all money collected under this chapter in the state treasury to the credit of the ~~home inspectors~~ real estate operating fund, ~~which is hereby created. Money credited to the fund shall be used solely by the superintendent to pay costs associated with the administration and enforcement of this chapter.~~

Sec. 4765.02. (A)(1) There is hereby created the state board of emergency medical, fire, and transportation services within the division of emergency medical services of the department of public safety. The board shall consist of the members specified in this section who are residents of this state. The governor, with the advice and consent of the senate, shall appoint all members of the board, except the employee of the department of public safety designated by the director of public safety under this section to be a member of the board. In making the appointments, the governor shall appoint only members with background or experience in emergency medical services or trauma care and shall attempt to include members representing urban and rural areas, various geographical regions of the state, and various schools of training.

(2) One member of the board shall be a physician certified by the American board of emergency medicine or the American osteopathic board of emergency medicine who is active in the practice of emergency medicine and is actively involved with an emergency medical service organization. The governor shall appoint this member from among ~~three~~ persons nominated by the Ohio chapter of the American college of emergency physicians and ~~three~~ persons nominated by the Ohio osteopathic association. One member shall be a physician certified by the American board of surgery or the American osteopathic board of surgery who is active in the practice of trauma surgery and is actively involved with emergency medical services. The governor shall appoint this member from among ~~three~~ persons nominated by the Ohio chapter of the American college of surgeons and ~~three~~ persons nominated by the Ohio osteopathic association. One member

shall be a physician certified by the American academy of pediatrics or American osteopathic board of pediatrics who is active in the practice of pediatric emergency medicine and actively involved with an emergency medical service organization. The governor shall appoint this member from among ~~three~~ persons nominated by the Ohio chapter of the American academy of pediatrics and ~~three~~ persons nominated by the Ohio osteopathic association. One member shall be the administrator of a hospital located in this state. The governor shall appoint this member from among ~~three~~ persons nominated by OHA: the association for hospitals and health systems, ~~three~~ persons nominated by the Ohio osteopathic association, and ~~three~~ persons nominated by the association of Ohio children's hospitals. One member shall be an adult or pediatric trauma program manager or trauma program director who is involved in the daily management of a verified trauma center. The governor shall appoint this member from among ~~three~~ persons nominated by the Ohio nurses association, ~~three~~ persons nominated by the Ohio society of trauma nurse leaders, and ~~three~~ persons nominated by the Ohio state council of the emergency nurses association. One member shall be the chief of a fire department that is also an emergency medical service organization in which more than fifty per cent of the persons who provide emergency medical services are full-time paid employees. The governor shall appoint this member from among ~~three~~ persons nominated by the Ohio fire chiefs' association. One member shall be the chief of a fire department that is also an emergency medical service organization in which more than fifty per cent of the persons who provide emergency medical services are volunteers. The governor shall appoint this member from among ~~three~~ persons nominated by the Ohio fire chiefs' association. One member shall be a person who is certified to teach under section 4765.23 of the Revised Code and holds a valid certificate to practice as an EMT, AEMT, or paramedic. ~~The governor shall appoint this member from among three persons nominated by the Ohio emergency medical technician instructors association and the Ohio instructor/coordinators' society.~~ One member shall be an EMT, AEMT, or paramedic, and one member shall be a paramedic. The governor shall appoint these members from among ~~three~~ EMTs ~~or~~ AEMTs, and ~~three~~ paramedics nominated by the Ohio association of professional fire fighters and ~~three~~ EMTs, ~~three~~ AEMTs, and ~~three~~ paramedics nominated by the northern Ohio fire fighters. One member shall be an EMT, AEMT, or paramedic, and one member shall be a paramedic. The governor shall appoint these members from among ~~three~~ EMTs ~~or~~ AEMTs, and ~~three~~ paramedics nominated by the Ohio state firefighter's association. One member shall be a person whom the governor shall appoint

from among an EMT, AEMT, or a paramedic nominated by the Ohio association of emergency medical services or the Ohio ambulance and medical transportation association. One member shall be an EMT, AEMT, or a paramedic, whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio ambulance and medical transportation association. One member shall be a paramedic, whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio ambulance and medical transportation association. One member shall be the owner or operator of a private emergency medical service organization whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio ambulance and medical transportation association. One member shall be a member of a third-service emergency medical service agency or organization whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio EMS chiefs association. One member shall be a provider of mobile intensive care unit transportation in this state whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio association of critical care transport. One member shall be a provider of air-medical transportation in this state whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio association of critical care transport. One member shall be the owner or operator of a nonemergency medical service organization in this state that provides ambulette services whom the governor shall appoint from among ~~three~~ persons nominated by the Ohio ambulance and medical transportation association.

The governor may refuse to appoint any of the persons nominated by one or more organizations under division (A)(2) of this section, except the employee of the department of public safety designated by the director of public safety under this section to be a member of the board. In that event, the organization or organizations shall continue to nominate ~~the required number of~~ persons until the governor appoints to the board one or more of the persons nominated by the organization or organizations. If any nominating organization ceases to exist or fails to make a nomination of a member within sixty days of a vacancy, the governor may appoint any person who meets the designated professional qualifications for that member.

The director of public safety shall designate an employee of the department of public safety to serve as a member of the board at the director's pleasure. This member shall serve as a liaison between the department and the division of emergency medical services in cooperation with the executive director of the board.

(B) Terms of office of all members appointed by the governor shall be

for three years, each term ending on the same day of the same month as did the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of ~~sixty days~~ three years has elapsed, whichever occurs first.

Each vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the unexpired term.

The term of a member shall expire if the member ceases to meet any of the requirements to be appointed as that member. The governor may remove any member from office for neglect of duty, malfeasance, misfeasance, or nonfeasance, after an adjudication hearing held in accordance with Chapter 119. of the Revised Code.

(C) The members of the board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in carrying out their duties as board members.

(D) The board shall organize by annually selecting a chair and vice-chair from among its members. The board may adopt bylaws to regulate its affairs. A majority of all members of the board shall constitute a quorum. No action shall be taken without the concurrence of a majority of all members of the board. The board shall meet at least four times annually and at the call of the chair. The chair shall call a meeting on the request of the executive director or the medical director of the board or on the written request of five members. The board shall maintain written or electronic records of its meetings.

(E) Upon twenty-four hours' notice from a member of the board, the member's employer shall release the member from the member's employment duties to attend meetings of the full board. Nothing in this division requires the employer of a member of the board to compensate the member for time the member is released from employment duties under this paragraph, but any civil immunity, workers' compensation, disability, or similar coverage that applies to a member of the board as a result of the member's employment shall continue to apply while the member is released from employment duties under this paragraph.

Sec. 4765.04. (A) The firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services is hereby created and shall consist of the members of the board who are chiefs of fire departments, and the members of the board who are

emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic appointed from among persons nominated by the Ohio association of professional fire fighters or the northern Ohio fire fighters and from among persons nominated by the Ohio state firefighter's association. Each member of the committee, except the chairperson, may designate a person with fire experience to serve in that member's place. The members of the committee or their designees shall select a chairperson from among the members or their designees.

The committee may conduct investigations in the course of discharging its duties under this chapter. In the course of an investigation, the committee may issue subpoenas. If a person subpoenaed fails to comply with the subpoena, the committee may authorize its chairperson to apply to the court of common pleas in the county where the person to be subpoenaed resides for an order compelling compliance in the same manner as compliance with a subpoena issued by the court is compelled.

(B) The trauma committee of the state board of emergency medical, fire, and transportation services is hereby created and shall consist of the following members appointed by the director of public safety:

(1) A physician who is certified by the American board of surgery or American osteopathic board of surgery and actively practices general trauma surgery, appointed from among ~~three~~ persons nominated by the Ohio chapter of the American college of surgeons, ~~three~~ persons nominated by the Ohio state medical association, and ~~three~~ persons nominated by the Ohio osteopathic association;

(2) A physician who is certified by the American board of surgery or the American osteopathic board of surgery and actively practices orthopedic trauma surgery, appointed from among ~~three~~ persons nominated by the Ohio orthopedic society and ~~three~~ persons nominated by the Ohio osteopathic association;

(3) A physician who is certified by the American board of neurological surgeons or the American osteopathic board of surgery and actively practices neurosurgery on trauma victims, appointed from among ~~three~~ persons nominated by the Ohio state neurological society and ~~three~~ persons nominated by the Ohio osteopathic association;

(4) A physician who is certified by the American board of surgeons or American osteopathic board of surgeons and actively specializes in treating burn victims, appointed from among ~~three~~ persons nominated by the Ohio chapter of the American college of surgeons and ~~three~~ persons nominated by the Ohio osteopathic association;

(5) A dentist who is certified by the American board of oral and maxillofacial surgery and actively practices oral and maxillofacial surgery, appointed from among ~~three~~ persons nominated by the Ohio dental association;

(6) A physician who is certified by the American board of physical medicine and rehabilitation or American osteopathic board of physical medicine and rehabilitation and actively provides rehabilitative care to trauma victims, appointed from among ~~three~~ persons nominated by the Ohio society of physical medicine and rehabilitation and ~~three~~ persons nominated by the Ohio osteopathic association;

(7) A physician who is certified by the American board of surgery or American osteopathic board of surgery with special qualifications in pediatric surgery and actively practices pediatric trauma surgery, appointed from among ~~three~~ persons nominated by the Ohio chapter of the American academy of pediatrics and ~~three~~ persons nominated by the Ohio osteopathic association;

(8) A physician who is certified by the American board of emergency medicine or American osteopathic board of emergency medicine, actively practices emergency medicine, and is actively involved in emergency medical services, appointed from among ~~three~~ persons nominated by the Ohio chapter of the American college of emergency physicians and ~~three~~ persons nominated by the Ohio osteopathic association;

(9) A physician who is certified by the American board of pediatrics, American osteopathic board of pediatrics, American board of emergency medicine, or American osteopathic board of emergency medicine, is sub-boarded in pediatric emergency medicine, actively practices pediatric emergency medicine, and is actively involved in emergency medical services, appointed from among ~~three~~ persons nominated by the Ohio chapter of the American academy of pediatrics, ~~three~~ persons nominated by the Ohio chapter of the American college of emergency physicians, and ~~three~~ persons nominated by the Ohio osteopathic association;

(10) A physician who is certified by the American board of surgery, American osteopathic board of surgery, American board of emergency medicine, or American osteopathic board of emergency medicine and is the chief medical officer of an air medical organization, appointed from among ~~three~~ persons nominated by the Ohio association of air medical services;

(11) A coroner or medical examiner appointed from among ~~three people~~ persons nominated by the Ohio state coroners' association;

(12) A registered nurse who actively practices trauma nursing at an adult or pediatric trauma center, appointed from among ~~three~~ persons

nominated by the Ohio association of trauma nurse coordinators;

(13) A registered nurse who actively practices emergency nursing and is actively involved in emergency medical services, appointed from among ~~three~~ persons nominated by the Ohio chapter of the emergency nurses' association;

(14) The chief trauma registrar of an adult or pediatric trauma center, appointed from among ~~three~~ persons nominated by the alliance of Ohio trauma registrars;

(15) The administrator of an adult or pediatric trauma center, appointed from among ~~three~~ persons nominated by the Ohio hospital association, ~~three~~ persons nominated by the Ohio osteopathic association, ~~three~~ persons nominated by the association of Ohio children's hospitals, and ~~three~~ persons nominated by the health forum of Ohio;

(16) The administrator of a hospital that is not a trauma center and actively provides emergency care to adult or pediatric trauma patients, appointed from among ~~three~~ persons nominated by the Ohio hospital association, ~~three~~ persons nominated by the Ohio osteopathic association, ~~three~~ persons nominated by the association of Ohio children's hospitals, and ~~three~~ persons nominated by the health forum of Ohio;

(17) The operator of an ambulance company that actively provides trauma care to emergency patients, appointed from among ~~three~~ persons nominated by the Ohio ambulance association;

(18) The chief of a fire department that actively provides trauma care to emergency patients, appointed from among ~~three~~ persons nominated by the Ohio fire chiefs' association;

(19) An EMT or paramedic who is certified under this chapter and actively provides trauma care to emergency patients, appointed from among ~~three~~ persons nominated by the Ohio association of professional firefighters, ~~three~~ persons nominated by the northern Ohio fire fighters, ~~three~~ persons nominated by the Ohio state firefighters' association, and ~~three~~ persons nominated by the Ohio association of emergency medical services;

(20) A person who actively advocates for trauma victims, appointed from ~~three~~ persons nominated by the Ohio brain injury association;

(21) A physician or nurse who has substantial administrative responsibility for trauma care provided in or by an adult or pediatric trauma center, appointed from among ~~three~~ persons nominated by the Ohio hospital association, ~~three~~ persons nominated by the Ohio osteopathic association, ~~three~~ persons nominated by the association of Ohio children's hospitals, and ~~three~~ persons nominated by the health forum of Ohio;

(22) Three representatives of hospitals that are not trauma centers and

actively provide emergency care to trauma patients, appointed from among ~~three~~ persons nominated by the Ohio hospital association, ~~three~~ persons nominated by the Ohio osteopathic association, ~~three~~ persons nominated by the association of Ohio children's hospitals, and ~~three~~ persons nominated by the health forum of Ohio. The representatives may be hospital administrators, physicians, nurses, or other clinical professionals.

Members of the committee shall have substantial experience in the categories they represent, shall be residents of this state, and may be members of the state board of emergency medical, fire, and transportation services. In appointing members of the committee, the director shall attempt to include members representing urban and rural areas, various geographical areas of the state, and various schools of training. The director shall not appoint to the committee more than one member who is employed by or who primarily practices at the same hospital, ~~health system~~, or emergency medical service organization.

The director may refuse to appoint any of the persons nominated by an organization or organizations under this division. In that event, the organization or organizations shall continue to nominate ~~the required number of~~ persons until the director appoints to the committee one or more of the persons nominated by the organization or organizations. If any nominating organization ceases to exist or fails to make a nomination of a member to the committee within sixty days of a vacancy, the director may appoint any person who meets the designated professional qualifications for that member.

Initial appointments to the committee shall be made by the director not later than ninety days after November 3, 2000. Members of the committee shall serve at the pleasure of the director, except that any member of the committee who ceases to be qualified for the position to which the member was appointed shall cease to be a member of the committee. Vacancies on the committee shall be filled in the same manner as original appointments.

The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in carrying out duties as members of the committee.

The committee shall select a chairperson and vice-chairperson from among its members. A majority of all members of the committee shall constitute a quorum. No action shall be taken without the concurrence of a majority of all members of the committee. The committee shall meet at the call of the chair, upon written request of five members of the committee, and at the direction of the state board of emergency medical, fire, and transportation services. The committee shall not meet at times or locations

that conflict with meetings of the board. The executive director and medical director of the state board of emergency medical, fire, and transportation services may participate in any meeting of the committee and shall do so at the request of the committee.

The committee shall advise and assist the state board of emergency medical, fire, and transportation services in matters related to adult and pediatric trauma care and the establishment and operation of the state trauma registry. In matters relating to the state trauma registry, the board and the committee shall consult with trauma registrars from adult and pediatric trauma centers in the state. The committee may appoint a subcommittee to advise and assist with the trauma registry. The subcommittee may include persons with expertise relevant to the trauma registry who are not members of the board or committee.

(C)(1) The medical transportation committee of the state board of emergency medical, fire, and transportation services is hereby created. The committee shall consist of members appointed by the board in accordance with rules adopted by the board. In appointing members of the committee, the board shall attempt to include members representing urban and rural areas and various geographical areas of the state, and shall ensure the members have substantial experience in the transportation of patients, including addressing the unique issues of mobile intensive care and air medical services. The members of the committee shall be residents of this state and may be members of the board. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in carrying out duties as members of the committee. The committee shall select a chairperson and vice-chairperson from among its members. A majority of all members of the committee shall constitute a quorum. No action shall be taken without the concurrence of a majority of all members of the committee. The committee shall meet at the call of the chair and at the direction of the board. The committee shall not meet at times or locations that conflict with meetings of the board. The committee shall advise and assist the board in matters related to the licensing of nonemergency medical service, emergency medical service, and air medical service organizations in this state.

(2) There is hereby created the critical care subcommittee of the medical transportation committee. The membership of the subcommittee and the conduct of the subcommittee's business shall conform to rules adopted by the board. The subcommittee shall advise and assist the committee and board in matters relating to mobile intensive care and air medical service organizations in this state.

(D) The state board of emergency medical, fire, and transportation services may appoint other committees and subcommittees as it considers necessary.

(E) The state board of emergency medical, fire, and transportation services, and any of its committees or subcommittees, may request assistance from any state agency. The board and its committees and subcommittees may permit persons who are not members of those bodies to participate in deliberations of those bodies, but no person who is not a member of the board shall vote on the board and no person who is not a member of a committee created under division (A), (B), or (C) of this section shall vote on that committee.

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the committees established under divisions (A), (B), and (C) of this section.

Sec. 4765.11. (A) The state board of emergency medical, fire, and transportation services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and divisions (C) and (D) of this section that establish all of the following:

(1) Procedures for its governance and the control of its actions and business affairs;

(2) Standards for the performance of emergency medical services by first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic;

(3) Application fees for certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, which shall be deposited into the trauma and emergency medical services fund created in section 4513.263 of the Revised Code;

(4) Criteria for determining when the application or renewal fee for a certificate to practice may be waived because an applicant cannot afford to pay the fee;

(5) Procedures for issuance and renewal of certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, including any measures necessary to implement section 9.79 of the Revised Code and any procedures necessary to ensure that adequate notice of renewal is provided in accordance with division (D) of section 4765.30 of the Revised Code;

(6) Procedures for suspending or revoking certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice;

(7) Grounds for suspension or revocation of a certificate to practice issued under section 4765.30 of the Revised Code and for taking any other disciplinary action against a first responder, EMT-basic, EMT-I, or

paramedic;

(8) Procedures for taking disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(9) Standards for certificates of accreditation and certificates of approval;

(10) Qualifications for certificates to teach;

(11) Requirements for a certificate to practice;

(12) The curricula, number of hours of instruction and training, and instructional materials to be used in adult and pediatric emergency medical services training programs and adult and pediatric emergency medical services continuing education programs;

(13) Procedures for conducting courses in recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to adult and pediatric patients who suffer life-threatening allergic reactions;

(14) Examinations for certificates to practice;

(15) Procedures for administering examinations for certificates to practice;

(16) Procedures for approving examinations that demonstrate competence to have a certificate to practice renewed without completing an emergency medical services continuing education program;

(17) Procedures for granting extensions and exemptions of emergency medical services continuing education requirements;

(18) Specifications of the emergency medical services that first responders are authorized to perform under section 4765.35 of the Revised Code, that EMTs-basic are authorized to perform under section 4765.37 of the Revised Code, that EMTs-I are authorized to perform under section 4765.38 of the Revised Code, and that paramedics are authorized to perform under section 4765.39 of the Revised Code;

(19) Standards and procedures for implementing the requirements of section 4765.06 of the Revised Code, including designations of the persons who are required to report information to the board and the types of information to be reported;

(20) Procedures for administering the emergency medical services grant program established under section 4765.07 of the Revised Code;

(21) Procedures consistent with Chapter 119. of the Revised Code for appealing decisions of the board;

(22) Minimum qualifications and peer review and quality improvement requirements for persons who provide medical direction to emergency medical service personnel, including, subject to division (B) of section

4765.42 of the Revised Code, qualifications for a physician to be eligible to serve as the medical director of an emergency medical service organization or a member of its cooperating physician advisory board;

(23) The manner in which a patient, or a patient's parent, guardian, or custodian, may consent to the board releasing identifying information about the patient under division (D) of section 4765.102 of the Revised Code;

(24) Circumstances under which a training program or continuing education program, or portion of either type of program, may be taught by a person who does not hold a certificate to teach issued under section 4765.23 of the Revised Code;

(25) Certification cycles for certificates issued under sections 4765.23 and 4765.30 of the Revised Code and certificates issued by the executive director of the state board of emergency medical, fire, and transportation services under section 4765.55 of the Revised Code that establish a common expiration date for all certificates.

(B) The board may adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and divisions (C) and (D) of this section that establish any of the following:

(1) Specifications of information that may be collected under the trauma system registry and incidence reporting system created under section 4765.06 of the Revised Code;

(2) Standards and procedures for implementing any of the recommendations made by any committees of the board or under section 4765.04 of the Revised Code;

(3) Procedures and requirements for conducting background checks on applicants for the issuance and renewal of certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice in accordance with section 109.578 of the Revised Code;

(4) Any other rules necessary to implement this chapter.

(C) In developing and administering rules adopted under this chapter, the state board of emergency medical, fire, and transportation services shall consult with regional directors and regional advisory boards appointed under section 4765.05 of the Revised Code and emphasize the special needs of pediatric and geriatric patients.

(D) On and after April 6, 2023, the executive director shall not ~~require certification~~ issue to any new applicant a certificate to practice as an emergency medical services assistant instructor ~~and shall not adopt or enforce rules or issue a certificate regarding the position of an emergency medical services assistant instructor.~~ Any emergency medical services assistant instructor certificate that was issued in accordance with rules

adopted under division (A) of this section prior to April 6, 2023, ~~remain~~ remains valid ~~only until the expiration date of the certificate~~, subject to any conditions or responsibilities of retaining the validity of that certificate, until the holder of the certificate allows it to expire or lapse. The certificate ~~shall not~~ may be renewed by the holder of that certificate. The board shall adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code in order to effectuate this division.

(E) Except as otherwise provided in this division, before adopting, amending, or rescinding any rule under this chapter, the board shall submit the proposed rule to the director of public safety for review. The director may review the proposed rule for not more than sixty days after the date it is submitted. If, within this sixty-day period, the director approves the proposed rule or does not notify the board that the rule is disapproved, the board may adopt, amend, or rescind the rule as proposed. If, within this sixty-day period, the director notifies the board that the proposed rule is disapproved, the board shall not adopt, amend, or rescind the rule as proposed unless at least twelve members of the board vote to adopt, amend, or rescind it.

This division does not apply to an emergency rule adopted in accordance with section 119.03 of the Revised Code.

Sec. 4765.112. (A) The state board of emergency medical, fire, and transportation services, by an affirmative vote of the majority of its members, may suspend without a prior hearing a certificate to practice issued under this chapter if the board determines that there is clear and convincing evidence that continued practice by the certificate holder presents a danger of immediate and serious harm to the public and that the certificate holder has done any of the following:

- (1) Furnished false, fraudulent, or misleading information to the board;
- (2) Engaged in activities that exceed those permitted by the individual's certificate;
- (3) In a court of this or any other state or federal court been convicted of, pleaded guilty to, or been the subject of a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony or for a misdemeanor committed in the course of practice or involving gross immorality or moral turpitude.

