

HB 440 -- Redline

As Passed by the House to Enrolled -- Regards the Board of Nursing and criminal records check results

Deletions ~~struck~~ · Insertions underlined

~~As (136th Passed General Assembly) by (House Bill Number 440) ANACT To amend sections 4723.091, 4723.092, and 4723.28 of the House Revised 136th Code General to Assembly revise Regular the Session law H governing the Board of Nursing and criminal records check results and to declare an emergency.~~

~~B-Be it enacted by the General Assembly of the State of Ohio:~~

~~No-SECTION 1.~~

~~440 That 2025-2026 sections Representatives 4723.091, Deeter, 4723.092, Stewart and Cosponsors: 4723.28 of the Revised Code be amended to read as follows:~~

~~Representatives Sec. Schmidt, Somani, Baker, Cross, Abrams, Barhorst, Brennan, Brewer, Dovilla, Fowler, Arthur, Ghanbari, Glassburn, Hall, D., Hiner, Hoops, Jarrells, Klopfenstein, Lorenz, Miller, J., Miller, M., Newman, Plummer, Ray, Richardson, Robb Blasdel, Rogers, Sigrist, Troy, White, E., Williams, Willis, Young To amend sections 4723.091, 4723.092, and 4723.28 1 of the Revised Code to revise the law governing 2 the Board of Nursing and criminal records check 3 results and to declare an emergency. 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:~~

~~Section 1-~~

~~That sections 4723.091, 4723.092, and 4723.28 5 of the Revised Code be amended to read as follows:~~

~~6 Sec.~~

~~(A) An (A)(1) Each of the following shall 7-submit a request to the bureau of criminal identification and 8 investigation for a criminal records check of that individual:~~

~~9-(a) An individual who applies for licensure under section 10 4723.09 of the Revised Code;~~

~~11-(b) An individual who applies for issuance of a 12-certificate under section 4723.651, 4723.75, 4723.85, or 4723.89 13 of the Revised Code;~~

~~14-(c) An individual who applies for reactivation of a 15-license, under division (D) of section 4723.24 of the Revised 16 Code, 17 that has been inactive for at least five years;~~

~~or (d) An individual who applies for reinstatement of a license, under division (D) of section 4723.24 of the Revised Code, that has lapsed for at least five years shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant;~~

~~(e) An individual who applies for a volunteer nursing certificate under section 4723.26 of the Revised Code and has been retired from practice for at least ten years;~~

~~(f) An individual who, as part of an investigation by the board of nursing, is subject to an order by the board under division (F) of section 4723.28 of the Revised Code.~~

~~The request shall be made in accordance with section 109.572 of the Revised Code.~~

~~(B) An applicant (2) As part of the request for a criminal records check, the individual requesting a criminal records the check under division (A) of this section shall also ask do both of the following:~~

~~(a) Under the form and methods described in division (C) of section 109.572 of the Revised Code, submit one complete set of fingerprint impressions directly to the superintendent of the bureau of criminal identification and investigation for the purpose of conducting the check;~~

~~(b) Ask the superintendent to request that the federal bureau of investigation send provide to the superintendent any information the federal bureau of investigation has with respect to the applicant individual.~~

~~(C)(B) On receipt of all items required for the commencement of a criminal records check pursuant to requested under division (A) of this section, the bureau of criminal identification and H.~~

~~440 Page 136th 2G.A. As Passed by the House Code, that has been inactive for at least five years;~~

~~or investigation 17 (d) An individual who applies for reinstatement of a 18 license, under division (D) of section 4723.24 of the Revised 19 Code, that has lapsed for at least five years shall submit 20 request to the bureau of criminal identification and 21 investigation for a criminal records check of the applicant; applicant individual requesting the check.~~

~~22 The (e) superintendent An of individual the who bureau applies of for criminal a identification volunteer and nursing investigation 23 also certificates shall under request section that 4723.26 the federal bureau of investigation provide to the Revised superintendent Code any and information has the 24 federal been bureau retired of from investigation practice has for with at respect least to ten the years; individual.~~

~~25 On (f) the An On individual completion who, of as the part criminal of records a check, investigation the by bureau the of 26 criminal board identification of and nursing, investigation is shall subject send to the a results order report by to the board under of 27 nursing division the (F) results of section the 4723.28 check of and any information the Revised federal Code, bureau of investigation provides the superintendent.~~

~~(D)(C) The request results 29 of shall a be criminal records check conducted pursuant to a request made~~

under division (A)(B) of this section, any information provided by the federal bureau of investigation as described in accordance that with division, and any report containing those results, or information are not public records for purposes of section 109.572149.43 of the Revised 29Code Code, and shall not be made available to any person or for any purpose other than the following government entity except as follows:

30(1) (B)The Anresults applicantmay (2)be Asmade partavailable ofto theany requestperson forTo a criminal 31 records check, the individual requestingwho is criminal records the 32subject check under division (A) of this section shall also ask do both 33 of the following:check;

34(2) (a)To Under the formboard andof methodsnursing describedfor use in divisiondetermining (C)under 35 of section 109.5724723.09, of4723.651, the4723.75, Revised4723.85, Code,or submit4723.89 one complete set 36 of fingerprintthe impressionsRevised directlyCode towwhether theany superintendent of the 37following bureauabout ofthe criminalindividual identificationwho andis investigation for the 38subject purpose of conducting the check;check;

39(a) (b)Whether Ask the superintendentindividual towho requestis that the federalsubject 40of bureauthe ofcheck investigationshould sendbe providegranted toa thelicense superintendentor anycertificate 41under informationthis thechapter federalor bureauwhether ofsection investigation4723.09, has4723.26, with4723.651, respect4723.75, 424723.85, toor 4723.89 of the applicantindividual-Revised Code;

43(b) (C)(B)Whether Onany receipttemporary ofpermit allgranted itemsto requiredthe forindividual theunder 44section commencement4723.09 of athe criminalRevised recordsCode checkhas pursuantterminated toautomatically. requested 45 H.

