

**As Passed by the House**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 280**

**Representative Schneider**

**Cosponsors: Representatives Aslanides, Setzer, Uecker, Brinkman, Flowers,  
Combs, Huffman, Zehringer, Widener, Adams, Hite, Jones, Hottinger,  
Wachtmann, Seitz, Evans, Latta, Bulp, McGregor, J., Fessler, Wagner,  
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Bolon, Blessing, Hagan, J., Mandel, Goodwin, Batchelder, Distel, Oelslager,  
Brady, Barrett, Sears, Mecklenborg, Bacon, Daniels, Dodd, Dolan, Domenick,  
Driehaus, Gardner, Hughes, Reinhard, Schlichter**

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**A B I L L**

To amend sections 2919.25, 3702.30, and 4731.22 and 1  
to enact section 3701.791 of the Revised Code 2  
requiring facilities that perform abortions to 3  
display a sign and enhancing the criminal penalty 4  
for causing or attempting to cause physical harm 5  
to a family or household member who was pregnant 6  
at the time of the offense. 7

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

**Section 1.** That sections 2919.25, 3702.30, and 4731.22 be 8  
amended and section 3701.791 of the Revised Code be enacted to 9  
read as follows: 10

**Sec. 2919.25.** (A) No person shall knowingly cause or attempt 11  
to cause physical harm to a family or household member. 12

(B) No person shall recklessly cause serious physical harm to a family or household member. 13  
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(C) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member. 15  
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(D)(1) Whoever violates this section is guilty of domestic violence. 18  
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(2) Except as otherwise provided in division (D)(3) ~~or (4)~~ to (5) of this section, a violation of division (C) of this section is a misdemeanor of the fourth degree, and a violation of division (A) or (B) of this section is a misdemeanor of the first degree. 20  
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(3) Except as otherwise provided in division (D)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of section 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of division (A) or (B) of this section is a felony of the fourth degree, and a violation of division (C) of this section is a misdemeanor of the second degree. 24  
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(4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or 42  
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more violations or offenses of the type described in division 44  
(D)(3) of this section involving a person who was a family or 45  
household member at the time of the violations or offenses, a 46  
violation of division (A) or (B) of this section is a felony of 47  
the third degree, and a violation of division (C) of this section 48  
is a misdemeanor of the first degree. 49

(5) If the offender knew the victim of the violation was 50  
pregnant at the time of the violation, a violation of division (A) 51  
or (B) of this section is a felony of the fifth degree and a 52  
violation of division (C) of this section is a misdemeanor of the 53  
third degree. 54

(E) Notwithstanding any provision of law to the contrary, no 55  
court or unit of state or local government shall charge any fee, 56  
cost, deposit, or money in connection with the filing of charges 57  
against a person alleging that the person violated this section or 58  
a municipal ordinance substantially similar to this section or in 59  
connection with the prosecution of any charges so filed. 60

(F) As used in this section and sections 2919.251 and 2919.26 61  
of the Revised Code: 62

(1) "Family or household member" means any of the following: 63

(a) Any of the following who is residing or has resided with 64  
the offender: 65

(i) A spouse, a person living as a spouse, or a former spouse 66  
of the offender; 67

(ii) A parent or a child of the offender, or another person 68  
related by consanguinity or affinity to the offender; 69

(iii) A parent or a child of a spouse, person living as a 70  
spouse, or former spouse of the offender, or another person 71  
related by consanguinity or affinity to a spouse, person living as 72  
a spouse, or former spouse of the offender. 73

(b) The natural parent of any child of whom the offender is 74  
the other natural parent or is the putative other natural parent. 75

(2) "Person living as a spouse" means a person who is living 76  
or has lived with the offender in a common law marital 77  
relationship, who otherwise is cohabiting with the offender, or 78  
who otherwise has cohabited with the offender within five years 79  
prior to the date of the alleged commission of the act in 80  
question. 81

Sec. 3701.791. (A) As used in this section, "medical 82  
emergency" means a condition of a pregnant woman that, in the 83  
reasonable judgment of the physician who is attending the woman, 84  
creates an immediate threat of serious risk to the life or 85  
physical health of the woman from the continuation of the 86  
pregnancy necessitating the immediate performance or inducement of 87  
an abortion. 88

(B) Except as provided in division (D) of this section, an 89  
office or facility at which abortions are performed or induced 90  
shall post the notice described in division (C) of this section in 91  
a conspicuous location in an area of the office or facility that 92  
is accessible to all patients, employees, and visitors. 93