(B) Immediately following the decision to impose a summary suspension, the board, in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code, shall ~~issue~~ serve a written order of suspension; ~~cause it to be delivered to~~ on the certificate holder; and notify the certificate

holder of the opportunity for a hearing. If timely requested by the certificate holder, a hearing shall be conducted in accordance with section 4765.115 of the Revised Code.

Sec. 4765.114. (A) A certificate to practice emergency medical services issued under this chapter is automatically suspended on the certificate holder's conviction of, plea of guilty to, or judicial finding of guilt of any of the following: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated burglary, aggravated robbery, or a substantially equivalent offense committed in this or another jurisdiction. Continued practice after the suspension is practicing without a certificate.

(B) If the state board of emergency medical, fire, and transportation services has knowledge that an automatic suspension has occurred, it shall ~~notify~~ serve, in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code, the certificate holder of the suspension and of the opportunity for a hearing. If timely requested by the certificate holder, a hearing shall be conducted in accordance with section 4765.115 of the Revised Code.

Sec. 4765.55. (A) The executive director of the state board of emergency medical, fire, and transportation services, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services, shall assist in the establishment and maintenance by any state agency, or any county, township, city, village, school district, or educational service center of a fire service training program for the training of all persons in positions of any fire training certification level approved by the executive director, including full-time paid firefighters, part-time paid firefighters, volunteer firefighters, and fire safety inspectors in this state. The executive director, with the advice and counsel of the committee, shall adopt rules to regulate those firefighter and fire safety inspector training programs, and other training programs approved by the executive director. The rules may include, but need not be limited to, training curriculum, certification examinations, training schedules, minimum hours of instruction, attendance requirements, required equipment and facilities, basic physical requirements, and methods of training for all persons in positions of any fire training certification level approved by the executive director, including full-time paid firefighters, part-time paid firefighters, volunteer firefighters, and fire safety inspectors. The rules adopted to regulate training programs for volunteer firefighters shall not require more than thirty-six hours of training.

The executive director, with the advice and counsel of the committee,

shall provide for the classification and chartering of fire service training programs in accordance with rules adopted under division (B) of this section, and may take action against any chartered training program or applicant, in accordance with rules adopted under divisions (B)(4) and (5) of this section, for failure to meet standards set by the adopted rules.

(B) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services, shall adopt, and may amend or rescind, rules under Chapter 119. of the Revised Code that establish all of the following:

(1) Requirements for, and procedures for chartering, the training programs regulated by this section;

(2) Requirements for, and requirements and procedures for obtaining and renewing, an instructor certificate to teach the training programs and continuing education classes regulated by this section;

(3) Requirements for, and requirements and procedures for obtaining and renewing, any of the fire training certificates regulated by this section;

(4) Grounds and procedures for suspending, revoking, restricting, or refusing to issue or renew any of the certificates or charters regulated by this section, which grounds shall be limited to one of the following:

(a) Failure to satisfy the education or training requirements of this section;

(b) Conviction of a felony offense;

(c) Conviction of a misdemeanor involving moral turpitude;

(d) Conviction of a misdemeanor committed in the course of practice;

(e) In the case of a chartered training program or applicant, failure to meet standards set by the rules adopted under this division.

(5) Grounds and procedures for imposing and collecting fines, not to exceed one thousand dollars, in relation to actions taken under division (B)(4) of this section against persons holding certificates and charters regulated by this section, the fines to be deposited into the trauma and emergency medical services fund established under section 4513.263 of the Revised Code;

(6) Continuing education requirements for certificate holders, including a requirement that credit shall be granted for in-service training programs conducted by local entities. The continuing education requirements shall not require more than thirty-six hours of continuing education every three-year certification cycle. Local entities may require additional continuing education, provided that completion of such additional continuing education is not required for renewal of certification.

(7) Procedures for considering the granting of an extension or exemption of fire service continuing education requirements;

(8) Certification cycles for which the certificates and charters regulated by this section are valid;

(9) If determined necessary by the executive director, procedures and requirements for conducting background checks on applicants for the issuance and renewal of certification as a fire safety inspector in accordance with section 109.578 of the Revised Code.

(C)(1) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services, shall issue or renew an instructor certificate to teach the training programs and continuing education classes regulated by this section to any applicant that the executive director determines meets the qualifications established in rules adopted under division (B) of this section, and may take disciplinary action against an instructor certificate holder or applicant in accordance with rules adopted under division (B) of this section.

(2) On and after ~~the effective date of this amendment~~ April 6, 2023, the executive director shall not ~~require certification~~ issue to any new applicant a certificate to practice as an assistant fire instructor ~~and shall not adopt or enforce rules or issue a certificate regarding the position of assistant fire instructor~~. Any assistant fire instructor certificate that was issued in accordance with rules adopted under division (B) of this section prior to ~~the effective date of this amendment~~ April 6, 2023, remains valid ~~until the expiration date of the certificate~~, subject to any conditions or responsibilities of retaining the validity of that certificate, until the holder of the certificate allows it to expire or lapse. The certificate ~~shall not may~~ may be renewed by the holder of that certificate. The executive director shall adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code in order to effectuate division (C)(2) of this section.

(3) The executive director, with the advice and counsel of the committee, shall charter or renew the charter of any training program that the executive director determines meets the qualifications established in rules adopted under division (B) of this section, and may take disciplinary action against the holder of a charter in accordance with rules adopted under division (B) of this section.

(D) The executive director shall issue or renew a fire training certificate for a firefighter, a fire safety inspector, or another position of any fire training certification level approved by the executive director, to any applicant that the executive director determines meets the qualifications

established in rules adopted under division (B) of this section and may take disciplinary actions against a certificate holder or applicant in accordance with rules adopted under division (B) of this section.

(E) Certificates issued under this section shall be on a form prescribed by the executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services.

(F)(1) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services, shall establish criteria for evaluating the standards maintained by other states and the branches of the United States military for firefighter, fire safety inspector, and fire instructor training programs, and other training programs recognized by the executive director, to determine whether the standards are equivalent to those established under this section and shall establish requirements and procedures for issuing a certificate to each person who presents proof to the executive director of having satisfactorily completed a training program that meets those standards.

(2) The executive director, with the committee's advice and counsel, shall adopt rules establishing requirements and procedures for issuing a fire training certificate in lieu of completing a chartered training program.

(G) Nothing in this section invalidates any other section of the Revised Code relating to the fire training academy. Section 4765.11 of the Revised Code does not affect any powers and duties granted to the executive director under this section.

(H) Notwithstanding any provision of division (B)(4) of this section to the contrary, the executive director shall not adopt rules for refusing to issue any of the certificates or charters regulated by this section to an applicant because of a criminal conviction unless the rules establishing grounds and procedures for refusal are in accordance with section 9.79 of the Revised Code.

Sec. 4766.07. (A) Except as otherwise provided by rule of the state board of emergency medical, fire, and transportation services, each emergency medical service organization, nonemergency medical service organization, and air medical service organization subject to licensure under this chapter shall possess a valid permit for each ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle it owns or leases that is or will be used by the licensee to perform the services permitted by the license. Each licensee and license applicant shall submit the appropriate fee and an application for a permit for each

ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle to the state board of emergency medical, fire, and transportation services on forms provided by the board. The application shall include documentation that the vehicle or aircraft meets the appropriate standards set by the board, that the vehicle or aircraft has been inspected pursuant to division (C) of this section, that the permit applicant maintains insurance as provided in section 4766.06 of the Revised Code, and that the vehicle or aircraft and permit applicant meet any other requirements established under rules adopted by the board.

The state board of emergency medical, fire, and transportation services may adopt rules in accordance with Chapter 119. of the Revised Code to authorize the temporary use of a vehicle or aircraft for which a permit is not possessed under this section in back-up or disaster situations.

(B)(1) Within ~~sixty~~ forty-five days after receiving a completed application for a permit, the board shall issue or deny the permit. The board shall deny an application, in accordance with Chapter 119. of the Revised Code, if it determines that the permit applicant, vehicle, or aircraft does not meet the requirements of this chapter and the rules adopted under it that apply to permits for ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles. The board shall send notice of the denial of an application by certified mail to the permit applicant. The permit applicant may request a hearing within ten days after receipt of the notice. If the board receives a timely request, it shall hold a hearing in accordance with Chapter 119. of the Revised Code.

(2) If the board issues the vehicle permit for an ambulance, ambulette, or nontransport vehicle, it also shall issue a decal, in a form prescribed by rule, to be displayed on the rear window of the vehicle. The board shall not issue a decal until all of the requirements for licensure and permit issuance have been met.

(3) If the board issues the aircraft permit for a rotorcraft air ambulance or fixed wing air ambulance, it also shall issue a decal, in a form prescribed by rule, to be displayed on the left fuselage aircraft window in a manner that complies with all applicable federal aviation regulations. The board shall not issue a decal until all of the requirements for licensure and permit issuance have been met.

(C) In addition to any other requirements that the board establishes by rule, a licensee or license applicant applying for an initial vehicle or aircraft permit under division (A) of this section shall submit to the board the vehicle or aircraft for which the permit is sought. Thereafter, a licensee shall annually submit to the board each vehicle or aircraft for which a permit has

been issued.

(1) The board shall conduct a physical inspection of an ambulance, ambulette, or nontransport vehicle to determine its roadworthiness and compliance with standard motor vehicle requirements.

(2) The board shall conduct a physical inspection of the medical equipment, communication system, and interior of an ambulance to determine the operational condition and safety of the equipment and the ambulance's interior and to determine whether the ambulance is in compliance with ~~the one of the following~~:

(a) The federal requirements for ambulance construction that were in effect at the time the ambulance was manufactured, as specified by the general services administration in the various versions of its publication titled "federal specification for the star-of-life ambulance, KKK-A-1822-";

(b) A national standard for ambulance construction approved by the American national standards institute, "ANSI", in effect at the time the ambulance was manufactured;

(c) A standard for ambulance construction approved by the commission on accreditation of ambulance services, "CAAS", in effect at the time the ambulance was manufactured.

(3) The board shall conduct a physical inspection of the equipment, communication system, and interior of an ambulette to determine the operational condition and safety of the equipment and the ambulette's interior and to determine whether the ambulette is in compliance with state requirements for ambulette construction. The board shall determine by rule requirements for the equipment, communication system, interior, and construction of an ambulette.

(4) The board shall conduct a physical inspection of the medical equipment, communication system, and interior of a rotorcraft air ambulance or fixed wing air ambulance to determine the operational condition and safety of the equipment and the aircraft's interior.

(5) The board shall issue a certificate to the applicant for each vehicle or aircraft that passes the inspection and may assess a fee for each inspection, as established by the board.

(6) The board shall adopt rules regarding the implementation and coordination of inspections. The rules may permit the board to contract with a third party to conduct the inspections required of the board under this section.

Sec. 4766.11. (A) The state board of emergency medical, fire, and transportation services may investigate alleged violations of this chapter or the rules adopted under it and may investigate any complaints received

regarding alleged violations.

In addition to any other remedies available and regardless of whether an adequate remedy at law exists, the board may apply to the court of common pleas in the county where a violation of any provision of this chapter or any rule adopted pursuant thereto is occurring for a temporary or permanent injunction restraining a person from continuing to commit that violation. On a showing that a person has committed a violation, the court shall grant the injunction.

In conducting an investigation under this section, the board may issue subpoenas compelling the attendance and testimony of witnesses and the production of books, records, and other documents pertaining to the investigation. If a person fails to obey a subpoena from the board, the board may apply to the court of common pleas in the county where the investigation is being conducted for an order compelling the person to comply with the subpoena. On application by the board, the court shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena from the court or a refusal to testify therein.

(B) The board may suspend a license issued under this chapter without a prior hearing if it determines that there is evidence that the license holder is subject to action under this section and that there is clear and convincing evidence that continued operation by the license holder presents a danger of immediate and serious harm to the public. The chairperson and executive director of the board shall make a preliminary determination and describe the evidence on which they made their determination to the board members. The board by resolution may designate another board member to act in place of the chairperson or another employee to act in place of the executive director in the event that the chairperson or executive director is unavailable or unable to act. Upon review of the allegations, the board, by the affirmative vote of a majority of its members, may suspend the license without a hearing.

Immediately following the decision by the board to suspend a license under this division, the board shall ~~issue~~ serve a written order of suspension ~~and cause it to be delivered~~ in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. If the license holder subject to the suspension requests an adjudication hearing by the board, the date set for the adjudication shall be within fifteen days but not earlier than seven days after the request unless another date is agreed to by the license holder and the board.

Any summary suspension imposed under this division remains in effect,

unless reversed by the board, 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 not less than ninety days after completion of its adjudication hearing. Failure to issue the order by that day shall cause the summary suspension order to end, but such failure shall not affect the validity of any subsequent final adjudication order.

Sec. 4767.03. (A)(1) The owner or the person responsible for the operation and maintenance of a cemetery shall apply to the division of real estate in the department of commerce to register the cemetery on forms prescribed by the division. With the application, the applicant shall submit the documentation required in division (A) of section 4767.04 of the Revised Code and a registration fee of twenty-five dollars for one cemetery, forty dollars for two cemeteries, and fifty dollars for three or more cemeteries, except that no fee shall be required of any political subdivision.

(2) The director of commerce, by rule adopted in accordance with Chapter 119. of the Revised Code, may reduce the amount of the registration fee required by this section in any year if the director determines that the total amount of funds the fee is generating at the amount specified by this section exceeds the amount of funds the division of real estate and the Ohio cemetery dispute resolution commission created by section 4767.05 of the Revised Code need to carry out their powers and duties under this chapter. If the director so reduces the amount of the registration fee, the director shall reduce it for all owners or other persons required to pay the fee under division (A)(1) of this section and shall require that the reduced fee be paid according to the number of cemeteries owned, operated, or maintained as required under that division. If the director has reduced the fee under division (A)(2) of this section, the director may later raise it up to the amounts specified in division (A)(1) of this section if, in any year, the director determines that the total amount of funds the fee is generating at the reduced amount is insufficient for the division of real estate and the Ohio cemetery dispute resolution commission to carry out their powers and duties under this chapter.

(B) Upon receipt of the completed application form, documentation, and, if required, registration fee, the division of real estate shall issue a certificate of registration to the applicant. The applicant shall display the certificate in a conspicuous place on the premises of the cemetery for which the registration was obtained, except that, if the applicant is the governing body of a political subdivision or person acting on behalf of that governing body, the certificate shall be kept on file and be available for public

inspection at the office of the governing body.

(C) Except as otherwise provided in this division, each registration issued pursuant to this section shall expire annually on the thirtieth day of September and shall be renewed by the owner or the person responsible for the operation and maintenance of the cemetery for the continued operation of the cemetery. The renewal fee shall be the same as the initial registration fees prescribed in division (A) of this section.

The registration of a cemetery operated and maintained by a political subdivision shall not expire unless the political subdivision ceases to operate and maintain the cemetery. A political subdivision operating and maintaining a cemetery is not required to renew or update the registration of that cemetery unless there is a change in the information required under division (A) of section 4767.04 of the Revised Code or unless additional land is acquired to increase the size of the cemetery.

(D) All registration and renewal fees collected pursuant to this section shall be paid into the state treasury to the credit of the cemetery registration fund, which is hereby created in the state treasury. The division of real estate in the department of commerce to be used by the division shall use the fund to carry out its powers and duties under this chapter and by the Ohio cemetery dispute resolution commission created by section 4767.05 of the Revised Code.

Sec. 4767.10. (A) ~~The cemetery grant fund is created in the state treasury. The division of real estate in the department of commerce shall deposit into the fund one dollar of each two dollars and fifty cents portion of the burial permit fee received under section 3705.17 of the Revised Code. The division shall use moneys in the fund one dollar of each burial permit fee collected pursuant to section 3705.17 of the Revised Code and paid into the state treasury to the credit of the cemetery registration fund created under section 4767.03 of the Revised Code to advance grants to cemeteries registered with the division to defray the costs of exceptional cemetery maintenance or training cemetery personnel in the maintenance and operation of cemeteries. The division may not provide a grant to a corporation or association that operates a cemetery for profit. In each fiscal year, the division may not advance grants totaling more than eighty per cent of the appropriation to the cemetery grant fund for that fiscal year. The division shall advance grants from the cemetery registration fund in accordance with rules adopted by the Ohio cemetery dispute resolution commission under Chapter 119. of the Revised Code.~~

(B) The director of commerce may increase, by rule adopted under Chapter 119. of the Revised Code, the amount of total grants the division

may advance in a fiscal year if the director determines the total amount of funds generated exceeds the amount of funds the division needs to carry out its powers and duties under this section. If the director determines the increased amount depletes the amount of funds the division needs to carry out its powers and duties under this section, the director may decrease the amount not below the amount specified in division (A) of this section.

Sec. 4768.03. The real estate appraiser board shall do all of the following:

(A) Adopt rules, in accordance with Chapter 119. of the Revised Code in furtherance of this chapter, including, but not limited to, all of the following:

(1) Procedures for criminal records checks that are required under section 4768.06 of the Revised Code, in accordance with division ~~(K)~~(L) of section 121.08 and division (C) of section 4768.06 of the Revised Code;

(2) The following nonrefundable fees:

(a) The initial appraisal management company license fee, which shall not exceed two thousand dollars;

(b) The annual renewal fee, which shall not exceed two thousand dollars;

(c) The late filing fee, which shall not exceed one thousand dollars, for the renewal of a license under division (C) of section 4768.07 of the Revised Code.

(3) Requirements for settlement agreements that the superintendent of real estate and professional licensing and an appraisal management company or other person may enter into under division (H) of section 4768.13 or division (C) of section 4768.14 of the Revised Code;

(4) Presumptions of compliance with regard to the customary and reasonable fees required under division (B) of section 4768.12 of the Revised Code. In adopting rules under division (A)(4) of this section, the board shall consider presumptions of compliance promulgated for the same purpose under the federal "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1631 et seq.;

(5) Rules regarding consent to service of process for appraisal management companies in accordance with division (A)(6) of section 4768.06 of the Revised Code.

(B) Determine the appropriate disciplinary actions to be taken against a person, including a licensee, under section 4768.13 of the Revised Code;

(C) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders that the superintendent issues pursuant to this chapter;

(D) Request that the superintendent initiate an investigation of a

violation of this chapter or the rules adopted under it, as the board determines appropriate.

Sec. 4768.06. (A) To obtain an appraisal management company license, each applicant shall submit all of the following to the superintendent of real estate and professional licensing:

- (1) A completed application on a form the superintendent provides;
- (2) The name of a controlling person who will be the main contact between the appraisal management company and the division of real estate and professional licensing and the real estate appraiser board;
- (3) Payment of the fee established for initial licensure under division (A)(2) of section 4768.03 of the Revised Code;
- (4) A list of all owners and controlling persons of the appraisal management company;
- (5) A statement that each owner and controlling person of the appraisal management company satisfies the requirements set forth in divisions (B)(1) to (4) of this section;
- (6) A completed consent to service of process in this state as prescribed by rule of the real estate appraiser board;
- (7) A statement that the applicant understands the grounds for any disciplinary action that may be initiated under this chapter;
- (8) The name of each state in which the appraisal management company holds an appraisal management company license, certificate, or registration and affirmation that the applicant is in good standing in each state where the applicant holds a license, certificate, or registration;
- (9) A statement that the applicant acknowledges that a system or process must be in place to verify that any appraiser added to the appraisal management company's appraiser panel for the purpose of performing real estate appraisal services in this state holds a license or certificate under Chapter 4763. of the Revised Code and is in good standing with this state;
- (10) A statement that the applicant acknowledges that a system or process must be in place to review the work of appraisers who are performing real estate appraisal services for compliance with the uniform standards of professional appraisal practice;
- (11) A statement that the applicant acknowledges that a system or process must be in place to verify that any employee of, or independent contractor to, the appraisal management company that performs an appraisal review shall be an appraiser licensed or certified pursuant to Chapter 4763. of the Revised Code, provided the property that is the subject of the appraisal is located in this state;
- (12) A statement that the applicant acknowledges that the controlling

person who will be the main contact between the appraisal management company and the division of real estate and professional licensing and the real estate appraiser board described in division (A)(2) of this section has successfully completed fifteen hours of uniform standards of professional appraisal practice and thereafter must complete seven hours of instruction in uniform standards of professional appraisal practice at least once every two years;

(13) A statement that the applicant acknowledges that a system or process must be in place to disclose to its client the actual fees paid to an appraiser for appraisal services separately from any other fees or charges for appraisal management services;

(14) A statement that the applicant acknowledges that a system or process must be in place to disclose the license, certificate, or registration number of the appraisal management company on each engagement letter used in assigning an appraisal request for real estate appraisal assignments within the state;

(15) A statement that the applicant acknowledges that it is required to report suspected violations of Chapter 4763. of the Revised Code by a person licensed, registered, or certified under that chapter;

(16) A statement that the applicant acknowledges that the real estate appraiser board or the superintendent may require the applicant to submit to an audit, conducted by staff of the division of real estate and professional licensing, of the applicant's operations or books;

(17) A statement that the applicant acknowledges that it is required to comply with section 129e of the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1639e.

(B) Each owner and controlling person of an appraisal management company shall satisfy all of the following criteria:

(1) Be an individual who is at least eighteen years of age;

(2) Have graduated the twelfth grade or received a certificate of high school equivalence as defined in section 4109.06 of the Revised Code;

(3) Be honest, truthful, and of good moral character;

(4) Have not had a license, certificate, or registration to act as an appraiser that has been refused, denied, canceled, surrendered, or revoked in this state or in any other state for a substantive reason. A designated controlling person may have had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in a state for a nonsubstantive reason if the license or certificate was subsequently granted or reinstated;

(5) Submit to a criminal records check in accordance with this section

and any rule that the superintendent adopts under division (A)(1) of section 4768.03 of the Revised Code.

(C) Upon receiving an application under this section, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the fingerprint impressions of each owner and controlling person of the applicant in accordance with division (A)(15) of section 109.572 of the Revised Code. Notwithstanding division ~~(K)~~(L) of section 121.08 of the Revised Code, the superintendent of real estate and professional licensing shall request that the superintendent of the bureau of criminal identification and investigation obtain criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(D)(1) Subject to section 4768.08 of the Revised Code and except as provided in division (D)(2) of this section, the superintendent shall issue a license to the applicant if the applicant and each owner and controlling person of the applicant satisfies the requirements of this section.

