

As Introduced

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A B I L L

To amend sections 3719.06, 4731.22, and 4731.223 and 1
to enact section 2919.123 of the Revised Code 2
regarding the provision or use of RU-486 3
(mifepristone) for an abortion. 4

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

Section 1. That sections 3719.06, 4731.22, and 4731.223 be 5
amended and section 2919.123 of the Revised Code be enacted to 6
read as follows: 7

Sec. 2919.123. (A) No person shall knowingly give, sell, dispense, administer, otherwise provide, or prescribe RU-486 (mifepristone) to another for the purpose of inducing an abortion in any person or enabling the other person to induce an abortion in any person, unless the person who gives, sells, dispenses, administers, or otherwise provides or prescribes the RU-486 (mifepristone) is a physician, the physician satisfies all the criteria established by federal law that a physician must satisfy in order to provide RU-486 (mifepristone) for inducing abortions, and the physician provides the RU-486 (mifepristone) to the other person for the purpose of inducing an abortion in accordance with all provisions of federal law that govern the use of RU-486 (mifepristone) for inducing abortions. A person who gives, sells, dispenses, administers, otherwise provides, or prescribes RU-486 (mifepristone) to another as described in division (A) of this section shall not be prosecuted based on a violation of the criteria contained in this division unless the person knows that the person is not a physician, that the person did not satisfy all the specified criteria established by federal law, or that the person did not provide the RU-486 (mifepristone) in accordance with the specified provisions of federal law, whichever is applicable.

(B) No physician who provides RU-486 (mifepristone) to another for the purpose of inducing an abortion as authorized under division (A) of this section shall knowingly fail to comply with the applicable requirements of any federal law that pertain to follow-up examinations or care for persons to whom or for whom RU-486 (mifepristone) is provided for the purpose of inducing an abortion.

(C)(1) If a physician provides RU-486 (mifepristone) to 37
another for the purpose of inducing an abortion as authorized 38
under division (A) of this section and if the physician knows that 39
the person who uses the RU-486 (mifepristone) for the purpose of 40
inducing an abortion experiences during or after the use an 41
incomplete abortion, severe bleeding, or an adverse reaction to 42
the RU-486 (mifepristone) or is hospitalized, receives a 43
transfusion, or experiences any other serious event, the physician 44
promptly must provide a written report of the incomplete abortion, 45
severe bleeding, adverse reaction, hospitalization, transfusion, 46
or serious event to the state medical board. The board shall 47
compile and retain all reports it receives under this division. 48
Except as otherwise provided in this division, all reports the 49
board receives under this division are public records open to 50
inspection under section 149.43 of the Revised Code. In no case 51
shall the board release to any person the name or any other 52
personal identifying information regarding a person who uses 53
RU-486 (mifepristone) for the purpose of inducing an abortion and 54
who is the subject of a report the board receives under this 55
division. 56

(2) No physician who provides RU-486 (mifepristone) to 57
another for the purpose of inducing an abortion as authorized 58
under division (A) of this section shall knowingly fail to file a 59
report required under division (C)(1) of this section. 60

(D) Division (A) of this section does not apply to any of the 61
following: 62

(1) A pregnant woman who obtains or possesses RU-486 63
(mifepristone) for the purpose of inducing an abortion to 64
terminate her own pregnancy; 65

(2) The legal transport of RU-486 (mifepristone) by any person or entity and the legal delivery of the RU-486 (mifepristone) by any person to the recipient, provided that this division does not apply regarding any conduct related to the RU-486 (mifepristone) other than its transport and delivery to the recipient;

(3) The distribution, provision, or sale of RU-486 (mifepristone) by any legal manufacturer or distributor of RU-486 (mifepristone), provided the manufacturer or distributor made a good faith effort to comply with any applicable requirements of federal law regarding the distribution, provision, or sale.

(E) Whoever violates this section is guilty of unlawful distribution of an abortion-inducing drug, a felony of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or of section 2919.12, 2919.121, 2919.13, 2919.14, 2919.151, 2919.17, or 2919.18 of the Revised Code, unlawful distribution of an abortion-inducing drug is a felony of the third degree.

If the offender is a professionally licensed person, in addition to any other sanction imposed by law for the offense, the offender is subject to sanctioning as provided by law by the regulatory or licensing board or agency that has the administrative authority to suspend or revoke the offender's professional license, including the sanctioning provided in section 4731.22 of the Revised Code for offenders who have a certificate to practice or certificate of registration issued under that chapter.