The notice shall be displayed on a poster with dimensions of 94  
at least seventeen inches by eleven inches. The first two 95  
sentences of the notice shall be printed in at least a 96  
forty-four-point typeface and the remaining lines shall be in at 97  
least a thirty-point typeface. 98

(C) The department of health shall publish the following 99  
notice on its internet web site in a manner that can be copied and 100  
produced in poster form: 101

"NO ONE CAN FORCE YOU TO HAVE AN ABORTION. 102

NO ONE - NOT A PARENT, NOT A HUSBAND, NOT A BOYFRIEND - NO 103

<u>ONE.</u>	104
<u>Under Ohio law, an abortion cannot be legally performed on anyone, regardless of her age, unless she VOLUNTARILY CONSENTS to having the abortion.</u>	105 106 107
<u>Ohio law requires that, before an abortion can legally be performed, the pregnant female must sign a form indicating that she consents to having the abortion "voluntarily" and "WITHOUT COERCION BY ANY PERSON."</u>	108 109 110 111
<u>IF SOMEONE IS TRYING TO FORCE YOU TO HAVE AN ABORTION AGAINST YOUR WILL:</u>	112 113
<u>DO NOT SIGN THE CONSENT FORM</u>	114
<u>IF YOU ARE AT AN ABORTION FACILITY, TELL AN EMPLOYEE OF THE FACILITY THAT SOMEONE IS TRYING TO FORCE YOU TO HAVE AN ABORTION."</u>	115 116
<u>(D) Division (B) of this section does not apply to an office or facility at which abortions are performed or induced due only to a medical emergency.</u>	117 118 119
<b>Sec. 3702.30.</b> (A) As used in this section:	120
(1) "Ambulatory surgical facility" means a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which inpatient care is provided, and to which any of the following apply:	121 122 123 124
(a) Outpatient surgery is routinely performed in the facility, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.	125 126 127 128
(b) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians,	129 130 131 132

podiatrists, and dentists.	133
(c) The facility applies to be certified by the United States centers for medicare and medicaid services as an ambulatory surgical center for purposes of reimbursement under Part B of the medicare program, Part B of Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.	134 135 136 137 138
(d) The facility applies to be certified by a national accrediting body approved by the centers for medicare and medicaid services for purposes of deemed compliance with the conditions for participating in the medicare program as an ambulatory surgical center.	139 140 141 142 143
(e) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services.	144 145 146 147
(f) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.	148 149 150
"Ambulatory surgical facility" does not include a hospital emergency department.	151 152
(2) "Ambulatory surgical facility fee" means a fee for certain overhead costs associated with providing surgical services in an outpatient setting. A fee is an ambulatory surgical facility fee only if it directly or indirectly pays for costs associated with any of the following:	153 154 155 156 157
(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;	158 159
(b) Administrative functions, record keeping, housekeeping, utilities, and rent;	160 161
(c) Services provided by nurses, orderlies, technical	162

personnel, and others involved in patient care related to 163  
providing surgery. 164

"Ambulatory surgical facility fee" does not include any 165  
additional payment in excess of a professional fee that is 166  
provided to encourage physicians, podiatrists, and dentists to 167  
perform certain surgical procedures in their office or their group 168  
practice's office rather than a health care facility, if the 169  
purpose of the additional fee is to compensate for additional cost 170  
incurred in performing office-based surgery. 171

(3) "Governmental health care program" has the same meaning 172  
as in section 4731.65 of the Revised Code. 173

(4) "Health care facility" means any of the following: 174

(a) An ambulatory surgical facility; 175

(b) A freestanding dialysis center; 176

(c) A freestanding inpatient rehabilitation facility; 177

(d) A freestanding birthing center; 178

(e) A freestanding radiation therapy center; 179

(f) A freestanding or mobile diagnostic imaging center. 180

(5) "Third-party payer" has the same meaning as in section 181  
3901.38 of the Revised Code. 182

(B) By rule adopted in accordance with sections 3702.12 and 183  
3702.13 of the Revised Code, the director of health shall 184  
establish quality standards for health care facilities. The 185  
standards may incorporate accreditation standards or other quality 186  
standards established by any entity recognized by the director. 187

(C) Every ambulatory surgical facility shall require that 188  
each physician who practices at the facility comply with all 189  
relevant provisions in the Revised Code that relate to the 190  
obtaining of informed consent from a patient. 191

(D) The director shall issue a license to each health care facility that makes application for a license and demonstrates to the director that it meets the quality standards established by the rules adopted under division (B) of this section and satisfies the informed consent compliance requirements specified in division (C) of this section.

