

(3) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study as may be prescribed in rules adopted by the board under section 4751.04 of the Revised Code;

(4) Satisfies any other requirements as may be prescribed in rules adopted under section 4751.04 of the Revised Code.

(D) A licensed nursing home administrator who determines to temporarily abandon the practice of nursing home administration shall notify the board in writing immediately. The former administrator may thereafter resume the practice of nursing home administration within the state upon complying with the requirements of this section regarding biennial license renewal or license reinstatement, whichever is applicable.

Sec. 4751.25. (A) Subject to section 4751.32 of the Revised Code, a health services executive license is valid for one year and may be renewed and reinstated in accordance with this section.

(B) A licensed health services executive may apply to the board of executives of long-term services and supports for a renewed license. Subject to section 4751.32 of the Revised Code, the board shall renew the license if the licensed health services executive does all of the following before the license expires:

(1) Submits to the board the completed application for license renewal in accordance with rules adopted under section 4751.04 of the Revised Code;

(2) Pays to the board the license renewal fee of ~~fifty~~ one hundred dollars;

(3) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study as may be prescribed in rules adopted under section 4751.04 of the Revised Code.

(C)(1) If a health services executive license is not renewed before it expires, the individual who held the license may apply to the board for the license's reinstatement. Subject to section 4751.32 of the Revised Code, the board shall reinstate the license if the individual does all of the following not later than one year after the date the license expired:

(a) Submits to the board the completed application for license reinstatement in accordance with rules adopted under section 4751.04 of the Revised Code;

(b) Pays to the board the license reinstatement fee specified in division (C)(2) of this section;

(c) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study as may be prescribed in rules adopted under section 4751.04 of the Revised Code.

(2) The fee to reinstate a health services executive license under division (C)(1) of this section is the following:

(a) If the individual applying for reinstatement has, at the same time, applied for reinstatement of a nursing home administrator license under division (C) of section 4751.24 of the Revised Code and paid the reinstatement fee required by division (C)(2) of that section, one hundred

dollars;

(b) If division (C)(2)(a) of this section does not apply to the individual, the sum of the following:

(i) One hundred dollars;

(ii) Twenty-five dollars for each calendar quarter that occurs during the period beginning on the date the license expired and ending on the last day of the calendar quarter during which the individual applies for license reinstatement, up to a maximum of one hundred dollars.

Sec. 4758.01. As used in this chapter:

(A) "Accredited educational institution" means an educational institution accredited by an accrediting agency accepted by the ~~Ohio board~~ department of regents ~~higher education~~.

(B)(1) "Alcohol and other drug clinical counseling principles, methods, or procedures" means an approach to ~~chemical dependency~~ substance use disorder counseling that emphasizes the chemical dependency counselor's role in systematically assisting clients through all of the following:

(a) Analyzing background and current information;

(b) Exploring possible solutions;

(c) Developing and providing a treatment plan;

(d) In the case of an independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, or chemical dependency counselor III only, diagnosing chemical dependency conditions.

(2) "Alcohol and other drug clinical counseling principles, methods, or procedures" includes counseling, assessing, consulting, and referral as they relate to ~~chemical dependency~~ substance use disorder conditions.

(C) ~~"Chemical dependency conditions" means those conditions relating to the abuse of or dependency on alcohol or other drugs that are classified in accepted nosologies, including the diagnostic and statistical manual of mental disorders and the international classification of diseases, and in editions of those nosologies published after December 23, 2002.~~

~~(D) "Chemical dependency counseling" means rendering or offering to render to individuals, groups, or the public a counseling service involving the application of alcohol and other drug clinical counseling principles, methods, or procedures to assist individuals who are abusing or dependent on alcohol or other drugs.~~

~~(E)~~ "Gambling disorder" means a persistent and recurring maladaptive gambling behavior that is classified in accepted nosologies, including the diagnostic and statistical manual of mental disorders and the international classification of diseases, and in editions of those nosologies published after September 15, 2014.

~~(F)~~(D) "Prevention services" means a comprehensive, multi-system set of individual and environmental approaches that maximizes physical health, promotes safety, and precludes the onset of behavioral health disorders.

~~(G)~~(E) Unless the context provides otherwise, "scope of practice" means the services,

methods, and techniques in which and the areas for which a person who holds a license, certificate, or endorsement under this chapter is trained and qualified.

~~(H)~~(F) "Substance abuse professional" has the same meaning as in 49 C.F.R. 40.3.

(G) "Substance use disorder conditions" means those conditions relating to the abuse of or dependency on alcohol or other drugs that are classified in accepted nosologies, including the diagnostic and statistical manual of mental disorders and the international classification of diseases, and in editions of those nosologies published after December 23, 2002.

(H) "Substance use disorder counseling" means rendering or offering to render to individuals, groups, or the public a counseling service involving the application of alcohol and other drug clinical counseling principles, methods, or procedures to assist individuals who are abusing or dependent on alcohol or other drugs.

(I) "~~U.S.~~United States department of transportation drug and alcohol testing program" means a transportation workplace drug and alcohol testing program governed by 49 C.F.R. part 40.

Sec. 4758.02. ~~(A)~~ Except as provided in section 4758.03 of the Revised Code, no person shall do any of the following:

~~(1)~~(A) Engage in or represent to the public that the person engages in ~~chemical dependency~~ substance use disorder counseling for a fee, salary, or other consideration unless the person holds a valid independent chemical dependency counselor-clinical supervisor license, independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, or chemical dependency counselor assistant certificate issued under this chapter;

~~(2)~~(B) Use the title "licensed independent chemical dependency counselor-clinical supervisor," "LICDC-CS," "licensed independent chemical dependency counselor," "LICDC," "licensed chemical dependency counselor III," "LCDC III," "licensed chemical dependency counselor II," "LCDC II," "chemical dependency counselor assistant," "CDCA," or any other title or description incorporating the ~~word-words~~ "chemical dependency counselor" or any other initials used to identify persons acting in those capacities unless currently authorized under this chapter to act in the capacity indicated by the title or initials;

~~(3)~~(C) Represent to the public that the person holds a gambling disorder endorsement unless the person holds a valid gambling disorder endorsement issued under this chapter;

~~(4)~~(D) Represent to the public that the person is a registered applicant unless the person holds a valid registered applicant certificate issued under this chapter;

~~(5)~~(E) Use the title "certified prevention consultant," "CPC," "certified prevention specialist," "CPS," "certified prevention specialist assistant," "CPSA," "registered applicant," "RA," or any other title, description, or initials used to identify persons acting in those capacities unless currently authorized under this chapter to act in the capacity indicated by the title or initials.

~~(B) No person shall engage in or represent to the public that the person engages in chemical dependency counseling as a chemical dependency counselor I.~~

Sec. 4758.03. ~~Division (A) of section~~ Section 4758.02 of the Revised Code does not apply to any of the following:

(A) An individual who holds a valid license, registration, certificate, or credentials issued under another chapter of the Revised Code while performing services within the recognized scope, standards, and ethics of the individual's profession;

(B) An individual who is a rabbi, priest, Christian Science practitioner, clergy, or member of a religious order and other individuals participating with them in pastoral counseling when the ~~chemical dependency substance use disorder~~ 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 paragraph (h) of 26 Code of Federal Regulations 1.6033-2 (2000) as amended, and the individual rendering the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary;

(C) 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 the student is not represented as an individual who holds a license or certificate issued under this chapter.

Sec. 4758.10. (A) There is hereby created the chemical dependency professionals board.

(B) The governor shall appoint all of the following voting members of the board with the advice and consent of the senate:

(1) Four individuals who hold a valid independent chemical dependency counselor-clinical supervisor license or independent chemical dependency counselor license issued under this chapter, including at least two of whom have received at least a master's degree in a field related to ~~chemical dependency substance use disorder~~ counseling from an accredited educational institution;

(2) Two individuals who hold a valid chemical dependency counselor III license issued under this chapter;

(3) One individual who holds a valid chemical dependency counselor II license issued under this chapter;

(4) Two individuals who hold a valid prevention consultant certificate or prevention specialist certificate issued under this chapter;

(5) One individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and has experience practicing in a field related to chemical dependency counseling;

(6) Two individuals who represent the public and have not practiced ~~chemical dependency substance use disorder~~ counseling or prevention services and have not been involved in the delivery of ~~chemical dependency substance use disorder~~ counseling services or prevention services. At least one of these individuals shall be at least fifty years of age. During their terms, the public members shall not practice ~~chemical dependency substance use disorder~~ counseling or prevention services or

be involved in the delivery of ~~chemical dependency~~ substance use disorder counseling services or prevention services.

(C) ~~Not later than ninety days after December 23, 2002, the~~ The director of mental health and addiction services shall appoint an individual who represents the department of mental health and addiction services to serve as an ex officio member of the chemical dependency professionals board.

(D) Not more than one-half of the voting members of the board may be ~~of the same gender or members of the same political party. At least two voting members of the board shall be of African, Native American, Hispanic, or Asian descent.~~

Sec. 4758.13. The chemical dependency professionals board shall meet to discuss matters relating to the administration and operation of the board and the regulation of the practices of ~~chemical dependency~~ substance use disorder counseling and prevention services. The board shall hold at least one regular meeting every three months. Additional meetings may be held at such times as the board determines, on the call of the chairperson, or on the written request to the executive director of three or more voting board members. If three or more voting members request a meeting, the executive director shall call a meeting, which shall be held not later than seven days after the request is received.

Seven voting members of the board constitute a quorum to conduct business. Except as provided in section 4758.32 of the Revised Code, no action shall be taken without the concurrence of at least a quorum.

At its first meeting each year, the board shall elect a chairperson from among its voting members. No member shall serve more than two consecutive terms as chairperson.

The board shall keep any records and minutes necessary to fulfill the duties established by this chapter and rules adopted under it.

Sec. 4758.20. (A) The chemical dependency professionals board shall adopt rules to establish, specify, or provide for all of the following:

(1) Fees for the purposes authorized by section 4758.21 of the Revised Code;

(2) If the board, pursuant to section 4758.221 of the Revised Code, elects to administer examinations for individuals seeking to act as substance abuse professionals in a U.S. United States department of transportation drug and alcohol testing program, the board's administration of the examinations;

(3) For the purpose of section 4758.23 of the Revised Code, codes of ethical practice and professional conduct for individuals who hold a license, certificate, or endorsement issued under this chapter;

(4) For the purpose of section 4758.24 of the Revised Code, all of the following:

(a) The documents that an individual seeking such a license, certificate, or endorsement must submit to the board;

(b) Requirements to obtain the license, certificate, or endorsement that are in addition to the

requirements established under sections 4758.39, 4758.40, 4758.41, 4758.42, 4758.43, 4758.44, 4758.45, 4758.46, 4758.47, and 4758.48 of the Revised Code. The additional requirements may include ~~preceptorships~~ internships and practicums.

(c) The period of time that an individual whose registered applicant certificate has expired must wait before applying for a new registered applicant certificate.

(5) For the purpose of section 4758.28 of the Revised Code, requirements for approval of continuing education courses of study for individuals who hold a license, certificate, or endorsement issued under this chapter;

(6) For the purpose of section 4758.30 of the Revised Code, both of the following:

(a) The intervention for and treatment of an individual holding a license, certificate, or endorsement issued under this chapter whose abilities to practice are impaired due to abuse of or dependency on alcohol or other drugs or other physical or mental condition;

~~(7)(b)~~ Requirements governing reinstatement of a suspended or revoked license, certificate, or endorsement ~~under division (C) of section 4758.30 of the Revised Code~~, including requirements for determining the amount of time an individual must wait to apply for reinstatement;

~~(8).~~

~~(7)~~ For the purpose of section 4758.31 of the Revised Code, methods of ensuring that all records the board holds pertaining to an investigation remain confidential during the investigation;

~~(9)(8)~~ Criteria for employees of the board to follow when performing their duties under division (B) of section 4758.35 of the Revised Code;

~~(10)(9)~~ For the purpose of division ~~(A)(1)(A)~~ of section 4758.39 ~~and~~ division ~~(A)(1)(A)~~ of section 4758.40, and division (A) of section 4758.41 of the Revised Code, course requirements for a degree in a behavioral science or nursing that may include specific content areas and minimum hours for course requirements;

~~(11)(10)~~ For the purpose of division ~~(A)(2)(B)~~ of section 4758.39 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have and the number of those hours that must be in clinical supervisory experience;

~~(12)(11)~~ For the purpose of division ~~(A)(3)(C)~~ of section 4758.39, division ~~(A)(3)(C)~~ of section 4758.40, division ~~(A)(3)(C)~~ of section 4758.41, and ~~divisions division (A)(3) and (D)(3)~~ of section 4758.42 of the Revised Code, both of the following:

(a) The number of hours of training in ~~chemical dependency~~ substance use disorders an individual must have;

(b) Training requirements for ~~chemical dependency~~ substance use disorders that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training.