(F) As used in this section:

(1) "Federal law" means any law, rule, or regulation of the United States or any drug approval letter of the food and drug administration of the United States that governs or regulates the

use of RU-486 (mifepristone) for the purpose of inducing abortions. 97
98

(2) "Personal identifying information" has the same meaning as in section 2913.49 of the Revised Code. 99
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(3) "Physician" has the same meaning as in section 2305.11 of the Revised Code. 101
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(4) "Professionally licensed person" has the same meaning as in section 2925.01 of the Revised Code. 103
104

Sec. 3719.06. (A)(1) A licensed health professional 105
authorized to prescribe drugs, if acting in the course of 106
professional practice, in accordance with the laws regulating the 107
professional's practice, ~~and~~ in accordance with rules adopted by 108
the state board of pharmacy, and subject to section 2919.123 of 109
the Revised Code, may, except as provided in division (A)(2) of 110
this section, do the following: 111

(a) Prescribe schedule II, III, IV, and V controlled 112
substances; 113

(b) Administer or personally furnish to patients schedule II, 114
III, IV, and V controlled substances; 115

(c) Cause schedule II, III, IV, and V controlled substances 116
to be administered under the prescriber's direction and 117
supervision. 118

(2) A licensed health professional authorized to prescribe 119
drugs who is a clinical nurse specialist, certified nurse-midwife, 120
or certified nurse practitioner is subject to both of the 121
following: 122

(a) A schedule II controlled substance may be prescribed only 123
for a patient with a terminal condition, as defined in section 124
2133.01 of the Revised Code, only if the nurse's collaborating 125
physician initially prescribed the substance for the patient, and 126

only in an amount that does not exceed the amount necessary for 127
the patient's use in a single, twenty-four-hour period. 128

(b) No controlled substance shall be personally furnished to 129
any patient. 130

(B) No licensed health professional authorized to prescribe 131
drugs shall prescribe, administer, or personally furnish a 132
schedule III anabolic steroid for the purpose of human muscle 133
building or enhancing human athletic performance and no pharmacist 134
shall dispense a schedule III anabolic steroid for either purpose, 135
unless it has been approved for that purpose under the "Federal 136
Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 137
301, as amended. 138

(C) Each written prescription shall be properly executed, 139
dated, and signed by the prescriber on the day when issued and 140
shall bear the full name and address of the person for whom, or 141
the owner of the animal for which, the controlled substance is 142
prescribed and the full name, address, and registry number under 143
the federal drug abuse control laws of the prescriber. If the 144
prescription is for an animal, it shall state the species of the 145
animal for which the controlled substance is prescribed. 146

(D) A prescription for RU-486 (mifepristone) shall be in 147
writing and in accordance with section 2919.123 of the Revised 148
Code. 149

Sec. 4731.22. (A) The state medical board, by an affirmative 150
vote of not fewer than six of its members, may revoke or may 151
refuse to grant a certificate to a person found by the board to 152
have committed fraud during the administration of the examination 153
for a certificate to practice or to have committed fraud, 154
misrepresentation, or deception in applying for or securing any 155
certificate to practice or certificate of registration issued by 156
the board. 157

(B) The board, by an affirmative vote of not fewer than six 158
members, shall, to the extent permitted by law, limit, revoke, or 159
suspend an individual's certificate to practice, refuse to 160
register an individual, refuse to reinstate a certificate, or 161
reprimand or place on probation the holder of a certificate for 162
one or more of the following reasons: 163

(1) Permitting one's name or one's certificate to practice or 164
certificate of registration to be used by a person, group, or 165
corporation when the individual concerned is not actually 166
directing the treatment given; 167

(2) Failure to maintain minimal standards applicable to the 168
selection or administration of drugs, or failure to employ 169
acceptable scientific methods in the selection of drugs or other 170
modalities for treatment of disease; 171

(3) Selling, giving away, personally furnishing, prescribing, 172
or administering drugs for other than legal and legitimate 173
therapeutic purposes or a plea of guilty to, a judicial finding of 174
guilt of, or a judicial finding of eligibility for intervention in 175
lieu of conviction of, a violation of any federal or state law 176
regulating the possession, distribution, or use of any drug; 177

(4) Willfully betraying a professional confidence. 178

For purposes of this division, "willfully betraying a 179
professional confidence" does not include providing any 180
information, documents, or reports to a child fatality review 181
board under sections 307.621 to 307.629 of the Revised Code and 182
does not include the making of a report of an employee's use of a 183
drug of abuse, or a report of a condition of an employee other 184
than one involving the use of a drug of abuse, to the employer of 185
the employee as described in division (B) of section 2305.33 of 186
the Revised Code. Nothing in this division affects the immunity 187
from civil liability conferred by that section upon a physician 188

who makes either type of report in accordance with division (B) of 189
that section. As used in this division, "employee," "employer," 190
and "physician" have the same meanings as in section 2305.33 of 191
the Revised Code. 192

(5) Making a false, fraudulent, deceptive, or misleading 193
statement in the solicitation of or advertising for patients; in 194
relation to the practice of medicine and surgery, osteopathic 195
medicine and surgery, podiatric medicine and surgery, or a limited 196
branch of medicine; or in securing or attempting to secure any 197
certificate to practice or certificate of registration issued by 198
the board. 199

As used in this division, "false, fraudulent, deceptive, or 200
misleading statement" means a statement that includes a 201
misrepresentation of fact, is likely to mislead or deceive because 202
of a failure to disclose material facts, is intended or is likely 203
to create false or unjustified expectations of favorable results, 204
or includes representations or implications that in reasonable 205
probability will cause an ordinarily prudent person to 206
misunderstand or be deceived. 207

(6) A departure from, or the failure to conform to, minimal 208
standards of care of similar practitioners under the same or 209
similar circumstances, whether or not actual injury to a patient 210
is established; 211