B-(2) The results may be made available to any person for use in determining under division (D) of section 4723.24 of the Revised Code whether ;

No-(c) Whether the individual who is the subject of the check should have the individual's license or certificate reactivated or reinstated.

440(3) PageThe 3results Asmay Passedbe bymade theavailable Houseto underany divisionperson (A)for ofuse thisin section,determining theunder bureausection 4723.28 of criminalthe 46Revised identificationCode andwhether investigationunder shalldivision conduct(D) aof thesection criminal4723.24 47 records check of the applicantindividualRevised requestingCode; the check.

48(d) TheWhether superintendent of the bureauindividual ofwho criminalis identificationthe andsubject 49of investigation also shall request that the federalcheck bureausould ofbe 50subject investigation provide to thedisciplinary superintendentaction anyin informationaccordance thewith 51that federalsection bureau4723.28 of investigation has with respect to the 52Revised individual.Code.

On(4) theThe 53results Onmay completionbe ofmade theavailable criminal records check, the bureau of 54 criminal identification and investigation shall send the results 55 report to the boardindividual ofwho nursingis the resultssubject of the check andor anythat 56individual's informationrepresentative. the federal bureau of investigation provides the 57 superintendent.

58Sec. (D)(C) The results of a criminal records check conducted 59 pursuant to a request made under division (A)(B) of this 60 section, any information provided by the federal bureau of 61 investigation as described in that division, and any report 62 containing those results, or information are not public records 63 for purposes of section 149.43 of the Revised Code and shall not 64 be made available to any person or for any purpose other than 65 the following government entity except as follows:

66 (1) The results may be made available to any person To the 67 individual who is the subject of the check;

68 (2) To the board of nursing for use in determining under 69 section 4723.09, 4723.651, 4723.75, 4723.85, or 4723.89 of the 70 Revised Code whether any of the following about the individual 71 who is the subject of the check:

72 (a) Whether the individual who is the subject of the check 73 should be granted a license or certificate under this chapter or 74 H.

B-

No-

440 Page 4 As Passed by the House whether section 4723.09, 4723.26, 4723.651, 4723.75, 4723.85, or 75 4723.89 of the Revised Code;

76 (b) Whether any temporary permit granted to the individual 77 under section 4723.09 of the Revised Code has terminated 78 automatically.

79 (2) The results may be made available to any person for 80 use in determining under division (D) of section 4723.24 of the 81 Revised Code whether ;

82 (c) Whether the individual who is the subject of the check 83 should have the individual's license or certificate reactivated 84 or reinstated.

85 (3) The results may be made available to any person for 86 use in determining under section 4723.28 of the Revised Code 87 whether under division (D) of section 4723.24 of the Revised 88 Code;

89 (d) Whether the individual who is the subject of the check 90 should be subject to disciplinary

~~action in accordance with that 91 section 4723.28 of the Revised Code.~~

~~92 (4) The results may be made available to the individual 93 who is the subject of the check or that individual's 94 representative.~~

~~95 Sec.~~

The board of nursing shall not refuse to ~~96~~ issue a license under section 4723.09 of the Revised Code or a ~~97~~ certificate under section 4723.26, 4723.651, 4723.75, 4723.85, ~~98~~ or 4723.89 of the Revised Code because of a conviction of, plea ~~99~~ of guilty to, a judicial finding of guilt of, a judicial finding ~~100~~ of guilt resulting from a plea of no contest to, or a judicial ~~101~~ finding of eligibility for a pretrial diversion or similar ~~102~~ program or for intervention in lieu of a conviction for a ~~103~~ criminal ~~H.~~ offense unless the refusal is in accordance with section 9.79 of the Revised Code.

~~H.~~

~~440 Page 136th 5G.A. As Passed by the House criminal offense unless the refusal is in accordance with 104 section 9.79 of the Revised Code.~~

~~105~~ Sec.

(A) The board of nursing, by a vote of a ~~106~~ quorum, may impose one or more of the following sanctions if it ~~107~~ finds that a person committed fraud in passing an examination ~~108~~ required to obtain a nursing license or dialysis technician ~~109~~ certificate issued by the board or to have committed fraud, ~~110~~ misrepresentation, or deception in applying for or securing any ~~111~~ a nursing license or dialysis technician certificate issued by ~~112~~ the board:

deny, revoke, suspend, or place restrictions on any ~~113~~ nursing license or dialysis technician certificate issued by the ~~114~~ board;

reprimand or otherwise discipline a holder of a nursing ~~115~~ license or dialysis technician certificate; or impose a fine of ~~116~~ not more than five hundred dollars per violation.

~~117~~ (B) Except as provided in section 4723.092 of the Revised ~~118~~ Code, the board of nursing, by a vote of a quorum, may impose ~~119~~ one or more of the following sanctions:

deny, revoke, suspend, ~~120~~ or place restrictions on any nursing license or dialysis ~~121~~ technician certificate issued by the board;

reprimand or ~~122~~ otherwise discipline a holder of a nursing license or dialysis ~~123~~ technician certificate;

or impose a fine of not more than five ~~124~~ hundred dollars per violation.