~~(13)(12)~~ For the purpose of division ~~(A)(2)(B)~~ of section 4758.40, division ~~(A)(2)(B)~~ of section 4758.41, and division (A)(2) of section 4758.42 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have;

~~(14) For the purpose of division (B)(2)(b) of section 4758.40 and division (B)(2) of section 4758.41 of the Revised Code, requirements for the forty clock hours of training on the version of the diagnostic and statistical manual of mental disorders that is current at the time of the training, including the number of the clock hours that must be on substance related disorders, the number of the clock hours that must be on chemical dependency conditions, and the number of the clock hours that must be on awareness of other mental and emotional disorders;~~

~~(15)(13)~~ For the purpose of division ~~(A)(1)~~ (A) of section 4758.41 of the Revised Code, course requirements for a degree in a behavioral science or nursing;

~~(16)(14)~~ For the purpose of ~~division (C)(2)~~ of section 4758.42 of the Revised Code, education both of the following:

(a) Education requirements for chemical dependency substance use disorders;

~~(17) For the purpose of division (C)(3) of section 4758.42 of the Revised Code, requirements~~
(b) Requirements for programs that provide practicum experience in chemical dependency;

(18) substance use disorders.

~~(15)~~ For the purpose of ~~division (A)~~ of section 4758.43 of the Revised Code, both of the following:

(a) The number of hours of training in chemical dependency substance use disorder counseling that an individual must have;

(b) Training requirements for chemical dependency substance use disorder counseling that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training.

~~(19)(16)~~ For the purpose of ~~division (A)(1)~~ of section 4758.44 of the Revised Code, the both of the following:

(a) The number of hours of compensated work experience in prevention services that an individual must have and the number of those hours that must be in administering or supervising the services;

~~(20) For the purpose of division (A)(2) of section 4758.44 of the Revised Code, the (b) The~~
field of study in which an individual must obtain at least a bachelor's degree;

~~(21).~~

~~(17)~~ For the purpose of division ~~(A)(3)(C)~~ of section 4758.44, division ~~(A)(3)(C)~~ of section 4758.45, and division (D) of section 4758.46 of the Revised Code, both of the following:

(a) The number of hours of prevention-related education that an individual must have;

(b) Requirements for prevention-related education.

~~(22)(18)~~ For the purpose of division ~~(A)(4)(D)~~ of section 4758.44 of the Revised Code, the number of hours of administrative or supervisory education that an individual must have;

~~(23)(19)~~ For the purpose of ~~division (A)(1)~~ of section 4758.45 of the Revised Code, the both of the following:

(a) The number of hours of compensated or volunteer work, field placement, intern, or

practicum experience in prevention services that an individual must have and the number of those hours that must be in planning or delivering the services;

~~(24) For the purpose of division (A)(2) of section 4758.45 of the Revised Code, the (b) The~~ field of study in which an individual must obtain at least an associate's degree;

~~(25).~~

(20) For the purpose of division (C) of section 4758.46 of the Revised Code, the number of hours of compensated or volunteer work, field placement, intern, or practicum experience in prevention services that an individual must have;

~~(26)~~(21) Standards for the one hundred hours of compensated work or supervised internship in gambling disorder direct clinical experience required by division (B)(2) of section 4758.48 of the Revised Code;

~~(27)~~(22) For the purpose of section 4758.51 of the Revised Code, ~~continuing both of the~~ following:

(a) Continuing education requirements for individuals who hold a license, certificate, or endorsement issued under this chapter;

~~(28) For the purpose of section 4758.51 of the Revised Code, the (b) The~~ number of hours of continuing education that an individual must complete to have an expired license, certificate, or endorsement restored under section 4758.26 of the Revised Code;

~~(29).~~

(23) For the purpose of divisions (A) and (B) of section 4758.52 of the Revised Code, training requirements for ~~chemical dependency substance use disorder~~ counseling;

~~(30)~~(24) The duties, which may differ, of all of the following:

(a) An independent chemical dependency counselor-clinical supervisor licensed under this chapter who supervises a chemical dependency counselor III under section 4758.56 of the Revised Code;

(b) An independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, or chemical dependency counselor III licensed under this chapter who supervises a chemical dependency counselor assistant under section 4758.59 of the Revised Code;

(c) A prevention consultant or prevention specialist certified under this chapter who supervises a prevention specialist assistant or registered applicant under section 4758.61 of the Revised Code.

~~(31)~~(25) The duties of an independent chemical dependency counselor licensed under this chapter who holds the gambling disorder endorsement who supervises a chemical dependency counselor III with the gambling disorder endorsement under section 4758.62 of the Revised Code.

~~(32)~~(26) Anything else the board considers necessary to administer this chapter.

(B) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code and any applicable federal laws and regulations.

(C) When it adopts rules under this section, the board may consider standards established by any national association or other organization representing the interests of those involved in ~~chemical dependency substance use disorder~~ counseling or prevention services.

Sec. 4758.22. The chemical dependency professionals board shall prepare, cause to be prepared, or procure the use of, and grade, cause to be graded, or procure the grading of, examinations to determine the competence of individuals seeking an independent chemical dependency counselor-clinical supervisor license, independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, prevention consultant certificate, or prevention specialist certificate. The board may develop the examinations or use examinations prepared by state or national organizations that represent the interests of those involved in ~~chemical dependency substance use disorder~~ counseling or prevention services. The board shall conduct examinations at least twice each year and shall determine the level of competence necessary for a passing score.

An individual may not sit for an examination administered pursuant to this section unless the individual meets the requirements to obtain the license or certificate the individual seeks, other than the requirement to have passed the examination, and pays the fee established under section 4758.21 of the Revised Code. An individual who is denied admission to the examination may appeal the denial in accordance with Chapter 119. of the Revised Code.

Sec. 4758.221. In accordance with rules adopted under section 4758.20 of the Revised Code, the chemical dependency professionals board may administer examinations for individuals seeking to act as substance abuse professionals in a ~~U.S.~~United States department of transportation drug and alcohol testing program. If it elects to administer the examinations, the board shall use examinations that comprehensively cover all the elements of substance abuse professional qualification training listed in 49 C.F.R. 40.281(c)(1) and are prepared by a nationally recognized professional or training organization that represents the interests of those involved in ~~chemical dependency substance use disorder~~ counseling services.

Sec. 4758.23. (A) In rules adopted under section 4758.20 of the Revised Code, the chemical dependency professionals board shall establish codes of ethical practice and professional conduct for the following:

(1) Individuals who hold a valid independent chemical dependency counselor-clinical supervisor license, independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, or chemical dependency counselor assistant certificate issued under this chapter;

(2) Individuals who hold a valid prevention consultant certificate, prevention specialist certificate, prevention specialist assistant certificate, or registered applicant certificate issued under this chapter;

(3) Individuals who hold a valid gambling disorder endorsement.

(B) The codes for individuals identified under division ~~(A)(1)~~(A) of this section shall define

unprofessional conduct, which shall include engaging in ~~a dual relationship~~ multiple relationships with a client, former client, consumer, or former consumer; committing an act of sexual abuse, misconduct, or exploitation of a client, former client, consumer, or former consumer; and, except as permitted by law, violating client or consumer confidentiality.

~~(C) The codes for individuals identified under division (A)(1)~~ divisions (A)(1) and (2) of this section may be based on any codes of ethical practice and professional conduct developed by national associations or other organizations representing the interests of those involved in ~~chemical dependency substance use disorder counseling or prevention services~~. ~~The codes for individuals identified under division (A)(2) of this section may be based on any codes of ethical practice and professional conduct developed by national associations or other organizations representing the interests of those involved in prevention services.~~ The board may establish standards in the codes that are more stringent than those established by the national associations or other organizations.

Sec. 4758.24. (A) The chemical dependency professionals board shall issue a license, certificate, or endorsement under this chapter to an individual who meets all of the following requirements:

~~(1) Except as provided in section 4758.241 of the Revised Code, submits~~ Submits a properly completed application and all other documentation specified in rules adopted under section 4758.20 of the Revised Code;

~~(2) Except as provided in section 4758.241 of the Revised Code, pays~~ Pays the fee established under section 4758.21 of the Revised Code for the license, certificate, or endorsement that the individual seeks;

(3) Meets the requirements to obtain the license, certificate, or endorsement that the individual seeks as specified in section 4758.39, 4758.40, 4758.41, 4758.42, 4758.43, 4758.44, 4758.45, 4758.46, 4758.47, or 4758.48 of the Revised Code;

(4) Meets any additional requirements specified in rules adopted under section 4758.20 of the Revised Code to obtain the license, certificate, or endorsement that the individual seeks.

(B) The board shall not ~~do either of the following~~:

~~(1) Issue a certificate to practice as a chemical dependency counselor I;~~

~~(2) Issue~~ issue a new registered applicant certificate to an individual whose previous registered applicant certificate has been expired for less than the period of time specified in rules adopted under section 4758.20 of the Revised Code.

Sec. 4758.27. The chemical dependency professionals board shall not renew or restore under section 4758.26 of the Revised Code ~~either of the following~~:

~~(A) A certificate to practice as a chemical dependency counselor I;~~

~~(B) A~~ a registered applicant certificate.

Sec. 4758.30. (A) The chemical dependency professionals board, in accordance with Chapter 119. of the Revised Code, may, except as provided in division (B) of this section, refuse to issue a license, certificate, or endorsement applied for under this chapter; refuse to renew or restore a

license, certificate, or endorsement issued under this chapter; suspend, revoke, or otherwise restrict a license, certificate, or endorsement issued under this chapter; or reprimand an individual holding a license, certificate, or endorsement issued under this chapter. These actions may be taken by the board regarding the applicant for a license, certificate, or endorsement or the individual holding a license, certificate, or endorsement for one or more of the following reasons:

- (1) Violation of any provision of this chapter or rules adopted under it;
- (2) Knowingly making a false statement on an application for a license, certificate, or endorsement or for renewal, restoration, or reinstatement of a license, certificate, or endorsement;
- (3) Acceptance of a commission or rebate for referring an individual to a person who holds a license or certificate issued by, or who is registered with, an entity of state government, including persons practicing ~~chemical dependency-substance use disorder~~ counseling, prevention services, gambling disorder counseling, or fields related to ~~chemical dependency counseling, prevention services, or gambling disorder counseling~~any of the foregoing;
- (4) Conviction in this state or any other state-jurisdiction of any crime that is a felony in this state;
- (5) Conviction in this state or any other state-jurisdiction of a misdemeanor committed in the course of practice as an independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, chemical dependency counselor II, chemical dependency counselor assistant, prevention consultant, gambling disorder endorsee, prevention specialist, prevention specialist assistant, or registered applicant;
- (6) Inability to practice as an independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, chemical dependency counselor II, chemical dependency counselor assistant, gambling disorder endorsee, prevention consultant, prevention specialist, prevention specialist assistant, or registered applicant due to abuse of or dependency on alcohol or other drugs or ~~other physical or by reason of mental condition~~illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (7) Practicing outside the individual's scope of practice;
- (8) Practicing without complying with the supervision requirements specified under section 4758.56, 4758.59, 4758.61, or 4758.62 of the Revised Code;
- (9) Violation of the code of ethical practice and professional conduct for ~~chemical dependency-substance use disorder~~ counseling, prevention services, or gambling disorder counseling adopted by the board pursuant to section 4758.23 of the Revised Code;
- (10) Revocation of a license, certificate, or endorsement or voluntary surrender of a license, certificate, or endorsement in another state or jurisdiction for an offense that would be a violation of this chapter.

(B) The board shall not refuse to issue a license, certificate, or endorsement to an applicant because of a criminal conviction unless the refusal is in accordance with section 9.79 of the Revised

Code.