(7) Representing, with the purpose of obtaining compensation 212
or other advantage as personal gain or for any other person, that 213
an incurable disease or injury, or other incurable condition, can 214
be permanently cured; 215

(8) The obtaining of, or attempting to obtain, money or 216
anything of value by fraudulent misrepresentations in the course 217
of practice; 218

(9) A plea of guilty to, a judicial finding of guilt of, or a 219

judicial finding of eligibility for intervention in lieu of	220
conviction for, a felony;	221
(10) Commission of an act that constitutes a felony in this	222
state, regardless of the jurisdiction in which the act was	223
committed;	224
(11) A plea of guilty to, a judicial finding of guilt of, or	225
a judicial finding of eligibility for intervention in lieu of	226
conviction for, a misdemeanor committed in the course of practice;	227
(12) Commission of an act in the course of practice that	228
constitutes a misdemeanor in this state, regardless of the	229
jurisdiction in which the act was committed;	230
(13) A plea of guilty to, a judicial finding of guilt of, or	231
a judicial finding of eligibility for intervention in lieu of	232
conviction for, a misdemeanor involving moral turpitude;	233
(14) Commission of an act involving moral turpitude that	234
constitutes a misdemeanor in this state, regardless of the	235
jurisdiction in which the act was committed;	236
(15) Violation of the conditions of limitation placed by the	237
board upon a certificate to practice;	238
(16) Failure to pay license renewal fees specified in this	239
chapter;	240
(17) Except as authorized in section 4731.31 of the Revised	241
Code, engaging in the division of fees for referral of patients,	242
or the receiving of a thing of value in return for a specific	243
referral of a patient to utilize a particular service or business;	244
(18) Subject to section 4731.226 of the Revised Code,	245
violation of any provision of a code of ethics of the American	246
medical association, the American osteopathic association, the	247
American podiatric medical association, or any other national	248
professional organizations that the board specifies by rule. The	249

state medical board shall obtain and keep on file current copies 250
of the codes of ethics of the various national professional 251
organizations. The individual whose certificate is being suspended 252
or revoked shall not be found to have violated any provision of a 253
code of ethics of an organization not appropriate to the 254
individual's profession. 255

For purposes of this division, a "provision of a code of 256
ethics of a national professional organization" does not include 257
any provision that would preclude the making of a report by a 258
physician of an employee's use of a drug of abuse, or of a 259
condition of an employee other than one involving the use of a 260
drug of abuse, to the employer of the employee as described in 261
division (B) of section 2305.33 of the Revised Code. Nothing in 262
this division affects the immunity from civil liability conferred 263
by that section upon a physician who makes either type of report 264
in accordance with division (B) of that section. As used in this 265
division, "employee," "employer," and "physician" have the same 266
meanings as in section 2305.33 of the Revised Code. 267

(19) Inability to practice according to acceptable and 268
prevailing standards of care by reason of mental illness or 269
physical illness, including, but not limited to, physical 270
deterioration that adversely affects cognitive, motor, or 271
perceptive skills. 272

In enforcing this division, the board, upon a showing of a 273
possible violation, may compel any individual authorized to 274
practice by this chapter or who has submitted an application 275
pursuant to this chapter to submit to a mental examination, 276
physical examination, including an HIV test, or both a mental and 277
a physical examination. The expense of the examination is the 278
responsibility of the individual compelled to be examined. Failure 279
to submit to a mental or physical examination or consent to an HIV 280
test ordered by the board constitutes an admission of the 281

allegations against the individual unless the failure is due to 282
circumstances beyond the individual's control, and a default and 283
final order may be entered without the taking of testimony or 284
presentation of evidence. If the board finds an individual unable 285
to practice because of the reasons set forth in this division, the 286
board shall require the individual to submit to care, counseling, 287
or treatment by physicians approved or designated by the board, as 288
a condition for initial, continued, reinstated, or renewed 289
authority to practice. An individual affected under this division 290
shall be afforded an opportunity to demonstrate to the board the 291
ability to resume practice in compliance with acceptable and 292
prevailing standards under the provisions of the individual's 293
certificate. For the purpose of this division, any individual who 294
applies for or receives a certificate to practice under this 295
chapter accepts the privilege of practicing in this state and, by 296
so doing, shall be deemed to have given consent to submit to a 297
mental or physical examination when directed to do so in writing 298
by the board, and to have waived all objections to the 299
admissibility of testimony or examination reports that constitute 300
a privileged communication. 301

(20) Except when civil penalties are imposed under section 302
4731.225 or 4731.281 of the Revised Code, and subject to section 303
4731.226 of the Revised Code, violating or attempting to violate, 304
directly or indirectly, or assisting in or abetting the violation 305
of, or conspiring to violate, any provisions of this chapter or 306
any rule promulgated by the board. 307