(2) The superintendent shall not issue a license to an applicant if any owner or controlling person of the applicant has been convicted of or pleaded guilty or no contest to a felony. However, if an owner or controlling person of the applicant has pleaded guilty or no contest to or been convicted of a felony, the superintendent shall not consider the conviction or plea if the person has proven to the superintendent, by a preponderance of the evidence, that the person's activities and employment record since the conviction or plea show that the person is honest, truthful, and of good moral character, and there is no basis in fact for believing that the person will commit a felony again.

(E) A license issued under this section shall be valid for one year after the date of issue.

Sec. 4768.14. (A) Upon receipt of a written complaint or upon the superintendent of real estate and professional licensing's own motion, the superintendent may investigate any person that allegedly violated division (A)(1) of section 4768.02 of the Revised Code.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of division (A)(1) of section 4768.02 of the Revised Code, within fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of division (A)(1) of section 4768.02 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held before a hearing examiner, and a statement giving the date and place of that hearing;

(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions.

(C) At any time after the superintendent notifies a person of the superintendent's determination in accordance with division (B) of this section but before a hearing is held on the matter, the person may apply to the superintendent to enter into a settlement agreement regarding the alleged violation. The superintendent and the person shall comply with the requirements for settlement agreements established by rules adopted by the board under division (A)(3) of section 4768.03 of the Revised Code. If the parties enter into the settlement agreement, the hearing before the hearing examiner shall be postponed and the board shall review the settlement agreement at its next regularly scheduled meeting. If the board disapproves the settlement agreement, the hearing before the hearing examiner shall be rescheduled.

(D) The hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to division (B)(4) of this section. At the conclusion of the hearing, the hearing examiner shall determine if there has been a violation of division (A)(1) of section 4768.02 of the Revised Code.

(E) After the conclusion of formal hearings, the hearing examiner shall file with the superintendent, the real estate appraiser board, the complainant, and the parties a written report setting forth the examiner's findings of fact and conclusions of law and a recommendation of the action to be taken by the superintendent. Within ten days of receiving a copy of that report, the parties and the division of real estate and professional licensing may file with the board written objections to the report. The board shall consider the objections before approving, modifying, or disapproving the report.

The board shall review the hearing examiner's report at the next regularly scheduled board meeting held at least fifteen business days after receipt of the hearing examiner's report. The board shall hear the testimony of the complainant or the parties.

(F) After reviewing the hearing examiner's report pursuant to division (E) of this section, or after reviewing the settlement agreement pursuant to division (C) of this section, the board shall decide whether to impose sanctions upon a party for a violation of division (A)(1) of section 4768.02 of the Revised Code. The board may assess a civil penalty in an amount it determines, not to exceed one thousand dollars per violation, not to exceed ten thousand dollars in aggregate. Each day a violation occurs or continues is a separate violation. The board shall determine the terms of payment. The board shall maintain a transcript of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken. If the board approved a settlement agreement entered into pursuant to division (C) of this section in relation to the violation, the civil penalty shall not be inconsistent with that settlement agreement.

(G) Civil penalties collected under this section shall be deposited in the real estate ~~appraiser~~ operating fund created under section ~~4763.15~~ 4735.211 of the Revised Code.

(H) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the board, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. The party shall pay the fee assessed by the attorney general for collection of the civil penalty in addition to the civil penalty assessed pursuant to this section in an amount not to exceed ten thousand dollars.

Sec. 4768.15. The superintendent of real estate and professional licensing shall deposit all moneys collected under this chapter into the state treasury to the credit of the real estate ~~appraiser~~ operating fund created under section ~~4763.15~~ 4735.211 of the Revised Code.

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 license 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 license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a radiologist assistant, 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 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 license 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) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of

eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) 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.

(E) 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.

(F) The sealing or expungement 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 or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) For purposes of this division, any individual who holds a license to practice as a radiologist assistant issued under this chapter, 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 radiologist assistant issued under this chapter or who has applied for a license 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 license. 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 radiologist assistant issued under this chapter 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 practice, to submit to treatment.

Before being eligible to apply for reinstatement of a license 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 license 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.

(H) 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 license 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 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~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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 license 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.

(I) 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 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.

(J) The license 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 license.

The board shall ~~notify~~ serve the individual subject to the suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(K) 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.

(L) 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 license 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.

(M) When the board refuses to grant or issue a license to practice as a radiologist assistant to an applicant, revokes an individual's license, refuses to renew 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 radiologist assistant and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

(1) The surrender of a license to practice as a radiologist assistant issued under this chapter is not effective unless or until accepted by the board. 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 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. 4774.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules 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 4774.17 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, 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. 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 the rules 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.

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.

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. When the person being served is a radiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, 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.

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 witnesses in civil cases in the courts of common pleas.

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

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

The board shall conduct all investigations 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.

The board may share any information it receives pursuant to an investigation, 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.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) 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:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;

(4) 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 is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4776.01. As used in this chapter:

(A) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or, except in the case of the state dental board, to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(B) Except as provided in section 4776.20 of the Revised Code, "licensee" means the person to whom the license is issued by a licensing agency. "Licensee" includes a person who, for purposes of section 3796.13 of the Revised Code, has complied with sections 4776.01 to 4776.04 of the Revised Code and has been determined by the ~~department of commerce or state board of pharmacy~~ division of marijuana control, as the applicable licensing agency, to meet the requirements for employment.

(C) Except as provided in section 4776.20 of the Revised Code, "licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4747., 4751., 4753., 4755., 4757., 4759., 4760., 4761., 4762., 4774., 4778., 4779., and 4783. of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specific equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code;

(3) The ~~department of commerce or state board of pharmacy~~ division of marijuana control, relative to its authority under Chapter 3796. of the Revised Code and any rules adopted under that chapter with respect to a person who is subject to section 3796.13 of the Revised Code;

(4) The director of agriculture, relative to the director's authority to issue licenses under Chapter 928. of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license by reciprocity, endorsement,

or similar manner of a license issued in another state. "Applicant for an initial license" also includes a person who, for purposes of section 3796.13 of the Revised Code, is required to comply with sections 4776.01 to 4776.04 of the Revised Code.

(E) "Applicant for a restored license" includes persons seeking restoration of a license under section 4730.14, 4730.28, 4731.222, 4731.281, 4759.062, 4759.063, 4760.06, 4760.061, 4761.06, 4761.061, 4762.06, 4762.061, 4774.06, 4774.061, 4778.07, or 4778.071 of the Revised Code. "Applicant for a restored license" does not include a person seeking restoration of a license under section 4751.33 of the Revised Code.

(F) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 4776.02. (A) An applicant for an initial license or restored license from a licensing agency, or a person seeking to satisfy the requirements to be an employee of a pain management clinic as specified in section 4729.552 of the Revised Code, ~~or a person seeking to satisfy the requirements to be an employee of a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification under section 4729.553 of the Revised Code~~ shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant or person. The request shall be accompanied by a completed copy of the form prescribed under division (C)(1) of section 109.572 of the Revised Code, a set of fingerprint impressions obtained as described in division (C)(2) of that section, and the fee prescribed under division (C)(3) of that section. The applicant or person shall ask the superintendent of the bureau of criminal identification and investigation in the request to obtain from the federal bureau of investigation any information it has pertaining to the applicant or person.

An applicant or person requesting a criminal records check shall provide the bureau of criminal identification and investigation with the applicant's or person's name and address and, regarding an applicant, with the licensing agency's name and address.

(B) Upon receipt of the completed form, the set of fingerprint impressions, and the fee provided for in division (A) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check of the applicant or person under division (B) of section 109.572 of the Revised Code. Upon completion of the criminal records check, the superintendent shall do whichever of the following is applicable:

(1) If the request was submitted by an applicant for an initial license or restored license, report the results of the criminal records check and any information the federal bureau of investigation provides to the licensing agency identified in the request for a criminal records check;

(2) If the request was submitted by a person seeking to satisfy the requirements to be an employee of a pain management clinic ~~or a person seeking to satisfy the requirements to be an employee of a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification~~, do both of the following:

(a) Report the results of the criminal records check and any information the federal bureau of investigation provides to the person who submitted the request;

(b) Report the results of the portion of the criminal records check performed by the bureau of criminal identification and investigation under division (B)(1) of section 109.572 of the Revised Code to the employer or potential employer specified in the request of the person who submitted the request and send a letter to that employer or potential employer regarding the information provided by the federal bureau of investigation that states whichever of the following is applicable:

(i) That based on that information there is no record of any conviction;

(ii) That based on that information the person who submitted the request may not meet the criteria that are specified in section 4729.552 ~~or 4729.553~~ of the Revised Code, ~~whichever is applicable~~.

Sec. 4776.04. The results of any criminal records check conducted pursuant to a request made under this chapter and any report containing those results, including any information the federal bureau of investigation provides, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than as follows:

(A) If the request for the criminal records check was submitted by an applicant for an initial license or restored license, as follows:

(1) The superintendent of the bureau of criminal identification and investigation shall make the results available to the licensing agency for use in determining, under the agency's authorizing chapter of the Revised Code and section 9.79 of the Revised Code, whether the applicant who is the subject of the criminal records check should be granted a license under that chapter and that section.

(2) The licensing agency shall make the results available to the applicant who is the subject of the criminal records check.

(B) If the request for the criminal records check was submitted by a person seeking to satisfy the requirements to be an employee of a pain management clinic as specified in section 4729.552 of the Revised Code ~~or a person seeking to satisfy the requirements to be an employee of a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification~~, the superintendent of the bureau of criminal identification and investigation shall make the results available in accordance with the following:

(1) The superintendent shall make the results of the criminal records check, including any information the federal bureau of investigation provides, available to the person who submitted the request and is the subject of the criminal records check.

(2) The superintendent shall make the results of the portion of the criminal records check performed by the bureau of criminal identification and investigation under division (B)(1) of section 109.572 of the Revised Code available to the employer or potential employer specified in the request of the person who submitted the request and shall send a letter of the type described in division (B)(2) of section 4776.02 of the Revised Code to that employer or potential employer regarding the information provided by the federal bureau of investigation that contains one of the types of statements described in that division.

(C) If the request for the criminal records check was submitted by an applicant for a trainee license under section 4776.021 of the Revised Code, as follows:

(1) The superintendent of the bureau of criminal identification and investigation shall make the results available to the licensing agency or other agency identified in division (B) of section 4776.021 of the Revised Code for use in determining, under the agency's authorizing chapter of the Revised Code, division (D) of section 4776.021 of the Revised Code, and section 9.79 of the Revised Code, whether the applicant who is the subject of the criminal records check should be granted a trainee license under that chapter, that division, and that section.

(2) The licensing agency or other agency identified in division (B) of section 4776.021 of the Revised Code shall make the results available to the applicant who is the subject of the criminal records check.

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, except as provided in division (C) of this section, and 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) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the

refusal is in accordance with section 9.79 of the Revised Code.

(D) 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.

(E) 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.

(F) The sealing or expungement 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 or expunge the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) 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.

(H) 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~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(I) 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.

(J) 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~~ serve the individual subject to the suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 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.

(K) 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.

(L) 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.

(M) 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 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.

(N) 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. 4778.18. (A) The state medical board shall investigate evidence that appears to show that any individual has violated this chapter or the rules

adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of this chapter or rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules 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 board's secretary, pursuant to section 4778.20 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may 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. 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 the rules 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.

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.

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. When the person being served is a genetic counselor, service of the subpoena may be made by certified mail, restricted

delivery, 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.

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 witnesses in civil cases in the courts of common pleas.

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

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

The board shall conduct all investigations 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.

The board may share any information it receives pursuant to an investigation, 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.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the

Revised Code.

(G) 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:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) 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 individual involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4779.29. If the Ohio occupational therapy, physical therapy, and athletic trainers board determines that there is clear and convincing evidence that an individual licensed under this chapter is engaging or has engaged in conduct described in division (A) of section 4779.28 of the Revised Code and that the license holder's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the individual's license without an adjudicatory hearing. A telephone conference call may be used for reviewing the matter and taking the vote.

If the board votes to suspend an individual's license, the board shall ~~issue~~ serve a written order of suspension ~~by certified mail or in person~~ in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. The order is not subject to suspension by a court during pendency of any appeal filed under section 119.12 of the Revised Code. If the license holder 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 request, unless otherwise agreed to by the board and the license holder.

Any suspension imposed under this section shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to section 119.12 of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. A failure to issue an order within sixty days shall result in the dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

Sec. 4779.35. (A) The Ohio occupational therapy, physical therapy, and athletic trainers board shall appoint an orthotics, prosthetics, and pedorthics advisory council for the purpose of advising the board on issues relating to

the practice of orthotics, prosthetics, and pedorthics and the investigation of complaints regarding the practice of orthotics, prosthetics, and pedorthics.

The advisory council shall consist of not more than five individuals knowledgeable in the area of orthotics, prosthetics, and pedorthics. A majority of the council members shall be individuals actively engaged in the practice of orthotics, prosthetics, and pedorthics who meet the requirements for licensure under Chapter 4779. of the Revised Code.

The Ohio orthotics and prosthetics association, or its successor organization, may nominate the names of up to three qualified individuals for consideration by the board in making appointments for each vacancy on the council.

(B) ~~Not later than ninety days after January 1, 2018, the board shall make initial appointments to the council.~~ Members shall serve three-year ~~staggered~~ terms of office in accordance with rules adopted by the board. ~~Thereafter, terms of office shall be for three years,~~ with each term ending on the same day of the same month as did the term that it succeeds. A council member shall continue in office subsequent to the expiration date of the member's term until a successor is appointed and takes office, or until a period of ~~sixty~~ ninety days has elapsed, whichever occurs first. Each council member shall hold office from the date of appointment until the end of the term for which the member was appointed.

(C) With approval from the director of administrative services, members may receive an amount fixed under division (J) of section 124.15 of the Revised Code for each day the member is performing the member's official duties and be reimbursed for actual and necessary expenses incurred in performing those duties.

(D) The council shall meet at least ~~four~~ three times per year and at such other times as may be necessary to carry out its responsibilities.

(E) The council shall submit to the board recommendations concerning all of the following:

(1) Requirements for issuing a license to practice orthotics, prosthetics, and pedorthics, including the educational and experience requirements that must be met to receive a license;

(2) Existing and proposed rules pertaining to the practice of orthotics, prosthetics, and pedorthics and the administration and enforcement of this chapter;

(3) Standards for the approval of educational programs required to qualify for licensure and continuing education programs for licensure renewal;

(4) Procedures for the issuance and renewal of licenses;

(5) Fees for the issuance and renewal of a license to practice orthotics, prosthetics, and pedorthics;

(6) Standards of practice and ethical conduct in the practice of orthotics, prosthetics, and pedorthics;

(7) Complaints concerning alleged violation of Chapter 4779. of the Revised Code or grounds for the suspension, revocation, refusal to issue, or issuance of probationary licenses;

(8) The safe and effective practice of orthotics, prosthetics, and pedorthics;

(9) Requirements for issuing a license to practice orthotics, prosthetics, or orthotics and prosthetics to an applicant with unique and exceptional qualifications, including standards for satisfactory evidence for the applicant to be eligible for the license.

Sec. 4781.121. (A) The division of industrial compliance, pursuant to section 4781.04 of the Revised Code, may investigate any person who allegedly has committed a violation. If, after an investigation the division determines that reasonable evidence exists that a person has committed a violation, within seven days after that determination, the division shall ~~send~~ serve a written notice to that person in the same manner as prescribed in ~~section~~ sections 119.05 and 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(B) The division of industrial compliance shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the division, after the hearing, determines that a violation has occurred, the division may impose a fine not exceeding one thousand dollars per violation per day. The division's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(C) If the person who allegedly committed a violation fails to appear for a hearing, the division of industrial compliance may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the division for a hearing.

(D) If the division assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the division pursuant to section 131.02 of the Revised Code, the division shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil

penalty.

(E) The authority provided to the division of industrial compliance pursuant to this section, and any fine imposed under this section, shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. Any fines collected pursuant to this section shall be used solely to administer and enforce this chapter and rules adopted under it. Any fees collected pursuant to this section shall be transmitted to the treasurer of state and shall be credited to the industrial compliance operating fund created in section 121.084 of the Revised Code and the rules adopted thereunder. The fees shall be used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder.

(F) As used in this section, "violation" means a violation of section 4781.11, 4781.16, 4781.27, or 4781.57 or any rule adopted pursuant to section 4781.04 of the Revised Code.

Sec. 4781.17. (A) Each person applying for a manufactured housing dealer's license or manufactured housing broker's license shall complete and deliver to the department of commerce, division of real estate, before the first day of April, a separate application for license for each county in which the business of selling or brokering manufactured or mobile homes is to be conducted. The application shall be in the form prescribed by the division of real estate and accompanied by the fee established by the division of real estate. The applicant shall sign and swear to the application that shall include all of the following:

- (1) Name of applicant and location of principal place of business;
- (2) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;
- (3) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;
- (4) The county in which the business is to be conducted and the address of each place of business therein;
- (5) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that is sufficient to establish to the satisfaction of the division of real estate the reputation in business of the applicant;
- (6) A statement showing whether the applicant has previously applied for a manufactured housing dealer's license, manufactured housing broker's license, manufactured housing salesperson's license, or, prior to July 1, 2010, a motor vehicle dealer's license, manufactured home broker's license, or motor vehicle salesperson's license, and the result of the application, and

whether the applicant has ever been the holder of any such license that was revoked or suspended;

(7) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a manufactured housing dealer's license, manufactured housing broker's license, manufactured housing salesperson's license, or, prior to July 1, 2010, a motor vehicle dealer's license, manufactured home broker's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(8) Any other information required by the division of real estate.

(B) Each person applying for a manufactured housing salesperson's license shall complete and deliver to the division of real estate before the first day of July an application for license. The application shall be in the form prescribed by the division of real estate and shall be accompanied by the fee established by the division. The applicant shall sign and swear to the application that shall include all of the following:

(1) Name and post-office address of the applicant;

(2) Name and post-office address of the manufactured housing dealer or manufactured housing broker for whom the applicant intends to act as salesperson;

(3) A statement of the applicant's previous history, record, and association, that is sufficient to establish to the satisfaction of the division of real estate the applicant's reputation in business;

(4) A statement as to whether the applicant intends to engage in any occupation or business other than that of a manufactured housing salesperson;

(5) A statement as to whether the applicant has ever had any previous application for a manufactured housing salesperson license refused or, prior to July 1, 2010, any application for a motor vehicle salesperson license refused, and whether the applicant has previously had a manufactured housing salesperson or motor vehicle salesperson license revoked or suspended;

(6) A statement as to whether the applicant was an employee of or salesperson for a manufactured housing dealer or manufactured housing broker whose license was suspended or revoked;

(7) A statement of the manufactured housing dealer or manufactured housing broker named therein, designating the applicant as the dealer's or broker's salesperson;

(8) Any other information required by the division of real estate.

(C) Any application for a manufactured housing dealer or manufactured

housing broker delivered to the division of real estate under this section also shall be accompanied by a photograph, as prescribed by the division, of each place of business operated, or to be operated, by the applicant.

(D) The division of real estate shall deposit all license fees into the state treasury to the credit of the ~~manufactured homes regulatory~~ real estate operating fund created under section 4735.211 of the Revised Code.

Sec. 4781.54. (A) The division of real estate and professional licensing shall deposit all the fees collected in the administration and enforcement sections 4781.16 to 4781.25 of the Revised Code into the ~~manufactured homes regulatory~~ real estate operating fund, which is hereby created under section 4735.211 of the Revised Code. ~~All~~ In addition to the purposes described in section 4735.211 of the Revised Code, money deposited into the fund shall be used ~~to pay the operating expenses of the division or as otherwise described in those sections~~ 4781.16 to 4781.25 of the Revised Code.

(B) The division of industrial compliance shall deposit all fees collected in the administration and enforcement sections of 4781.04 to 4781.14 and sections 4781.26 to 4781.35 of the Revised Code into the industrial compliance operating fund created in section 121.084 of the Revised Code. All money deposited into the fund shall be used to pay the operating expenses of the division or as otherwise described in those sections.

Sec. 4783.10. On receipt of a complaint that any of the grounds listed in division (A) of section 4783.09 of the Revised Code exist, the state board of psychology may suspend the certificate of the certified Ohio behavior analyst prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that an immediate threat to the public exists.

After suspending a certificate pursuant to this section, the board shall ~~notify~~ serve notice on the certified Ohio behavior analyst of the suspension in accordance with ~~section~~ sections 119.05 and 119.07 of the Revised Code. If the individual whose certificate is suspended 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.

Sec. 4785.09. (A) There is hereby created, within the division of industrial compliance within the department of commerce, the elevator safety review board.

(B) The board is responsible for investigating violations of this chapter, holding disciplinary administrative hearings, and assessing penalties in accordance with sections 4785.091 and 4785.092 of the Revised Code.

(C) The board consists of the following members:

- (1) The director of commerce or the director's designee;
- (2) A representative of the board of building standards;
- (3) The following individuals, appointed by the governor:
 - (a) One representative of a major elevator manufacturing company;
 - (b) One representative of an elevator servicing company;
 - (c) One representative of the architectural design or elevator consulting profession;
 - (d) One representative of the general public;
 - (e) One representative of municipal corporations in this state;
 - (f) One representative of building owners or managers;
 - (g) One representative of the building trade, comprised of an individual providing conveyance services.

(D) The term of those members appointed to the board is three years. Vacancies shall be filled in the same manner as the original appointments.

(E) All members of the board shall serve without salary, but shall be reimbursed for all expenses necessary in the performance of their duties.

(F)(1) The governor shall appoint one of the members to serve as chair of the board.

(2) A majority of the board shall constitute a quorum.

(3) The chair shall be the deciding vote in the event of a tie vote.

(G)(1) The board shall meet and organize within ten days after the appointment of its members and at such meeting shall elect from its members one secretary of the board to serve for a term as prescribed in rules adopted by the board.

(2)(a) The board shall meet not less than once a ~~month~~ quarter and as often as the board considers necessary for the consideration of code regulations, appeals, and variances, and for the transaction of such other business as properly may come before it.

(b) Special meetings shall be called as prescribed in rules adopted by the board.

(H) The seat of any appointed board member absent from three consecutive meetings shall be deemed vacant.

Sec. 4905.03. As used in this chapter, any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:

(A) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state;

(B) A for-hire motor carrier, when engaged in the business of transporting persons or property by motor vehicle for compensation, except

when engaged in any of the operations in intrastate commerce described in divisions (B)(1) to (9) of section 4921.01 of the Revised Code, but including the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories;

(C) An electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state, including supplying electric transmission service for electricity delivered to consumers in this state, but excluding a regional transmission organization approved by the federal energy regulatory commission;

(D) A gas company, when engaged in the business of supplying artificial gas for lighting, power, or heating purposes to consumers within this state or when engaged in the business of supplying artificial gas to gas companies or to natural gas companies within this state, but a producer engaged in supplying to one or more gas or natural gas companies, only such artificial gas as is manufactured by that producer as a by-product of some other process in which the producer is primarily engaged within this state is not thereby a gas company. All rates, rentals, tolls, schedules, charges of any kind, or agreements between any gas company and any other gas company or any natural gas company providing for the supplying of artificial gas and for compensation for the same are subject to the jurisdiction of the public utilities commission.