(C) An individual whose license, certificate, or endorsement has been suspended or revoked under this section may apply to the board for reinstatement after an amount of time the board shall determine in accordance with rules adopted under section 4758.20 of the Revised Code. The board may accept or refuse an application for reinstatement. The board may require an examination for reinstatement of a license, certificate, or endorsement that has been suspended or revoked.

Sec. 4758.31. The chemical dependency professionals board shall investigate alleged violations of this chapter or the rules adopted under it and alleged irregularities in the delivery of ~~chemical dependency-substance use disorder~~ counseling services, prevention services, or gambling disorder counseling services by individuals who hold a license, certificate, or endorsement issued under this chapter. As part of an investigation, the board may issue subpoenas, examine witnesses, and administer oaths.

The board may receive any information necessary to conduct an investigation under this section that has been obtained in accordance with federal laws and regulations. If the board is investigating the provision of ~~chemical dependency-substance use disorder~~ counseling services or gambling disorder counseling 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.

The board shall ensure, in accordance with rules adopted under section 4758.20 of the Revised Code, that all records it holds pertaining to an investigation remain confidential during the investigation. After the investigation, the records are public records except as otherwise provided by federal or state law.

Sec. 4758.35. (A) An individual seeking a license, certificate, or endorsement issued under this chapter shall ~~file with~~ submit an application to the chemical dependency professionals board ~~a written application on a form prescribed by~~ in a manner that the board ~~shall prescribe~~. Each ~~form application~~ shall state that a false statement made on the ~~form application~~ is the crime of falsification under section 2921.13 of the Revised Code.

(B) The board shall require an individual or individuals employed by the board under section 4758.15 of the Revised Code to do both of the following in accordance with criteria established by rules adopted under section 4758.20 of the Revised Code:

- (1) Receive and review all applications submitted to the board;
- (2) Submit to the board all applications the individual or individuals recommend the board review based on the criteria established in the rules.

(C) The board shall review all applications submitted to the board pursuant to division (B)(2) of this section.

Sec. 4758.36. As part of the review process under division (C) of section 4758.35 of the Revised Code of an application submitted by an applicant whose education or experience in ~~chemical dependency-substance use disorder~~ counseling, prevention services, or gambling disorder

counseling was obtained outside the United States, or whose education and experience both were obtained outside the United States, the chemical dependency professionals board shall determine whether the applicant's command of the English language and education or experience meet the standards required by this chapter and rules adopted under it.

Sec. 4758.39. An individual seeking an independent chemical dependency counselor-clinical supervisor license shall meet ~~the requirements of division (A) or (B) of this section.~~

~~(A) To meet the requirements of this division, an individual must meet~~ all of the following requirements:

~~(1)(A)~~ Hold from an accredited educational institution at least a master's degree in either a behavioral science or nursing that meets the course requirements specified in rules adopted under section 4758.20 of the Revised Code;

~~(2)(B)~~ Have not less than the number of hours specified in rules adopted under section 4758.20 of the Revised Code of compensated work or supervised internship experience, including at least the number of hours specified in those rules of clinical supervisory experience, in any of the following, not less than twenty per cent of which are in chemical dependency substance use disorder counseling:

~~(a) Chemical dependency services, substance abuse services, or both types of (1) Substance use disorder~~ services;

~~(b)(2)~~ The practice of psychology, as defined in section 4732.01 of the Revised Code;

~~(c)(3)~~ The practice of professional counseling, the practice of social work, or the practice of marriage and family therapy, all as defined in section 4757.01 of the Revised Code.

~~(3)(C)~~ Have a minimum of the number of hours specified in rules adopted under section 4758.20 of the Revised Code of training in chemical dependency substance use disorders that meets the requirements specified in those rules;

~~(4)(D)~~ Unless the individual holds a valid license, registration, certificate, or credentials issued under another chapter of the Revised Code that authorizes the individual to engage in a profession whose scope of practice includes the clinical supervision of chemical dependency substance use disorder counseling, ~~chemical dependency substance use disorder~~ counseling, and diagnosing and treating chemical dependency substance use disorder conditions, pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as an independent chemical dependency counselor-clinical supervisor.

~~(B) To meet the requirement of this division, an individual must hold, on March 22, 2013, a valid independent chemical dependency counselor license.~~

Sec. 4758.40. An individual seeking an independent chemical dependency counselor license shall ~~meet the requirements of division (A) or (B) of this section.~~

~~(A) To meet the requirements of this division, an individual must~~ meet all of the following requirements:

(1)(A) Hold from an accredited educational institution at least a master's degree in a behavioral science or nursing that meets the course requirements specified in rules adopted under section 4758.20 of the Revised Code;

(2)(B) Have not less than the number of hours specified in rules adopted under section 4758.20 of the Revised Code of compensated work or supervised internship experience in any of the following, not less than twenty per cent of which are in chemical dependency substance use disorder counseling:

(a) ~~Chemical dependency services, substance abuse services, or both types of~~ (1) Substance use disorder services;

(b)(2) The practice of psychology, as defined in section 4732.01 of the Revised Code;

(c)(3) The practice of professional counseling, the practice of social work, or the practice of marriage and family therapy, all as defined in section 4757.01 of the Revised Code.

(3)(C) Have a minimum of the number of hours specified in rules adopted under section 4758.20 of the Revised Code of training in chemical dependency substance use disorders that meets the requirements specified in those rules;

(4)(D) Unless the individual holds a valid license, registration, certificate, or credentials issued under another chapter of the Revised Code that authorizes the individual to engage in a profession whose scope of practice includes chemical dependency substance use disorder counseling and diagnosing and treating chemical dependency substance use disorder conditions, pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as an independent chemical dependency counselor.

(B) ~~To meet the requirements of this division, an individual must meet both of the following requirements:~~

(1) ~~Hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a certified chemical dependency counselor III or certified chemical dependency counselor III E;~~

(2) ~~Meet one of the following requirements:~~

(a) ~~Hold the degree described in division (A)(1) of this section;~~

(b) ~~Have held a chemical dependency counselor III, II, or I certificate for at least eight consecutive years and have not less than forty clock hours of training on the version of the diagnostic and statistical manual of mental disorders that is current at the time of the training. The training must meet the requirements specified in rules adopted under section 4758.20 of the Revised Code. An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, a psychologist licensed under Chapter 4732. of the Revised Code, or a licensed professional clinical counselor or independent social worker licensed under Chapter 4757. of the Revised Code may provide any portion of the training. An independent chemical dependency counselor licensed under this chapter who holds the degree described in division (A)(1) of this section may provide the portion of the training on chemical dependency~~

conditions.

Sec. 4758.41. An individual seeking a chemical dependency counselor III license shall ~~meet the requirements of division (A), (B), or (C) of this section.~~

~~(A) To meet the requirements of this division, an individual must~~ meet all of the following requirements:

~~(1)(A)~~ Hold from an accredited educational institution at least a bachelor's degree in a behavioral science or nursing that meets the course requirements specified in rules adopted under section 4758.20 of the Revised Code;

~~(2)(B)~~ Have not less than the number of hours specified in rules adopted under section 4758.20 of the Revised Code of compensated work or supervised internship experience in any of the following, not less than twenty per cent of which are in chemical dependency substance use disorder counseling:

~~(a) Chemical dependency services, substance abuse services, or both types of~~ (1) Substance use disorder services;

~~(b)(2)~~ The practice of psychology, as defined in section 4732.01 of the Revised Code;

~~(c)(3)~~ The practice of professional counseling, the practice of social work, or the practice of marriage and family therapy, all as defined in section 4757.01 of the Revised Code.

~~(3)(C)~~ Have a minimum of the number of hours specified in rules adopted under section 4758.20 of the Revised Code of training in chemical dependency substance use disorders that meets the requirements specified in those rules;

~~(4)(D)~~ Unless the individual holds a valid license, registration, certificate, or credentials issued under another chapter of the Revised Code that authorizes the individual to engage in a profession whose scope of practice includes chemical dependency substance use disorder counseling and diagnosing and treating chemical dependency substance use disorder conditions, pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as a chemical dependency counselor III.

~~(B) To meet the requirements of this division, an individual must meet both of the following requirements:~~

~~(1) Hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a certified chemical dependency counselor III or certified chemical dependency counselor III-E;~~

~~(2) Have not less than forty clock hours of training on the version of the diagnostic and statistical manual of mental disorders that is current at the time of the training. The training must meet the requirements specified in rules adopted under section 4758.20 of the Revised Code. An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, a psychologist licensed under Chapter 4732. of the Revised Code, or a licensed professional clinical counselor or independent social worker licensed under Chapter 4757. of the Revised Code may provide any portion of the training. An independent chemical~~

~~dependency counselor licensed under this chapter who holds the degree described in division (A)(1) of section 4758.40 of the Revised Code may provide the portion of the training on chemical dependency conditions.~~

~~(C) To meet the requirements of this division, an individual must meet all of the following requirements:~~

~~(1) Hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a certified chemical dependency counselor II;~~

~~(2) Meet the requirement of division (B)(2) of this section;~~

~~(3) Hold a bachelor's degree in a behavioral science.~~

Sec. 4758.42. An individual seeking a chemical dependency counselor II license shall meet the requirements of division (A), or (B), or (C) of this section ~~or, until three years after the effective date of this amendment, division (A), (B), (C), or (D) of this section.~~

(A) To meet the requirements of this division, an individual must meet all of the following requirements:

(1) Hold from an accredited educational institution an associate's degree in a behavioral science or nursing or a bachelor's degree in any field;

(2) Have not less than the number of hours specified in rules adopted under section 4758.20 of the Revised Code of compensated work or supervised internship experience in any of the following, not less than twenty per cent of which are in chemical dependency substance use disorder counseling:

(a) ~~Chemical dependency services, substance abuse services, or both types of~~ Substance use disorder services;

(b) The practice of psychology, as defined in section 4732.01 of the Revised Code;

(c) The practice of professional counseling, the practice of social work, or the practice of marriage and family therapy, all as defined in section 4757.01 of the Revised Code.

(3) Have a minimum of the number of hours specified in rules adopted under section 4758.20 of the Revised Code of training in chemical dependency substance use disorders that meets the requirements specified in those rules;

(4) Pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as a chemical dependency counselor II.

~~(B) To meet the requirement of this division, an individual must hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a certified chemical dependency counselor II.~~

~~(C) To meet the requirements of this division, an individual must meet all of the following requirements:~~

(1) Hold from an accredited educational institution an associate's or bachelor's degree in either of the following with a specialization in chemical dependency substance use disorder

counseling:

(a) A behavioral science;

(b) Nursing.

(2) Have a minimum of one hundred eighty hours of education in ~~chemical dependency~~ substance use disorders that meets the requirements specified in rules adopted under section 4758.20 of the Revised Code;

(3) While holding a valid chemical dependency counselor assistant certificate, have successfully completed, over the course of not more than any two semesters, at least two hundred forty hours of supervised practicum experience in ~~chemical dependency~~ substance use disorder treatment through a program that meets all of the following requirements:

(a) The program includes at least two hours per week of supervised practicum experience;

(b) The program provides intensive outpatient treatment or a higher level of care, or another level of care if specified in rules adopted under section 4758.20 of the Revised Code;

(c) The program meets other requirements specified in rules adopted under that section.

(4) Have at least one thousand hours of compensated work experience as a chemical dependency counselor assistant;

(5) Provide to the chemical dependency professionals board a written recommendation from an individual who supervised the individual's practice of ~~chemical dependency~~ substance use disorder counseling as a chemical dependency counselor assistant as required by division (B) of section 4758.59 of the Revised Code;

(6) Pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as a chemical dependency counselor II.