This division does not apply to a violation or attempted 308
violation of, assisting in or abetting the violation of, or a 309
conspiracy to violate, any provision of this chapter or any rule 310
adopted by the board that would preclude the making of a report by 311
a physician of an employee's use of a drug of abuse, or of a 312
condition of an employee other than one involving the use of a 313

drug of abuse, to the employer of the employee as described in 314
division (B) of section 2305.33 of the Revised Code. Nothing in 315
this division affects the immunity from civil liability conferred 316
by that section upon a physician who makes either type of report 317
in accordance with division (B) of that section. As used in this 318
division, "employee," "employer," and "physician" have the same 319
meanings as in section 2305.33 of the Revised Code. 320

(21) The violation of any abortion rule adopted by the public 321
health council pursuant to section 3701.341 of the Revised Code; 322

(22) Any of the following actions taken by the agency 323
responsible for regulating the practice of medicine and surgery, 324
osteopathic medicine and surgery, podiatric medicine and surgery, 325
or the limited branches of medicine in another jurisdiction, for 326
any reason other than the nonpayment of fees: the limitation, 327
revocation, or suspension of an individual's license to practice; 328
acceptance of an individual's license surrender; denial of a 329
license; refusal to renew or reinstate a license; imposition of 330
probation; or issuance of an order of censure or other reprimand; 331

(23) The violation of section 2919.12 of the Revised Code or 332
the performance or inducement of an abortion upon a pregnant woman 333
with actual knowledge that the conditions specified in division 334
(B) of section 2317.56 of the Revised Code have not been satisfied 335
or with a heedless indifference as to whether those conditions 336
have been satisfied, unless an affirmative defense as specified in 337
division (H)(2) of that section would apply in a civil action 338
authorized by division (H)(1) of that section; 339

(24) The revocation, suspension, restriction, reduction, or 340
termination of clinical privileges by the United States department 341
of defense or department of veterans affairs or the termination or 342
suspension of a certificate of registration to prescribe drugs by 343
the drug enforcement administration of the United States 344
department of justice; 345

(25) Termination or suspension from participation in the 346
medicare or medicaid programs by the department of health and 347
human services or other responsible agency for any act or acts 348
that also would constitute a violation of division (B)(2), (3), 349
(6), (8), or (19) of this section; 350

(26) Impairment of ability to practice according to 351
acceptable and prevailing standards of care because of habitual or 352
excessive use or abuse of drugs, alcohol, or other substances that 353
impair ability to practice. 354

For the purposes of this division, any individual authorized 355
to practice by this chapter accepts the privilege of practicing in 356
this state subject to supervision by the board. By filing an 357
application for or holding a certificate to practice under this 358
chapter, an individual shall be deemed to have given consent to 359
submit to a mental or physical examination when ordered to do so 360
by the board in writing, and to have waived all objections to the 361
admissibility of testimony or examination reports that constitute 362
privileged communications. 363

If it has reason to believe that any individual authorized to 364
practice by this chapter or any applicant for certification to 365
practice suffers such impairment, the board may compel the 366
individual to submit to a mental or physical examination, or both. 367
The expense of the examination is the responsibility of the 368
individual compelled to be examined. Any mental or physical 369
examination required under this division shall be undertaken by a 370
treatment provider or physician who is qualified to conduct the 371
examination and who is chosen by the board. 372

Failure to submit to a mental or physical examination ordered 373
by the board constitutes an admission of the allegations against 374
the individual unless the failure is due to circumstances beyond 375
the individual's control, and a default and final order may be 376

entered without the taking of testimony or presentation of 377
evidence. If the board determines that the individual's ability to 378
practice is impaired, the board shall suspend the individual's 379
certificate or deny the individual's application and shall require 380
the individual, as a condition for initial, continued, reinstated, 381
or renewed certification to practice, to submit to treatment. 382

Before being eligible to apply for reinstatement of a 383
certificate suspended under this division, the impaired 384
practitioner shall demonstrate to the board the ability to resume 385
practice in compliance with acceptable and prevailing standards of 386
care under the provisions of the practitioner's certificate. The 387
demonstration shall include, but shall not be limited to, the 388
following: 389

(a) Certification from a treatment provider approved under 390
section 4731.25 of the Revised Code that the individual has 391
successfully completed any required inpatient treatment; 392

(b) Evidence of continuing full compliance with an aftercare 393
contract or consent agreement; 394

(c) Two written reports indicating that the individual's 395
ability to practice has been assessed and that the individual has 396
been found capable of practicing according to acceptable and 397
prevailing standards of care. The reports shall be made by 398
individuals or providers approved by the board for making the 399
assessments and shall describe the basis for their determination. 400

The board may reinstate a certificate suspended under this 401
division after that demonstration and after the individual has 402
entered into a written consent agreement. 403

When the impaired practitioner resumes practice, the board 404
shall require continued monitoring of the individual. The 405
monitoring shall include, but not be limited to, compliance with 406
the written consent agreement entered into before reinstatement or 407

with conditions imposed by board order after a hearing, and, upon 408
termination of the consent agreement, submission to the board for 409
at least two years of annual written progress reports made under 410
penalty of perjury stating whether the individual has maintained 411
sobriety. 412

(27) A second or subsequent violation of section 4731.66 or 413
4731.69 of the Revised Code; 414