The sanctions may be imposed for ~~125~~ any of the following:

~~126~~ (1) Denial, revocation, suspension, or restriction of ~~127~~ authority to engage in a licensed profession or practice a ~~128~~ health care occupation, including nursing or practice as a ~~129~~ dialysis technician, for any reason other than a failure to ~~130~~ renew, in Ohio or another state or jurisdiction;

~~131~~ (2) Engaging in the practice of nursing or engaging in ~~132~~ practice as a dialysis technician, having failed to renew a ~~133~~ nursing ~~H.~~ license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;

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

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes;

or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;

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

(7) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt H.

~~440 Page 136th 6G.A. As Passed by the House nursing license or dialysis technician certificate issued under 134 this chapter, or while a nursing license or dialysis technician 135 certificate is under suspension;~~

~~136 (3) Conviction of, a plea of guilty to, a judicial finding 137 of guilt of, a judicial finding of guilt resulting from a plea 138 of no contest to, or a judicial finding of eligibility for a 139~~

pretrial diversion or similar program or for intervention in ~~140~~ lieu of conviction for, ~~an~~
~~misdemeanor act committed~~ in the course of ~~141~~ practice practice, in another jurisdiction that would
constitute a misdemeanor in Ohio;

~~142~~ (8) ~~(4)~~ Self-administering Conviction or of, otherwise ~~ataking plea into of the guilty body to, any~~
~~adangerous judicial drug, findings as 143 defined of in guilt section of, 4729.01 a judicial finding of~~
~~guilt the resulting Revised from Code, a in plea any 144 way of that no is contest not to, in or accordance with a~~
~~judicial legal, finding valid of prescription eligibility issued for at that 145 individual, pretrial diversion~~
~~or similar self-administering program or for otherwise intervention taking in into 146 the lieubody of~~
~~conviction for, any felony drug or that of is any a crime schedule involving I 147 controlled gross substance;~~
~~immorality or moral turpitude;~~

~~148~~ (9) ~~(5)~~ Habitual Selling, or giving excessive away, use or of administering controlled drugs substances,
~~or other 149 habit-forming therapeutic drugs, devices or for alcohol or other than chemical legal substances~~
~~and to legitimate an 150 extent therapeutic that purposes;~~ impairs the individual's ability to provide safe
nursing care or safe dialysis care;

~~or (10) conviction Impairment of, a plea of guilty the to, ability at 151 practice judicial according~~
~~finding to of acceptable guilt and of, prevailing a standards judicial finding of guilt safe 152 nursing~~
~~resulting care from a plea of no contest to, or a safe judicial dialysis finding care because of 153 the~~
~~eligibility use for a pretrial diversion or similar program or for 154 intervention in lieu of~~
~~conviction drugs, for, alcohol, violating any municipal, 155 state, county, or federal other drug chemical~~
~~law; substances;~~

~~156~~ (11) ~~(6)~~ Impairment Conviction of, a plea of guilty the to, ability at 151 practice judicial
finding according 157 to of acceptable guilt and of, prevailing a standards judicial finding of guilt safe
resulting nursing from care a plea 158 of no contest to, or a safe judicial dialysis finding care of because
eligibility for a 159 pretrial diversion or similar program or for intervention in 160 lieu of
conviction for, an act in another jurisdiction that 161 would constitute a felony physical or a mental
crime disability; of moral turpitude in Ohio;

~~162~~ (12) ~~H.~~ Assaulting or causing harm to a patient or depriving a patient of the means to summon
assistance;

(13) Misappropriation or attempted misappropriation of money or anything of value in the course of
practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent.

The board may reinstate the person's nursing license or dialysis technician certificate upon
adjudication by a probate court of the person's restoration to competency or upon submission to the
board of other proof of competency.

(15) The suspension or termination of employment by the United States department of defense or
department of veterans affairs for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician
certificate;

(18) Failure to use universal and standard precautions established by rules adopted under section
4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or
safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a
registered nurse;

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of
nursing as a licensed practical nurse;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under
section 4723.72 of the Revised Code;

H.

~~440 Page 136th 76.A. As Passed by the House (7) Conviction of, a plea of guilty to, a judicial finding~~
~~163 of guilt of, a judicial finding of guilt resulting from a plea 164 of no contest to, or a judicial~~
~~finding of eligibility for a 165 pretrial diversion or similar program or for intervention in 166 lieu of~~
~~conviction for, an act in the course of practice in 167 another jurisdiction that would constitute a~~
~~misdemeanor in 168 Ohio;~~

~~169~~ (23) ~~(8)~~ Aiding Self-administering and or abetting otherwise a taking person into the body 170 any
~~dangerous drug, as defined in section 4729.01 of the Revised 171 Code, in any way that is person's~~
~~not practice in of accordance nursing with without a legal, license valid 172 prescription issued for that~~
~~individual, or self-administering practice 173 as or a otherwise dialysis taking technician into without the~~
~~body any drug that is a schedule certificate I issued 174 under controlled this substance; chapter;~~

~~175~~ (24) ~~(9)~~ In Habitual the or case excessive use of controlled an substances, advanced 176 practice
other registered habit-forming nurse, drugs, except or as alcohol provided or in other division chemical (M)

~~177of substances this to section, an either extent of that impairs the individual's following: ability to 178 provide safe nursing care or safe dialysis care;~~