~~(D) To meet the requirements of this division, an individual must meet all of the following requirements:~~

~~(1) Since at least December 31, 2008, continuously have done both of the following:~~

~~(a) Held a valid chemical dependency counselor assistant certificate;~~

~~(b) Practiced chemical dependency counseling while under supervision as required by division (B) of section 4758.59 of the Revised Code.~~

~~(2) Provide to the board a written recommendation from an individual who supervised the individual's practice of chemical dependency counseling as a chemical dependency counselor assistant;~~

~~(3) Have a minimum of the number of hours specified in rules adopted under section 4758.20 of the Revised Code of training in chemical dependency that meets the requirements specified in those rules;~~

~~(4) Pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as a chemical dependency counselor II.~~

Sec. 4758.43. An individual seeking a chemical dependency counselor assistant certificate shall meet either of the following requirements:

~~(A)~~

~~Have~~ have at least the number of hours specified in rules adopted under section 4758.20 of the Revised Code of training in ~~chemical dependency~~ substance use disorder counseling that meets the requirements specified in those rules;

~~(B) Hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a registered candidate.~~

Sec. 4758.44. An individual seeking a prevention consultant certificate shall ~~meet the requirements of division (A) or (B) of this section.~~

~~(A) To meet the requirements of this division, an individual must meet all of the following requirements:~~

~~(1)~~(A) Have at least the number of hours specified in rules adopted under section 4758.20 of the Revised Code of compensated work experience in prevention services, including at least the number of hours specified in those rules of administering or supervising the services;

~~(2)~~(B) Hold from an accredited educational institution at least a bachelor's degree in a field of study specified in rules adopted under section 4758.20 of the Revised Code;

~~(3)~~(C) Have at least the number of hours specified in rules adopted under section 4758.20 of the Revised Code of prevention-related education that meets the requirements specified in those rules;

~~(4)~~(D) Have at least the number of hours specified in rules adopted under section 4758.20 of the Revised Code of administrative or supervisory education;

~~(5)~~(E) Pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as a prevention consultant.

~~(B) To meet the requirement of this division, an individual must hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a certified prevention specialist II.~~

Sec. 4758.45. An individual seeking a prevention specialist certificate shall ~~meet the requirements of division (A) or (B) of this section.~~

~~(A) To meet the requirements of this division, an individual must meet all of the following requirements:~~

~~(1)~~(A) Have at least the number of hours specified in rules adopted under section 4758.20 of the Revised Code of compensated or volunteer work, field placement, intern, or practicum experience in prevention services, including at least the number of hours specified in those rules of planning or delivering the services;

~~(2)~~(B) Hold from an accredited educational institution at least an associate's degree in a field of study specified in rules adopted under section 4758.20 of the Revised Code;

~~(3)~~(C) Have at least the number of hours specified in rules adopted under section 4758.20 of the Revised Code of prevention-related education that meets the requirements specified in those rules;

(4)(D) Pass one or more examinations administered pursuant to section 4758.22 of the Revised Code for the purpose of determining competence to practice as a prevention specialist.

~~(B) To meet the requirement of this division, an individual must hold, on December 23, 2002, a certificate or credentials that were accepted under former section 3793.07 of the Revised Code as authority to practice as a certified prevention specialist I.~~

Sec. 4758.52. (A) Except as provided in division (C) of this section, each individual who holds an initial chemical dependency counselor assistant certificate shall complete, during the first twelve months that the initial certificate is in effect, at least thirty additional hours of training in chemical dependency substance use disorder counseling that meets the requirements specified in rules adopted under section 4758.20 of the Revised Code as a condition of having the initial certificate renewed.

(B) Except as provided in division (C) of this section, an individual whose initial chemical dependency counselor assistant certificate has expired shall complete at least thirty additional hours of training in chemical dependency substance use disorder counseling that meets the requirements specified in rules adopted under section 4758.20 of the Revised Code as a condition of receiving a restored chemical dependency counselor assistant certificate.

(C) The chemical dependency professionals board may waive the additional training requirement established under this section for individuals who are unable to fulfill the requirement because of military service, illness, residence outside the United States, or any other reason the board considers acceptable.

Sec. 4758.54. In addition to practicing chemical dependency substance use disorder counseling, an individual holding a valid independent chemical dependency counselor-clinical supervisor license may do all of the following:

- (A) Diagnose and treat chemical dependency substance use disorder conditions;
- (B) Perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse of and dependency on alcohol and other drugs;
- (C) Provide clinical supervision of chemical dependency substance use disorder counseling;
- (D) Refer individuals with ~~nonchemical dependency non-substance use disorder~~ conditions to appropriate sources of help.

Sec. 4758.55. In addition to practicing chemical dependency substance use disorder counseling, an individual holding a valid independent chemical dependency counselor license may do all of the following:

- (A) Diagnose and treat chemical dependency substance use disorder conditions;
- (B) Perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse of and dependency on alcohol and other drugs;
- (C) Provide clinical supervision of chemical dependency substance use disorder counseling

under the supervision of any of the following:

(1) An independent chemical dependency counselor-clinical supervisor licensed under this chapter;

(2) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(3) A psychologist licensed under Chapter 4732. of the Revised Code;

(4) A registered nurse licensed under Chapter 4723. of the Revised Code or licensed professional clinical counselor, independent social worker, or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code if such supervision is consistent with the scope of practice of the registered nurse, licensed professional clinical counselor, independent social worker, or independent marriage and family therapist;

(5) An individual authorized to practice as a certified nurse practitioner or clinical nurse specialist under Chapter 4723. of the Revised Code.

(D) Refer individuals with ~~nonchemical dependency~~ non-substance use disorder conditions to appropriate sources of help.

Sec. 4758.56. (A) In addition to practicing ~~chemical dependency~~ substance use disorder counseling, an individual holding a valid chemical dependency counselor III license may do all of the following:

(1) Diagnose ~~chemical dependency~~ substance use disorder conditions under the supervision of any of the professionals listed in section 4758.561 of the Revised Code;

(2) Treat ~~chemical dependency~~ substance use disorder conditions;

(3) Perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse of and dependency on alcohol and other drugs;

(4) Provide clinical supervision of ~~chemical dependency~~ substance use disorder counseling under the supervision of any of the professionals listed in section 4758.561 of the Revised Code;

(5) Refer individuals with ~~nonchemical dependency~~ non-substance use disorder conditions to appropriate sources of help.

(B) A chemical dependency counselor III may not practice as an individual practitioner.

Sec. 4758.57. (A) In addition to practicing ~~chemical dependency~~ substance use disorder counseling, an individual holding a valid chemical dependency counselor II license may do both of the following:

(1) Perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse of and dependency on alcohol and other drugs;

(2) Refer individuals with ~~nonchemical dependency~~ non-substance use disorder conditions to appropriate sources of help.

(B) A chemical dependency counselor II may not practice as an individual practitioner.

Sec. 4758.59. (A) Subject to division (B) of this section, an individual holding a valid chemical dependency counselor assistant certificate may do both of the following in addition to practicing chemical dependency counseling:

(1) Perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse of or dependency on alcohol and other drugs;

(2) Refer individuals with ~~nonchemical dependency~~ non-substance use disorder conditions to appropriate sources of help.

(B) An individual holding a valid chemical dependency counselor assistant certificate may practice ~~chemical dependency~~ substance use disorder counseling and perform the tasks specified in division (A) of this section only while under the supervision of any of the following:

(1) An independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, or chemical dependency counselor III licensed under this chapter;

(2) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(3) A psychologist licensed under Chapter 4732. of the Revised Code;

(4) A registered nurse licensed under Chapter 4723. of the Revised Code or licensed professional clinical counselor, independent social worker, or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code if such supervision is consistent with the scope of practice of the registered nurse, licensed professional clinical counselor, independent social worker, or independent marriage and family therapist;

(5) An individual authorized to practice as a certified nurse practitioner or clinical nurse specialist under Chapter 4723. of the Revised Code.

(C) A chemical dependency counselor assistant may not practice as an individual practitioner.

Sec. 4758.99. Whoever violates ~~division (A) or (B) of~~ section 4758.02 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the third degree.

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 substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may 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, shall refer any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual 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 shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also 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 approved under section 4731.251 of the Revised Code.

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 4731.251 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)(1) If either of the following circumstances occur, the secretary and supervising member may recommend that the board suspend an individual's license or permit without a prior hearing:

- (a) The secretary and supervising member determine both of the following:
 - (i) That there is clear and convincing evidence that an individual has violated division (A) of this section;
 - (ii) That the individual's continued practice presents a danger of immediate and serious harm to the public.
- (b) The board receives verifiable information that a licensee has been charged in any state or

federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (A) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, 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 serve a written order of suspension in accordance with 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.

(3) Any summary suspension imposed under ~~this division~~ (H)(2) of this section is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code. The

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, trafficking in persons, 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 serve the individual subject to the suspension in accordance with 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 does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4759.064 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

(5) 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. 4759.99. Whoever violates section 4759.02 of the Revised Code is guilty of a minor misdemeanor. If the offender has been previously convicted once of a violation of ~~the section 4759.02 of the Revised Code~~, then the ~~violation-offender~~ is guilty of a misdemeanor of the fourth degree. If the offender has been previously convicted more than once of a violation of ~~the section 4759.02 of the Revised Code~~, then the ~~violation-offender~~ is guilty of a misdemeanor of the first degree.

Whoever violates division (B)(1) or (2) of section 4759.14 of the Revised Code is guilty of ~~failure to report criminal conduct or sexual misconduct~~, a misdemeanor of the fourth degree. ~~If the offender has previously been convicted of a violation of this division, the failure to report on a first offense; on each subsequent offense, the offender is guilty of~~ a misdemeanor of the first degree.

Whoever violates division (B) of section 4759.05 of the Revised Code is guilty of ~~disclosing confidential investigatory information~~, a misdemeanor of the first degree.

Sec. 4760.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as an anesthesiologist assistant to, or may revoke the license held by, 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 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 substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may 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, shall refer any individual who holds, or has applied for, a license issued under this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual 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 shall report the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also 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 approved under section 4731.251 of the Revised Code.

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 4731.251 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)(1) If either of the following circumstances occur, the secretary and supervising member may recommend that the board suspend the individual's license without a prior hearing:

(a) 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.

(b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, 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 serve a written order of suspension in accordance with 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.

(3) A summary suspension imposed under ~~this division~~ (H)(2) of this section is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code. ~~The~~

The board shall issue its final adjudicative order within ~~sixty-seventy-five~~ days after completion of its hearing. Failure to issue the order within ~~sixty-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 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 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, trafficking in persons, 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 serve the individual subject to the suspension in accordance with 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 does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4760.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4760.99. (A) Whoever violates section 4760.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

(B)(1) Whoever violates division (B)(1), (C)(1), (C)(2), (D), or (E) of section 4760.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4760.16 of the Revised Code is guilty of ~~failure to report criminal conduct or sexual misconduct, a~~ misdemeanor of the fourth degree. ~~If the offender has previously been convicted of a violation of this division, the failure to~~

report on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4760.14 of the Revised Code is guilty of ~~disclosing confidential investigatory information~~, a misdemeanor of the first degree.

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 substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may 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, shall refer any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may

compel the individual 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 shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also 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 approved under section 4731.251 of the Revised Code.

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 4731.251 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)(1) If either of the following circumstances occur, the secretary and supervising member may recommend that the board suspend an individual's license or permit without a prior hearing:

- (a) The secretary and supervising member determine both of the following:
 - (i) That there is clear and convincing evidence that an individual has violated division (A) of this section;
 - (ii) That the individual's continued practice presents a danger of immediate and serious harm to the public.
- (b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (A) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, 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 serve a written order of suspension in accordance with 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.

(3) Any summary suspension imposed under ~~this division~~ (H)(2) of this section is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code. The

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, trafficking in persons, 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 serve the individual subject to the suspension in accordance with 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 does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4761.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

(5) 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. 4761.99. Whoever violates division (A) of section 4761.10 of the Revised Code is guilty of a minor misdemeanor on a first offense. On a second offense, the person is guilty of a misdemeanor of the fourth degree. On each subsequent offense, the person is guilty of a misdemeanor of the first degree.

Whoever violates division (B)(2) or (C) of section 4761.14 of the Revised Code is guilty of ~~failure to report criminal conduct or sexual misconduct,~~ a misdemeanor of the fourth degree. ~~If the~~

~~offender has previously been convicted of a violation of this division, the failure to report; on each subsequent offense, the person is guilty of a misdemeanor of the first degree.~~

Whoever violates division (E)(5) of section 4761.03 of the Revised Code is guilty of ~~disclosing confidential investigatory information~~, a misdemeanor of the first degree.

Sec. 4762.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist to, or may revoke the license held by, 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, 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 substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may 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, shall refer any individual who holds, or has applied for, a license under this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual 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 shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also 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 approved under section 4731.251 of the Revised Code.