(28) Except as provided in division (N) of this section: 415

(a) Waiving the payment of all or any part of a deductible or 416
copayment that a patient, pursuant to a health insurance or health 417
care policy, contract, or plan that covers the individual's 418
services, otherwise would be required to pay if the waiver is used 419
as an enticement to a patient or group of patients to receive 420
health care services from that individual; 421

(b) Advertising that the individual will waive the payment of 422
all or any part of a deductible or copayment that a patient, 423
pursuant to a health insurance or health care policy, contract, or 424
plan that covers the individual's services, otherwise would be 425
required to pay. 426

(29) Failure to use universal blood and body fluid 427
precautions established by rules adopted under section 4731.051 of 428
the Revised Code; 429

(30) Failure of a collaborating physician to fulfill the 430
responsibilities agreed to by the physician and an advanced 431
practice nurse participating in a pilot program under section 432
4723.52 of the Revised Code; 433

(31) Failure to provide notice to, and receive acknowledgment 434
of the notice from, a patient when required by section 4731.143 of 435
the Revised Code prior to providing nonemergency professional 436
services, or failure to maintain that notice in the patient's 437
file; 438

(32) Failure of a physician supervising a physician assistant 439
to maintain supervision in accordance with the requirements of 440
Chapter 4730. of the Revised Code and the rules adopted under that 441
chapter; 442

(33) Failure of a physician or podiatrist to enter into a 443
standard care arrangement with a clinical nurse specialist, 444
certified nurse-midwife, or certified nurse practitioner with whom 445
the physician or podiatrist is in collaboration pursuant to 446
section 4731.27 of the Revised Code or failure to fulfill the 447
responsibilities of collaboration after entering into a standard 448
care arrangement; 449

(34) Failure to comply with the terms of a consult agreement 450
entered into with a pharmacist pursuant to section 4729.39 of the 451
Revised Code; 452

(35) Failure to cooperate in an investigation conducted by 453
the board under division (F) of this section, including failure to 454
comply with a subpoena or order issued by the board or failure to 455
answer truthfully a question presented by the board at a 456
deposition or in written interrogatories, except that failure to 457
cooperate with an investigation shall not constitute grounds for 458
discipline under this section if a court of competent jurisdiction 459
has issued an order that either quashes a subpoena or permits the 460
individual to withhold the testimony or evidence in issue; 461

(36) Failure to supervise an acupuncturist in accordance with 462
Chapter 4762. of the Revised Code and the board's rules for 463
supervision of an acupuncturist; 464

(37) Failure to supervise an anesthesiologist assistant in 465
accordance with Chapter 4760. of the Revised Code and the board's 466
rules for supervision of an anesthesiologist assistant. 467

(C) Disciplinary actions taken by the board under divisions 468
(A) and (B) of this section shall be taken pursuant to an 469

adjudication under Chapter 119. of the Revised Code, except that 470
in lieu of an adjudication, the board may enter into a consent 471
agreement with an individual to resolve an allegation of a 472
violation of this chapter or any rule adopted under it. A consent 473
agreement, when ratified by an affirmative vote of not fewer than 474
six members of the board, shall constitute the findings and order 475
of the board with respect to the matter addressed in the 476
agreement. If the board refuses to ratify a consent agreement, the 477
admissions and findings contained in the consent agreement shall 478
be of no force or effect. 479

If the board takes disciplinary action against an individual 480
under division (B) of this section for a second or subsequent plea 481
of guilty to, or judicial finding of guilt of, a violation of 482
section 2919.123 of the Revised Code, the disciplinary action 483
shall consist of a suspension of the individual's certificate to 484
practice for a period of at least one year or, if determined 485
appropriate by the board, a more serious sanction involving the 486
individual's certificate to practice. Any consent agreement 487
entered into under this division with an individual that pertains 488
to a second or subsequent plea of guilty to, or judicial finding 489
of guilt of, a violation of that section shall provide for a 490
suspension of the individual's certificate to practice for a 491
period of at least one year or, if determined appropriate by the 492
board, a more serious sanction involving the individual's 493
certificate to practice. 494

(D) For purposes of divisions (B)(10), (12), and (14) of this 495
section, the commission of the act may be established by a finding 496
by the board, pursuant to an adjudication under Chapter 119. of 497
the Revised Code, that the individual committed the act. The board 498
does not have jurisdiction under those divisions if the trial 499
court renders a final judgment in the individual's favor and that 500
judgment is based upon an adjudication on the merits. The board 501

has jurisdiction under those divisions if the trial court issues 502
an order of dismissal upon technical or procedural grounds. 503

(E) The sealing of conviction records by any court shall have 504
no effect upon a prior board order entered under this section or 505
upon the board's jurisdiction to take action under this section 506
if, based upon a plea of guilty, a judicial finding of guilt, or a 507
judicial finding of eligibility for intervention in lieu of 508
conviction, the board issued a notice of opportunity for a hearing 509
prior to the court's order to seal the records. The board shall 510
not be required to seal, destroy, redact, or otherwise modify its 511
records to reflect the court's sealing of conviction records. 512