(E) A natural gas company, when engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within this state. Notwithstanding the above, neither the delivery nor sale of Ohio-produced natural gas or Ohio-produced raw natural gas liquids by a producer or gatherer under a public utilities commission-ordered exemption, adopted before, as to producers, or after, as to producers or gatherers, January 1, 1996, or the delivery or sale of Ohio-produced natural gas or Ohio-produced raw natural gas liquids by a producer or gatherer of Ohio-produced natural gas or Ohio-produced raw natural gas liquids, either to a lessor under an oil and gas lease of the land on which the producer's drilling unit is located, or the grantor incident to a right-of-way or easement to the producer or gatherer, shall cause the producer or gatherer to be a natural gas company for the purposes of this section.

All rates, rentals, tolls, schedules, charges of any kind, or agreements between a natural gas company and other natural gas companies or gas companies providing for the supply of natural gas and for compensation for the same are subject to the jurisdiction of the public utilities commission.

The commission, upon application made to it, may relieve any producer or gatherer of natural gas, defined in this section as a gas company or a natural gas company, of compliance with the obligations imposed by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, so long as the producer or gatherer is not affiliated with or under the control of a gas company or a natural gas company engaged in the transportation or distribution of natural gas, or so long as the producer or gatherer does not engage in the distribution of natural gas to consumers.

Nothing in division (E) of this section limits the authority of the commission to enforce sections 4905.90 to 4905.96 of the Revised Code.

(F) A pipe-line company, when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partly within this state, but not when engaged in the business of the transport associated with gathering lines, raw natural gas liquids, or finished product natural gas liquids;

(G) A water-works company, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

(H) A heating or cooling company, when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating or cooling purposes;

(I) A messenger company, when engaged in the business of supplying messengers for any purpose;

(J) A street railway company, when engaged in the business of operating as a common carrier, a railway, wholly or partly within this state, with one or more tracks upon, along, above, or below any public road, street, alleyway, or ground, within any municipal corporation, operated by any motive power other than steam and not a part of an interurban railroad, whether the railway is termed street, inclined-plane, elevated, or underground railway;

(K) A suburban railroad company, when engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad;

(L) An interurban railroad company, when engaged in the business of operating a railroad, wholly or partially within this state, with one or more tracks from one municipal corporation or point in this state to another municipal corporation or point in this state, whether constructed upon the public highways or upon private rights-of-way, outside of municipal corporations, using electricity or other motive power than steam power for

the transportation of passengers, packages, express matter, United States mail, baggage, and freight. Such an interurban railroad company is included in the term "railroad" as used in section 4907.02 of the Revised Code.

(M) A sewage disposal system company, when engaged in the business of sewage disposal services through pipes or tubing, and treatment works, or in a similar manner, within this state.

As used in ~~this~~ division (E) of this section, "natural gas" includes natural gas that has been processed to enable consumption or to meet gas quality standards or that has been blended with propane, hydrogen, biologically derived methane gas, or any other artificially produced or processed gas.

As used in this section, "gathering lines" has the same meaning as in section 4905.90 of the Revised Code, and "raw natural gas liquids" and "finished product natural gas liquids" have the same meanings as in section 4906.01 of the Revised Code.

Sec. 4928.85. As used in sections 4928.85 to 4928.89 of the Revised Code:

(A) "Infrastructure development" means the planning, development, and construction of electric distribution utility infrastructure, including the following:

(1) Substation facilities and extensions of transmission and distribution facilities that an electric distribution utility owns and operates;

(2) Performance of electric load studies.

(B) "Economic development project" means a land development containing a minimum of ten contiguous acres that has the potential for commercial or industrial development and that does not currently have adequate electric distribution service from an electric distribution utility.

(C) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code. "JobsOhio" includes the department of development at any time when a contract under section 187.04 of the Revised Code is not in effect.

(D) "Infrastructure development costs" means any costs of infrastructure development incurred by an electric distribution utility, which costs include an allowance for funds used during construction, depreciation, return on equity, ongoing operation maintenance and operation, and tax expenses directly attributable to the economic development project. Infrastructure development costs include project planning costs and the costs associated with obtaining the right of way for such projects.

Sec. 4928.86. After filing a request for disbursement from the all Ohio future fund under section 126.62 of the Revised Code, an electric distribution utility may file an application with the public utilities

The above boxed and initialed text was disapproved.

Date: July 4, 2023



Mike DeWine, Governor

commission for approval of infrastructure development necessary to support or enable a state or local economic development project, including any project approved, certified, or funded by JobsOhio. Prior to beginning the infrastructure development, the electric distribution utility shall file, and receive commission approval of, the application.

Sec. 4928.88. An infrastructure development application filed under section 4928.86 of the Revised Code shall include each of the following:

(A) Descriptions of the economic development project and the infrastructure development necessary to support or enable that project, including the general location and type of facilities that the applicant proposes to replace, construct, or improve;

(B) A description of potential uses or new customers that may be served by the economic development project;

(C) A summary of the infrastructure development costs to be expended on the economic development project;

(D) The proposed start and completion dates for the infrastructure development;

(E) A statement of support of the economic development project from any state or local entity involved with the project;

(F) Other information the applicant considers relevant for consideration by the public utilities commission.

Sec. 4928.89. (A)(1) The public utilities commission may approve an infrastructure development application, if the infrastructure development is necessary to support or enable a state or local economic development project.

(2) JobsOhio may provide a recommendation to the commission regarding the approval or denial of the application.

(B) The commission, for an application's economic development project, may approve the collection of the infrastructure development costs using funds from either, but not both, of the following:

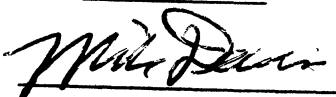
(1) A disbursement from the all Ohio future fund under section 126.62 of the Revised Code;

(2) A rider or rate mechanism under section 4909.18 or 4928.143 of the Revised Code.

(C) The commission shall approve or deny the application within forty-five days after the application filing date. If the commission does not approve or deny the application within that period, the application shall be deemed approved as filed unless the commission suspends the application for good cause shown. If the commission suspends the application, the commission shall approve, deny, or hold a hearing on the application not

The above boxed and initialed text was disapproved.

Date: 7 JULY 2023



Mike DeWine, Governor

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later than forty-five days after the date the suspension begins. If the commission holds a hearing, it shall issue an order approving or denying the application within thirty days of the final date of the hearing.

Sec. 4929.18. (A) As used in this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

~~(B)~~(B)(1) The following property, equipment, or facilities installed or constructed by a natural gas company may be treated as instrumentalities and facilities for distribution service if the public utilities commission determines that treatment is just and reasonable:

(a) Any property, equipment, or facilities installed or constructed by a natural gas company to enable interconnection with or receipt from any property, equipment, or facilities used to generate, collect, gather, or transport biologically derived methane gas, or to enable the blending or supply of biologically derived methane gas to consumers within this state, may be treated as instrumentalities and facilities for distribution service if the public utilities commission determines that treatment is just and reasonable.

(b) Any property, equipment, or facilities to enable interconnection with or receipt from any property, equipment, or facilities used to generate, collect, gather, or transport hydrogen, or to enable the blending of hydrogen with natural gas for supply to consumers within this state.

(2) If the commission makes that the determination described in division (B)(1) of this section, the property, equipment, or facilities shall be considered used and useful in rendering public utility service for purposes of section 4909.15 of the Revised Code.

Sec. 5101.04. ~~Notwithstanding~~ (A) Notwithstanding any provision of law or regulation to the contrary, in order to improve the timeliness of public assistance benefit deliveries, to maximize operational efficiencies, increase cost savings, and minimize fraud, the department of job and family services may contract with a third-party commercial consumer reporting agency, in accordance with the "Fair Credit Reporting Act," 15 U.S.C. 1681 et seq., for the purpose of assisting the department with eligibility determinations for supplemental nutrition assistance supplemental program benefits, benefits funded by the temporary assistance for needy families block grant, and unemployment compensation benefits. The department shall undertake efforts to incorporate real-time employment and income information into existing verification and eligibility determination procedures.

(B) No third-party vendor shall conduct pre-screening activities regarding supplemental nutrition assistance program applicants unless the

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Mike DeWine, Governor

vendor has entered into a pre-screening agreement with the department.

Sec. 5101.136. If a person requests the department of job and family services to conduct a search of whether that person's name has been placed or remains in the statewide automated child welfare information system as an alleged perpetrator of child abuse or neglect and a search reveals that a "substantiated" disposition exists, the department shall send a letter to the person who requested the search indicating a "match."

Sec. 5101.137. The department of job and family services shall work with stakeholders to establish an expungement policy regarding dispositions of child abuse or neglect in Ohio's central registry on child abuse and neglect by March 1, 2024.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(B) "County agency" means a county department of job and family services or a public children services agency.

~~(B)~~(C) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

~~(C)~~(D) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

~~(D)~~(E) "Law enforcement agency" means ~~has the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors.~~ "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

~~(E)~~ same meaning as in section 109.573 of the Revised Code.

(F) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(G) "Public assistance" means financial assistance or social services that

are provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., or 5108. of the Revised Code or an executive order issued under section 107.17 of the Revised Code. "Public assistance" does not mean medical assistance provided under a medical assistance program, as defined in section 5160.01 of the Revised Code.

~~(F)~~(H) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

~~(G)~~(I) "Publicly funded child care" has the same meaning as in section 5104.01 of the Revised Code.

~~(H)~~(J) "Tuberculosis control unit" means the county tuberculosis control unit designated by a board of county commissioners under section 339.72 of the Revised Code or the district tuberculosis control unit designated pursuant to an agreement entered into by two or more boards of community commissioners under that section.

Sec. 5101.28. (A)(1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department or county agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is a fugitive felon or violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with ~~division (F)~~ of this section.

(B) To the extent permitted by federal law, the department and county agencies shall provide information regarding recipients of public assistance ~~under a program administered by the state department or a county agency pursuant to Chapter 5107. or 5108. of the Revised Code to a law enforcement agencies agency on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of use in the performance of the law enforcement agencies' agency's official duties.~~

(C) Information about a public assistance recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered

into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by federal law to conduct an audit of, or similar activity involving, a public assistance program.

~~(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.~~

~~(G)~~ To the extent permitted by federal law, nothing in this section prohibits the department of job and family services, county departments of job and family services, and employees of the departments ~~may report from reporting~~ to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse

or exploitation, or negligent treatment or maltreatment, of a child ~~receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.~~

~~(H) As used in this section:~~

~~(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.~~

~~(2) "Post release control sanction" has the same meaning as in section 2967.01 of the Revised Code.~~

Sec. 5101.342. The Ohio commission on fatherhood shall do both of the following:

(A) Organize a state summit on fatherhood every four years;

(B) Prepare a report each year that does the following:

(1) Identifies resources available to fund fatherhood-related programs and explores the creation of initiatives to do the following:

(a) Build the parenting skills of fathers;

(b) Provide employment-related services for low-income, noncustodial fathers;

(c) Prevent premature fatherhood;

(d) Provide services to fathers who are inmates in or have just been released from imprisonment in a state correctional institution, as defined in section 2967.01 of the Revised Code, or in any other detention facility, as defined in section 2921.01 of the Revised Code, so that they are able to maintain or reestablish their relationships with their families;

(e) Reconcile fathers with their families;

(f) Increase public awareness of the critical role fathers play.

(2) Describes the commission's expectations for the outcomes of fatherhood-related programs and initiatives and the methods the commission uses for conducting annual measures of those outcomes.

(C) Pursuant to section 5101.805 of the Revised Code, the commission may make recommendations to the director of job and family services regarding funding, approval, and implementation of fatherhood programs in this state that meet at least one of the four purposes of the temporary assistance for needy families block grant, as specified in 42 U.S.C. 601.

(D) The portion of the report prepared pursuant to division (B)(2) of this section shall be prepared by the commission in collaboration with the director of job and family services.

~~(D)~~(E) The commission shall submit each report prepared pursuant to division (B) of this section to the president and minority leader of the senate, speaker and minority leader of the house of representatives, governor, and chief justice of the supreme court. The first report is due not later than one

year after the last of the initial appointments to the commission is made under section 5101.341 of the Revised Code.

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

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

- (i) The department of job and family services;
- (ii) A county department of job and family services;
- (iii) A public children services agency;
- (iv) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

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

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

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

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

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

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

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

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

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

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an

agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. Except as provided in section 5160.31 of the Revised Code, a state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. An administrative appeal decision is the final decision of the department and, except as provided in section 5160.31 of the Revised Code, is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

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

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

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

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

~~(3)~~(2) The appellant shall mail the notice of appeal to the department of

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

~~(4)~~(3) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

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

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

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

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

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

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

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health

insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

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

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

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 of job and family services 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, shall provide for the recipients to participate in work activities, developmental activities, and alternative work activities 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 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, the regulations adopted thereunder, and this section 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.

(10) Collect information on suspicious electronic benefit transfer card transactions and provide the information to each impacted county department for analysis and investigation. Such information shall include transactions of even dollar amounts, full monthly benefit amounts, multiple same-day transactions, out-of-state transactions, and any other suspicious trends.

(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.

There is no limit on the number of times a household may receive expedited certification of eligibility under this division as long as before each expedited certification all of the information identified in division (F)(1) of this section was verified for the household at the last expedited certification or the household's eligibility was certified under normal processing standards since the last expedited certification.

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) Before certifying supplemental nutrition assistance program benefits, the department shall verify the eligibility of each household in accordance with division (F) of this section. 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.

(F)(1) In order to verify household eligibility as required by federal regulations and this section, the department shall, except as provided in division (F)(2) of this section, verify at least the following information before certifying supplemental nutrition assistance program benefits:

- (a) Household composition;
- (b) Identity;
- (c) Citizenship and alien eligibility status;
- (d) Social security numbers;
- (e) State residency status;
- (f) Disability status;
- (g) Gross nonexempt income;
- (h) Utility expenses;
- (i) Medical expenses;
- (j) Enrollment status in other state-administered public assistance programs within and outside this state;
- (k) Any available information related to potential identity fraud or identity theft.

(2) A household's eligibility for supplemental nutrition assistance program benefits may be certified before all of the information identified in division (F)(1) of this section is verified if the household's certification is being expedited under division (B) of this section.

(3) On at least a quarterly basis and consistent with federal regulations, as information is received by a county department of job and family services, the county department shall review and act on information identified in division (F)(1) of this section that indicates a change in circumstances that may affect eligibility, to the extent such information is available to the department.

(4) Consistent with federal regulations, as part of the application for public assistance and before certifying benefits under the supplemental nutrition assistance program, the department shall require an applicant, or a person acting on the applicant's behalf, to verify the identity of the members of the applicant household.

(5)(a) The department shall sign a memorandum of understanding with any department, agency, or division as needed to obtain the information identified in division (F)(1) of this section.

(b) The department may contract with one or more independent vendors to provide the information identified in division (F)(1) of this section.

(c) Nothing in this section prevents the department or a county department of job and family services from receiving or reviewing additional information related to eligibility not identified in this section or

from contracting with one or more independent vendors to provide additional information not identified in this section.

(6) The department shall explore joining a multistate cooperative, such as the national accuracy clearinghouse, to identify individuals enrolled in public assistance programs outside of this state.

(G) The department shall use the same criteria to verify gross nonexempt income from self-employment pursuant to division (F)(1) of this section as were used during initial certification when:

(1) Reviewing information pursuant to division (F)(3) of this section regarding households with income from self-employment;

(2) Recertifying households with income from self-employment.

(H) If the department receives information concerning a household certified to receive supplemental nutrition assistance program benefits that indicates a change in circumstances that may affect eligibility, the department shall take action in accordance with federal regulations, including verifying unclear information, providing prior written notice of a change or adverse action, and notifying the household of the right to a fair hearing.

~~(H)(I)~~ In the case of suspected fraud, the department shall refer the case for an administrative disqualification hearing or to the county prosecutor of the county in which the applicant or recipient resides for investigation, or both.

~~(H)(J)~~ The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement divisions (F) to ~~(H)(I)~~ of this section.

~~(J)(K)~~ Except as prohibited by federal law, the department may assign any of the duties described in this section to any county department of job and family services.

Sec. 5101.542. (A) Immediately following a county department of job and family services' certification that a household determined under division (B) of section 5101.54 of the Revised Code to be in immediate need of nutrition assistance is eligible for the supplemental nutrition assistance program, the department of job and family services shall provide for the household to be sent by regular United States mail an electronic benefit transfer card containing the amount of benefits the household is eligible to receive under the program. The card shall be sent to the member of the household in whose name application for the supplemental nutrition assistance program was made or that member's authorized representative.

(B) Except as provided in division (C) of this section, the department shall replace any electronic benefit transfer card that is reported by a household to be lost, stolen, or damaged, within two business days of

receiving notice of the card's condition, in accordance with 7 C.F.R. 274.6(b).

(C)(1) The department shall implement the option described in 7 C.F.R. 274.6(b)(5) and shall withhold a replacement electronic benefit transfer card from a household that requests four or more replacement cards during a twelve-month period until the requirements specified in 7 C.F.R. 274.6(b)(5) have been satisfied.

(2) The department shall not withhold a replacement card as described under division (C)(1) of this section if the individual requesting the replacement has a disability directly related to the loss of the card.

Sec. 5101.547. (A) The department of job and family services shall redesign the employment and training program established under rules adopted by the department pursuant to division (A)(7) of section 5101.54 of the Revised Code. In redesigning the employment and training program, the department shall ensure that the new program meets the needs of employers in this state.

(B) Not later than July 1, 2024, the department shall appear before the finance committees of both the house of representatives and the senate to report on the redesigned employment and training program established under division (A) of this section.

Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.

(3) "Title IV-A administrative agency" means both of the following:

(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services;

(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:

(a) The Ohio works first program established under Chapter 5107. of the Revised Code;

(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code;

(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code;

(f) The Ohio parenting and pregnancy program created under section 5101.804 of the Revised Code;

(g) Fatherhood programs recommended by the Ohio commission on fatherhood under section 5101.805 of the Revised Code;

(h) A component of a Title IV-A program identified under divisions (A)(4)(a) to ~~(f)(g)~~ of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on Title IV-A administrative agencies. No Title IV-A administrative agency may establish, by rule or otherwise, a policy governing a Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan for Title IV-A programs;

(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in divisions (A)(4)(c) to ~~(g)(h)~~ of this section;

(3) Prescribe forms for applications, certificates, reports, records, and accounts of Title IV-A administrative agencies, and other matters related to Title IV-A programs;

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

(5) Require reports and information from each Title IV-A administrative

agency as may be necessary or advisable regarding a Title IV-A program;

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

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

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

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

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

(a) Examine issues of process, practice, impact, and outcomes;

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

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

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

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

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

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under division (C)(11) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The

department shall provide copies of the reports to any private or government entity on request.

(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. An authorized representative of a government entity or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program shall have access to all records and information bearing on the project for the purpose of investigations conducted pursuant to this section.

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

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

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

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

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

(3) To the extent permitted by federal law, the department may enter into an agreement with a private, not-for-profit entity for the entity to receive funds under the Ohio parenting and pregnancy program created under section 5101.804 of the Revised Code.

(4) To the extent permitted by federal law, the department may enter into an agreement with a private, not-for-profit entity for the entity to receive funds as recommended by the Ohio commission on fatherhood under section 5101.805 of the Revised Code.

(C) The department may adopt rules governing Title IV-A programs

identified under divisions (A)(4)(c), (d), (e), (f), ~~and (g)~~, and (h) of section 5101.80 of the Revised Code. Rules governing financial and operational matters of the department or between the department and county family services agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

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

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

- (a) Eligibility;
- (b) Reports;
- (c) Benefits and services;
- (d) Use of funds;
- (e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;
- (f) Audits.

(2) A complete description of all of the following:

- (a) The benefits and services that the program or project is to provide;
- (b) The methods of program or project administration;
- (c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services;
- (d) Other requirements that the department requires be included.

(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project before the policy is established;

(4) Provisions regarding how the department is to reimburse the state agency or entity for allowable expenditures under the program or project that the department approves, including all of the following:

- (a) Limitations on administrative costs;
- (b) The department, at its discretion, doing either of the following:
 - (i) Withholding no more than five per cent of the funds that the department would otherwise provide to the state agency or entity for the program or project;

(ii) Charging the state agency or entity for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the program or project.

(5) If the state agency or entity arranges by contract, grant, or other agreement for another entity to perform a function the state agency or entity would otherwise perform regarding the program or project, the state agency or entity's responsibilities for both of the following:

(a) Ensuring that the other entity complies with the agreement between the state agency or entity and department and federal statutes and regulations and state statutes and rules governing the use of funds for the program or project;

(b) Auditing the other entity in accordance with requirements established by the United States office of management and budget.

(6) The state agency or entity's responsibilities regarding the prompt payment, including any interest assessed, of any adverse audit finding, final disallowance of federal funds, or other sanction or penalty imposed by the federal government, auditor of state, department, a court, or other entity regarding funds for the program or project;

(7) Provisions for the department to terminate the agreement or withhold reimbursement from the state agency or entity if either of the following occur:

(a) The federal government disapproves the program or project or reduces federal funds for the program or project;

(b) The state agency or entity fails to comply with the terms of the agreement.

(8) Provisions for both of the following:

(a) The department and state agency or entity determining the performance outcomes expected for the program or project;

(b) An evaluation of the program or project to determine its success in achieving the performance outcomes determined under division (D)(8)(a) of this section.

(E) To the extent consistent with the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program and subject to the approval of the director of budget and management, the director of job and family services may terminate a Title IV-A program identified under division (A)(4)(c), (d), (e), (f), ~~or (g)~~, or (h) of section 5101.80 of the Revised Code or reduce funding for the program if the director of job and family services determines that federal or state funds are insufficient to fund the program. If the director of budget and management approves the termination or reduction in funding for such a

program, the director of job and family services shall issue instructions for the termination or funding reduction. If a Title IV-A administrative agency is administering the program, the agency is bound by the termination or funding reduction and shall comply with the director's instructions.

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

Sec. 5101.805. (A) Subject to division (E) of section 5101.801 of the Revised Code, the Ohio commission on fatherhood, created under section 5101.34 of the Revised Code, may make recommendations to the director of job and family services concerning the funding, approval, and implementation of fatherhood programs in this state that meet at least one of the four purposes of the temporary assistance for needy families block grant, as specified in 42 U.S.C. 601.