~~179(a) (10)Waiving Impairmentthe payment of theall abilityor toany practicepart accordingof toa 180deductible acceptableor andcopayment prevailingthat standardsa ofpatient, safeopursuant nursingto a health insurance or health care policy, contract, or safeplan 181that dialysiscovers caresuch becausenursing ofservices, would otherwise be required to pay if the usewaiver ofis drugs,used alcohol,as an enticement to a patient or othergroup 182of chemicalpatients substances;to receive health care services from that provider;~~

~~183(b) (11)Advertising Impairmentthat ofthe abilitynurse towill practicewaive accordingthe topayment 184of acceptableall andor prevailingany standardspart of safea nursingdeductible careor safeopayment 185that dialysisa carepatient, becauseopursuant ofto a physicalhealth insurance or mentalhealth disability;care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.~~

~~186(25) (12)Failure Assaultingto orcomply causingwith harmthe toterms aand patientconditions orof deprivingparticipation 187in athe patientsafe ofhaven theprogram meansconducted tounder summonsections assistance;4723.35 and 4723.351 of the Revised Code;~~

~~188(26) (13)Failure Misappropriationto orcomply attemptedwith misappropriationthe ofterms 189and moneyconditions orrequired anythingunder ofthe valuepractice inintervention theand courseimprovement program established under section 4723.282 of practice;the Revised Code;~~

~~190(27) (14)In Adjudicationthe bycase a-probate court-of beingan mentallyadvanced illpractice 191registered H-nurse:~~

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

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

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

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

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

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

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

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

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

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

~~(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before H.~~

~~440 Page136th 8G.A. As Passed by the House or mentally incompetent.~~

~~Theissuing boardfor mayareinstateminor thea person'sprescription 192for nursingan licenseopioid oranalgesic, dialysisas techniciananddefined certificatein uponsection 1933719.01 adjudication by a probate court of the person'sRevised restorationCode; to 194 competency or upon submission to the board of other proof of 195 competency.~~

~~196(35) (15)Failure Theto suspensioncomply orwith terminationsection 4723.487 of employmentthe byRevised theCode, 197unless Unitedthe Statesstate departmentboard of defensepharmacy orno departmentlonger ofmaintains veteransa 198drug affairsdatabase forpursuant anyto actsection that4729.75 violatesof orthe wouldRevised violateCode; this chapter;~~

~~199(36) (16)The Violationrevocation, suspension, restriction, reduction, or termination of thisclinical chapterprivileges by the United States department of defense or anydepartment rulesof adoptedveterans underaffairs 200or it;the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;~~

~~201(37) (17)In Violationthe case of anyan restrictionsadvanced placedpractice byregistered thenurse boardwho onis 202designated as a nursingclinical liconsenurse specialist, certified nurse-midwife, or dialysiscertified techniciannurse certificate;practitioner, failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;~~

~~203(38) (18)Violation Failureof to use universal and standard precautions 204 established by rules~~

adopted under section 4723.074723.93 of the 205 Revised Code;

~~206(39) (19) Failure to practice cooperate with an investigation conducted by the board under this chapter, 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 accordance an investigative interview, in an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with acceptable an investigation 207 does prevailing not standards constitute grounds for discipline if a court of safe competent nursing jurisdiction care has issued an order that either quashes a subpoena or safe permits dialysis the care; individual to withhold testimony or evidence at issue.~~

~~208(C) (20) Disciplinary Inactions taken by the case board of under a divisions registered(A) nurse, and engaging(B) in of 209 this activities section that shall exceed be the taken practice pursuant of to nursing an as adjudication a conducted registered under 210 Chapter nurse; 119.~~

~~211 of (21) the In Revised the Code, case except that in lieu of a licensed hearing, practical the nurse, board engaging may 212 enter in into activities a that consent exceed agreement the with practice an of individual nursing to as resolve an allegation of a licensed violation 213 of practical this nurse; chapter or any rule adopted under it.~~

~~214 A (22) consent In agreement, the when case ratified of by a dialysis vote technician, of engaging a in quorum, 215 shall activities constitute that the exceed findings those and permitted order under of section the 4723.72 board of with 216 respect to the Revised matter Code; addressed in the agreement.~~

~~217 If (23) the Aiding board and refuses abetting to ratify a person consent in agreement, that the person's admissions 218 and practice findings of contained nursing in without the a agreement license shall or be practice of as no a effect. dialysis 219 H.~~

~~B. (D) The hearings of the board shall be conducted in accordance with Chapter 119.~~

~~No. of the Revised Code, the board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to hold under Chapter 119.~~

~~440 Page 9 As Passed by the House technician without a certificate issued under this chapter;~~

~~220 (24) In the case of an advanced practice registered nurse, 221 except as provided in division (M) of this section, either of 222 the following:~~

~~223 (a) Waiving the payment of all or any part of a deductible 224 or copayment that a patient, pursuant to a health insurance or 225 health care policy, contract, or plan that covers such nursing 226 services, would otherwise be required to pay if the waiver is 227 used as an enticement to a patient or group of patients to 228 receive health care services from that provider;~~

~~229 (b) Advertising that the nurse will waive the payment of 230 all or any part of a deductible or copayment that a patient, 231 pursuant to a health insurance or health care policy, contract, 232 or plan that covers such nursing services, would otherwise be 233 required to pay.~~

~~234 (25) Failure to comply with the terms and conditions of 235 participation in the safe haven program conducted under sections 236 4723.35 and 4723.351 of the Revised Code;~~