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 4731.251 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)(1) If either of the following circumstances occur, the secretary and supervising member may recommend that the board suspend an individual's license to practice without a prior hearing:

(a) The secretary and supervising member determine both of the following:

(i) That there is clear and convincing evidence that an oriental medicine practitioner or acupuncturist has violated division (B) of this section;

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

(b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, 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 serve a written order of suspension in accordance with 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.

(3) A summary suspension imposed under ~~this division (H)(2) of this section is not a final~~ appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code. The-

The board shall issue its final adjudicative order within ~~sixty-seventy-five~~ days after completion of its hearing. Failure to issue the order within ~~sixty-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 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, trafficking in persons, 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 serve the individual subject to the suspension in accordance with 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 does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4762.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4762.99. (A) Whoever violates section 4762.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

(B)(1) Whoever violates division (B)(1), (C)(1), (C)(2), (D), or (E) of section 4762.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4762.16 of the Revised Code is guilty of ~~failure to report criminal conduct or sexual misconduct, a~~ misdemeanor of the fourth degree. ~~If the offender has previously been convicted of a violation of this division, the failure to report~~ on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4762.14 of the Revised Code is guilty of

~~disclosing confidential investigatory information~~, a misdemeanor of the first degree.

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 (E) 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;

(26) Procedures by which the holder of a certificate to practice who intends to retire may request the emergency medical service organization for which the holder performs services to direct the board to designate the holder as "retired" in the board's records when the holder retires.

(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 issue to any new applicant a certificate to practice as 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, remains valid, 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 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.

(F) Notwithstanding any requirement for a certificate issued in accordance with rules adopted by the board under this section, the board, in accordance with Chapter 4796. of the Revised Code, shall issue a certificate that is a license as defined in section 4796.01 of the Revised Code to an individual if either of the following applies:

(1) The individual holds a license or certificate in another state.

(2) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic in a state that does not issue that license or certificate.

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;

(10) Procedures by which a firefighter or fire safety inspector who intends to retire may request the department for which the firefighter or inspector performs services to direct the executive director of the state board of emergency medical, fire, and transportation services to designate the firefighter or inspector as "retired" in the board's records when the firefighter or inspector retires.

(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 April 6, 2023, the executive director shall not issue to any new applicant a certificate to practice as an assistant fire instructor. Any assistant fire instructor certificate that was issued in accordance with rules adopted under division (B) of this section prior to April 6, 2023, remains valid, 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 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 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) Notwithstanding any requirement for a certificate issued under this section, the executive director shall issue a certificate in accordance with Chapter 4796. of the Revised Code to an individual if either of the following applies:

(1) The individual holds a license or certificate in another state.

(2) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a firefighter or fire safety inspector in a state that does not issue that license or certificate.

(H) 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.

(I) 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. 4767.10. (A) The division of real estate in the department of commerce shall use ~~one dollar six dollars~~ 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. Grants provided under this section shall not exceed five thousand dollars. An operator of five or more cemeteries registered with the division may apply for and receive one grant per year. All other operators of cemeteries registered with the division may apply for and receive one grant every other 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. 4772.20. (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 certified mental health 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 certified mental health 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 certified mental health 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 certified mental health 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 certified mental health 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 4772.21 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 practice in accordance with the supervising physician's supervision agreement with the certified mental health assistant;

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

(23) Failure to comply with section 4772.13 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(24) Assisting suicide, as defined in section 3795.01 of the Revised Code.

(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 certified mental health 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 certified

mental health 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 certified mental health 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 certified mental health assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the certified mental health 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 certified mental health 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 certified mental health 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 certified mental health assistant resumes practice, the board shall require continued monitoring of the certified mental health 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 certified mental health assistant has maintained sobriety.

~~(H)~~(H)(1) If either of the following circumstances occur, the secretary and supervising member ~~determine that may recommend that the board suspend the individual's license without a prior hearing:~~

(a) The secretary and supervising member determine both of the following:

(i) That there is clear and convincing evidence that a certified mental health assistant has violated division (B) of this section~~and that;~~

(ii) 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.~~

(b) The board receives verifiable information that a licensee has been charged in any state or federal court with a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section. ~~Written-~~

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, written allegations shall be prepared for consideration by the board.

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

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. ~~The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code.~~ If the certified mental health 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 certified mental health assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

(3) A summary suspension imposed under this division is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with Chapter 119. of the Revised Code. The

The board shall issue its final adjudicative order within ~~sixty-seventy-five~~ days after completion of its hearing. Failure to issue the order within ~~sixty-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 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 certified mental health 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 certified mental health assistant and the assistant's practice in this state are automatically suspended as of the date the certified mental health 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, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

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

(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 certified mental health 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 certified mental health 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 certified mental health 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 certified mental health 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 4772.08 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4772.21. (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 4772.24 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. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The

authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. 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 certified mental health 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.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(F) 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) Whether witnesses were interviewed;
- (5) Whether the individual against whom the complaint is directed is the subject of any pending complaints;
- (6) 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.

(G) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

Sec. 4772.23. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within ~~sixty~~thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid license to practice as a certified mental health assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that

reviewed the case or by the governing board of the facility.

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

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

(2) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(B)(1)(C)(1) Except as provided in division (B)(2)(C)(2) of this section and subject to division (C)(3) of this section, a certified mental health assistant, professional association or society of certified mental health assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based.

(2) A certified mental health assistant, professional association or society of certified mental health assistants, physician, or professional association or society of physicians that believes a violation of division (B)(6) of section 4772.20 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C)(3) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct, the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports

under this division shall be made within thirty days of the criminal charge being filed.

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

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

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

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

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

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

~~The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a certified mental health assistant or supervising physician, if applicable, or~~

~~reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board~~confidential pursuant to division (E) of section 4772.21 of the Revised Code.

~~(G)(H)~~ Except for reports filed by an individual pursuant to division ~~(B)(B)(2) or (C)~~ of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the certified mental health assistant. The certified mental health assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

~~(H)(I)~~ An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired certified mental health assistant to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

~~(I)(J)~~ In the absence of fraud or bad faith, a professional association or society of certified mental health assistants that sponsors a committee or program to provide peer assistance to a certified mental health assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a certified mental health assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4772.99. (A) Whoever violates section 4772.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

~~(B)(B)(1)~~ Whoever violates division ~~(A), (B)(B)(1), (C)(C)(1), or (C)(2), (D), or (E)~~ of section 4772.23 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4772.23 of the Revised Code is guilty of a misdemeanor of the fourth degree; on each subsequent offense, the person is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4772.21 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 4774.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a radiologist assistant to, or may revoke the license held by, 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 substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may 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, shall refer any individual who holds, or has applied for, a license to practice as a radiologist assistant issued under this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual 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 shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also 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 approved under section 4731.251 of the Revised Code.

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 4731.251 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)(1) If either of the following circumstances occur, the secretary and supervising member

may recommend that the board suspend the individual's license to practice without a prior hearing:

(a) 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.

(b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, 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 serve a written order of suspension in accordance with 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.

(3) A summary suspension imposed under ~~this division (H)(2)~~ of this section is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code. The

The board shall issue its final adjudicative order within ~~sixty-seventy-five~~ days after completion of its hearing. Failure to issue the order within ~~sixty-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 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 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, trafficking in persons, 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 serve the individual subject to the suspension in accordance with 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 does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4774.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4774.99. (A) Whoever violates division (A)(1) or (2) of section 4774.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

(B)(1) Whoever violates division (B)(1), (C)(1), (C)(2), (D), or (E) of section 4774.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4774.16 of the Revised Code is guilty of ~~failure to report criminal conduct or sexual misconduct~~, a misdemeanor of the fourth degree. ~~If the offender has previously been convicted of a violation of this division, the failure to report~~ on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4774.14 of the Revised Code is guilty of ~~disclosing confidential investigatory information~~, a misdemeanor of the first degree.

Sec. 4778.14. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a genetic counselor to, or may revoke the license held by, 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 substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may 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, shall refer any individual who holds, or has applied for, a license to practice as a genetic counselor to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual 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 shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also 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 approved under section 4731.251 of the Revised Code.

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 4731.251 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)(1) If either of the following circumstances occur, the secretary and supervising member may recommend that the board suspend an individual's license to practice without a prior hearing:

(a) The secretary and supervising member determine both of the following:

(i) That there is clear and convincing evidence that a genetic counselor has violated division (B) of this section;

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

(b) The board receives verifiable information that a licensee has been charged in any state or federal court for a crime classified as a felony under the charging court's law and the conduct charged constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (H)(1) of this section, 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 serve a written order of suspension in accordance with 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.

(3) A summary suspension imposed under ~~this division~~ (H)(2) of this section is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension 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. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code. ~~The~~

~~The~~ board shall issue its final adjudicative order within ~~sixty-seventy-five~~ days after completion of its hearing. Failure to issue the order within ~~sixty-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 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 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, trafficking in persons, 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 serve the individual subject to the suspension in accordance with 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 does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4778.072 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4778.99. Whoever violates section 4778.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and felony of the fifth degree on each subsequent offense.

Whoever violates division (B)(1) or (2) of section 4778.171 of the Revised Code is guilty of ~~failure to report criminal conduct or sexual misconduct~~, a misdemeanor of the fourth degree. ~~If the offender has previously been convicted of a violation of this division, the failure to report is on a first offense and~~ a misdemeanor of the first degree on each subsequent offense.

Whoever violates division (E) of section 4778.18 of the Revised Code is guilty of ~~disclosing confidential investigatory information~~, a misdemeanor of the first degree.

Sec. 4785.041. (A) The division of industrial compliance within the department of commerce may renew a license issued under section 4785.04 of the Revised Code if the licensee does all of the following:

- (1) Submits an application for license renewal on a form prescribed by the division;
- (2) Pays the license renewal fee established by the division;
- (3) If the licensee is an elevator mechanic, submits evidence that the applicant has completed the continuing education coursework described in division (B) of this section;
- (4) If the license is an elevator contractor's license, submits proof that the applicant is in compliance with the insurance requirements prescribed in section 4785.07 of the Revised Code.

(B) The continuing education courses described in division (A)(3) of this section shall:

- (1) Instruct licensees on new and existing rules and standards adopted by the division;
- (2) Consist of not less than eight hours of instruction;
- (3) Be attended and completed within one year immediately preceding the scheduled date for the license renewal;
- (4) Be taught by instructors through continuing education providers approved by the division.

(C) A continuing education instructor who holds a license under this chapter is exempt from the continuing education requirement prescribed in division (A)(3) of this section, provided that any such applicant was qualified as an instructor at any time during the year immediately preceding the scheduled date for the license renewal.

(D)(1) A licensee who is unable to complete the continuing education coursework required under this section before the expiration of the licensee's license due to a temporary disability may apply for a temporary continuing education waiver from the division.

(2) An application for a temporary continuing education waiver shall be made in a form prescribed by the division, which shall be signed by the applicant ~~under the penalty of perjury~~ and accompanied by a ~~certified~~ statement from a competent physician attesting to the temporary disability. If the division grants the waiver, the licensee's license does not expire but is placed on inactive status.

(3) On the termination of the temporary disability, the licensee shall submit to the division a ~~certified~~ statement from the same physician, if practicable, attesting to the termination of the temporary disability. The division shall then take the licensee's license off inactive status and shall issue a waiver sticker, valid for ninety days, to the licensee and affix the sticker to the license. The

licensee may then perform the tasks the license authorizes the licensee to perform but the licensee shall meet the continuing education requirement during this ninety-day period or be considered to have not met the continuing education requirement and the license shall be deemed to be expired.

(E)(1) Approved continuing education providers shall keep uniform records, for a period of ten years, of attendance of licensees in a format approved by the division. Such records shall be available for inspection by the division on request.

(2) Approved training providers are responsible for the security of all attendance records and certificates of completion, provided, however, that falsifying or knowingly allowing another to falsify such attendance records or certificates of completion constitutes grounds for suspension or revocation of a continuing education provider's division approval.

(F) The division shall not renew the license of an individual or entity if the individual or entity would be denied an initial license for a reason listed in division (E) of section 4785.04 of the Revised Code.

Sec. 4903.10. After any order has been made by the public utilities commission, any party who has entered an appearance in person or by counsel in the proceeding may apply for a rehearing in respect to any matters determined in the proceeding. Such application shall be filed within thirty days after the entry of the order upon the journal of the commission.