(F)(1) The board shall investigate evidence that appears to 513
show that a person has violated any provision of this chapter or 514
any rule adopted under it. Any person may report to the board in a 515
signed writing any information that the person may have that 516
appears to show a violation of any provision of this chapter or 517
any rule adopted under it. In the absence of bad faith, any person 518
who reports information of that nature or who testifies before the 519
board in any adjudication conducted under Chapter 119. of the 520
Revised Code shall not be liable in damages in a civil action as a 521
result of the report or testimony. Each complaint or allegation of 522
a violation received by the board shall be assigned a case number 523
and shall be recorded by the board. 524

(2) Investigations of alleged violations of this chapter or 525
any rule adopted under it shall be supervised by the supervising 526
member elected by the board in accordance with section 4731.02 of 527
the Revised Code and by the secretary as provided in section 528
4731.39 of the Revised Code. The president may designate another 529
member of the board to supervise the investigation in place of the 530
supervising member. No member of the board who supervises the 531
investigation of a case shall participate in further adjudication 532
of the case. 533

(3) In investigating a possible violation of this chapter or 534
any rule adopted under this chapter, the board may administer 535
oaths, order the taking of depositions, issue subpoenas, and 536
compel the attendance of witnesses and production of books, 537
accounts, papers, records, documents, and testimony, except that a 538
subpoena for patient record information shall not be issued 539
without consultation with the attorney general's office and 540
approval of the secretary and supervising member of the board. 541
Before issuance of a subpoena for patient record information, the 542
secretary and supervising member shall determine whether there is 543
probable cause to believe that the complaint filed alleges a 544
violation of this chapter or any rule adopted under it and that 545
the records sought are relevant to the alleged violation and 546
material to the investigation. The subpoena may apply only to 547
records that cover a reasonable period of time surrounding the 548
alleged violation. 549

On failure to comply with any subpoena issued by the board 550
and after reasonable notice to the person being subpoenaed, the 551
board may move for an order compelling the production of persons 552
or records pursuant to the Rules of Civil Procedure. 553

A subpoena issued by the board may be served by a sheriff, 554
the sheriff's deputy, or a board employee designated by the board. 555
Service of a subpoena issued by the board may be made by 556
delivering a copy of the subpoena to the person named therein, 557
reading it to the person, or leaving it at the person's usual 558
place of residence. When the person being served is a person whose 559
practice is authorized by this chapter, service of the subpoena 560
may be made by certified mail, restricted delivery, return receipt 561
requested, and the subpoena shall be deemed served on the date 562
delivery is made or the date the person refuses to accept 563
delivery. 564

A sheriff's deputy who serves a subpoena shall receive the 565

ame fees as a sheriff. Each witness who appears before the board 566
in obedience to a subpoena shall receive the fees and mileage 567
provided for witnesses in civil cases in the courts of common 568
pleas. 569

(4) All hearings and investigations of the board shall be 570
considered civil actions for the purposes of section 2305.251 of 571
the Revised Code. 572

(5) Information received by the board pursuant to an 573
investigation is confidential and not subject to discovery in any 574
civil action. 575

The board shall conduct all investigations and proceedings in 576
a manner that protects the confidentiality of patients and persons 577
who file complaints with the board. The board shall not make 578
public the names or any other identifying information about 579
patients or complainants unless proper consent is given or, in the 580
case of a patient, a waiver of the patient privilege exists under 581
division (B) of section 2317.02 of the Revised Code, except that 582
consent or a waiver of that nature is not required if the board 583
possesses reliable and substantial evidence that no bona fide 584
physician-patient relationship exists. 585

The board may share any information it receives pursuant to 586
an investigation, including patient records and patient record 587
information, with law enforcement agencies, other licensing 588
boards, and other governmental agencies that are prosecuting, 589
adjudicating, or investigating alleged violations of statutes or 590
administrative rules. An agency or board that receives the 591
information shall comply with the same requirements regarding 592
confidentiality as those with which the state medical board must 593
comply, notwithstanding any conflicting provision of the Revised 594
Code or procedure of the agency or board that applies when it is 595
dealing with other information in its possession. In a judicial 596
proceeding, the information may be admitted into evidence only in 597

accordance with the Rules of Evidence, but the court shall require 598
that appropriate measures are taken to ensure that confidentiality 599
is maintained with respect to any part of the information that 600
contains names or other identifying information about patients or 601
complainants whose confidentiality was protected by the state 602
medical board when the information was in the board's possession. 603
Measures to ensure confidentiality that may be taken by the court 604
include sealing its records or deleting specific information from 605
its records. 606

(6) On a quarterly basis, the board shall prepare a report 607
that documents the disposition of all cases during the preceding 608
three months. The report shall contain the following information 609
for each case with which the board has completed its activities: 610

(a) The case number assigned to the complaint or alleged 611
violation; 612

(b) The type of certificate to practice, if any, held by the 613
individual against whom the complaint is directed; 614

(c) A description of the allegations contained in the 615
complaint; 616

(d) The disposition of the case. 617

The report shall state how many cases are still pending and 618
shall be prepared in a manner that protects the identity of each 619
person involved in each case. The report shall be a public record 620
under section 149.43 of the Revised Code. 621