~~237 (26) Failure to comply with the terms and conditions 238 required under the practice intervention and improvement program 239 established under section 4723.282 of the Revised Code;~~

~~240 (27) In the case of an advanced practice registered nurse:~~

~~241 (a) Engaging in activities that exceed those permitted for 242 the nurse's nursing specialty under section 4723.43 of the 243 Revised Code;~~

~~244 (b) Failure to meet the quality assurance standards 245 established under section 4723.07 of the Revised Code.~~

~~246 (28) In the case of an advanced practice registered nurse 247 H.~~

~~B.~~

~~No.~~

~~440 Page 10 As Passed by the House other than a certified registered nurse anesthetist, failure to 248 maintain a standard care arrangement in accordance with section 249 4723.431 of the Revised Code or to practice in accordance with 250 the standard care arrangement;~~

~~251 (29) In the case of an advanced practice registered nurse 252 who is designated as a clinical nurse specialist, certified 253 nurse-midwife, or certified nurse practitioner, failure to 254 prescribe drugs and therapeutic devices in accordance with 255 section 4723.481 of the Revised Code;~~

~~256 (30) Prescribing any drug or device to perform or induce 257 an abortion, or otherwise performing or inducing an abortion;~~

~~258 (31) Failure to establish and maintain professional 259 boundaries with a patient, as specified in rules adopted under 260 section 4723.07 of the Revised Code;~~

~~261 (32) Regardless of whether the contact or verbal behavior 262 is consensual, engaging with a patient other than the spouse of 263 the registered nurse, licensed practical nurse, or dialysis 264 technician in any of the following:~~

~~265 (a) Sexual contact, as defined in section 2907.01 of the 266 Revised Code;~~

~~267 (b) Verbal behavior that is sexually demeaning to the 268 patient or may be reasonably interpreted by the patient as 269 sexually demeaning.~~

~~270 (33) Assisting suicide, as defined in section 3705.01 of 271 the Revised Code;~~

~~272 (34) Failure to comply with the requirements in section 273 3710.061 of the Revised Code before issuing for a minor a 274 prescription for an opioid analgesic, as defined in section 275 H.~~

~~B.~~

~~No.~~

~~440 Page 11 As Passed by the House 3710.01 of the Revised Code;~~

~~276 (35) Failure to comply with section 4723.487 of the 277 Revised Code, unless the state board of pharmacy no longer 278 maintains a drug database pursuant to section 4720.75 of the 279 Revised Code;~~

~~280 (36) The revocation, suspension, restriction, reduction, 281 or termination of clinical privileges by the United States 282 department of defense or department of veterans affairs or the 283 termination or suspension of a certificate of registration to 284 prescribe drugs by the drug enforcement administration of the 285 United States department of justice;~~

~~286 (37) In the case of an advanced practice registered nurse 287 who is designated as a clinical nurse specialist, certified 288 nurse-midwife, or certified nurse practitioner, failure to 289 comply with the terms of a consult agreement entered into with a 290 pharmacist pursuant to section 4720.39 of the Revised Code;~~

~~291 (38) Violation of section 4723.03 of the Revised Code;~~

~~292 (39) Failure to cooperate with an investigation conducted 293 by the board under this chapter, including failure to comply 294 with a subpoena or order issued by the board or failure to 295 answer truthfully a question presented by the board in an 296 investigative interview, in an investigative office conference, 297 at a deposition, or in written interrogatories, except that 298 failure to cooperate with an investigation does not constitute 299 grounds for discipline if a court of competent jurisdiction has 300 issued an order that either quashes a subpoena or permits the 301 individual to withhold testimony or evidence at issue.~~

~~302 (C) Disciplinary actions taken by the board under 303 divisions (A) and (B) of this section shall be taken pursuant to 304 H.~~

~~B.~~

~~No.~~

~~440 Page 12 As Passed by the House an adjudication conducted under Chapter 119.~~

~~of the Revised 305 Code, except that in lieu of a hearing, the board may enter into 306 a consent agreement with an individual to resolve an allegation 307 of a violation of this chapter or any rule adopted under it.~~

~~A 308 consent agreement, when ratified by a vote of a quorum, shall 309 constitute the findings and order of the board with respect to 310 the matter addressed in the agreement.~~

~~If the board refuses to 311 ratify a consent agreement, the admissions and findings 312 contained in the agreement shall be of no effect.~~

~~313 (D) The hearings of the board shall be conducted in 314 accordance with Chapter 119.~~

~~of the Revised Code, the board may 315 appoint a hearing examiner, as provided in section 119.09 of the 316 Revised Code, to conduct any hearing the board is authorized to 317 hold under Chapter 119.~~

~~318 In any instance in which the board is required under 319 Chapter 119.~~

~~of the Revised Code to give notice of an 320 opportunity for a hearing and the applicant, licensee, or 321 certificate holder does not make a timely request for a hearing 322 in accordance with section 119.07 of the Revised Code, the board 323 is not required to hold a hearing, but may adopt, by a vote of a 324 quorum, a final order that contains the board's findings.~~

~~In the 325 final order, the board may order any of the sanctions listed in 326 division (A) or (B) of this section.~~

~~327 (E) If a criminal action is brought against a registered 328 nurse, licensed practical nurse, or dialysis technician for an 329 act or crime described in divisions (B)(3) to (7) of this 330 section and the action is dismissed by the trial court other 331 than on the merits, the board shall conduct an adjudication to 332 determine whether the registered nurse, licensed practical 333 nurse, or dialysis technician committed the act on which the 334 H.~~