Notwithstanding the preceding paragraph, in any uncontested proceeding or, by leave of the commission first had in any other proceeding, any affected person, firm, or corporation may make an application for a rehearing within thirty days after the entry of any final order upon the journal of the commission. Leave to file an application for rehearing shall not be granted to any person, firm, or corporation who did not enter an appearance in the proceeding unless the commission first finds:

(A) The applicant's failure to enter an appearance prior to the entry upon the journal of the commission of the order complained of was due to just cause; and,

(B) The interests of the applicant were not adequately considered in the proceeding.

Every applicant for rehearing or for leave to file an application for rehearing shall give due notice of the filing of such application to all parties who have entered an appearance in the proceeding in the manner and form prescribed by the commission.

Such application shall be in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful. No party shall in any court urge or rely on any ground for reversal, vacation, or modification not so set forth in the application.

Where such application for rehearing has been filed before the effective date of the order as to which a rehearing is sought, the effective date of such order, unless otherwise ordered by the commission, shall be postponed or stayed pending disposition of the matter by the commission or by operation of law. In all other cases the making of such an application shall not excuse any person from complying with the order, or operate to stay or postpone the enforcement thereof, without a special order of the commission.

Where such application for rehearing has been filed, the commission may grant and hold

such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear. Notice of such rehearing shall be given by regular mail to all parties who have entered an appearance in the proceeding.

If the commission does not grant or deny such application for rehearing within thirty days from the date of filing thereof, it is denied by operation of law.

If the commission grants such rehearing, it shall specify in the notice of such granting the purpose for which it is granted. The commission shall also specify the scope of the additional evidence, if any, that will be taken, but it shall not upon such rehearing take any evidence that, with reasonable diligence, could have been offered upon the original hearing.

If, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed. An order made after such rehearing, abrogating or modifying the original order, shall have the same effect as an original order, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order prior to the receipt of notice by the affected party of the filing of the application for rehearing.

If the commission does not affirm, abrogate, or modify the original order within ninety days from the date granting such rehearing, the order is affirmed by operation of law.

No cause of action arising out of any order of the commission, other than in support of the order, shall accrue in any court to any person, firm, or corporation unless such person, firm, or corporation has made a proper application to the commission for a rehearing.

Sec. 4905.311. (A) As used in this section, "electric distribution utility" has the same meaning as in section 4928.01 of the Revised Code.

(B) Notwithstanding any provision of the Revised Code to the contrary, an electric distribution utility may supply behind the meter electric generation service, provided that an application for any behind the meter electric generation facilities that the utility intends to use to supply such service ~~were was~~ filed with the public utilities commission under section 4928.47 of the Revised Code, as that section existed prior to its repeal by H.B. 15 of the 136th General Assembly, no later than March 31, 2025.

(C) No electric distribution utility shall recover any of the following costs through any rate, charge, or recovery from retail electric service customers that are not receiving behind the meter electric generation service from the utility:

- (1) Costs associated with supplying behind the meter electric generation service;
- (2) Costs associated with any behind the meter electric generation service facility;
- (3) Stranded costs associated with the closing of any behind the meter electric generation service facility or an end-use customer of the behind the meter electric generation service ceasing operations.

(D) No electric distribution utility shall offer direct, associated inducements for contracting with the utility for any behind the meter electric generation service.

(E) The public utilities commission shall periodically audit all electric distribution utilities that provide any behind the meter electric generation service to ensure compliance with this section.

Sec. 4906.07. (A) Upon the receipt of an application complying with section 4906.06 of the Revised Code, the power siting board shall promptly fix a date for a public hearing thereon, not less than forty-five nor more than sixty days after such receipt, and shall conclude the proceeding as expeditiously as practicable.

(B) On an application for an amendment of a certificate, the board shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application.

(C) The chairperson of the power siting board shall cause each application filed with the board to be investigated and shall, not less than ~~fifteen~~five days prior to the date any application is set for hearing submit a written report to the board and to the applicant. A copy of such report shall be made available to any person upon request. Such report shall set forth the nature of the investigation, and shall contain recommended findings with regard to division (A) of section 4906.10 of the Revised Code and shall become part of the record and served upon all parties to the proceeding.

Sec. 4911.18. (A) For the sole purpose of maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter, an amount equal to the appropriation to the office of the consumers' counsel in each fiscal year shall be apportioned among and assessed against each public utility within this state, as defined in section 4911.01 of the Revised Code, by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts of the public utility for the calendar year next preceding that in which the assessment is made, excluding earnings or receipts from sales to other public utilities for resale. The office may include in that first computation any amount of a public utility's intrastate gross earnings or receipts underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the office shall assess the public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The office shall deposit any interest so collected into the consumers' counsel operating fund. The office may exclude from that first computation any such amounts that were over-reported in a prior year.

The final computation of the assessment shall consist of imposing upon each public utility whose assessment under the first computation would have been one hundred dollars or less an assessment of one hundred dollars and recomputing the assessment of the remaining companies by apportioning an amount equal to the appropriation to the office of consumers' counsel in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining companies for the calendar year next preceding that in which the assessments are made, excluding earnings or receipts from sales to other

public utilities for resale.

In the case of an assessment based on intrastate gross receipts under this section against a public utility that is an electric utility as defined in section 4928.01 of the Revised Code, or an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, such receipts shall be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of kilowatt hours of electricity, filed with the public utilities commission pursuant to division (F) of section 4928.06 of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross receipts under this section against a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, such receipts shall be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with the commission pursuant to division (B) of section 4929.23 of the Revised Code, and verified by the commission. However, no such retail natural gas supplier or such governmental aggregator serving or proposing to serve customers of a particular natural gas company, as defined in section 4929.01 of the Revised Code, shall be assessed under this section until after the commission, pursuant to section 4905.26 or 4909.18 of the Revised Code, has removed from the base rates of the natural gas company the amount of assessment under this section that is attributable to the value of commodity sales service, as defined in section 4929.01 of the Revised Code, in the base rates paid by those customers of the company that do not purchase that service from the natural gas company.

(B) Through calendar year 2005, on or before the first day of October in each year, the office of consumers' counsel shall notify each public utility of the sum assessed against it, whereupon payment shall be made to the counsel, who shall deposit it into the state treasury to the credit of the consumers' counsel operating fund, which is hereby created. Beginning in calendar year 2006, on or before the fifteenth day of May in each year, the consumers' counsel shall notify each public utility that had a sum assessed against it for the current fiscal year of more than one thousand dollars that fifty per cent of that amount shall be paid to the consumers' counsel by the twentieth day of June of that year as an initial payment of the assessment against the company for the next fiscal year. On or before the first day of October in each year, the consumers' counsel shall make a final determination of the sum of the assessment against each public utility and shall notify each public utility of the sum assessed against it. The consumers' counsel shall deduct from the assessment for each public utility any initial payment received. Payment of the assessment shall be made to the consumers' counsel by the first day of November of that year. The consumers' counsel shall deposit the payments received into the state treasury to the credit of the consumers' counsel operating fund. Any such amounts paid into the fund but not expended by the office shall be credited ratably by the office to the public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing fiscal year, after first deducting any deficits accumulated from prior years. The assessments for such fiscal year shall be reduced

correspondingly.

(C) Within five days after the beginning of each fiscal year through fiscal year 2006, the director of budget and management shall transfer from the general revenue fund to the consumers' counsel operating fund an amount sufficient for maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter during the first four months of the fiscal year. Not later than the thirty-first day of December of the fiscal year, the same amount shall be transferred back to the general revenue fund from the consumers' counsel operating fund.

~~(D)~~~~(1)~~ As used in this section, "public utility" includes:

~~(1)~~~~(a)~~ In addition to an electric utility as defined in section 4928.01 of the Revised Code, an electric services company, an electric cooperative, or a governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent of the company's, cooperative's, or aggregator's engagement in the business of supplying or arranging for the supply in this state of any retail electric service for which it must be so certified;

~~(2)~~~~(b)~~ In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified.

(2) As used in this section, "public utility" does not include a wireless service provider or reseller as defined in section 128.01 of the Revised Code, to the extent either of them are providing wireless service as defined under section 128.01 of the Revised Code.

Sec. 4921.01. As used in this chapter:

(A) "Ambulance" has the same meaning as in section 4766.01 of the Revised Code.

(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce:

(1) The transportation of persons in taxicabs in the usual taxicab service;

(2) The transportation of pupils in school buses operating to or from school sessions or school events;

(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;

(4) The distribution of newspapers;

(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipeline;

(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;

(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;

(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;

(9) The operation of motor vehicles for contractors on public road work;

(10) The operation of trailers that are all of the following:

(a) Designed and used exclusively to transport a single boat between the following that are not more than ten miles apart:

(i) A place of storage;

(ii) A marina, or a place that is in and around a marina;

(b) Drawn or towed within this state on a public road or highway at a speed of twenty-five miles per hour or less;

(c) The gross vehicle weight rating, gross combination weight rating, gross vehicle weight, and gross combination weight or any combination thereof does not exceed twenty-six thousand one pounds.

"For-hire motor carrier" includes 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.

Divisions (B)(1) to (9) of this section shall not be construed to relieve a person from compliance with rules governing unified carrier registration adopted under section 4921.11 of the Revised Code.

(C) "Household goods" means personal effects and property used or to be used in a dwelling, excluding property moving from a factory or store.

(D) "Interstate commerce" means trade, traffic, or transportation in the United States that is any of the following:

(1) Between a place in a state and a place outside of that state (including a place outside of the United States);

(2) Between two places in a state through another state or a place outside of the United States;

(3) Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

(E) "Intrastate commerce" means any trade, traffic, or transportation in any state which is not described in the term "interstate commerce."

(F) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of persons or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service and does

not include trailers that are all of the following:

(1) Designed and used exclusively to transport a single boat between the following that are not more than ten miles apart:

(a) A place of storage;

(b) A marina, or a place that is in and around a marina;

(2) Drawn or towed within this state on a public road or highway at a speed of twenty-five miles per hour or less;

(3) The gross vehicle weight rating, gross combination weight rating, gross vehicle weight, and gross combination weight or any combination thereof does not exceed twenty-six thousand one pounds.

(G) "Public highway" means any public street, road, or highway in this state, whether within or without the corporate limits of a municipal corporation.

(H) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of a volunteer driver, and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(I) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

(J) "Trailer" means any vehicle without motive power designed or used for carrying persons or property and for being drawn by a separate motor vehicle, including any vehicle of the trailer type, whether designed or used for carrying persons or property wholly on its own structure, or so designed or used that a part of its own weight or the weight of its load rests upon and is carried by such motor vehicle.

Sec. 4923.01. As used in this chapter:

(A) "Ambulance," "interstate commerce," "intrastate commerce," "motor vehicle," "public highway," "ridesharing arrangement," and "school bus" have the same meanings as in section 4921.01 of the Revised Code.

(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce:

(1) The transportation of persons in taxicabs in the usual taxicab service;

(2) The transportation of pupils in school ~~busses~~ buses operating to or from school sessions or school events;

(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;

(4) The distribution of newspapers;

(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;

(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;

(7) The transportation of compost (a combination of manure and sand or shredded bark

mulch) or shredded bark mulch;

(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose;

(9) The operation of motor vehicles for contractors on public road work;

(10) The operation of trailers that are all of the following:

(a) Designed and used exclusively to transport a single boat between the following that are not more than ten miles apart:

(i) A place of storage;

(ii) A marina, or a place that is in and around a marina;

(b) Drawn or towed within this state on a public road or highway at a speed of twenty-five miles per hour or less;

(c) The gross vehicle weight rating, gross combination weight rating, gross vehicle weight, and gross combination weight or any combination thereof does not exceed twenty-six thousand one pounds.

"For-hire motor carrier" includes 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.

Divisions (B)(1) to (9) of this section shall not be construed to relieve a person from compliance with rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code, or from compliance with rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code.

(C) "Motor carrier" means both a for-hire motor carrier and a private motor carrier.

(D) "Private motor carrier" means a person who is not a for-hire motor carrier but is engaged in the business of transporting persons or property by motor vehicle, except as provided in section 4923.02 of the Revised Code. "Private motor carrier" includes 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.