(G) If the secretary and supervising member determine that 622
there is clear and convincing evidence that an individual has 623
violated division (B) of this section and that the individual's 624
continued practice presents a danger of immediate and serious harm 625
to the public, they may recommend that the board suspend the 626
individual's certificate to practice without a prior hearing. 627
Written allegations shall be prepared for consideration by the 628

rd. 629

The board, upon review of those allegations and by an 630
affirmative vote of not fewer than six of its members, excluding 631
the secretary and supervising member, may suspend a certificate 632
without a prior hearing. A telephone conference call may be 633
utilized for reviewing the allegations and taking the vote on the 634
summary suspension. 635

The board shall issue a written order of suspension by 636
certified mail or in person in accordance with section 119.07 of 637
the Revised Code. The order shall not be subject to suspension by 638
the court during pendency of any appeal filed under section 119.12 639
of the Revised Code. If the individual subject to the summary 640
suspension requests an adjudicatory hearing by the board, the date 641
set for the hearing shall be within fifteen days, but not earlier 642
than seven days, after the individual requests the hearing, unless 643
otherwise agreed to by both the board and the individual. 644

Any summary suspension imposed under this division shall 645
remain in effect, unless reversed on appeal, until a final 646
adjudicative order issued by the board pursuant to this section 647
and Chapter 119. of the Revised Code becomes effective. The board 648
shall issue its final adjudicative order within sixty days after 649
completion of its hearing. A failure to issue the order within 650
sixty days shall result in dissolution of the summary suspension 651
order but shall not invalidate any subsequent, final adjudicative 652
order. 653

(H) If the board takes action under division (B)(9), (11), or 654
(13) of this section and the judicial finding of guilt, guilty 655
plea, or judicial finding of eligibility for intervention in lieu 656
of conviction is overturned on appeal, upon exhaustion of the 657
criminal appeal, a petition for reconsideration of the order may 658
be filed with the board along with appropriate court documents. 659
Upon receipt of a petition of that nature and supporting court 660

documents, the board shall reinstate the individual's certificate 661
to practice. The board may then hold an adjudication under Chapter 662
119. of the Revised Code to determine whether the individual 663
committed the act in question. Notice of an opportunity for a 664
hearing shall be given in accordance with Chapter 119. of the 665
Revised Code. If the board finds, pursuant to an adjudication held 666
under this division, that the individual committed the act or if 667
no hearing is requested, the board may order any of the sanctions 668
identified under division (B) of this section. 669

(I) The certificate to practice issued to an individual under 670
this chapter and the individual's practice in this state are 671
automatically suspended as of the date of the individual's second 672
or subsequent plea of guilty to, or judicial finding of guilt of, 673
a violation of section 2919.123 of the Revised Code, or the date 674
the individual pleads guilty to, is found by a judge or jury to be 675
guilty of, or is subject to a judicial finding of eligibility for 676
intervention in lieu of conviction in this state or treatment or 677
intervention in lieu of conviction in another jurisdiction for any 678
of the following criminal offenses in this state or a 679
substantially equivalent criminal offense in another jurisdiction: 680
aggravated murder, murder, voluntary manslaughter, felonious 681
assault, kidnapping, rape, sexual battery, gross sexual 682
imposition, aggravated arson, aggravated robbery, or aggravated 683
burglary. Continued practice after suspension shall be considered 684
practicing without a certificate. 685

The board shall notify the individual subject to the 686
suspension by certified mail or in person in accordance with 687
section 119.07 of the Revised Code. If an individual whose 688
certificate is automatically suspended under this division fails 689
to make a timely request for an adjudication under Chapter 119. of 690
the Revised Code, the board shall ~~enter~~ do whichever of the 691
following is applicable: 692

(1) If the automatic suspension under this division is for a 693
second or subsequent plea of guilty to, or judicial finding of 694
guilt of, a violation of section 2919.123 of the Revised Code, the 695
board shall enter an order suspending the individual's certificate 696
to practice for a period of at least one year or, if determined 697
appropriate by the board, imposing a more serious sanction 698
involving the individual's certificate to practice. 699

(2) In all circumstances in which division (I)(1) of this 700
section does not apply, enter a final order permanently revoking 701
the individual's certificate to practice. 702

(J) If the board is required by Chapter 119. of the Revised 703
Code to give notice of an opportunity for a hearing and if the 704
individual subject to the notice does not timely request a hearing 705
in accordance with section 119.07 of the Revised Code, the board 706
is not required to hold a hearing, but may adopt, by an 707
affirmative vote of not fewer than six of its members, a final 708
order that contains the board's findings. In that final order, the 709
board may order any of the sanctions identified under division (A) 710
or (B) of this section. 711

(K) Any action taken by the board under division (B) of this 712
section resulting in a suspension from practice shall be 713
accompanied by a written statement of the conditions under which 714
the individual's certificate to practice may be reinstated. The 715
board shall adopt rules governing conditions to be imposed for 716
reinstatement. Reinstatement of a certificate suspended pursuant 717
to division (B) of this section requires an affirmative vote of 718
not fewer than six members of the board. 719