~~440 Page 136th 136 G.A. As Passed by the House action was based.~~

~~If dialysis the technician board for determines an enact the or basis crime of described the in 335 divisions adjudication (B)(3) that to the (7) registered of nurse, this licensed section practical and 336 the nurse, action or is dialysis dismissed technician by committed the act, trial or court if other the than 337 on registered nurse, licensed practical nurse, or dialysis 338 technician fails to participate in the adjudication, merits, the board 339 shall may conduct take an action adjudication as to though determine whether the registered nurse, licensed 340 practical nurse, or dialysis technician had committed been the convicted act of on 341 which the act action was based.~~

~~342-If the board takesdetermines action on the basis of a the conviction,adjudication 343that plea,the orregistered a nurse, judiciallicensed findingpractical as nurse, describedor indialysis divisionstechnician (B)(3)committed tothe 344act, (7)or ofif this section that is overturned on appeal, the registered 345-nurse, licensed practical nurse, or dialysis technician may,fails on to 346participate exhaustionin ofthe adiudication, the appealboard process,may petitiontake action as though the boardregistered for nurse, 347licensed reconsiderationpractical nurse, or dialysis technician had been convicted of its the action-act.~~

~~OnIf receiptthe board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the petitionregistered and nurse, 348licensed supportingpractical court nurse, documents, or dialysis technician may, on exhaustion of the boardappeal shallprocess, temporarilypetition rescindthe 349board for reconsideration of its action.~~

~~IfOn the receipt boardof determines that the decisionpetition onand appeal supporting 350court wasdocuments, a decision on the merits,board it shall permanentlytemporarily rescind its-351 action.~~

~~If the board determines that the decision on appeal was 352 not a decision on the merits, it shall conductpermanently anrescind adjudicationits 353action. to determine whether the registered nurse, licensed practical 354 nurse, or dialysis technician committed the act on which the 355 original conviction, plea, or judicial finding was based.~~

~~If the 356-board determines onthat the basisdecision ofon the appeal adjudicationwas thatnot thea 357decision registeredon nurse,the licensedmerits, practicalit nurse,shall orconduct dialysisan 358adjudication technician to committeddetermine suchwhether act, or if the registered nurse, 359 licensed practical nurse, or dialysis technician doescommitted notthe 360act requeston anwhich adjudication,the boardoriginal shallconviction, reinstateplea, itsor action;judicial finding was based.~~

~~361If otherwise,the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall permanentlyreinstate rescind-its action-action;~~

~~362otherwise, Notwithstanding the provisionboard ofshall divisionpermanently (D)(2)rescind ofits 363action. section 2953.32 or division (F)(1) of section 2953.39 of the 364 Revised Code specifying that if records pertaining to a criminal 365 H.~~

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

~~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.~~

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

~~As part of such investigation, the board may order the individual to submit, at the individual's expense, a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records in accordance with the procedure described in pursuant to section 4723.091 of the Revised Code.~~

~~(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this H.~~

~~440 Page136th 14G.A. As Passed by the House case are sealed or expunged under that section the proceedings 366 in the case shall be deemed not to have occurred, sealing or 367 expungement of the following records on which the board has 368 based an action under this section shall have no effect on the 369 board's action or any sanction imposed by the board under this 370 section:~~

~~recordschapter ofto anysubmit conviction,to guiltya plea,mental judicialor 371physical findingexamination, ofor guiltboth, resultingas fromrequired aby plea the board and at the expense of nothe contest,individual, or if a the 372board judicialfinds findingreason ofto eligibilitybelieve forthat a the pretrialindividual diversionunder programinvestigation 373may have a physical or interventionmental inimpairment lieu that ofmay conviction.affect the individual's ability to provide safe nursing or dialysis care.~~

~~374-The board shall not becompel requiredan individual who has been referred to seal,the destroy,safe redact,have 375program oras otherwise described modifyin itssections records4723.35 toand reflect4723.351 of the court'sRevised sealingCode 376to orsubmit expungementto ofa convictionmental records-or physical examination.~~

~~377 Failure (F) of the any board individual may to investigate submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's criminal control, 378 and background a in default performing and its final duties order under may this be section, entered without the taking of testimony or presentation of evidence.~~

~~As if part 379 of such investigation, the board may finds order that the an individual to is 380 impaired, submit, at the individual's board expense, shall a require request to the bureau individual of to 381 submit criminal to identification care, and counseling, investigation or for treatment approved criminal or records designated 382 by check the and board, check as of a federal condition bureau for of initial, investigation continued, records reinstated, in or 383 renewed accordance authority with the procedure described in pursuant to section practice. 384 4723.091 of the Revised Code.~~

~~385 The (G) individual During shall the be course afforded of an investigation opportunity conducted to under demonstrate 386 to this section, the board may that compel the any individual registered can nurse, begin 387 licensed practical nurse, or dialysis resume technician the or individual's applicant occupation 388 in under compliance this with chapter acceptable to submit to a mental or physical 389 examination, or both, as required by the board and at prevailing the standards 390 expense of the care individual, under if the board provisions finds of reason to believe 391 that the individual under investigation may have a physical or 392 mental impairment that may affect the individual's ability authority to 393 practice. provide safe nursing or dialysis care.~~

~~394 For The purposes board of this division, any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter shall not be compelled deemed into individual have who given has consent been to 395 submit H. 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.~~

~~(H) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board.~~

~~Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board.~~

~~In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under Chapter 119.~~

~~of the Revised Code shall not be liable for civil damages as a result of the report or testimony.~~