Sec. 4927.01. (A) As used in this chapter:

(1) "Basic local exchange service" means residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that does both of the following:

(a) Enables a customer to originate or receive voice communications within a local service

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area as that area exists on September 13, 2010, or as that area is changed with the approval of the public utilities commission;

(b) Consists of all of the following services:

(i) Local dial tone service;

(ii) For residential end users, flat-rate telephone exchange service;

(iii) Touch tone dialing service;

(iv) Access to and usage of 9-1-1 services, where such services are available;

(v) Access to operator services and directory assistance;

(vi) Provision of a telephone directory in any reasonable format, which includes, at the telephone company's option, an internet-accessible database of directory listings, for no additional charge and a listing in that directory, with reasonable accommodations made for private listings, and for a telephone company that no longer offers a printed directory, provision of reasonable customer notice of the available options to obtain directory information;

(vii) Per call, caller identification blocking services;

(viii) Access to telecommunications relay service; and

(ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies.

"Basic local exchange service" excludes any voice service to which customers are transitioned following a withdrawal of basic local exchange service under section 4927.10 of the Revised Code.

(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price.

(3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.

(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) On February 8, 1996, provided telephone exchange service in such area; and

(b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or

(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in division (A)(5)(b)(i) of this section.

(6) "Internet protocol-enabled services" means any services, capabilities, functionalities, or applications that are provided using internet protocol or a successor protocol to enable an end user to send or receive communications in internet protocol format or a successor format, regardless of how any particular such service is classified by the federal communications commission, and includes voice over internet protocol service.

(7) "Interstate-access component" means the portion of carrier access that is within the jurisdiction of the federal communications commission.

(8) "Local exchange carrier" means any person engaged in the provision of telephone exchange service, or the offering of access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service.

(9) "Local service area" means the geographic area that may encompass more than one exchange area and within which a telephone customer, by paying the rate for basic local exchange service, may complete calls to other telephone customers without being assessed long distance toll charges.

(10) "Small business" means a nonresidential service customer with three or fewer service access lines.

(11) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(12) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153.

(13) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(14) "Telephone company" means a company described in division (A) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code.

(15) "Telephone exchange service" means telecommunications service that is within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or other facilities, or combination thereof, by which a customer can originate and terminate a telecommunications service.

(16) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service.

(17) "Voice over internet protocol service" means a service that enables real-time, two-way, voice communications that originate or terminate from the user's location using internet protocol or a successor protocol, including, but not limited to, any such service that permits an end user to receive

calls from and terminate calls to the public switched network.

(18) "Voice service" includes all of the applicable functionalities described in 47 C.F.R. 54.101(a). "Voice service" is not the same as basic local exchange service.

(19) "Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3. Under division (A)(19) of this section, commercial mobile radio service is specifically limited to mobile telephone, mobile cellular telephone, paging, personal communications services, and specialized mobile radio service provided by a common carrier in this state and excludes fixed wireless service.

(20) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(21) "Broadband internet access service" has the same meaning as in 47 C.F.R. 8.1.

(B) The definitions of this section shall be applied consistent with the definitions in the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with federal decisions interpreting those definitions.

Sec. 4927.22. (A) Notwithstanding any provision of the Revised Code, other than division (B) of this section:

(1) Broadband internet access service is not subject to regulation by the public utilities commission.

(2) No agency, commission, or political subdivision of this state shall enact, adopt, or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force or effect of law that regulates, or has the effect of regulating, the rates, terms, or conditions of any broadband internet access service, or otherwise treats providers of broadband internet access services as public utilities or telecommunications carriers.

(B) This section shall not be construed to do any of the following:

(1) Restrict any authority delegated to the commission or to any state agency to administer a state or federal grant program under state or federal statute, rule, or order;

(2) Restrict the application to broadband internet access service, or providers thereof, of any law that applies generally to the conduct of business in the state relating to consumer protection and fair competition;

(3) Restrict the authority of any political subdivision in the state to manage access to and use of any public way or public rights-of-way.

Sec. 4928.05. (A)(1) A competitive retail electric service supplied by an electric services company, or by an electric utility consistent with section 4928.141 of the Revised Code, shall not be subject to supervision and regulation by a municipal corporation under Chapter 743. of the Revised Code or by the public utilities commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except sections 4905.10 and 4905.31, division (B) of section 4905.33, and sections 4905.35 and 4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, and 4963.41

The above boxed and initialed text was
disapproved.

Date

Mike DeWine

Mike DeWine, Governor

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of the Revised Code only to the extent related to service reliability and public safety; and except as otherwise provided in this chapter. The commission's authority to enforce those excepted provisions with respect to a competitive retail electric service shall be such authority as is provided for their enforcement under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter. Nothing in this division shall be construed to limit the commission's authority under sections 4928.141, 4928.142, and 4928.144 of the Revised Code.

(2) A competitive retail electric service supplied by an electric cooperative shall not be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except as otherwise expressly provided in sections 4928.01 to 4928.10 and 4928.16 of the Revised Code.

(B)(1) A noncompetitive retail electric service supplied by an electric utility shall be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter, to the extent that authority is not preempted by federal law. The commission's authority to enforce those provisions with respect to a noncompetitive retail electric service shall be the authority provided under those chapters and this chapter, to the extent the authority is not preempted by federal law. Notwithstanding Chapters 4905. and 4909. of the Revised Code, commission authority under this chapter shall include the authority to provide for the recovery, through a reconcilable rider on an electric distribution utility's distribution rates, of all transmission and transmission-related costs, including ancillary and congestion costs, imposed on or charged to the utility by the federal energy regulatory commission or a regional transmission organization, independent transmission operator, or similar organization approved by the federal energy regulatory commission.

The commission shall adopt, for each electric distribution utility that provides customers with a standard service offer in compliance with sections 4928.141 and 4928.142 of the Revised Code, a ~~nonbypassable~~ bypassable cost recovery mechanism relating to transmission, ancillary, congestion, or any related service required for such standard service offer that includes provisions for the recovery of any cost of such service that the electric distribution utility incurs pursuant to the standard service offer. *mc*

(2) The commission shall exercise its jurisdiction with respect to the delivery of electricity by an electric utility in this state so as to ensure that no aspect of the delivery of electricity by the utility to consumers in this state that consists of a noncompetitive retail electric service is unregulated.

(3) A noncompetitive retail electric service supplied by an electric cooperative shall not be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except sections 4933.81 to 4933.90 and 4935.03 of the Revised Code. The commission's authority to enforce those excepted sections with respect to a noncompetitive retail electric service of an electric cooperative shall be such authority as is provided for their enforcement under Chapters 4933. and 4935. of the Revised Code.

The above boxed and initialed text was disapproved.

Date: 6/30/25

Mike DeWine

Mike DeWine, Governor

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Sec. 4928.06. (A) Beginning on the starting date of competitive retail electric service, the public utilities commission shall ensure that the policy specified in section 4928.02 of the Revised Code is effectuated. To the extent necessary, the commission shall adopt rules to carry out this chapter. Initial rules necessary for the commencement of the competitive retail electric service under this chapter shall be adopted within one hundred eighty days after the effective date of this section. Except as otherwise provided in this chapter, the proceedings and orders of the commission under the chapter shall be subject to and governed by Chapter 4903. of the Revised Code.

(B) If the commission determines, on or after the starting date of competitive retail electric service, that there is a decline or loss of effective competition with respect to a competitive retail electric service of an electric utility, which service was declared competitive by commission order issued pursuant to division (A) of section 4928.04 of the Revised Code, the commission shall ensure that that service is provided at compensatory, fair, and nondiscriminatory prices and terms and conditions.

(C) In addition to its authority under section 4928.04 of the Revised Code and divisions (A) and (B) of this section, the commission, on an ongoing basis, shall monitor and evaluate the provision of retail electric service in this state for the purpose of discerning any noncompetitive retail electric service that should be available on a competitive basis on or after the starting date of competitive retail electric service pursuant to a declaration in the Revised Code, and for the purpose of discerning any competitive retail electric service that is no longer subject to effective competition on or after that date. Upon such evaluation, the commission periodically shall report its findings and any recommendations for legislation to the standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation. ~~Until 2008, the commission and the consumer's counsel also shall provide biennial reports to those standing committees, regarding the effectiveness of competition in the supply of competitive retail electric services in this state. In addition, until the end of all market development periods as determined by the commission under section 4928.40 of the Revised Code, those standing committees shall meet at least biennially to consider the effect on this state of electric service restructuring and to receive reports from the commission, consumers' counsel, and director of development.~~

(D) In determining, for purposes of division (B) or (C) of this section, whether there is effective competition in the provision of a retail electric service or reasonably available alternatives for that service, the commission shall consider factors including, but not limited to, all of the following:

- (1) The number and size of alternative providers of that service;
- (2) The extent to which the service is available from alternative suppliers in the relevant market;
- (3) The ability of alternative suppliers to make functionally equivalent or substitute services readily available at competitive prices, terms, and conditions;
- (4) Other indicators of market power, which may include market share, growth in market

share, ease of entry, and the affiliation of suppliers of services.

The burden of proof shall be on any entity requesting, under division (B) or (C) of this section, a determination by the commission of the existence of or a lack of effective competition or reasonably available alternatives.

(E)(1) Beginning on the starting date of competitive retail electric service, the commission has authority under Chapters 4901. to 4909. of the Revised Code, and shall exercise that authority, to resolve abuses of market power by any electric utility that interfere with effective competition in the provision of retail electric service.

(2) In addition to the commission's authority under division (E)(1) of this section, the commission, beginning the first year after the market development period of a particular electric utility and after reasonable notice and opportunity for hearing, may take such measures within a transmission constrained area in the utility's certified territory as are necessary to ensure that retail electric generation service is provided at reasonable rates within that area. The commission may exercise this authority only upon findings that an electric utility is or has engaged in the abuse of market power and that that abuse is not adequately mitigated by rules and practices of any independent transmission entity controlling the transmission facilities. Any such measure shall be taken only to the extent necessary to protect customers in the area from the particular abuse of market power and to the extent the commission's authority is not preempted by federal law. The measure shall remain in effect until the commission, after reasonable notice and opportunity for hearing, determines that the particular abuse of market power has been mitigated.

(F) An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall provide the commission with such information, regarding a competitive retail electric service for which it is subject to certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.

The commission shall require each electric utility to file with the commission on and after the starting date of competitive retail electric service an annual report of its intrastate gross receipts and sales of kilowatt hours of electricity, and shall require each electric services company, electric cooperative, and governmental aggregator subject to certification to file an annual report on and after that starting date of such receipts and sales from the provision of those retail electric services for which it is subject to certification. For the purpose of the reports, sales of kilowatt hours of electricity are deemed to occur at the meter of the retail customer.

Sec. 4928.102. (A) If a competitive retail electric service supplier offers a residential or small commercial customer a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate, the supplier shall send two notices to each residential and small commercial customer that enters into such a contract. Each notice shall provide all of the following

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information to the customer:

- (1) The fixed rate that is expiring under the contract;
- (2) The expiration date of the contract's fixed rate;
- (3) The public utilities commission web site that, as a comparison tool, lists rates offered by competitive retail electric service suppliers;

(4) A statement explaining that appearing on each customer's bill is a price-to-compare notice that lists the utility's standard service offer price.

(B) The second notice shall include all the requirements as stated in division (A) of this section and shall also identify the initial rate to be charged upon the contract's conversion to a variable rate.

(C) The notices shall be sent by standard United States mail or electronically with a customer's verifiable consent as follows:

(1) The supplier shall send the first notice not earlier than ninety days, and not later than sixty days, prior to the expiration of the fixed rate.

(2) The supplier shall send the second notice not earlier than forty-five days, and not later than fifteen days, prior to the expiration of the fixed rate.

(D) A competitive retail electric service supplier shall provide an annual notice, by standard United States mail or electronically with a customer's verifiable consent, to each residential and small commercial customer that has entered into a contract with the supplier that has converted to a variable rate upon the expiration of the contract's fixed introductory rate. The notice shall inform the customer that the customer is currently subject to a variable rate and that other fixed rate contracts are available.

(E) Not later than one hundred fifty days after ~~the effective date of this section~~ August 14, 2025, the commission shall adopt rules in order to implement divisions (A) to (D) of this section. The rules, at a minimum, shall include the following requirements regarding the notices required under divisions (A) to (D) of this section:

(1) To use clear and unambiguous language in order to enable the customer to make an informed decision;

(2) To design the notices in a way to ensure that they cannot be confused with marketing materials.