(B) The department of job and family services may provide funding under this section to government entities and, to the extent permitted by federal law, private, not-for-profit entities with which the department enters into agreements under division (B)(4) of section 5101.801 of the Revised Code.

Sec. 5101.806. (A) The department of job and family services shall prepare and submit to the governor not later than the first day of November in each even-numbered year a TANF spending plan describing the anticipated spending of temporary assistance for needy families block grant funds for the upcoming state fiscal biennium. The report shall be prepared in such a manner as to facilitate the inclusion of the information contained in the report in the governor's budget in accordance with division (D)(7) of section 107.03 of the Revised Code.

(B)(1) Not later than ~~thirty~~ sixty days after the end of the first state fiscal year of a fiscal biennium, the department shall prepare and submit an updated TANF spending plan to the chairperson of a standing committee of the house of representatives designated by the speaker of the house of representatives, the chairperson of a standing committee of the senate designated by the president of the senate, and the minority leaders of both the house of representatives and the senate. The updated TANF spending plan shall, at a minimum, include both of the following:

(a) The total amount of temporary assistance for needy families block grant funds distributed during the first fiscal year of the fiscal biennium.

(b) An updated estimate of the total amount of temporary assistance for needy families block grant funds that will be distributed during the second

fiscal year of the fiscal biennium.

(2) A chairperson of a standing committee designated by the speaker of the house of representatives or president of the senate under division (B)(1) of this section may call the director of job and family services to testify before the committee regarding the TANF spending plan.

Sec. 5101.87. There is hereby created in the treasury of state the victims of human trafficking fund consisting of money seized in connection with a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code or acquired from the sale of personal effects, tools, or other property seized because the personal effects, tools, or other property were used in the commission of a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code or derived from the proceeds of the commission of a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code and deposited pursuant to section 2981.12 of the Revised Code and such other money as may be appropriated or contributed to the fund. Money in the fund shall be used for the sole purpose of treating, caring for, rehabilitating, educating, housing, and providing assistance for victims of trafficking in persons. The ~~director of job and family services~~ office of the attorney general shall administer the fund.

Sec. 5101.98. (A) Quarterly, the department of job and family services shall compile a report on public assistance programs in this state, including the following information:

(1) Regarding the supplemental nutrition assistance program, the number of:

(a) Accounts with high balances, as determined by the department;

(b) Out-of-state transactions;

(c) Transactions when the final amount processed was a whole dollar amount without additional cents.

(2) Regarding public assistance programs in this state, including medicaid, the supplemental nutrition assistance program, temporary assistance for needy families, or cash assistance, the number of:

(a) Payments made in error, and the dollar amount of those payments;

(b) Work requirement exemptions issued;

(c) Confirmed cases of intentional program violation and fraud.

(B) The department shall submit the report to the president of the senate and the speaker of the house of representatives, who shall distribute the report to the chairs of any legislative committee with jurisdiction over public assistance.

Sec. 5103.02. As used in sections 5103.03 to 5103.181 of the Revised Code:

(A)(1) "Association" or "institution" includes all of the following:

(a) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks;

(b) Any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage;

(c) Any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage or is the appointed guardian of such children.

(2) "Association" or "institution" does not include any of the following:

(a) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of mental health and addiction services, or the department of developmental disabilities;

(b) Any individual who provides care for only a single-family group, placed there by their parents or other relative having custody;

(c) A private, nonprofit therapeutic wilderness camp;

(d) A qualified organization as defined in section 2151.90 of the Revised Code.

(B) "Family foster home" means a foster home that is not a specialized foster home.

(C) "Foster caregiver" means a person holding a valid foster home certificate issued under section 5103.03 of the Revised Code.

(D) "Foster home" means a private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children nonsecure care, supervision, or training twenty-four hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. Family foster homes and specialized foster homes are types of foster homes.

(E) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code.

(F) "Medically fragile foster home" means a foster home that provides

specialized medical services designed to meet the needs of children with intensive health care needs who meet all of the following criteria:

(1) Under rules adopted by the medicaid director governing medicaid payments for long-term care services, the children require a skilled level of care.

(2) The children require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions.

(3) The children require the services of a registered nurse on a daily basis.

(4) The children are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities.

(G) "Private, nonprofit therapeutic wilderness camp" means a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which all of the following are the case:

(1) The children spend the majority of their time, including overnight, either outdoors or in a primitive structure.

(2) The children have been placed there by their parents or another relative having custody.

(3) The camp accepts no public funds for use in its operations.

(H) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:

(1) Issue a certificate;

(2) Deny a certificate;

(3) ~~Renew a certificate;~~

(4) ~~Deny renewal of a certificate;~~

(5) Revoke a certificate.

(I) "Resource caregiver" means a foster caregiver or a kinship caregiver.

(J) "Resource family" means a foster home or the kinship caregiver family.

(K) "Specialized foster home" means a medically fragile foster home or a treatment foster home.

(L) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children

who are emotionally or behaviorally disturbed, who are chemically dependent, who have developmental disabilities, or who otherwise have exceptional needs.

Sec. 5103.021. (A) As used in this section, a "scholars residential center" is a center that meets all of the following:

(1) The center is a certified affiliate in good standing of a national organization with a mission to help underserved children in middle school and high school in a comprehensive manner that is academically focused and service-oriented and in a family-like setting.

(2) The center is private and not-for-profit.

(3) The center does not receive Title IV-E funding or any associated Title IV funds related to child welfare.

(4) The center only accepts children placed by their parents or legal custodian.

(5) The center is voluntary and uses a competitive selection process.

(B) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement standards regarding a scholars residential center. The rules shall be substantially similar, as determined by the director, to other similarly situated providers of residential care for children, including rules provided in Chapters 5101:2-5 and 5101:2-9 of the Administrative Code, except that the rules shall reflect all of the following:

(1) A center is not subject to any policy that is not specific or relevant to the center.

(2) A center is not required to provide discharge summaries.

(3) A center is permitted to request agency waivers.

(4) A center is not required to implement case plans or service plans.

(5) Training requirements for center staff are limited to completion of all of the following:

(a) Orientation training;

(b) Current American red cross, American heart association, or equivalent first aid and cardiopulmonary resuscitation certification;

(c) One hour of annual trauma training.

(6) A center is not subject to existing rules regarding:

(a) Recreation and leisure activity requirements, provided that the center has a recreation area available and permits children to swim if a person who has completed life-saving or water safety training is present;

(b) Visiting and communications policies, provided that the center ensures that children have contact with their family;

(c) Qualified residential treatment program requirements;

(d) Treatment-focused requirements established for residential agencies.

(7) A center shall provide notification and documentation of critical incidents to parents and legal custodians.

(C) The director shall certify a scholars residential center that submits an application to the director, on a form prescribed by the director, that indicates to the director's satisfaction that the center meets the standards set forth in rules adopted under division (B) of this section.

Sec. 5103.03. (A) The director of job and family services shall adopt rules as necessary for the adequate and competent management and certification of institutions or associations. The director shall ensure that foster care home study rules adopted under this section align any home study content, time period, and process with any home study content, time period, and process required by rules adopted under section 3107.033 of the Revised Code.

(B)(1) Except for facilities under the control of the department of youth services, places of detention for children established and maintained pursuant to sections 2152.41 to 2152.44 of the Revised Code, and child day-care centers subject to Chapter 5104. of the Revised Code, the department of job and family services shall pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes, at a frequency established by rules adopted under division (A) of this section.

(2) When the department of job and family services is satisfied as to the care given such children, and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, it shall issue to the institution or association a certificate to that effect. A certificate is valid for a length of time determined by rules adopted under division (A) of this section. When determining whether an institution or association meets a particular requirement for certification, the department may consider the institution or association to have met the requirement if the institution or association shows to the department's satisfaction that it has met a comparable requirement to be accredited by a nationally recognized accreditation organization.

(3) The department may issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum requirements have been met.

(4) An institution or association that knowingly makes a false statement that is included as a part of certification under this section is guilty of the offense of falsification under section 2921.13 of the Revised Code and the department shall not certify that institution or association.

(5) The department shall not issue a certificate to a prospective foster home or prospective specialized foster home pursuant to this section if the prospective foster home or prospective specialized foster home operates as a type A family day-care home pursuant to Chapter 5104. of the Revised Code. The department shall not issue a certificate to a prospective specialized foster home if the prospective specialized foster home operates a type B family day-care home pursuant to Chapter 5104. of the Revised Code.

(C) The department may revoke a certificate pursuant to an adjudication under Chapter 119. of the Revised Code if it finds that the institution or association is in violation of law or rule. No juvenile court shall commit a child to an association or institution that is required to be certified under this section if its certificate has been revoked or, if after revocation, the date of reissue is less than fifteen months prior to the proposed commitment.

(D) On a frequency specified by the department by rules adopted under division (A) of this section, each institution or association desiring certification ~~or recertification~~ shall submit to the department a report showing its condition, management, competency to care adequately for the children who have been or may be committed to it or to whom it provides care or services, the system of visitation it employs for children placed in private homes, and other information the department requires.

(E) The department shall, not less than once each year, send a list of certified institutions and associations to each juvenile court and certified association or institution.

(F) No person shall receive children or receive or solicit money on behalf of such an institution or association not so certified or whose certificate has been revoked.

(G)(1) The director may delegate by rule any duties imposed on it by this section to inspect and approve family foster homes and specialized foster homes to public children services agencies, private child placing agencies, or private noncustodial agencies.

(2) The director shall adopt rules that require a foster caregiver or other individual certified to operate a foster home under this section to notify the recommending agency that the foster caregiver or other individual is licensed to operate a type B family day-care home under Chapter 5104. of the Revised Code.

(H) If the director of job and family services determines that an institution or association that cares for children is operating without a certificate, the director may petition the court of common pleas in the county in which the institution or association is located for an order enjoining its

operation. The court shall grant injunctive relief upon a showing that the institution or association is operating without a certificate.

(I) If both of the following are the case, the director of job and family services may petition the court of common pleas of any county in which an institution or association that holds a certificate under this section operates for an order, and the court may issue an order, preventing the institution or association from receiving additional children into its care or an order removing children from its care:

(1) The department has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk.

(2) The department has issued a proposed adjudication order pursuant to Chapter 119. of the Revised Code to ~~deny renewal of or~~ revoke the certificate of the institution or association.

Sec. 5103.032. (A) Except as provided in division (B) of this section and in section 5103.033 of the Revised Code, the department of job and family services may ~~not renew~~ revoke a foster home certificate under section 5103.03 of the Revised Code ~~unless if~~ the foster caregiver fails to successfully ~~completes~~ complete continuing training in accordance with the foster caregiver's needs assessment and continuing training plan developed and implemented under section 5103.035 of the Revised Code.

(B) A foster caregiver shall be given an additional amount of time within which the foster caregiver must complete the continuing training required under division (A) of this section in accordance with rules adopted by the department of job and family services if either of the following applies:

(1) The foster caregiver has served in active duty outside this state with a branch of the armed forces of the United States for more than thirty days in the preceding two-year period.

(2) The foster caregiver has served in active duty as a member of the Ohio organized militia, as defined in section 5923.01 of the Revised Code, for more than thirty days in the preceding two-year period and that active duty relates to either an emergency in or outside of this state or to military duty in or outside of this state.

Sec. 5103.033. (A) The department of job and family services may issue ~~or renew~~ a certificate under section 5103.03 of the Revised Code to a foster home for the care of a child who is in the custody of a public children services agency or private child placing agency pursuant to an agreement entered into under section 5103.15 of the Revised Code regarding a child who was less than six months of age on the date the agreement was executed if the prospective foster caregiver or foster caregiver successfully completes

the following:

(1) A preplacement training program approved under section 5103.038 of the Revised Code or a program provided under division (B) of section 5103.30 of the Revised Code;

(2) Continuing training in accordance with the foster caregiver's needs assessment and continuing training plan developed and implemented under section 5103.035 of the Revised Code.

(B) A foster caregiver to whom either division (B)(1) or (2) of this section applies shall be given an additional amount of time within which to complete the continuing training required under division (A)(2) of this section in accordance with rules adopted by the department of job and family services:

(1) The foster caregiver has served in active duty outside this state with a branch of the armed forces of the United States for more than thirty days in the preceding two-year period.

(2) The foster caregiver has served in active duty as a member of the Ohio organized militia, as defined in section 5923.01 of the Revised Code, for more than thirty days in the preceding two-year period and that active duty relates to either an emergency in or outside of this state or to military duty in or outside of this state.

Sec. 5103.036. (A) For the purpose of determining whether a prospective foster caregiver or foster caregiver has satisfied the requirement of section 5103.031 or 5103.032 of the Revised Code, a recommending agency shall accept training obtained from either of the following:

(1) Any preplacement or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code;

(2) The Ohio child welfare training program pursuant to divisions (B) and (C) of section 5103.30 of the Revised Code.

(B) A recommending agency may require that a prospective foster caregiver or foster caregiver successfully complete additional training as a condition of the agency recommending that the department of job and family services certify ~~or recertify~~ the prospective foster caregiver or foster caregiver's foster home under section 5103.03 of the Revised Code.

Sec. 5103.0313. Except as provided in section 5103.303 of the Revised Code, the department of job and family services shall compensate a private child placing agency or private noncustodial agency for the cost of procuring or operating preplacement and continuing training programs approved by the department of job and family services under section 5103.038 of the Revised Code for prospective foster caregivers and foster

caregivers who are recommended for ~~initial certification or recertification~~ by the agency.

The compensation shall be paid to the agency in the form of an allowance to reimburse the agency for the cost of training pursuant to the rules adopted by the department of job and family services in accordance with section 5103.0316 of the Revised Code.

Sec. 5103.0314. The department of job and family services shall adopt rules regarding the compensation of a recommending agency for any training the agency requires a foster caregiver to undergo as a condition of the agency recommending the department certify the foster caregiver's foster home under section 5103.03 of the Revised Code if the training is in excess of the training required under section 5103.031 of the Revised Code.

The department of job and family services shall adopt rules regarding the compensation of a recommending agency for any training the agency requires a foster caregiver to undergo as a condition of the agency recommending the department ~~recertify~~ continue certifying the foster caregiver's foster home under section 5103.03 of the Revised Code if the training is in addition to the minimum training required under section 5103.032 of the Revised Code.

Sec. 5103.0322. On receipt of a recommendation from a public children services agency, private child placing agency, or private noncustodial agency regarding an application for, ~~or renewal of~~, a family foster home or treatment foster home certification under section 5103.03 of the Revised Code, the department of job and family services shall decide whether to issue ~~or renew~~ the certificate. The department shall notify the agency and the applicant ~~or certificate holder~~ of its decision. If the department's decision is different from the recommendation of the agency, the department shall state in the notice the reason that the decision is different from the recommendation.

Sec. 5103.0323. (A) As used in this section, "American institute of certified public accountants auditing standards" and "AICPA auditing standards" mean the auditing standards published by the American institute of certified public accountants.

(B) ~~The first time that~~ Not later than two years after the date of certification, and at least every two years thereafter, a private child placing agency or private noncustodial agency ~~seeks renewal of a certificate issued under section 5103.03 of the Revised Code,~~ it shall provide the department of job and family services, ~~as a condition of renewal,~~ evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable AICPA auditing standards for the two

~~most recent fiscal year years. Thereafter, when an agency seeks renewal of its certificate, it shall provide the department evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable AICPA auditing standards for the two most recent previous fiscal years it is possible for an independent audit to have been conducted.~~

(C) ~~For an agency to be eligible for renewal, the~~ The independent audits must demonstrate that the agency operated in a fiscally accountable manner as determined by the department of job and family services.

(D) The director of job and family services may adopt rules as necessary to implement this section. The director shall adopt the rules in accordance with section ~~411.151~~ 119.03 of the Revised Code.

Sec. 5103.0326. (A) A recommending agency may recommend that the department of job and family services ~~not renew~~ revoke a foster home certificate under section 5103.03 of the Revised Code if the foster caregiver refused to accept the placement of any children into the foster home during the ~~current certification period~~ preceding twelve months. Based on the agency's recommendation, the department may ~~refuse to renew~~ revoke a foster home certificate pursuant to an adjudication under Chapter 119. of the Revised Code.

(B) The department of job and family services may revoke, pursuant to an adjudication under Chapter 119. of the Revised Code, the certification of any foster caregiver who has not cared for one or more foster children in the foster caregiver's home within the preceding twelve months. Prior to the revocation of any certification pursuant to this division, the recommending agency shall have the opportunity to provide good cause for the department to continue the certification and not revoke the certification. If the department decides to revoke the certification, the department shall notify the recommending agency that the certification will be revoked.

Sec. 5103.05. (A) As used in this section and section 5103.051 of the Revised Code:

(1) "Children's residential center" means a facility that is operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the department of job and family services to operate a children's residential center, and in which eleven or more children, including the children of any staff residing at the facility, are given nonsecure care and supervision twenty-four hours a day.

(2) "Children's crisis care facility" has the same meaning as in section 5103.13 of the Revised Code.

(3) "County children's home" means a facility established under section

5153.21 of the Revised Code.

(4) "District children's home" means a facility established under section 5153.42 of the Revised Code.

(5) "Group home for children" means any public or private facility that is operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the department to operate a group home for children, and that meets all of the following criteria:

(a) Gives, for compensation, a maximum of ten children, including the children of the operator or any staff who reside in the facility, nonsecure care and supervision twenty-four hours a day by a person or persons who are unrelated to the children by blood or marriage, or who is not the appointed guardian of any of the children;

(b) Is not certified as a foster home;

(c) Receives or cares for children for two or more consecutive weeks.

"Group home for children" does not include any facility that provides care for children from only a single-family group, placed at the facility by the children's parents or other relative having custody.

(6) "Residential facility" means a group home for children, children's crisis care facility, children's residential center, residential parenting facility that provides twenty-four-hour child care, county children's home, or district children's home. A foster home is not a residential facility.

(7) "Residential parenting facility" means a facility operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the department to operate a residential parenting facility, in which teenage mothers and their children reside for the purpose of keeping mother and child together, teaching parenting and life skills to the mother, and assisting teenage mothers in obtaining educational or vocational training and skills.

(8) "Nonsecure care and supervision" means care and supervision of a child in a residential facility that does not confine or prevent movement of the child within the facility or from the facility.

(B) Within ten days after the commencement of operations at a residential facility, the facility shall provide the following to all county, municipal, or township law enforcement agencies, emergency management agencies, and fire departments with jurisdiction over the facility:

(1) Written notice that the facility is located and will be operating in the agency's or department's jurisdiction. The written notice shall provide the address of the facility, identify the facility as a group home for children, children's crisis care facility, children's residential center, residential

parenting facility, county children's home, or district children's home, and provide contact information for the facility.

(2) A copy of the facility's procedures for emergencies and disasters established pursuant to rules adopted under section 5103.03 of the Revised Code;

(3) A copy of the facility's medical emergency plan established pursuant to rules adopted under section 5103.03 of the Revised Code;

(4) A copy of the facility's community engagement plan established pursuant to rules adopted under section 5103.051 of the Revised Code.

(C) Within ten days of ~~a facility's recertification by the department~~ any change to the facility's information described in divisions (B)(2), (3), and (4) of this section, the facility shall provide to all county, municipal, or township law enforcement agencies, emergency management agencies, and fire departments with jurisdiction over the facility updated copies of the information required to be provided under divisions (B)(2), (3), and (4) of this section.

(D) The department may adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this section.

Sec. 5103.162. (A) Except as provided in division (B) of this section, a ~~foster~~ resource caregiver shall be immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under this chapter or under rules adopted under authority of this chapter.

(B) The immunity described in division (A) of this section does not apply to a ~~foster~~ resource caregiver if, in relation to the act or omission in question, any of the following applies:

(1) The act or omission was manifestly outside the scope of the ~~foster~~ resource caregiver's power, duty, responsibility, or authorization.

(2) The act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.

(3) Liability for the act or omission is expressly imposed by a section of the Revised Code.

(C)(1) A ~~foster~~ resource caregiver shall use a reasonable and prudent parent standard when considering whether to authorize a foster child who resides in the ~~foster~~ resource home to participate in extracurricular, enrichment, and social activities.

(2) A public children services agency, private child placing agency, or private noncustodial agency that serves as the child's custodian or as the supervising agency for the ~~foster~~ resource caregiver shall be immune from

liability in a civil action to recover damages for injury, death, or loss to person or property that result from a ~~foster~~ resource caregiver's or agency's decisions using a reasonable and prudent parent standard in accordance with division (C)(1) of this section.

(3) Nothing in this section shall affect, limit, abridge, or otherwise modify the immunities and defenses available to a public children services agency as a political subdivision under Chapter 2744. of the Revised Code.

(4) As used in this section, "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth, that a caregiver or agency shall use when determining whether to allow a child in the care of a ~~foster~~ resource caregiver to participate in extracurricular, enrichment, and social activities.

Sec. 5103.18. (A)(1) Prior to certification ~~or recertification~~ as a foster home under section 5103.03 of the Revised Code, a recommending agency shall obtain a summary report of a search of the uniform statewide automated child welfare information system, established under section 5101.13 of the Revised Code, from an entity listed in section 5101.132 of the Revised Code.

(2) Whenever a prospective foster parent or any other person eighteen years of age or older who resides with a prospective foster parent has resided in another state within the five-year period immediately prior to the date on which a criminal records check is requested for the person under division (A) of section 2151.86 of the Revised Code, the recommending agency shall request a check of the central registry of abuse and neglect of this state from the department of job and family services regarding the prospective foster parent or the person eighteen years of age or older who resides with the prospective foster parent to enable the agency to check any child abuse and neglect registry maintained by that other state. The recommending agency shall make the request and shall review the results of the check before the prospective foster parent may be finally approved for placement of a child. Information received pursuant to such a request shall be considered for purposes of this chapter as if it were a summary report required under division (A) of this section. The department of job and family services shall comply with any request to check the central registry that is similar to the request described in this division and that is received from any other state.

(B)(1) The summary report required under division (A) of this section shall contain, if applicable, a chronological list of abuse and neglect

determinations or allegations of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency has done one of the following:

- (a) Determined that abuse or neglect occurred;
- (b) Initiated an investigation, and the investigation is ongoing;
- (c) Initiated an investigation, and the agency was unable to determine whether abuse or neglect occurred.

(2) The summary report required under division (A) of this section shall not contain any of the following:

(a) An abuse and neglect determination of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency determined that abuse or neglect did not occur;

(b) Information or reports the dissemination of which is prohibited by, or interferes with eligibility under, the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 (1974), 42 U.S.C. 5101 et seq., as amended;

(c) The name of the person who or entity that made, or participated in the making of, the report of abuse or neglect.