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

~~(1) Information received by the board pursuant to a complaint or an investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities for purposes of an investigation of either a licensed health care professional, including a registered nurse, licensed practical nurse, or dialysis technician, or a person who may have engaged in the unauthorized practice of nursing or dialysis care.~~

~~No law enforcement officer or government entity with knowledge of any information disclosed by the board pursuant to this division shall divulge the information to any other person or government entity except for the purpose of a government investigation, a prosecution, or an H.~~

~~440 Page 136th 15G.A. As Passed by the House referred to the safe haven program as described in sections 396 4723.35 and 4723.351 of the Revised Code to submit to a mental 397 or physical examination.~~

~~398 adjudication Failure by of any individual to submit to a mental court or 399 government physical entity. examination when directed constitutes an admission of 400 the allegations, unless the failure is due to circumstances 401 beyond the individual's control, and a default and final order 402 may be entered without the taking of testimony or presentation 403 of evidence.~~

~~404 (2) If the board finds that an individual investigation is requires impaired, a the review 405 of board patient shall records, require the individual investigation to and submit proceeding to shall care, be 406 conducted counseling, in or such treatment a approved manner or designated by the board, as 407 to a protect condition patient for confidentiality. initial, continued, reinstated, or renewed 408 authority to practice.~~

~~The (3) individual All shall adjudications be and afforded investigations and of 409 opportunity to demonstrate to the board that shall the be individual considered can civil 410 actions begin for or resume the individual's purposes occupation in compliance with 411 acceptable and prevailing standards of care section under 2305.252 the provisions 412 of the individual's Revised authority Code. to practice.~~

~~413 (4) For Any purposes board of activity this that division, involves any continued registered monitoring nurse, of 414 an licensed individual practical as nurse, part of or dialysis following technician any or disciplinary applicant action 415 taken under this chapter section shall be deemed conducted to in have given consent to 416 submit to a mental manner or that physical maintains examination when directed to do 417 so in writing by the board, individual's and confidentiality. to have waived all objections to 418 the admissibility of testimony or examination reports that 419 constitute a privileged communication.~~

~~420 Information (H) received The or maintained by the board shall with investigator respect evidence to that the appears board's monitoring activities is not subject to 421 discovery show in any civil action and is~~

confidential, except that ~~any~~ the person ~~board has~~ may ~~violated~~ disclose ~~any~~ information ~~provision to~~ of ~~law~~ this ~~enforcement~~ chapter ~~officers~~ 422 ~~and~~ or ~~government~~ any ~~entities~~ rule ~~for~~ purposes ~~of the~~ an ~~board.~~ investigation of a licensee or certificate holder.

(J) ~~Any person~~ action may ~~taken~~ report by ~~to the board~~ any ~~under~~ 423 ~~this~~ information ~~section~~ the ~~resulting~~ person ~~in~~ may ~~have~~ suspension ~~that~~ from ~~appears~~ practice ~~to~~ shall ~~show~~ be ~~accompanied by a~~ violation ~~written~~ 424 ~~statement of~~ any ~~the~~ provision ~~conditions of~~ under ~~this~~ which ~~chapter~~ the ~~or~~ person ~~rule~~ may ~~of~~ be ~~the~~ reinstated ~~board.~~ to practice.

~~In~~ (K) ~~When the~~ 425 ~~board~~ H. ~~refuses to grant a license or certificate to an applicant, revokes a license or certificate, or refuses to reinstate a license or certificate, the board may specify that its action is permanent.~~

An individual subject to permanent action taken by the board is forever ineligible to hold a license or certificate of the type that was refused or revoked and the board shall not accept from the individual an application for reinstatement of the license or certificate or for a new license or certificate.

(L) No unilateral surrender of a nursing license or dialysis technician certificate issued under this chapter shall be effective unless accepted by majority vote of the board.

No application for a nursing license or dialysis technician certificate issued under this chapter may be withdrawn without a majority vote of the board.

The board's jurisdiction to take disciplinary action under this section is not removed or limited when an individual has a license or certificate classified as inactive or fails to renew a license or certificate.

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

(1) In compliance with the health benefit plan that expressly allows such a practice.

Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator.

Documentation of the consent shall be made available to the board upon request.

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

SECTION 2.

That existing sections 4723.091, 4723.092, and 4723.28 of the Revised Code are hereby repealed.

H.

~~440 Page 136th 16G.A. As Passed by the House~~ absence of bad faith, any person who reports such information or ~~426~~ who testifies before the board in any adjudication conducted ~~427~~ under Chapter 119. ~~of the~~ SECTION ~~Revised~~ 3. ~~Code shall not be liable for~~ 428 ~~civil damages as a result of the report or testimony.~~

~~429~~ This (I) act ~~is~~ of ~~hereby~~ the ~~declared~~ following ~~to~~ apply ~~be~~ under ~~an~~ this ~~emergency~~ chapter ~~measure~~ with ~~necessary~~ 430 ~~for~~ respect ~~the~~ to ~~immediate~~ preservation of ~~the~~ confidentiality ~~public of~~ peace, ~~information,~~ health, and safety.

