

# As Passed by the House

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## A BILL

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, 8  
dispense, administer, otherwise provide, or prescribe RU-486 9  
(mifepristone) to another for the purpose of inducing an abortion 10  
in any person or enabling the other person to induce an abortion 11  
in any person, unless the person who gives, sells, dispenses, 12  
administers, or otherwise provides or prescribes the RU-486 13  
(mifepristone) is a physician, the physician satisfies all the 14

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.

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(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.

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(C)(1) If a physician provides RU-486 (mifepristone) to  
another for the purpose of inducing an abortion as authorized  
under division (A) of this section and if the physician knows that  
the person who uses the RU-486 (mifepristone) for the purpose of  
inducing an abortion experiences during or after the use an  
incomplete abortion, severe bleeding, or an adverse reaction to  
the RU-486 (mifepristone) or is hospitalized, receives a  
transfusion, or experiences any other serious event, the physician  
promptly must provide a written report of the incomplete abortion,

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severe bleeding, adverse reaction, hospitalization, transfusion,  
or serious event to the state medical board. The board shall  
compile and retain all reports it receives under this division.  
Except as otherwise provided in this division, all reports the  
board receives under this division are public records open to  
inspection under section 149.43 of the Revised Code. In no case  
shall the board release to any person the name or any other  
personal identifying information regarding a person who uses  
RU-486 (mifepristone) for the purpose of inducing an abortion and  
who is the subject of a report the board receives under this  
division.

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(2) 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 file a  
report required under division (C)(1) of this section.

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

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

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(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;

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(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.

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(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.

(2) "Personal identifying information" has the same meaning as in section 2913.49 of the Revised Code.

(3) "Physician" has the same meaning as in section 2305.11 of the Revised Code.

(4) "Professionally licensed person" has the same meaning as in section 2925.01 of the Revised Code.

**Sec. 3719.06.** (A)(1) A licensed health professional authorized to prescribe drugs, if acting in the course of

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 misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.	200 201 202 203 204 205 206 207
(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;	208 209 210 211
(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	212 213 214 215
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	216 217 218
(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	219 220 221
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	222 223 224
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	225 226 227
(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  
same 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  
board. 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 section does not apply, enter a final order permanently revoking the individual's certificate to practice.

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

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

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

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

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

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

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

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

(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. 745 746 747 748 749

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

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following: 753 754 755 756 757 758 759 760 761

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

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

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

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

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

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

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

(B) Whenever any person holding a valid certificate issued pursuant to this chapter pleads guilty to, is subject to a judicial finding of guilt of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction for a violation of Chapter 2907., 2925., or 3719. of the Revised Code or of any substantively comparable ordinance of a municipal corporation in connection with the person's practice, or for a second or subsequent time pleads guilty to, or is subject to a

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