(E)(1) Except as provided in section 3702.301 of the Revised Code, no health care facility shall operate without a license issued under this section.

(2) If the department of health finds that a physician who practices at a health care facility is not complying with any provision of the Revised Code related to the obtaining of informed consent from a patient, the department shall report its finding to the state medical board, the physician, and the health care facility.

(3) This division does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a health care facility and in favor of a patient who allegedly sustains harm as a result of the failure of the patient's physician to obtain informed consent from the patient prior to performing a procedure on or otherwise caring for the patient in the health care facility.

(F) The rules adopted under division (B) of this section shall include all of the following:

(1) Provisions governing application for, renewal, suspension, and revocation of a license under this section;

(2) Provisions governing orders issued pursuant to section 3702.32 of the Revised Code for a health care facility to cease its operations or to prohibit certain types of services provided by a health care facility;

(3) Provisions governing the imposition under section 3702.32



of the Revised Code of civil penalties for violations of this 223  
section or the rules adopted under this section, including a scale 224  
for determining the amount of the penalties. 225

(G) An ambulatory surgical facility that performs or induces 226  
abortions shall comply with section 3701.791 of the Revised Code. 227

**Sec. 4731.22.** (A) The state medical board, by an affirmative 228  
vote of not fewer than six of its members, may revoke or may 229  
refuse to grant a certificate to a person found by the board to 230  
have committed fraud during the administration of the examination 231  
for a certificate to practice or to have committed fraud, 232  
misrepresentation, or deception in applying for or securing any 233  
certificate to practice or certificate of registration issued by 234  
the board. 235

(B) The board, by an affirmative vote of not fewer than six 236  
members, shall, to the extent permitted by law, limit, revoke, or 237  
suspend an individual's certificate to practice, refuse to 238  
register an individual, refuse to reinstate a certificate, or 239  
reprimand or place on probation the holder of a certificate for 240  
one or more of the following reasons: 241

(1) Permitting one's name or one's certificate to practice or 242  
certificate of registration to be used by a person, group, or 243  
corporation when the individual concerned is not actually 244  
directing the treatment given; 245

(2) Failure to maintain minimal standards applicable to the 246  
selection or administration of drugs, or failure to employ 247  
acceptable scientific methods in the selection of drugs or other 248  
modalities for treatment of disease; 249

(3) Selling, giving away, personally furnishing, prescribing, 250  
or administering drugs for other than legal and legitimate 251  
therapeutic purposes or a plea of guilty to, a judicial finding of 252

guilt of, or a judicial finding of eligibility for intervention in 253  
lieu of conviction of, a violation of any federal or state law 254  
regulating the possession, distribution, or use of any drug; 255

(4) Willfully betraying a professional confidence. 256

For purposes of this division, "willfully betraying a 257  
professional confidence" does not include providing any 258  
information, documents, or reports to a child fatality review 259  
board under sections 307.621 to 307.629 of the Revised Code and 260  
does not include the making of a report of an employee's use of a 261  
drug of abuse, or a report of a condition of an employee other 262  
than one involving the use of a drug of abuse, to the employer of 263  
the employee as described in division (B) of section 2305.33 of 264  
the Revised Code. Nothing in this division affects the immunity 265  
from civil liability conferred by that section upon a physician 266  
who makes either type of report in accordance with division (B) of 267  
that section. As used in this division, "employee," "employer," 268  
and "physician" have the same meanings as in section 2305.33 of 269  
the Revised Code. 270

(5) Making a false, fraudulent, deceptive, or misleading 271  
statement in the solicitation of or advertising for patients; in 272  
relation to the practice of medicine and surgery, osteopathic 273  
medicine and surgery, podiatric medicine and surgery, or a limited 274  
branch of medicine; or in securing or attempting to secure any 275  
certificate to practice or certificate of registration issued by 276  
the board. 277

As used in this division, "false, fraudulent, deceptive, or 278  
misleading statement" means a statement that includes a 279  
misrepresentation of fact, is likely to mislead or deceive because 280  
of a failure to disclose material facts, is intended or is likely 281  
to create false or unjustified expectations of favorable results, 282  
or includes representations or implications that in reasonable 283  
probability will cause an ordinarily prudent person to 284

misunderstand or be deceived.	285
(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;	286 287 288 289
(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;	290 291 292 293
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	294 295 296
(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;	297 298 299
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	300 301 302
(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;	303 304 305
(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	306 307 308
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	309 310 311
(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	312 313 314