(L) When the board refuses to grant a certificate to an 720
applicant, revokes an individual's certificate to practice, 721
refuses to register an applicant, or refuses to reinstate an 722
individual's certificate to practice, the board may specify that 723

its action is permanent. An individual subject to a permanent 724
action taken by the board is forever thereafter ineligible to hold 725
a certificate to practice and the board shall not accept an 726
application for reinstatement of the certificate or for issuance 727
of a new certificate. 728

(M) Notwithstanding any other provision of the Revised Code, 729
all of the following apply: 730

(1) The surrender of a certificate issued under this chapter 731
shall not be effective unless or until accepted by the board. 732
Reinstatement of a certificate surrendered to the board requires 733
an affirmative vote of not fewer than six members of the board. 734

(2) An application for a certificate made under the 735
provisions of this chapter may not be withdrawn without approval 736
of the board. 737

(3) Failure by an individual to renew a certificate of 738
registration in accordance with this chapter shall not remove or 739
limit the board's jurisdiction to take any disciplinary action 740
under this section against the individual. 741

(N) Sanctions shall not be imposed under division (B)(28) of 742
this section against any person who waives deductibles and 743
copayments as follows: 744

(1) In compliance with the health benefit plan that expressly 745
allows such a practice. Waiver of the deductibles or copayments 746
shall be made only with the full knowledge and consent of the plan 747
purchaser, payer, and third-party administrator. Documentation of 748
the consent shall be made available to the board upon request. 749

(2) For professional services rendered to any other person 750
authorized to practice pursuant to this chapter, to the extent 751
allowed by this chapter and rules adopted by the board. 752

(O) Under the board's investigative duties described in this 753

section and subject to division (F) of this section, the board 754
shall develop and implement a quality intervention program 755
designed to improve through remedial education the clinical and 756
communication skills of individuals authorized under this chapter 757
to practice medicine and surgery, osteopathic medicine and 758
surgery, and podiatric medicine and surgery. In developing and 759
implementing the quality intervention program, the board may do 760
all of the following: 761

(1) Offer in appropriate cases as determined by the board an 762
educational and assessment program pursuant to an investigation 763
the board conducts under this section; 764

(2) Select providers of educational and assessment services, 765
including a quality intervention program panel of case reviewers; 766

(3) Make referrals to educational and assessment service 767
providers and approve individual educational programs recommended 768
by those providers. The board shall monitor the progress of each 769
individual undertaking a recommended individual educational 770
program. 771

(4) Determine what constitutes successful completion of an 772
individual educational program and require further monitoring of 773
the individual who completed the program or other action that the 774
board determines to be appropriate; 775

(5) Adopt rules in accordance with Chapter 119. of the 776
Revised Code to further implement the quality intervention 777
program. 778

An individual who participates in an individual educational 779
program pursuant to this division shall pay the financial 780
obligations arising from that educational program. 781

Sec. 4731.223. (A) As used in this section, "prosecutor" has 782
the same meaning as in section 2935.01 of the Revised Code. 783

(B) Whenever any person holding a valid certificate issued 784
pursuant to this chapter pleads guilty to, is subject to a 785
judicial finding of guilt of, or is subject to a judicial finding 786
of eligibility for intervention in lieu of conviction for a 787
violation of Chapter 2907., 2925., or 3719. of the Revised Code or 788
of any substantively comparable ordinance of a municipal 789
corporation in connection with the person's practice, or for a 790
second or subsequent time pleads guilty to, or is subject to a 791
judicial finding of guilt of, a violation of section 2919.123 of 792
the Revised Code, the prosecutor in the case, on forms prescribed 793
and provided by the state medical board, shall promptly notify the 794
board of the conviction or guilty plea. Within thirty days of 795
receipt of that information, the board shall initiate action in 796
accordance with Chapter 119. of the Revised Code to determine 797
whether to suspend or revoke the certificate under section 4731.22 798
of the Revised Code. 799

(C) The prosecutor in any case against any person holding a 800
valid certificate issued pursuant to this chapter, on forms 801
prescribed and provided by the state medical board, shall notify 802
the board of any of the following: 803

(1) A plea of guilty to, a finding of guilt by a jury or 804
court of, or judicial finding of eligibility for intervention in 805
lieu of conviction for a felony, or a case in which the trial 806
court issues an order of dismissal upon technical or procedural 807
grounds of a felony charge; 808

(2) A plea of guilty to, a finding of guilt by a jury or 809
court of, or judicial finding of eligibility for intervention in 810
lieu of conviction for a misdemeanor committed in the course of 811
practice, or a case in which the trial court issues an order of 812
dismissal upon technical or procedural grounds of a charge of a 813
misdemeanor, if the alleged act was committed in the course of 814
practice; 815

(3) A plea of guilty to, a finding of guilt by a jury or 816
court of, or judicial finding of eligibility for intervention in 817
lieu of conviction for a misdemeanor involving moral turpitude, or 818
a case in which the trial court issues an order of dismissal upon 819
technical or procedural grounds of a charge of a misdemeanor 820
involving moral turpitude. 821

The report shall include the name and address of the 822
certificate holder, the nature of the offense for which the action 823
was taken, and the certified court documents recording the action. 824

Section 2. That existing sections 3719.06, 4731.22, and 825
4731.223 of the Revised Code are hereby repealed. 826