(C)(1) A foster home certification ~~or recertification~~ may be denied based on a summary report containing the information described under division (B)(1)(a) of this section, when considered within the totality of the circumstances.

(2) A foster home certification ~~or recertification~~ shall not be denied solely based on a summary report containing the information described under division (B)(1)(b) or (c) of this section.

(D) Not later than January 1, 2008, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.

Sec. 5103.181. (A) Prior to certification ~~or recertification~~ of a foster home under section 5103.03 of the Revised Code, a recommending agency shall conduct a search of the United States department of justice national sex offender public web site regarding the prospective or current foster caregiver and all persons eighteen years of age or older who reside with the prospective or current foster caregiver. Certification ~~or recertification~~ may be denied based solely on the results of the search.

(B) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.

Sec. 5103.20. The interstate compact for the placement of children is hereby enacted into law and entered into with all other jurisdictions legally

joining therein in form substantially as follows:

ARTICLE I.

PURPOSE

The purpose of this compact is to:

(A) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(B) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(C) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(D) Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(E) Provide for uniform data collection and information sharing between member states under this compact.

(F) Promote coordination between this compact, the Interstate Compacts for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

(G) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(H) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II.

DEFINITIONS

As used in this compact:

(A) "Approved placement" means the public child placing agency in the receiving state has determined after an assessment that the placement is both safe and suitable for the child ~~and is in compliance with the applicable laws of the receiving state governing the placement of children therein.~~

(B) "Assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine whether if the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public agency.

(C) "Child" means an individual who has not attained the age of eighteen (18).

(D) "Certification" means to attest, declare, or swear to before a judge or notary public.

(E) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

(F) "Home study" means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

~~(E)~~(G) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act at 43 USC section 1602(c).

~~(F)~~(H) "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

~~(G)~~(I) "Jurisdiction" means the power and authority of a court to hear and decide matters.

(J) "Legal risk placement" ("legal risk adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

~~(H)~~(K) "Member state" means a state that has enacted this compact.

~~(I)~~(L) "Non-custodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

~~(J)~~(M) "Non-member state" means a state which has not enacted this compact.

~~(K)~~(N) "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include

information regarding a discharge and any unauthorized absence from the facility.

~~(L)~~(O) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

~~(M)~~(P) "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

~~(N)~~(Q) "Provisional placement" means ~~that a determination made by the public child placing agency in the receiving state has determined~~ that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

~~(O)~~(R) "Public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

~~(P)~~(S) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

~~(Q)~~(T) "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

~~(R)~~(U) "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

~~(S)~~(V) "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. "Rule" has the force and effect of ~~statutory law~~ an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

~~(T)~~(W) "Sending state" means the state from which the placement of a child is initiated.

~~(U)~~(X) "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

~~(V)~~(Y) "Service member's state of ~~local~~ legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

~~(W)~~(Z) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

~~(X)~~(AA) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

~~(Y)~~(BB) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

(A) Except as otherwise provided in Article III, Section B, this compact shall apply to:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(a) The child is being placed in a residential facility in another member state and is not covered under another compact; or

(b) The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a

preliminary step to a possible adoption.

(B) The provisions of this compact shall not apply to:

(1) The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, provided, the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

(2)(3) The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(3)(4) The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

(4)(5) The placement of a child with a non-custodial parent provided that:

(a) The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

(b) The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

(c) The court in the sending state dismisses its jurisdiction ~~over the child's case~~ in interstate placements in which the public child placing agency is a party to the proceeding.

(5)(6) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(6)(7) Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

(7)(8) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the Interstate Commission.

(C) For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(D) Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance.

The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV.

JURISDICTION

(A) The Except as provided in Article IV, Section H and Article V, Section B, paragraph two and three concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

(B) When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(C) In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission; and judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

(D) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state; or

(2) The child is adopted; or

(3) The child reaches the age of majority under the laws of the sending state; or

(4) The child achieves legal independence pursuant to the laws of the sending state; or

(5) A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

(6) An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) The public child placing agency of the sending state requests

termination and has obtained the concurrence of the public child placing agency in the receiving ~~the~~ state.

~~(D)~~(E) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

~~(E)~~(F) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

~~(F)~~(G) Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(H) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption except:

(1) When the child is a ward of another court that established jurisdiction over the child prior to the placement; or

(2) When the child is in the legal custody of a public agency in the sending state; or

(3) When a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

(I) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

ARTICLE V.

ASSESSMENTS

(A) Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

~~(B) Prior to the sending, bringing, or causing a child to be sent or brought into a receiving state, the~~ For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child placing agency. The required content to accompany a request for approval shall include all of the following:

~~(1) Provide evidence that the applicable laws of the sending state have been complied with~~ A request for approval identifying the child, birth

parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval; and

~~(2) Certification that the consent or relinquishment is in compliance with applicable law of the birth parent's state of residence or, where permitted, the laws of the state of where the finalization of the adoption will occur~~ The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or, where permitted, the laws of the state where the adoption will be finalized; and

~~(3) Request through the public child placing agency in the sending state an assessment to be conducted in the receiving state~~ Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or, where permitted, the laws of the state where finalization of the adoption will occur; and

~~(4) Upon completion of the assessment, obtain the approval of the public child placing agency in the receiving state~~ A home study; and

~~(5) An acknowledgment of legal risk signed by the prospective adoptive parents.~~

(C) The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child placing agency in both the sending state and the receiving state.

(D) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

(E) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

~~(D)~~(F) Upon receipt of a request from the public child welfare placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as for a provisional placement.

~~(E)~~(G) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

~~(F)~~(H) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

(I) For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless adoption is finalized in the sending state.

~~(G)~~(J) The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI.

PLACEMENT AUTHORITY

(A) Except as otherwise provided in ~~Article VI, Section C~~ this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(B) If the public child placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

(C) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(1) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable ~~administrative procedures~~ Administrative Procedures Act.

(2) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII.

STATE RESPONSIBILITY

(A) For the interstate placement of a child made by a public child placing agency or state court:

(1) The public child placing agency in the sending state shall have financial responsibility for:

(a) The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(b) As determined by the public child placing agency in the sending

state, services for the child beyond the public services for which the child is eligible in the receiving state.

(2) The receiving state shall only have financial responsibility for:

(a) Any assessment conducted by the receiving state; and

(b) Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending state.

(3) Nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(B) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

(2) Financially responsible for the child absent a contractual agreement to the contrary.

~~(C) A private child placing agency shall be responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or the rules of the Interstate Commission.~~

~~(D)~~ The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

~~(E)~~(D) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

~~(F)~~(E) Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

~~(G)~~(F) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

~~(H)~~(G) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the

rules of the Interstate Commission.

~~(H)~~(H) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

~~(I)~~(I) With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervisions of placements under this compact.

ARTICLE VIII.

INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

(A) Be joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

(B) Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

(1) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(2) A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(3) A representative shall not delegate a vote to another member state.

(4) A representative may delegate voting authority to another person from their state for a specified meeting.

(C) In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

(D) Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX.

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

(A) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(B) To provide for dispute resolution among member states.

(C) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

(D) To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

(E) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

(F) To establish and maintain offices as may be necessary for the transacting of its business.

(G) To purchase and maintain insurance and bonds.

(H) To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

(I) To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

(J) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

(K) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(L) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(M) To establish a budget and make expenditures.

(N) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(O) To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(P) To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such

activity.

(Q) To maintain books and records in accordance with the bylaws of the Interstate Commission.

(R) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X.

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(A) Bylaws:

(1) Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

(2) The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(B) Meetings:

(1) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

(2) Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(a) Relate solely to the Interstate Commission's internal personnel practices and procedures; or

(b) Disclose matters specifically exempted from disclosure by federal law; or

(c) Disclose financial or commercial information which is privileged, proprietary, or confidential in nature; or

(d) Involve accusing a person of a crime, or formally censuring a person; or

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

(f) Disclose investigative records compiled for law enforcement

purposes; or

(g) Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

(4) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

(C) Officers and Staff:

(1) The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

(2) The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(D) Qualified Immunity, Defense and Indemnification:

(1) The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(a) The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope

of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(b) The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(c) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of the Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI.

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(A) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(B) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of

the date specified, as published with the final version of the rule as approved by the Interstate Commission.

(C) When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

(2) Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

(3) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(D) Rules promulgated by the Interstate Commission shall have the force and effect of ~~statutory law~~ administrative rules and shall ~~supersede any state law, rule or regulation to the extent of any conflict~~ be binding in the compacting states to the extent and in the manner provided for in this compact.

(E) Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(F) If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

(G) The existing rules governing the operation of the Interstate ~~Company Compact~~ Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

(H) Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

- (1) Transition rules;
- (2) Forms and procedures;
- (3) Time lines;
- (4) Data collection and reporting;
- (5) Rulemaking;
- (6) Visitation;

- (7) Progress reports/supervision;
- (8) Sharing of information/confidentiality;
- (9) Financing of the Interstate Commission;
- (10) Mediation, arbitration and dispute resolution;
- (11) Education, training and technical assistance;
- (12) Enforcement;
- (13) Coordination with other interstate compacts.

(I) Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

(1) The Interstate Commission may promulgate an emergency rule only if it is required to:

- (a) Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or
- (b) Prevent loss of federal or state funds; or
- (c) Meet a deadline for the promulgation of an administrative rule required by federal law.

(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

(3) An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII.

OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(A) Oversight:

(1) The Interstate Commission shall oversee the administration and operations of the compact.

(2) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall ~~supercede state law, rules or regulations~~ be binding in the compacting states to the extent of any conflict therewith and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have

standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

(B) Dispute Resolution:

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(C) Enforcement:

(1) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

(a) Provide remedial training and specific technical assistance; or

(b) Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

(c) By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

(d) Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII.

FINANCING OF THE COMMISSION

(A) The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(B) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and

activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

(C) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(D) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV.

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(A) Any state is eligible to become a member state.

(B) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The ~~governors~~ executive heads of the state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

(C) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV.

WITHDRAWAL AND DISSOLUTION

(A) Withdrawal:

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state

may withdraw from the compact specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing ~~stated~~ state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

(B) Dissolution of Compact:

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI.

SEVERABILITY AND CONSTRUCTION

(A) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(B) The provisions of this compact shall be liberally construed to effectuate its purposes.

(C) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII.

BINDING EFFECT OF COMPACT AND OTHER LAWS

(A) Other Laws:

~~(1)~~(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

~~(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.~~

(B) Binding Effect of the Compact:

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII.

INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

Sec. 5103.37. The Ohio child welfare training program coordinator shall do all the following ~~pursuant to the contract entered into under section 5103.35 of the Revised Code:~~

(A) Manage, coordinate, and evaluate all of the program's training provided under section 5103.30 of the Revised Code;

(B) Develop curriculum, resources, and products for the training;

(C) Provide fiscal management and technical assistance to regional training ~~centers~~ staff established under section ~~5103.42~~ 5103.41 of the Revised Code;

(D) Cooperate with the regional training ~~centers~~ staff to schedule sessions for the training, provide notices of the training sessions, and provide training materials for the sessions;

(E) Employ and compensate instructors for the training;

(F) Create individual training needs assessments for use pursuant to sections 5153.125 and 5153.126 of the Revised Code;

(G) Provide staff for the Ohio child welfare training program steering committee established under section 5103.39 of the Revised Code;

(H) Conduct any other activities necessary for the development, implementation, and management of the program as specified in the contract;

(I) Identify the competencies needed to do the jobs that the training is for so that the training helps the development of those competencies;

(J) Ensure that the training provides the knowledge, skill, and ability needed to do the jobs that the training is for.

Sec. 5103.391. The director of job and family services shall appoint all of the following to serve on the Ohio child welfare training program steering committee:

- (A) Employees of the department of job and family services;
- (B) One representative of each of the regional training centers established under section ~~5103.42~~ 5103.41 of the Revised Code;
- (C) One representative of a statewide organization that represents the interests of public children services agencies;
- (D) One representative of the Ohio child welfare training program coordinator;
- (E) Two current foster caregivers certified by the department of job and family services under section 5103.03 of the Revised Code;
- (F) Employees of public children services agencies.

Sec. 5103.41. ~~Prior to the beginning of the fiscal biennium that first follows October 5, 2000, the~~ The department of job and family services, in consultation with the Ohio child welfare training program steering committee, shall designate ~~eight~~ training regions in the state. The department, at times it selects, shall review the composition of the training regions. The committee, at times it selects, shall also review the training regions' composition and provide the department recommendations on changes. The department may change the composition of the training regions as the department considers necessary. ~~Each training region shall contain only one regional training center established and maintained under section 5103.42 of the Revised Code.~~

The department may make a grant to a public children services agency that establishes and maintains a regional training center under this section for the purpose of wholly or partially subsidizing the operation of the center. The department shall specify in the grant all of the center's duties, including the duties specified in section 5103.42 of the Revised Code.

Sec. ~~5103.422~~ 5103.42. A regional training ~~center's~~ staff's responsibilities shall include all of the following:

- (A) Securing facilities suitable for conducting the training provided under section 5103.30 of the Revised Code;
- (B) Providing administrative services and paying all administrative costs related to the conduct of the training;
- (C) Maintaining a database of the data contained in the individual training needs assessments for each PCSA caseworker and PCSA caseworker supervisor employed by a public children services agency

located in the training region ~~served by the center~~;

(D) Analyzing training needs of PCSA caseworkers and PCSA caseworker supervisors employed by a public children services agency and other training populations described in section 5103.30 of the Revised Code ~~and located in the training region served by the center~~;

(E) Coordinating the training ~~at the center~~ for the region with the Ohio child welfare training program coordinator.

Sec. 5103.50. (A) As used in ~~this section and~~ sections ~~5103.51~~ 5103.50 to 5103.55 of the Revised Code, "private, nonprofit therapeutic wilderness camp" has the same meaning as in section 5103.02 of the Revised Code.

(B) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement standards set forth in division (D) of this section and section 5103.54 of the Revised Code that are substantially similar, as determined by the director, to other similarly situated providers of residential care to children.

(C) The director of job and family services shall issue a license to a private, nonprofit therapeutic wilderness camp that submits an application to the director, on a form prescribed by the director, that indicates to the director's satisfaction that the camp meets the standards set forth in rules adopted under division (B) of this section.

(D) In accordance with rules adopted by the director under division (B) of this section, the camp shall develop and implement written policies that establish all of the following:

- (1) Standards for hiring, training, and supervising staff;
- (2) Standards for behavioral intervention, including standards prohibiting the use of prone restraint and governing the use of other restraints or isolation;
- (3) Standards for recordkeeping, including specifying information that must be included in each child's record, who may access records, confidentiality, maintenance, security, and disposal of records;
- (4) A procedure for handling complaints about the camp from the children attending the camp, their families, staff, and the public;
- (5) Standards for emergency and disaster preparedness, including procedures for emergency evacuation and standards requiring that a method of emergency communication be accessible at all times;
- (6) Standards that ensure the protection of children's civil rights;
- (7) Standards for the admission and discharge of children attending the camp, including standards for emergency discharge;
- (8) Standards for the supervision of children, including minimum staff to child ratios;

(9) Standards for ensuring proper medical care, including administration of medications;

(10) Standards for proper notification of critical incidents;

(11) Standards regarding the health and safety of residents, including proper health department approvals, fire inspections, and food service licenses;

(12) Standards for ensuring the reporting requirements under section 2151.421 of the Revised Code are met.

(E) The camp shall ensure that no child resides at the camp for more than twelve consecutive months, unless the camp has completed a full evaluation that determines the child is not ready for reunification with the child's family or guardian. Such evaluation shall include any outside professional determined to be necessary by the director of job and family services. This evaluation shall be conducted in accordance with rules adopted by the director.

(F) The camp shall cooperate with any request from the director for an inspection or for access to records or written policies of the camp.

(G) The camps shall ensure that no child is left without supervision of camp staff at any time.

(H) The camp shall ensure that if there is a weather emergency or warning issued by the national weather service in the camp's geographic area, the children will be moved to a safe structure guarded from the weather event.

(I) The camp shall ensure that all sharp tools used in the camp, including axes and knives, are locked unless in use by camp staff or otherwise under camp staff supervision.

Sec. 5104.015. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation of child day-care centers, including parent cooperative centers, part-time centers, and drop-in centers. The rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school-age child care centers that are developed in consultation with the department of education. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the center are safe and sanitary including the physical environment, the physical plant,

and the equipment of the center;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;

(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about centers;

(S) Procedures for enforcing section 5104.04 of the Revised Code;

(T) Minimum qualifications for employment as an administrator or child-care staff member, which shall not include requiring an administrator or child-care staff member to hold or obtain a bachelor's, master's, or

doctoral degree;

(U) Requirements for the training of administrators and child-care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

(W) A procedure for reporting of injuries of children that occur at the center;

(X) Standards for licensing child day-care centers for children with short-term illnesses and other temporary medical conditions;

(Y) Minimum requirements for instructional time for child day-care centers rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child day-care centers.

Sec. 5104.017. The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including parent cooperative type A homes, part-time type A homes, and drop-in type A homes. The rules shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including the physical environment, the physical plant, and the equipment of the type A home;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;
(H) Procedures for discipline and supervision of children;
(I) Standards for the provision of nutritious meals and snacks;
(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;

(K) Procedures for screening employees, including any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about type A homes;

(S) Procedures for enforcing section 5104.04 of the Revised Code;

(T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each type A home license that any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;

(U) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;

(W) Standards for the maximum number of children per child-care staff member;

(X) Requirements for the amount of usable indoor floor space for each child;

(Y) Requirements for safe outdoor play space;

(Z) Qualifications and training requirements for administrators and for child-care staff members, which shall not include requiring an administrator or child-care staff member to hold or obtain a bachelor's, master's, or

doctoral degree;

(AA) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(BB) Minimum requirements for instructional time for type A homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(CC) Any other procedures and standards necessary to carry out the provisions of this chapter regarding type A homes.

Sec. 5104.018. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the licensure of type B family day-care homes. The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a licensed type B family day-care home and shall include all of the following:

(A) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;

(B) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including physical environment, physical plant, and equipment;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admission policies and procedures;

(F) Health care, first aid and emergency procedures;

(G) Procedures for the care of sick children;

(H) Procedures for discipline and supervision of children;

(I) Nutritional standards;

(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;

(K) Procedures for screening administrators and employees, including any necessary physical examinations and immunizations;

(L) Methods of encouraging parental participation and ensuring that the rights of children, parents, and administrators are protected and the

responsibilities of parents and administrators are met;

(M) Standards for the safe transport of children when under the care of administrators;

(N) Procedures for issuing, denying, or revoking licenses;

(O) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to licensure to ensure that the home is safe and sanitary;

(P) Procedures for record keeping and evaluation;

(Q) Procedures for receiving, recording, and responding to complaints;

(R) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(S) Requirements for the amount of usable indoor floor space for each child;

(T) Requirements for safe outdoor play space;

(U) Qualification and training requirements for administrators and employees, which shall not include requiring an administrator or employee to hold or obtain a bachelor's, master's, or doctoral degree;

(V) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(W) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;

(X) Minimum requirements for instructional time for type B homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(Y) Any other procedures and standards necessary to carry out the provisions of this chapter regarding licensure of type B homes.

Sec. 5104.02. (A) The director of job and family services is responsible for licensing child day-care centers, type A family day-care homes, and type B family day-care homes. Each entity operating a head start program shall meet the criteria for, and be licensed as, a child day-care center. The director is responsible for the enforcement of this chapter and of rules promulgated pursuant to this chapter.

No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in the center or home in a conspicuous place that is accessible to parents, custodians, or guardians and

employees of the center or home at all times when the center or home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program caring for children that operates for two consecutive weeks or less and not more than six weeks total in each calendar year;

(2) Caring for children in places of worship during religious activities while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; athletic skills or sports; computers; or an educational subject conducted on an organized or periodic basis that a child does not attend for more than eight total hours per week;

(4) Programs in which the director determines that at least one parent, custodian, or guardian of each child ~~who is not an employee of the facility engaged in employment duties~~ is on the premises of the facility that offers care and is readily accessible at all times and care is not provided for more than two and one-half hours a day per child;

(5) Programs that provide care and are regulated by state departments other than the department of job and family services or the state board of education.

(6) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(7) Any program providing care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under section 3301.53 of the Revised Code.

(8) A youth development program operated outside of school hours to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal care, which is care that does not require parental signature, permission, or notice for the child receiving the care to enter or leave the program.

(c) The program provides any of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(d) The entity operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

(9) A ~~preschool~~ program caring for children that is operated by a nonchartered, nontax-supported school if the ~~preschool~~ program meets all of the following conditions:

(a) The program complies with state and local health, fire, and safety laws.

(b) The program annually certifies in a report to the children's parents ~~of its pupils~~ that the ~~school~~ program is in compliance with division (B)(9)(a) of this section and files a copy of the report with the department of job and family services on or before the thirtieth day of September of each year.

(c) The program complies with all applicable reporting requirements in the same manner as required by the state board of education for nonchartered, nonpublic primary and secondary schools.

(d) The program is associated with a nonchartered, nontax-supported primary or secondary school.

(10) A program that provides activities for children who are five years of age or older and is operated by a county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code.

Sec. 5104.042. (A) The department of job and family services may suspend, without a prior hearing, the license of a child day-care center, type A family day-care home, or licensed type B family day-care home if any of the following occur:

(1) A child dies or suffers a serious injury while receiving child care in the center, type A home, or licensed type B home.

(2) A public children services agency receives a report pursuant to section 2151.421 of the Revised Code, and the person alleged to have inflicted abuse or neglect on the child who is the subject of the report is any of the following:

(a) The owner, licensee, or administrator of the center, type A home, or licensed type B home;

(b) An employee of the center, type A home, or licensed type B home who has not immediately been placed on administrative leave or released from employment;

(c) Any person who resides in the type A home or licensed type B home.

(3) An owner, licensee, administrator, or employee of the center, type A home, or licensed type B home, or a resident of the type A home or licensed type B home is charged by an indictment, information, or complaint with an offense relating to the abuse or neglect of a child.

(4) The department or a county department of job and family services determines that the center, type A home, or licensed type B home created a serious risk to the health or safety of a child receiving child care in the center, type A home, or licensed type B home that resulted in or could have resulted in a child's death or injury.

(5) The department determines that the owner or licensee of the center, type A home, or licensed type B home does not meet the requirements of section 5104.013 of the Revised Code.

(B) The department shall ~~issue~~ serve a written order of suspension ~~and furnish a copy to~~ on the licensee ~~either by certified mail or in person~~ as described in ~~section~~ sections 119.05 and 119.07 of the Revised Code. The licensee may request an adjudicatory hearing before the department pursuant to sections 119.06 to 119.12 of the Revised Code.