(F) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section ~~4928.101 of the Revised Code~~ is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 4928.34. (A) The public utilities commission shall not approve or prescribe a transition plan under division (A) or (B) of section 4928.33 of the Revised Code unless the commission first makes all of the following determinations:

(1) The unbundled components for the electric transmission component of retail electric service, as specified in the utility's rate unbundling plan required by division (A)(1) of section

4928.31 of the Revised Code, equal the tariff rates determined by the federal energy regulatory commission that are in effect on the date of the approval of the transition plan under sections 4928.31 to 4928.40 of the Revised Code, as each such rate is determined applicable to each particular customer class and rate schedule by the commission. The unbundled transmission component shall include a sliding scale of charges under division (B) of section 4905.31 of the Revised Code to ensure that refunds determined or approved by the federal energy regulatory commission are flowed through to retail electric customers.

(2) The unbundled components for retail electric distribution service in the rate unbundling plan equal the difference between the costs attributable to the utility's transmission and distribution rates and charges under its schedule of rates and charges in effect on the effective date of this section, based upon the record in the most recent rate proceeding of the utility for which the utility's schedule was established, and the tariff rates for electric transmission service determined by the federal energy regulatory commission as described in division (A)(1) of this section.

(3) All other unbundled components required by the commission in the rate unbundling plan equal the costs attributable to the particular service as reflected in the utility's schedule of rates and charges in effect on the effective date of this section.

(4) The unbundled components for retail electric generation service in the rate unbundling plan equal the residual amount remaining after the determination of the transmission, distribution, and other unbundled components, and after any adjustments necessary to reflect the effects of the amendment of section 5727.111 of the Revised Code by Sub. S.B. No. 3 of the 123rd general assembly.

(5) All unbundled components in the rate unbundling plan have been adjusted to reflect any base rate reductions on file with the commission and as scheduled to be in effect by December 31, 2005, under rate settlements in effect on the effective date of this section. However, all earnings obligations, restrictions, or caps imposed on an electric utility in a commission order prior to the effective date of this section are void.

(6) Subject to division (A)(5) of this section, the total of all unbundled components in the rate unbundling plan are capped and shall equal during the market development period, except as specifically provided in this chapter, the total of all rates and charges in effect under the applicable bundled schedule of the electric utility pursuant to section 4905.30 of the Revised Code in effect on the day before the effective date of this section, including the transition charge determined under section 4928.40 of the Revised Code, adjusted for any changes in the taxation of electric utilities and retail electric service under Sub. S.B. No. 3 of the 123rd General Assembly; ~~and the universal service percentage of income payment plan rider authorized by section 4928.51-4928.52 of the Revised Code, and the temporary rider authorized by section 4928.61 of the Revised Code.~~ For the purpose of this division, the rate cap applicable to a customer receiving electric service pursuant to an arrangement approved by the commission under section 4905.31 of the Revised Code is, for the term of the arrangement, the total of all rates and charges in effect under the arrangement. For any

rate schedule filed pursuant to section 4905.30 of the Revised Code or any arrangement subject to approval pursuant to section 4905.31 of the Revised Code, the initial tax-related adjustment to the rate cap required by this division shall be equal to the rate of taxation specified in section 5727.81 of the Revised Code and applicable to the schedule or arrangement. To the extent such total annual amount of the tax-related adjustment is greater than or less than the comparable amount of the total annual tax reduction experienced by the electric utility as a result of the provisions of Sub. S.B. No. 3 of the 123rd general assembly, such difference shall be addressed by the commission through accounting procedures, refunds, or an annual surcharge or credit to customers, or through other appropriate means, to avoid placing the financial responsibility for the difference upon the electric utility or its shareholders. Any adjustments in the rate of taxation specified in section 5727.81 of the Revised Code shall not occur without a corresponding adjustment to the rate cap for each such rate schedule or arrangement. The department of taxation shall advise the commission and self-assessors under section 5727.81 of the Revised Code prior to the effective date of any change in the rate of taxation specified under that section, and the commission shall modify the rate cap to reflect that adjustment so that the rate cap adjustment is effective as of the effective date of the change in the rate of taxation. This division shall be applied, to the extent possible, to eliminate any increase in the price of electricity for customers that otherwise may occur as a result of establishing the taxes contemplated in section 5727.81 of the Revised Code.

(7) The rate unbundling plan complies with any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.

(8) The corporate separation plan required by division (A)(2) of section 4928.31 of the Revised Code complies with section 4928.17 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.

(9) Any plan or plans the commission requires to address operational support systems and any other technical implementation issues pertaining to competitive retail electric service comply with any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.

(10) The employee assistance plan required by division (A)(4) of section 4928.31 of the Revised Code sufficiently provides severance, retraining, early retirement, retention, outplacement, and other assistance for the utility's employees whose employment is affected by electric industry restructuring under this chapter.

(11) The consumer education plan required under division (A)(5) of section 4928.31 of the Revised Code complies with former section 4928.42 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.

(12) The transition revenues for which an electric utility is authorized a revenue opportunity under sections 4928.31 to 4928.40 of the Revised Code are the allowable transition costs of the utility as such costs are determined by the commission pursuant to section 4928.39 of the Revised Code, and the transition charges for the customer classes and rate schedules of the utility are the

charges determined pursuant to section 4928.40 of the Revised Code.

(13) Any independent transmission plan included in the transition plan filed under section 4928.31 of the Revised Code reasonably complies with section 4928.12 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code, unless the commission, for good cause shown, authorizes the utility to defer compliance until an order is issued under division (G) of section 4928.35 of the Revised Code.

(14) The utility is in compliance with sections 4928.01 to 4928.11 of the Revised Code and any rules or orders of the commission adopted or issued under those sections.

(15) All unbundled components in the rate unbundling plan have been adjusted to reflect the elimination of the tax on gross receipts imposed by section 5727.30 of the Revised Code.

In addition, a transition plan approved by the commission under section 4928.33 of the Revised Code but not containing an approved independent transmission plan shall contain the express conditions that the utility will comply with an order issued under division (G) of section 4928.35 of the Revised Code.

(B) If the commission finds that any part of the transition plan would constitute an abandonment under sections 4905.20 and 4905.21 of the Revised Code, the commission shall not approve that part of the transition plan unless it makes the finding required for approval of an abandonment application under section 4905.21 of the Revised Code. Sections 4905.20 and 4905.21 of the Revised Code otherwise shall not apply to a transition plan under sections 4928.31 to 4928.40 of the Revised Code.

Sec. 4928.43. (A) Each state agency that provides employment assistance and job training programs, including the ~~bureau of employment~~ department of job and family services ~~and the department of development~~, shall provide concentrated attention through those programs to assisting employees whose employment is affected by electric industry restructuring under this chapter.

(B) To the extent not prohibited by federal law or any law of this state and except as otherwise provided in a labor contract or other agreement, no unencumbered money in a pension fund for employees of electric utilities shall be used for any purpose other than to pay allowable pensions or early retirement buyouts for the employees.

Sec. 4928.51. ~~(A)~~ There is hereby established in the state treasury ~~a universal service~~ the electric partnership plan fund, into which shall be deposited all ~~universal service~~ revenues remitted to the director of ~~development~~ job and family services under this section, for the exclusive purposes of providing funding for the low-income customer assistance programs ~~and for the consumer education program authorized under section 4928.56 of the Revised Code~~, and paying the administrative costs of the low-income customer assistance programs and the consumer education program. Interest on the fund shall be credited to the fund. Disbursements from the fund shall be made to any supplier that provides a competitive retail electric service or a noncompetitive retail electric service to a customer who is approved to receive assistance under a specified low-income customer assistance program and to any authorized provider of weatherization or energy efficiency

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service to a customer approved to receive such assistance under a specified low-income customer assistance program.

~~(B) Universal service revenues~~ Revenues deposited in the electric partnership plan fund shall include all of the following:

~~(1) Revenues~~ revenues remitted to the director after collection by an electric distribution utility beginning July 1, 2000, attributable to the collection from customers of the universal service rider prescribed under pursuant to division (C) of section 4928.52 of the Revised Code;

~~(2) Revenues~~ remitted to the director that have been collected by an electric distribution utility beginning July 1, 2000, as customer payments under the percentage of income payment plan program, including revenues remitted under division (C) of this section;

~~(3) Adequate revenues~~ remitted to the director after collection by a municipal electric utility or electric cooperative in this state not earlier than July 1, 2000, upon the utility's or cooperative's decision to participate in the low-income customer assistance programs.

~~(C)(1) Beginning July 1, 2000, an electric distribution utility shall transfer to the director the right to collect all arrearage payments of a customer for percentage of income payment plan program debt owed to the utility on the day before that date or retain the right to collect that debt but remit to the director all program revenues received by the utility for that customer.~~

~~(2) A current or past percentage of income payment plan program customer is relieved of any payment obligation under the percentage of income payment program for any unpaid arrears accrued by the customer under the program as of the effective date of this section if the customer, as determined by the director, meets both of the following criteria:~~

~~(a) The customer as of that date has complied with customer payment responsibilities under the program.~~

~~(b) The customer is permanently and totally disabled as defined in section 5117.01 of the Revised Code or is sixty-five years of age or older as defined in that section.~~

~~(D) The public utilities commission shall complete an audit of each electric utility by July 1, 2000, for the purpose of establishing a baseline for the percentage of income payment plan program component of the low-income assistance programs.~~

Sec. 4928.52. (A) Beginning July ~~January~~ 1, 2000, ~~the 2026, the percentage of income payment plan rider shall replace, for each electric distribution utility, the universal service rider shall replace the percentage of income payment plan rider in existence on the effective date of the amendment of this section and any amount in the rates of an electric utility for the funding of low-income customer energy efficiency programs by this act.~~ The universal service percentage of income payment plan rider shall be a rider on retail electric distribution service rates as such rates are determined by the public utilities commission pursuant to this chapter. The universal service percentage of income payment plan rider for the first five years after the starting date of competitive retail electric service shall be the sum of all of recover the following:

(1) The level of prudently incurred costs of providing the percentage of income payment

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plan program rider in existence on the effective date of this section for each electric distribution utility;

(2) An amount equal to the level of funding for low-income customer energy efficiency programs provided through electric utility rates in effect on the effective date of this section. The total of the electric distribution utilities' allocated shares, as determined by the public utilities commission, under division (B)(1) of this section;

(3) Any additional amount necessary and sufficient to fund through the universal service percentage of income payment plan rider the administrative costs of the low-income customer assistance programs and the consumer education program created in section 4928.56 of the Revised Code.

(B)(B)(1) If, during or after the five-year period specified in division (A) of this section, the director of development, after consultation with the public benefits advisory board created under section 4928.58 of the Revised Code, determines that revenues in the universal service fund and revenues from federal or other sources of funding for those programs, including general revenue fund appropriations for the Ohio energy credit program, will be insufficient to cover the administrative costs of the low-income customer assistance programs and the consumer education program and provide adequate funding for those programs, the director shall file a petition with the commission for an increase in the universal service rider. The commission, after reasonable notice and opportunity for hearing, may adjust the universal service rider by the minimum amount necessary to provide the additional revenues. The commission shall not decrease the universal service rider without the approval of the director, after consultation by the director with the advisory board allocate to each electric distribution utility a share of the funding for low-income customer assistance programs administered by the director of job and family services according to each electric distribution utility's annual distribution service revenues.

(2) Each electric distribution utility's allocation determined under division (B)(1) of this section shall include a separately designated allocation equal to the electric distribution utility's share of an amount not to exceed fifteen million dollars annually for funding the consumer education program administered by the department of job and family services under section 4928.56 of the Revised Code.

(C) On the thirtieth day of June of each year, each electric distribution utility shall remit to the department for deposit in the electric partnership plan fund the utility's share of the following:

(1) The utility's allocation determined under division (B)(2) of this section for funding the consumer education program administered by the department of job and family services under section 4928.56 of the Revised Code;

(2) The costs under division (A)(3) of this section for the administration of the low-income customer assistance programs administered by the director.

(C)(D) The universal service percentage of income payment plan rider established under division (A) or (B) of this section shall be set in such a manner so as not to shift among the customer