~~431~~ The (1) reason ~~Information~~ for ~~received~~ such ~~by~~ necessity ~~the board pursuant to a~~ 432 ~~complaint or an investigation is~~ confidential ~~and not subject to~~ 433 ~~discovery in any civil action, except that~~ the ~~enactment~~ board ~~into~~ may ~~434~~ ~~disclose information to law enforcement at~~ officers ~~the~~ and ~~earliest~~ possible ~~435~~ ~~time~~ entities ~~will~~ for ~~preserve~~ purposes ~~the~~ confidentiality of ~~an~~ Board ~~investigation of either~~ Nursing- ~~related~~ licensed ~~criminal~~ 436 ~~records~~ health ~~check~~ care ~~information~~ professional, ~~and~~ including ~~will~~ are ~~restrict~~ registered ~~access~~ nurse, ~~to~~ licensed ~~such~~ 437 ~~information~~ practical ~~only~~ nurse, ~~to~~ or ~~individuals~~ dialysis ~~subject~~ technician, ~~to~~ or ~~such~~ a ~~checks~~ person ~~and~~ who ~~to~~ may ~~the~~ 438 ~~Board~~ have ~~for~~ engaged in the ~~unauthorized~~ purpose ~~practice of~~ nursing ~~fulfilling~~ or ~~specific~~ dialysis ~~statutory~~ 439 ~~duties.~~ care.

~~No~~ Therefore, ~~law enforcement officer or government entity with~~ 440 ~~knowledge of any information disclosed by the board pursuant to~~ 441 ~~this division~~ act ~~shall~~ divulge ~~go~~ the ~~into~~ information ~~immediate~~ to ~~effect.~~ any other person ~~442~~ or government entity except for the purpose of a government ~~443~~ investigation, a prosecution, or an adjudication by a court or ~~444~~ government entity.

~~445~~ H. ~~(2) If an investigation requires a review of patient~~ 446 ~~records, the investigation and proceeding shall be conducted in~~ 447 ~~such a manner as to protect patient confidentiality.~~

~~448~~ (3) All adjudications and investigations of the board ~~449~~ shall be considered civil actions for the purposes of ~~section~~ 450 ~~2305.252 of the Revised Code.~~

~~451~~ (4) Any board activity that involves continued monitoring ~~452~~ of an individual as part of or following any disciplinary action ~~453~~ taken under this section shall be conducted in a manner that ~~454~~ H.

~~440 Page 136th 17G.A. As Passed by the House~~ maintains the individual's confidentiality.

Information ~~Speaker~~ received 455 ~~of~~ or maintained by the board ~~House~~ with respect to the board's ~~456~~ monitoring activities is not subject to discovery in any civil ~~457~~ action and is

~~confidential, except that the board may disclose 458 information to law enforcement officers and government entities 459 for purposes of an~~Representatives. ~~investigation of a licensee or certificate 460 holder.~~

~~461~~President (J)~~_____ Any action taken by the board under this section 462 resulting in a suspension from practice shall be accompanied by 463 a written statement of the conditions~~Senate. ~~under which the person may 464 be reinstated to practice.~~

~~465~~Passed (K)~~_____, When~~20 ~~the~~Approved ~~board _____, refuses~~20 ~~to~~Governor. ~~grant a license or 466 certificate to an applicant, revokes a license or certificate, 467 or refuses to reinstate a license or certificate, the board may 468 specify that its action is permanent.~~

~~An~~H. ~~individual subject to 469 permanent action taken by the board is forever ineligible to 470 hold a license or certificate of the type that was refused or 471 revoked and the board shall not accept from the individual an 472 application for reinstatement of the license or certificate or 473 for a new license or certificate.~~

~~474 (L) No unilateral surrender of a nursing license or 475 dialysis technician certificate issued under this chapter shall 476 be effective unless accepted by majority vote of the board.~~

~~No 477 application for a nursing license or dialysis technician 478 certificate issued under this chapter may be withdrawn without a 479 majority vote of the board.~~

~~The board's jurisdiction to take 480 disciplinary action under this section is not removed or limited 481 when an individual has a license or certificate classified as 482 inactive or fails to renew a license or certificate.~~

~~483 (M) Sanctions shall not be imposed under division (B)(24) 484 H.~~

~~440 Page~~136th ~~18G.A. As Passed by the House of this section against any licensee who waives deductibles and 485 copayments as follows:~~

~~486~~The (1)~~section in numbering compliance of with law the of health a benefit~~general plan~~and that permanent 487 nature expressly is allows complete such and ain practice, conformity with the Revised Code.~~

~~Waiver~~Director. ~~of Legislative the Service deductibles Commission.~~ ~~or 488 copayments shall be made only with the full knowledge and 489 consent of the plan purchaser, payer, and third-party 490 administrator.~~

~~Documentation~~Filed in the office of the consent~~Secretary shall of be State made at 491 Columbus, available~~Ohio, to on the board _____ upon day request of _____, A.

~~492 D. (2) For professional services rendered to any other person 493 licensed pursuant to this chapter to the extent allowed by this 494 chapter and the rules of the board.~~

~~495~~20 ~~. Section 2.~~

~~That~~Secretary ~~existing sections 4723.091, 4723.092, and 496 4723.28 of the~~State. ~~Revised Code are hereby repealed.~~

~~497~~File Section No. -3-

~~This _____ act~~Effective is~~Date hereby _____ declared to be an emergency 498 measure necessary for the immediate preservation of the public 499 peace, health, and safety.~~

~~The reason for such necessity is that 500 enactment into law at the earliest possible time will preserve 501 the confidentiality of Board of Nursing-related criminal records 502 check information and will restrict access to such information 503 only to individuals subject to such checks and to the Board for 504 the purpose of fulfilling specific statutory duties.~~

~~Therefore, 505 this act shall go into immediate effect.~~

~~506~~