(C) Any summary suspension imposed under this section shall remain in effect until any of the following occurs:

(1) The public children services agency completes its investigation of the report pursuant to section 2151.421 of the Revised Code and determines that all of the allegations are unsubstantiated.

(2) All criminal charges are disposed of through dismissal or a finding of not guilty.

(3) The department issues pursuant to Chapter 119. of the Revised Code a final order terminating the suspension.

(D) The center, type A home, or licensed type B home shall not provide child care while the summary suspension remains in effect. Upon issuance of the order of suspension, the licensee shall inform the caretaker parent of each child receiving child care in the center, type A home, or licensed type B home of the suspension.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards

and procedures for the summary suspension of licenses.

(F) This section does not limit the authority of the department to revoke a license pursuant to section 5104.04 of the Revised Code.

Sec. 5104.29. (A) As used in this section, "early learning and development program" has the same meaning as "licensed child care program" as defined in section 5104.01 of the Revised Code.

(B) There is hereby created in the department of job and family services the step up to quality program, under which the department of job and family services, in cooperation with the department of education, shall develop a tiered quality rating and improvement system for all early learning and development programs in this state. The step up to quality program shall include all of the following components:

(1) Quality program standards for early learning and development programs;

(2) Accountability measures that include tiered ratings representing each program's level of quality;

(3) Program and provider outreach and support to help programs meet higher standards and promote participation in the step up to quality program;

(4) Financial incentives for early learning and development programs that provide publicly funded child care and are linked to achieving and maintaining quality standards;

(5) Parent and consumer education to help parents learn about program quality and ratings so they can make informed choices on behalf of their children.

(C) The step up to quality program shall have the following goals:

(1) Increasing the number of low-income children, special needs children, and children with limited English proficiency participating in quality early learning and development programs;

(2) Providing families with an easy-to-use tool for evaluating the quality of early learning and development programs;

(3) Recognizing and supporting early learning and development programs that achieve higher levels of quality;

(4) Providing incentives and supports to help early learning and development programs implement continuous quality improvement systems.

(D) Under the step up to quality program, participating early learning and development programs may be eligible for grants, technical assistance, training, and other assistance. Programs that maintain a quality rating may be eligible for unrestricted monetary awards.

(E) The tiered ratings developed pursuant to this section shall be based on an early learning and development program's performance in meeting

program standards in the following four domains:

- (1) Learning and development;
- (2) Administration and leadership practices;
- (3) Staff quality and professional development;
- (4) Family and community partnerships.

The ratings developed under this section shall not take into consideration whether an administrator or employee of an early learning and development program holds or obtains a bachelor's, master's, or doctoral degree.

(F) The director of job and family services, in collaboration with the superintendent of public instruction, shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the step up to quality program described in this section.-

Sec. 5104.31. (A) Publicly funded child care may be provided only by the following:

(1) Any of the following licensed by the department of job and family services pursuant to section 5104.03 of the Revised Code or pursuant to rules adopted under section 5104.018 of the Revised Code:

(a) A child day-care center, including a parent cooperative child day-care center;

(b) A type A family day-care home, including a parent cooperative type A family day-care home;

(c) A licensed type B family day-care home.

(2) An in-home aide who has been certified by the county department of job and family services pursuant to section 5104.12 of the Revised Code;

(3) A child day camp approved pursuant to section 5104.22 of the Revised Code;

(4) A licensed preschool program;

(5) A licensed school child program;

(6) A border state child care provider, except that a border state child care provider may provide publicly funded child care only to an individual who resides in an Ohio county that borders the state in which the provider is located.

(B) Publicly funded child day-care may be provided in a child's own home only by an in-home aide.

(C)(1) Except as provided in division (C)(2) of this section, a licensed child care program may provide publicly funded child care only if the program is rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code.

(2) A licensed child care program that is any of the following may

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Date: JUL 3, 2023



Mike DeWine, Governor

provide publicly funded child care without being rated through the step up to quality program:

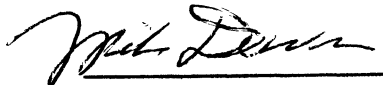
- (a) A program that operates only during the summer and for not more than fifteen consecutive weeks;
- (b) A program that operates only during school breaks;
- (c) A program that operates only on weekday evenings, weekends, or both;
- (d) A program that holds a provisional license issued under section 5104.03 of the Revised Code;
- (e) A program that had its step up to quality program rating removed by the department of job and family services within the previous twelve months;
- (f) A program that is the subject of a revocation action initiated by the department, but the license has not yet been revoked;
- (g) A program that provides publicly funded child care to less than ~~twenty-five~~ fifty per cent of the program's license capacity;
- (h) A program that is a type A family day-care home or licensed type B family day-care home.

Sec. 5107.02. As used in this chapter:

- (A) "Adult" means an individual who is not a minor child.
- (B) "Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for and the amount of assistance provided under Ohio works first.
- (C) "Custodian" means an individual who has legal custody, as defined in section 2151.011 of the Revised Code, of a minor child or comparable status over a minor child created by a court of competent jurisdiction in another state.
- (D) "Domestic violence" means being subjected to any of the following:
 - (1) Physical acts that resulted in, or threatened to result in, physical injury to the individual;
 - (2) Sexual abuse;
 - (3) Sexual activity involving a dependent child;
 - (4) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
 - (5) Threats of, or attempts at, physical or sexual abuse;
 - (6) Mental abuse;
 - (7) Neglect or deprivation of medical care.
- (E) "Guardian" means an individual that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code, or a court of competent jurisdiction in another state, to exercise parental rights over a

The above boxed and initialed text was disapproved.

July 3
Date: 2023


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minor child to the extent provided in the court's order and subject to residual parental rights of the minor child's parents.

(F) "LEAP program" means the learning, earning, and parenting program conducted under section 5107.30 of the Revised Code.

(G) "Minor child" means either of the following:

- (1) An individual who has not attained age eighteen;
- (2) An individual who has not attained age nineteen and is a full-time student in a secondary school or in the equivalent level of vocational or technical training.

(H) "Minor head of household" means a minor child who is either of the following:

- (1) Is married, ~~at least six months~~ pregnant, and a member of an assistance group that does not include an adult;
- (2) Is married and is a parent of a child included in the same assistance group that does not include an adult.

(I) "Ohio works first" means the program established by this chapter known as temporary assistance for needy families in Title IV-A.

(J) "Payment standard" means the amount specified in rules adopted under section 5107.05 of the Revised Code that is the maximum amount of cash assistance an assistance group may receive under Ohio works first from state and federal funds.

(K) "Specified relative" means the following individuals who are age eighteen or older:

- (1) The following individuals related by blood or adoption:
 - (a) Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";
 - (b) Siblings;
 - (c) Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";
 - (d) First cousins and first cousins once removed.
- (2) Stepparents and stepsiblings;
- (3) Spouses and former spouses of individuals named in division (K)(1) or (2) of this section.

(L) "Title IV-A" or "Title IV-D" means Title IV-A or Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section

5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

(4) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C)(1) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(a) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(i) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(ii) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(iii) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care assistance, kinship guardianship assistance, kinship support program payments, or adoption assistance;

(iv) A pregnant woman ~~at least six months pregnant~~.

(b) The assistance group must meet the income requirements established by division (D) of this section.

(c) No member of the assistance group may be involved in a strike.

(d) The assistance group must satisfy the requirements for Ohio works first established by this chapter and section 5101.83 of the Revised Code.

(e) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code.

(2) In addition to meeting the requirements specified in division (C)(1) of this section, a member of an assistance group who is required by section 5116.10 of the Revised Code to participate in the comprehensive case management and employment program must participate in that program to be eligible to participate in Ohio works first.

(D)(1) Except as provided in division (D)(4) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of job and family services shall do the following:

(a) Determine whether the assistance group's gross income exceeds fifty per cent of the federal poverty guidelines. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds fifty per cent of the federal poverty guidelines.

(b) If the assistance group's gross income, less the amounts disregarded pursuant to division (D)(1)(a) of this section, does not exceed fifty per cent of the federal poverty guidelines, determine whether the assistance group's countable income is less than the payment standard. The assistance group is ineligible to participate in Ohio works first if the assistance group's countable income equals or exceeds the payment standard.

(2) For the purpose of determining whether an assistance group meets the income requirement established by division (D)(1)(a) of this section, the annual revision that the United States department of health and human services makes to the federal poverty guidelines shall go into effect on the first day of July of the year for which the revision is made.

(3) To determine whether an assistance group participating in Ohio works first continues to be eligible to participate, a county department of job and family services shall determine whether the assistance group's countable income continues to be less than the payment standard. In making this determination, the county department shall disregard an amount specified in rules adopted under section 5107.05 of the Revised Code and fifty per cent of the remainder of the assistance group's gross earned income. No amounts shall be disregarded from the assistance group's gross unearned income. The

assistance group ceases to be eligible to participate in Ohio works first if its countable income, less the amounts disregarded, equals or exceeds the payment standard.

(4) If an assistance group reapplies to participate in Ohio works first not more than four months after ceasing to participate, a county department of job and family services shall use the income requirement established by division (D)(3) of this section to determine eligibility for resumed participation rather than the income requirement established by division (D)(1) of this section.

(E)(1) An assistance group may continue to participate in Ohio works first even though a public children services agency removes the assistance group's minor children from the assistance group's home due to abuse, neglect, or dependency if the agency does both of the following:

(a) Notifies the county department of job and family services at the time the agency removes the children that it believes the children will be able to return to the assistance group within six months;

(b) Informs the county department at the end of each of the first five months after the agency removes the children that the parent, guardian, custodian, or specified relative of the children is cooperating with the case plans prepared for the children under section 2151.412 of the Revised Code and that the agency is making reasonable efforts to return the children to the assistance group.

(2) An assistance group may continue to participate in Ohio works first pursuant to division (E)(1) of this section for not more than six payment months. This division does not affect the eligibility of an assistance group that includes a pregnant woman ~~at least six months pregnant~~.

Sec. 5107.36. An individual is ineligible for assistance under Ohio works first if either of the following apply:

(A) The individual is a fugitive felon as defined in section ~~5101.20~~ 5101.26 of the Revised Code;

(B) The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.

Sec. 5107.54. (A) There is hereby established, as a work activity under Ohio works first, the work experience program. A participant of Ohio works first placed in the program shall receive work experience from private and government entities.

Participants of Ohio works first assigned to the work experience program are not employees of the department of job and family services or a county department of job and family services. The operation of the work

experience program does not constitute the operation of an employment agency by the department of job and family services or a county department of job and family services.

(B) County departments of job and family services shall develop work projects to which participants of Ohio works first are assigned under the work experience program. Work projects may include assignments with private and government entities. Examples of work projects a county department may develop include unpaid internships, refurbishing publicly assisted housing, and having a participant volunteer to work at the head start agency in which the participant's minor child is enrolled. Each county department shall make a list of the work projects available to the public.

(C) Unless a county department of job and family services pays the premiums for the entity, a private or government entity with which a participant of Ohio works first is placed in and participates in the work experience program shall pay premiums to the bureau of workers' compensation on account of the participant.

Sec. 5107.58. In accordance with a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code, county departments of job and family services may establish and administer as a work activity for minor heads of households and adults participating in Ohio works first an education program under which the participant is enrolled full-time in post-secondary education leading to vocation at a state institution of higher education, as defined in section 3345.031 of the Revised Code; a private nonprofit college or university that possesses a certificate of authorization issued ~~by the Ohio board of regents~~ pursuant to Chapter 1713. of the Revised Code, or is exempted by division (E) of section 1713.02 of the Revised Code from the requirement of a certificate; a school that holds a certificate of registration and program authorization issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code; a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code; or a school that has entered into a contract with the county department of job and family services. The participant shall make reasonable efforts, as determined by the county department, to obtain a loan, scholarship, grant, or other assistance to pay for the tuition, including a federal Pell grant under 20 U.S.C.A. 1070a, ~~an Ohio instructional grant under section 3333.12 of the Revised Code,~~ and an Ohio college opportunity grant under section 3333.122 of the Revised Code. If the participant has made reasonable efforts but is unable to obtain sufficient assistance to pay the tuition the program

may pay the tuition. On or after October 1, 1998, the county department may enter into a loan agreement with the participant to pay the tuition. The total period for which tuition is paid and loans made shall not exceed two years. If the participant, pursuant to division (B)(3) of section 5107.43 of the Revised Code, volunteers to participate in the education program for more hours each week than the participant is assigned to the program, the program may pay or the county department may loan the cost of the tuition for the additional voluntary hours as well as the cost of the tuition for the assigned number of hours. The participant may receive, for not more than three years, support services, including publicly funded child care under Chapter 5104. of the Revised Code and transportation, that the participant needs to participate in the program. To receive support services in the third year, the participant must be, as determined by the educational institution in which the participant is enrolled, in good standing with the institution.

A county department that provides loans under this section shall establish procedures governing loan application for and approval and administration of loans granted pursuant to this section.

Sec. 5119.01. (A) As used in this chapter:

(1) "Addiction" means the chronic and habitual use of alcoholic beverages, the use of a drug of abuse as defined in section 3719.011 of the Revised Code, or the use of gambling by an individual to the extent that the individual no longer can control the individual's use of alcohol, the individual becomes physically or psychologically dependent on the drug, the individual's use of alcohol or drugs endangers the health, safety, or welfare of the individual or others, or the individual's gambling causes psychological, financial, emotional, marital, legal, or other difficulties endangering the health, safety, or welfare of the individual or others.

(2) "Addiction services" means services, including intervention, for the treatment of persons with alcohol, drug, or gambling addictions, and for the prevention of such addictions.

(3) "Alcohol and drug addiction services" means services, including intervention, for the treatment of persons with ~~alcoholism~~ alcohol use disorder or persons who abuse drugs of abuse and for the prevention of ~~alcoholism~~ alcohol use disorder and drug addiction.

(4) "~~Alcoholism~~" "Alcohol use disorder" means ~~the chronic and habitual use of alcoholic beverages by an individual to the extent that the individual no longer can~~ a medical condition characterized by an individual's impaired ability to stop or control the individual's use of alcohol or endangers the use despite adverse social, occupational, or health, safety, or welfare of the individual or others consequences. An alcohol use disorder may be

classified as mild, moderate, or severe.

(5) "Certifiable services and supports" means all of the following:

(a) Alcohol and drug addiction services;

(b) Mental health services;

(c) The types of recovery supports that are specified in rules adopted under section 5119.36 of the Revised Code as requiring certification under that section.

(6) "Community addiction services provider" means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following:

(a) Alcohol and drug addiction services that are certified by the director of mental health and addiction services under section 5119.36 of the Revised Code;

(b) Gambling addiction services;

(c) Recovery supports that are related to alcohol and drug addiction services or gambling addiction services and paid for with federal, state, or local funds administered by the department of mental health and addiction services or a board of alcohol, drug addiction, and mental health services.

(7) "Community mental health services provider" means an agency, association, corporation, individual, or program that provides either of the following:

(a) Mental health services that are certified by the director of mental health and addiction services under section 5119.36 of the Revised Code;

(b) Recovery supports that are related to mental health services and paid for with federal, state, or local funds administered by the department of mental health and addiction services or a board of alcohol, drug addiction, and mental health services.

(8) "Drug addiction" means the use of a drug of abuse, as defined in section 3719.011 of the Revised Code, by an individual to the extent that the individual becomes physically or psychologically dependent on the drug or endangers the health, safety, or welfare of the individual or others.

(9) "Gambling addiction" means the use of gambling by an individual to the extent that it causes psychological, financial, emotional, marital, legal, or other difficulties endangering the health, safety, or welfare of the individual or others.

(10) "Gambling addiction services" means services for the treatment of persons who have a gambling addiction and for the prevention of gambling addiction.

(11) "Hospital" means a hospital or inpatient unit licensed by the department of mental health and addiction services under section 5119.33 of

the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under ~~Chapter 5119. of the Revised Code~~ this chapter.

(12) "Included opioid and co-occurring drug addiction services and recovery supports" means the addiction services and recovery supports that, pursuant to section 340.033 of the Revised Code, are included in the array of services and recovery supports for all levels of opioid and co-occurring drug addiction required to be included in the community-based continuum of care established under section 340.032 of the Revised Code.

(13) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.

(14) "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.

(15) "Mental health services" means services for the assessment, care, or treatment of persons who have a mental illness and for the prevention of mental illness.

(16) "Opioid treatment program" has the same meaning as in 42 C.F.R. 8.2.

(17) "Recovery housing residence" means a residence for individuals recovering from alcohol use disorder or drug addiction that provides an alcohol-free and drug-free living environment, peer support, assistance with obtaining alcohol and drug addiction services, and other recovery assistance for alcohol use disorder and drug addiction.

(18) "Recovery supports" means assistance that is intended to help an individual with ~~alcoholism~~ alcohol use disorder, drug addiction, or mental illness, or a member of such an individual's family, initiate and sustain the individual's recovery from ~~alcoholism~~ alcohol use disorder, drug addiction, or mental illness. "Recovery supports" does not mean alcohol and drug addiction services or mental health services.

~~(18)(a) "Residence"~~ (19)(a) "Residence," except when referring to a recovery housing residence or the meaning of "residence" in section 5119.90 of the Revised Code, means a person's physical presence in a county with intent to remain there, except in either of the following circumstances:

(i) If a person is receiving a mental health treatment service at a facility that includes nighttime sleeping accommodations, "residence" means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(ii) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, "residence" means the

county where the criminal charges were filed.

(b) When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health and addiction services for investigation and determination. Residence shall not be a basis for a board of alcohol, drug addiction, and mental health services to deny services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(B) Any reference in this chapter to a board of alcohol, drug addiction, and mental health services also refers to an alcohol and drug addiction services board or a community mental health board in a service district in which an alcohol and drug addiction services board or a community mental health board has been established under section 340.021 or former section 340.02 of the Revised Code.

Sec. 5119.19. ~~(A)(1)(A)~~ As used in this section:

~~(a)(1)~~ "Community-based correctional facility" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Drug used in medication-assisted treatment" means a drug approved by the United States food and drug administration for use in medication-assisted treatment, regardless of the method the drug is administered or the form in which it is dispensed, including an oral drug, an injectable drug, or a long-acting or extended-release drug. "Drug used in medication-assisted treatment" includes all of the following:

(a) A full agonist;

(b) A partial agonist;

(c) An antagonist.

(3) "Drug used in withdrawal management or detoxification" means a drug approved by the United States food and drug administration for use in, or a drug in standard use for, mitigating opioid or alcohol withdrawal symptoms or assisting with detoxification, regardless of the method the drug is administered or the form in which it is dispensed, including an oral drug, an injectable drug, or a long-acting or extended-release drug. "Drug used in withdrawal management or detoxification" includes all of the following:

(a) A full agonist;

(b) A partial agonist;

(c) An antagonist;

(d) An alpha-2 adrenergic agonist.

(4) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.

(5) "Prescribed drug" has the same meaning as in section 5164.01 of the

Revised Code.

~~(b)(6)(a)~~ "Psychotropic drug" means, except as provided in division ~~(A)(2)(A)(6)(b)~~ of this section, a drug that has the capability of changing or controlling mental functioning or behavior through direct pharmacological action. "Psychotropic drug" includes all of the following:

- (i) Antipsychotic medications, including those administered or dispensed in a long-acting injectable form;
- (ii) Antidepressant medications;
- (iii) Anti-anxiety medications;
- (iv) Mood stabilizing medications.

~~(2)(b)~~ "Psychotropic drug" excludes a stimulant prescribed for the treatment of attention deficit hyperactivity disorder.

(7) "Withdrawal management or detoxification" means a set of medical interventions aimed at managing the acute physical symptoms of intoxication and withdrawal. Withdrawal management seeks to minimize the physical harm caused by the intoxication and withdrawal from a substance of abuse. Detoxification denotes a clearing of toxins from the body of the patient who is acutely intoxicated, dependent on a substance of abuse, or both.

(B) There is hereby created the ~~psychotropic~~ behavioral health drug reimbursement program. The program shall be administered by the department of mental health and addiction services.

The purpose of the program is to provide state reimbursement to counties for the cost of ~~psychotropic~~ the following drugs that are administered or dispensed to inmates of county jails in this state and individuals confined in community-based correctional facilities in this state: psychotropic drugs, drugs used in medication-assisted treatment, and drugs used in withdrawal management or detoxification. ~~Each~~

Each county shall ensure that inmates of county jails and individuals confined in community-based correctional facilities have access to all ~~psychotropic~~ behavioral health drugs specified in this division that are prescribed drugs covered by the fee-for-service component of the medicaid program.

(C) The department, based on factors it considers appropriate, shall allocate an amount to each county for reimbursement of ~~such psychotropic~~ drug costs incurred by the county pursuant to this section.

~~(C)(D)~~ The director of mental health and addiction services may adopt rules as necessary to implement this section. The rules, if adopted, shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. ~~5902.09~~ 5119.20. (A) As used in this section:

"Electroencephalogram (EEG) combined transcranial magnetic stimulation" means treatment in which transcranial magnetic stimulation (TMS) frequency pulses are tuned to the patient's physiology and biometric data, ~~at the time of each treatment, using a pre and post TMS EEG.~~

"First responder" has the meaning defined in section 2903.01 of the Revised Code. *Rmi*

"Law enforcement officer" has the meaning defined in section 9.69 of the Revised Code.

(B) The ~~directors of veterans services and~~ director of mental health and addiction services shall establish a ~~pilot~~ program to make electroencephalogram (EEG) combined transcranial magnetic stimulation available for veterans, first responders, and law enforcement officers with civilian employees of the United States department of defense and of the central intelligence agency, and the spouse of any such individual. Eligible individuals must have substance use disorders, mental illness, sleep disorders, traumatic brain injuries, sexual trauma, post traumatic stress disorder and accompanying comorbidities, concussions or other brain trauma, or other issues identified by the individual's qualified medical practitioner as issues that would warrant treatment under the program. The program shall be operated in conjunction with a supplier selected under this section. *RMD*

(C) The ~~directors by mutual agreement~~ director shall choose a location for the ~~pilot~~ program and for up to ten branch sites, and shall enter into a contract for the purchase of services related to the ~~pilot~~ program. A Each branch site may be a operate one or more mobile unit portable units or an EEG combined neuromodulation portable unit units if the directors determine director determines that mobile portable units or EEG combined neuromodulation portable units are necessary to expand access to care. The contract shall include provisions requiring the supplier to create and conduct a clinical trial, to establish and operate a clinical practice, to evaluate outcomes of the clinical trial and the clinical practice, to expend payments received from the state as needed for purposes of the program, and to report quarterly regarding the ~~pilot~~ program to the president of the senate and to the standing committee of the senate that generally considers legislation regarding veterans affairs.

(D) There is the electroencephalogram (EEG) combined transcranial magnetic stimulation fund in the state treasury. It shall consist of moneys appropriated to it by the general assembly. The ~~directors~~ director, with the approval of the controlling board, may authorize a disbursement from the fund for services rendered under the contract.

The above boxed and initialed text was disapproved.

Date JUL 3, 2023

Mike DeWine

Mike DeWine, Governor

(E) ~~One or both of the directors~~ The director shall adopt rules under Chapter 119. of the Revised Code as necessary to administer this section.

(F) The supplier, in conducting the clinical trial and in operating the clinical practice, shall adhere to all of the following:

(1) The United States food and drug administration regulations governing the conduct of clinical practice and clinical trials;

(2) A peer-to-peer support network shall be made available by the supplier to any individual receiving treatment under the program.

(3) The program protocol shall use adapted stimulation frequency and intensity modulation based on EEG and motor threshold testing as well as clinical symptoms and signs, and biometrics.

(4) Each individual who receives treatment under the program also shall receive ~~pre and post neurophysiological~~ neurophysiological monitoring, ~~with EEG and autonomic nervous systems assessments, daily checklists of~~ monitoring for symptoms of alcohol, opioid, or other substance use and mental health disorders, and weekly medical and access to counseling and wellness programming, and. Each individual also shall participate in the peer-to-peer support network established by the supplier.

(5) Clinical protocols and outcomes of the clinical trial, and of any treatment provided by the clinical practice, shall be collected and reported quarterly in a report provided by the supplier to the ~~directors of veterans services and~~ director of mental health and addiction services and to the United States food and drug administration.

(6) Any individual who receives treatment at the clinical practice shall be eligible for a minimum of two electroencephalograms, plus an additional electroencephalogram for every ten treatments, during the course of the individual's treatment.

(7) The report required by this section shall include a thorough accounting of the use and expenditure of all funds received from the state under this section.

(G) Contracts entered into under this section are subject to section 9.231 and Chapter 125. of the Revised Code.

(H) Operation of the program established under this section is contingent upon an appropriation by the general assembly designated for that purpose.

Sec. 5119.33. (A)(1) The department of mental health and addiction services shall inspect and license all hospitals that receive persons with mental illnesses, except those hospitals managed by the department. No hospital may receive for care or treatment, either at public or private expense, any person who is or appears to have a mental illness, whether or

not so adjudicated, unless the hospital has received a license from the department authorizing it to receive for care or treatment persons with mental illnesses or the hospital is managed by the department.

(2) No such license shall be granted to a hospital for the treatment of persons with mental illnesses unless both of the following are the case:

(a) The department is satisfied, after investigation, that the hospital is managed and operated by qualified persons, is adequately staffed and equipped to operate, and has on its staff one or more qualified physicians responsible for the medical care of the patients confined there. At least one such physician shall be a psychiatrist.

(b) The department has not been notified under section 5119.334 of the Revised Code or is not otherwise aware that the hospital, or any owner, sponsor, medical director, administrator, or principal of the hospital, has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of application.

(B) The department shall adopt rules under Chapter 119. of the Revised Code prescribing minimum standards for the operation of hospitals for the care and treatment of persons with mental illnesses and establishing standards and procedures for the issuance, renewal, or revocation of full, probationary, and interim licenses. No license shall be granted to any hospital established or used for the care of persons with mental illnesses unless such hospital is operating in accordance with this section and rules adopted pursuant to this section. A full license shall expire one year after the date of issuance, a probationary license shall expire at the time prescribed by rule adopted pursuant to Chapter 119. of the Revised Code by the director of mental health and addiction services, and an interim license shall expire ninety days after the date of issuance. A full, probationary, or interim license may be renewed, except that an interim license may be renewed only twice. The department may fix reasonable fees for licenses and for license renewals. Such hospitals are subject to inspection and on-site review by the department.

(C) Except as otherwise provided in Chapter 5122. of the Revised Code, neither the director of mental health and addiction services; an employee of the department; a board of alcohol, drug addiction, and mental health services or employee of a community mental health services provider; nor any other public official shall hospitalize any person with a mental illness for care or treatment in any hospital that is not licensed in accordance with this section.

(D)(1) The department may issue an order suspending the admission of patients with mental illnesses to a hospital for care or treatment if it finds

either of the following:

(a) The hospital is not in compliance with rules adopted by the director pursuant to this section.

(b) The hospital has been cited for more than one violation of statutes or rules during any previous period of time during which the hospital is licensed pursuant to this section.

(2)(a) Except as provided in division (D)(2)(b) of this section, proceedings initiated to suspend the admission of patients are governed by Chapter 119. of the Revised Code.

(b) If a suspension of admissions is proposed because the director has determined that the licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients, the director may issue an order imposing the suspension of admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(3) Appeals from proceedings initiated to order the suspension of admissions shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after ~~receiving the notice specified~~ being served in section accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the licensee, or the licensee's

attorney, if applicable, not later than five days after the report is filed with the department.

(f) Not later than five days after receiving the report and recommendations, the licensee may file objections with the department.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.

(E)(1) Any license issued by the department under this section may be revoked or not renewed by the department for any of the following reasons:

(a) The hospital is no longer a suitable place for the care or treatment of persons with mental illnesses.

(b) The hospital refuses to be subject to inspection or on-site review by the department.

(c) The hospital has failed to furnish humane, kind, and adequate treatment and care.

(d) The hospital fails to comply with the licensure rules of the department.

(2) Proceedings initiated to deny applications for full or probationary licenses, to refuse to renew full or probationary licenses, or to revoke full or probationary licenses are governed by Chapter 119. of the Revised Code. If an order has been issued suspending the admission of patients, the order remains in effect during the pendency of those proceedings.

(F)(1) In a proceeding initiated to suspend the admission of patients, to deny an application for a full or probationary license, to refuse to renew a full or probationary license, or to revoke a full or probationary license, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(2) When the department issues an order suspending the admission of patients, denies an application for a full or probationary license, refuses to renew a full or probationary license, or revokes a full or probationary license, the department shall not grant an opportunity for submitting a plan of correction.

(G) The department may inspect, conduct an on-site review, and review the records of any hospital that the department has reason to believe is operating without a license.

Sec. 5119.334. (A) As used in this section, "adverse action" means an

action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certificate, or other approval to operate a hospital or practice a health care profession.

(B)(1) When submitting an application for initial or renewed licensure of a hospital under section 5119.33 of the Revised Code, the applicant shall notify the department of mental health and addiction services of any adverse action taken against the hospital or the hospital's owner, sponsor, medical director, administrator, or any of its principals within the three-year period immediately preceding the date of application.

(2) Not later than seven days after receiving a notice of adverse action from a licensing or regulatory authority that is other than the department of mental health and addiction services, the holder of a hospital license issued under section 5119.33 of the Revised Code shall notify the department of the action.

(C) To notify the department as required by this section, a copy of the notice of adverse action shall be provided to the department.

Sec. 5119.34. (A) As used in this section and sections 5119.341 ~~and 5119.342 to 5119.343~~ of the Revised Code:

(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.

(5) "Community mental health services provider" means a community mental health services provider as defined in section 5119.01 of the Revised Code.

(6) "Community mental health services" means any mental health services certified by the department pursuant to section 5119.36 of the Revised Code.

(7) "Operator" means the person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the applicant for a residential facility license.

(8) "Personal care services" means services including, but not limited to, the following:

- (a) Assisting residents with activities of daily living;
- (b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;
- (c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(8) of this section to be considered to be providing personal care services.

(9) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

(10) "Residential state supplement program" means the program established under section 5119.41 of the Revised Code.

(11) "Supervision" means any of the following:

- (a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;
- (b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;
- (c) Assisting a resident in making or keeping an appointment.

(12) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(B)(1) A "residential facility" is a publicly or privately operated home or facility that falls into one of the following categories:

- (a) Class one facilities provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances;
- (b) Class two facilities provide accommodations, supervision, and personal care services to any of the following:
 - (i) One or two unrelated persons with mental illness;
 - (ii) One or two unrelated adults who are receiving payments under the residential state supplement program;

(iii) Three to sixteen unrelated adults.

(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.

(2) "Residential facility" does not include any of the following:

(a) A hospital subject to licensure under section 5119.33 of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of persons with mental illnesses pursuant to section 5119.14 of the Revised Code;

(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(c) An institution or association subject to certification under section 5103.03 of the Revised Code;

(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(e) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;

(f) A facility licensed under section 5119.37 of the Revised Code to operate an opioid treatment program;

(g) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

(h) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(i) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;

(j) The residence of a relative or guardian of a person with mental illness.

(C) Nothing in division (B) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.

(D) Except in the case of a residential facility described in division (B)(1)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, but may do any of the following:

(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(2) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(3) Assist a resident who is physically impaired but mentally alert, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

~~(E)(1) Except as provided in division (E)(2) of this section, a~~ A person operating or seeking to operate a residential facility shall apply for licensure of the facility to the department of mental health and addiction services. The application shall be submitted by the operator. When applying for the license, the applicant shall pay to the department the application fee specified in rules adopted under division (N) of this section. The fee is nonrefundable.

The department shall send a copy of an application to the ADAMHS board serving the county in which the person operates or seeks to operate the facility. The ADAMHS board shall review the application and provide to the department any information about the applicant or the facility that the board would like the department to consider in reviewing the application.

~~(2) A person may not apply for a license to operate a residential facility if the person is or has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:~~

~~(a) A period of not less than two years has elapsed since the date the director of mental health and addiction services issued the order revoking or refusing to renew the facility's license.~~

~~(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.~~

(F) The department of mental health and addiction services shall inspect and license the operation of residential facilities. The department ~~shall consider the past record of the facility and the applicant or licensee in~~

arriving at its licensure decision may issue a license to operate a residential facility only if all of the following are the case:

(1) The department is satisfied, after investigation, that the facility is managed and operated by qualified persons and is adequately staffed and equipped to operate.

(2) The department has not been notified under section 5119.343 of the Revised Code or is not otherwise aware that the residential facility or any owner, operator, or manager of the residential facility has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of application.

(3) The department has not been notified or is not otherwise aware that the residential facility or any owner, operator, or manager of the facility has been the subject of an adverse action, as defined in that section, taken at any time based on an act or omission that violated the right of a residential facility resident to be free from abuse, neglect, or exploitation.

The department may issue full, probationary, and interim licenses. A full license shall expire up to three years after the date of issuance, a probationary license shall expire in a shorter period of time as specified in rules adopted by the director of mental health and addiction services under division (N) of this section, and an interim license shall expire ninety days after the date of issuance. A license may be renewed in accordance with rules adopted by the director under division (N) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division (N) of this section. The fee is nonrefundable.

(G)(1) If the department finds any of the following with respect to a residential facility, the department may issue an order suspending the admission of residents to the facility, refuse to issue or renew a license for the facility, or revoke the facility's license:

(a) The facility is not in compliance with rules adopted by the director pursuant to division (N) of this section;

(b) Any facility operated by the applicant or licensee has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the period of current or previous licenses;

(c) The applicant or licensee submits false or misleading information as part of a license application, renewal, or investigation.

(2) Proceedings initiated to deny applications for full or probationary licenses, to refuse to renew full or probationary licenses, or to revoke full or probationary licenses are governed by Chapter 119. of the Revised Code. If

an order has been issued suspending the admission of residents to the facility, the order remains in effect during the pendency of those proceedings.

Proceedings initiated to suspend the admission of residents to a facility are governed by Chapter 119. of the Revised Code, except as provided in division (H) of this section.

(3) In a proceeding initiated to suspend the admission of residents to a facility, to deny an application for a full or probationary license, to refuse to renew a full or probationary license, or to revoke a full or probationary license, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(4) When the department issues an order suspending the admission of residents to a facility, denies an application for a full or probationary license, refuses to renew a full or probationary license, or revokes a full or probationary license, the department shall not grant an opportunity for submitting a plan of correction.

(H)(1) If a suspension of admissions of residents to a facility is proposed because the director has determined that the licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents, the director may issue an order imposing the suspension of admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after ~~receiving the notice specified being served in section~~ accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing

examiner shall file a report and recommendations with the department not later than ten days after the last of the following:

- (i) The close of the hearing;
- (ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;
- (iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the licensee, or the licensee's attorney, if applicable, not later than five days after the report is filed with the department.

(f) Not later than five days after receiving the report and recommendations, the licensee may file objections with the department.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.

(I) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under division (N) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

(J)(1) The department of mental health and addiction services may conduct an inspection of a residential facility as follows:

- (a) Prior to issuance of a license for the facility;
- (b) Prior to renewal of the license;
- (c) To determine whether the facility has completed a plan of correction required pursuant to division (J)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

(d) Upon complaint by any individual or agency;

(e) At any time the director considers an inspection to be necessary in order to determine whether the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility and its personnel, activities, and services. The department shall have access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(K) No person shall do any of the following:

(1) Operate a residential facility unless the facility holds a valid license;

(2) Violate any of the conditions of licensure after having been granted a license;

(3) Interfere with a state or local official's inspection or investigation of a residential facility;

(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

(L) The following may enter a residential facility at any time:

(1) Employees designated by the director of mental health and addiction services;

(2) Employees of an ADAMHS board under either of the following circumstances:

(a) When a resident of the facility is receiving services from a community mental health services provider under contract with that ADAMHS board or another ADAMHS board;

(b) When authorized by section 340.05 of the Revised Code.

(3) Employees of a community mental health services provider under either of the following circumstances:

(a) When the provider has a person receiving services residing in the facility;

(b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.

(4) Representatives of the state long-term care ombudsman program when the facility provides accommodations, supervision, and personal care

services for three to sixteen unrelated adults or to one or two unrelated adults who are receiving payments under the residential state supplement program.

The persons specified in division (L) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.

(M) Employees of the department of mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.

(N) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:

(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;

(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;

(3) Procedures for conducting background investigations for prospective or current operators, employees, volunteers, and other non-resident occupants who may have direct access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;

(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents who may be served in a residential facility;

(10) The rights of residents of residential facilities and procedures to protect such rights;

(11) Standards and procedures under which the director may waive the requirements of any of the rules adopted.

(O)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

(2) Any person who makes a complaint under division (O)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose.

(P)(1) The director of mental health and addiction services may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a present danger to the health or safety of any residents of the facility.

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(Q) The director may fine a person for violating division (K) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 5119.343. (A) As used in this section, "adverse action" means an action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certificate, or other approval to operate a residential facility or practice a health care profession.

(B)(1) When submitting an application for initial or renewed licensure of a residential facility under section 5119.34 of the Revised Code, the

applicant shall notify the department of mental health and addiction services of any adverse action taken against the residential facility or the facility's owner, operator, or manager within the three-year period immediately preceding the date of application.

(2) Not later than seven days after receiving a notice of adverse action from a licensing or regulatory authority that is other than the department of mental health and addiction services, the holder of a residential facility license issued under section 5119.34 of the Revised Code shall notify the department of the action.

(3) To notify the department as required by this section, a copy of the notice of adverse action shall be provided to the department.

Sec. 5119.35. (A) Except as provided in division (B) of this section, if a mental health service or alcohol and drug addiction service has been specified in rules adopted under this section as a service that is required to be certified, no person or government entity shall provide ~~any of the following alcohol and drug addiction services~~ that service unless the ~~services have~~ it has been certified under section 5119.36 of the Revised Code:

~~(1) Withdrawal management addiction services provided in a setting other than an acute care hospital;~~

~~(2) Addiction services provided in a residential treatment setting;~~

~~(3) Addiction services provided on an outpatient basis.~~

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

(1) An individual who holds a valid license, certificate, or registration issued by this state authorizing the practice of a health care profession that includes the performance of ~~the services~~ any service that is required to be certified as described in ~~divisions (A)(1) to (3)~~ of this section, regardless of whether the ~~services are~~ service is performed as part of a sole proprietorship, partnership, or group practice;

(2) An individual who provides ~~the services~~ any service that is required to be certified as described in ~~divisions (A)(1) to (3)~~ of this section as part of an employment or contractual relationship with a hospital outpatient clinic that is accredited by an accreditation agency or organization approved by the director of mental health and addiction services;

(3) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(C)(1) If the director of mental health and addiction services determines that a person or government entity is violating division (A) of this section, the director may request, in writing, that the attorney general petition the

The above boxed and initialed text was disapproved.

Date: 5-17-23

Mike DeWine

Mike DeWine, Governor

court of common pleas in the county where the person or government entity is located or providing the services to enjoin the person or government entity from engaging in the conduct that violates division (A) of this section.

(2) No person or government entity that is subject to this section is eligible to receive, for a service that is subject to this section, any federal funds, state funds, or funds administered by a board of alcohol, drug addiction, and mental health services, unless that service has been certified under section 5119.36 of the Revised Code. This limitation is in addition to the injunction that may be sought under division (C)(1) of this section for a violation of division (A) of this section.

(D) The director may adopt rules in accordance with Chapter 119. of the Revised Code to specify mental health services and alcohol and drug addiction services that are required to be certified under section 5119.36 of the Revised Code.

Sec. 5119.36. (A) A ~~community mental health services provider applicant or community addiction services provider applicant~~ person or government entity that seeks initial certification of its one or more certifiable services and supports, or that seeks to renew certification of one or more certifiable services and supports, shall submit an application to the director of mental health and addiction services. On receipt of the application, the director ~~may conduct an on-site review and shall evaluate the applicant to determine whether its certifiable services and supports satisfy~~ the standards established by divisions (B) and (C) of this section and any rules adopted under this section are satisfied or continue to be satisfied by the applicant. The director shall make the evaluation, and, if As part of the determination the director ~~conducts~~ may conduct an on-site review of the applicant. In doing so, the director may make conduct the review; in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code.

Not later than fourteen days after receipt of an initial or renewal application, the director shall inform the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the applicant's certifiable services and supports will be provided of the receipt of the application. On the board's request, the director shall provide the board with a copy of the application.

Not later than thirty days after a provider's certification ceases to be valid for any reason, including the provider's failure to renew the certification prior to expiration, the director's acceptance of the provider's surrender of the certification, or the issuance of a final order for disciplinary

action under division (G) or (M) of this section, the director shall provide notice to the applicable board of alcohol, drug addiction, and mental health services of the reason the certification ceased to be valid and the date it became invalid.

(B) Subject to section 5119.361 of the Revised Code, the (B)(1) Except as provided in division (B)(4) of this section, beginning on the effective date of this amendment, an applicant seeking initial certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B)(3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(2) Except as provided in division (B)(4) of this section, beginning October 1, 2025, an applicant seeking to renew certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B)(3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(3) For purposes of divisions (B)(1) and (2) of this section, the director shall accept appropriate accreditation of an applicant's certifiable services and supports from any of the following national accrediting organizations:

- (a) The joint commission;
- (b) The commission on accreditation of rehabilitation facilities;
- (c) The council on accreditation;
- (d) Any other national accrediting organization the director considers appropriate.

(4) The accreditation requirements of divisions (B)(1) and (2) of this section do not apply to an applicant seeking an initial or renewed certification to provide prevention services, as that term is defined in rules adopted under this section. For such applicants, accreditation is optional.

(C) In addition to meeting the accreditation standard set forth in division (B) of this section, an applicant seeking initial or renewed certification of one or more certifiable services and supports is eligible to receive the certification only if both of the following are the case, as determined by the director:

(1) The applicant has adequate staff and equipment to provide the certifiable services and supports;

(2) The department has not been notified under section 5119.367 of the Revised Code or is not otherwise aware that the applicant, or any owner or principal of the applicant, has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately

preceding the date of application.

(D)(1) Except as provided in division (D)(2) of this section, if the director determines that an applicant has paid any required certification fee, that the applicant's accreditation of certifiable services and supports is current and appropriate for the services and supports for which the applicant is seeking initial or renewed certification, that the applicant meets the requirements of division (C) of this section, and that the applicant meets any other requirements established by this section or rules adopted under it, the director shall certify the services and supports or renew the certification of the services and supports, as applicable. Except as provided in division (J) of this section, the director shall issue or renew the certification without further evaluation of the services and supports.

(2) Prior to October 1, 2025, if an applicant that seeks to renew certification of certifiable services and supports is not accredited to provide those services and supports by one or more national accrediting organizations specified in division (B)(3) of this section, the director shall conduct an evaluation of the applicant to determine whether the applicant's certifiable services and supports of a community mental health services provider applicant or community addiction services provider applicant satisfy the standards for certification. The evaluation is in addition to any on-site review conducted under division (A) of this section and shall be performed in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code. If the director determines that an applicant has paid any required certification fee, that the applicant's certifiable services and supports satisfy the standards for renewed certification and the applicant has paid the fee required by this section, that the applicant meets the requirements of division (C) of this section, and that the applicant meets any other requirements established by this section or the rules adopted under it, the director shall certify the certifiable services and supports.

~~No community mental health services provider shall be eligible to receive for its certifiable services and supports any state funds, federal funds, or funds administered by a board of alcohol, drug addiction, and mental health services, unless those certifiable services and supports have been certified by the director.~~

~~No person or government entity subject to section 5119.35 of the Revised Code or any other community addiction services provider shall be eligible to receive for its services described in that section or its other certifiable services and supports any state funds, federal funds, or funds~~

~~administered by a board of alcohol, drug addiction, and mental health services, unless those services or other certifiable services and supports have been certified by the director.~~

~~(C)~~(E) For purposes of the accreditation requirements of this section, both of the following apply:

(1) The director may review the accrediting organizations specified in division (B)(3) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, alcohol and drug addiction services, or physical health services. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director shall require a community mental health services provider and a community addiction services provider to notify the director not later than ten days after any change in the provider's accreditation status. The provider may notify the director by providing a copy of the relevant document the provider received from the accrediting organization.

(F) The director may require a community mental health services provider or a community addiction services provider to submit to the director cost reports pertaining to the provider.

(G) The director may refuse to certify certifiable services and supports, refuse to renew certification, or revoke certification if any of the following apply to an applicant for certification or the holder of the certification:

(1) The applicant or holder is not in compliance with rules adopted under this section.

(2) The applicant or holder has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the current certification period or any previous certification period.

(3) The applicant or holder has been found to be in violation of section 5119.396 of the Revised Code;

(4) The applicant or holder submits false or misleading information as part of a certification application, renewal, or investigation.

~~(D)~~(H) Proceedings initiated to deny applications to certify certifiable services and supports, to refuse to renew certification, or to revoke certification are governed by Chapter 119. of the Revised Code. If an order has been issued suspending admissions to a community addiction services provider ~~that provides overnight accommodations~~, as provided in division ~~(H)~~(M) of this section, the order remains in effect during the pendency of those proceedings.

~~(E)~~(I) The director may conduct an on-site review or otherwise evaluate