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

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

(19) Inability to practice according to acceptable and 346  
prevailing standards of care by reason of mental illness or 347  
physical illness, including, but not limited to, physical 348  
deterioration that adversely affects cognitive, motor, or 349  
perceptive skills. 350

In enforcing this division, the board, upon a showing of a 351  
possible violation, may compel any individual authorized to 352  
practice by this chapter or who has submitted an application 353  
pursuant to this chapter to submit to a mental examination, 354  
physical examination, including an HIV test, or both a mental and 355  
a physical examination. The expense of the examination is the 356  
responsibility of the individual compelled to be examined. Failure 357  
to submit to a mental or physical examination or consent to an HIV 358  
test ordered by the board constitutes an admission of the 359  
allegations against the individual unless the failure is due to 360  
circumstances beyond the individual's control, and a default and 361  
final order may be entered without the taking of testimony or 362  
presentation of evidence. If the board finds an individual unable 363  
to practice because of the reasons set forth in this division, the 364  
board shall require the individual to submit to care, counseling, 365  
or treatment by physicians approved or designated by the board, as 366  
a condition for initial, continued, reinstated, or renewed 367  
authority to practice. An individual affected under this division 368  
shall be afforded an opportunity to demonstrate to the board the 369  
ability to resume practice in compliance with acceptable and 370  
prevailing standards under the provisions of the individual's 371  
certificate. For the purpose of this division, any individual who 372  
applies for or receives a certificate to practice under this 373  
chapter accepts the privilege of practicing in this state and, by 374  
so doing, shall be deemed to have given consent to submit to a 375  
mental or physical examination when directed to do so in writing 376  
by the board, and to have waived all objections to the 377  
admissibility of testimony or examination reports that constitute 378

a privileged communication. 379

(20) Except when civil penalties are imposed under section 380  
4731.225 or 4731.281 of the Revised Code, and subject to section 381  
4731.226 of the Revised Code, violating or attempting to violate, 382  
directly or indirectly, or assisting in or abetting the violation 383  
of, or conspiring to violate, any provisions of this chapter or 384  
any rule promulgated by the board. 385

This division does not apply to a violation or attempted 386  
violation of, assisting in or abetting the violation of, or a 387  
conspiracy to violate, any provision of this chapter or any rule 388  
adopted by the board that would preclude the making of a report by 389  
a physician of an employee's use of a drug of abuse, or of a 390  
condition of an employee other than one involving the use of a 391  
drug of abuse, to the employer of the employee as described in 392  
division (B) of section 2305.33 of the Revised Code. Nothing in 393  
this division affects the immunity from civil liability conferred 394  
by that section upon a physician who makes either type of report 395  
in accordance with division (B) of that section. As used in this 396  
division, "employee," "employer," and "physician" have the same 397  
meanings as in section 2305.33 of the Revised Code. 398

(21) The violation of section 3701.79 of the Revised Code or 399  
of any abortion rule adopted by the public health council pursuant 400  
to section 3701.341 of the Revised Code; 401

(22) Any of the following actions taken by the agency 402  
responsible for regulating the practice of medicine and surgery, 403  
osteopathic medicine and surgery, podiatric medicine and surgery, 404  
or the limited branches of medicine in another jurisdiction, for 405  
any reason other than the nonpayment of fees: the limitation, 406  
revocation, or suspension of an individual's license to practice; 407  
acceptance of an individual's license surrender; denial of a 408  
license; refusal to renew or reinstate a license; imposition of 409  
probation; or issuance of an order of censure or other reprimand; 410

(23) The violation of section 2919.12 of the Revised Code or 411  
the performance or inducement of an abortion upon a pregnant woman 412  
with actual knowledge that the conditions specified in division 413  
(B) of section 2317.56 of the Revised Code have not been satisfied 414  
or with a heedless indifference as to whether those conditions 415  
have been satisfied, unless an affirmative defense as specified in 416  
division (H)(2) of that section would apply in a civil action 417  
authorized by division (H)(1) of that section; 418

(24) The revocation, suspension, restriction, reduction, or 419  
termination of clinical privileges by the United States department 420  
of defense or department of veterans affairs or the termination or 421  
suspension of a certificate of registration to prescribe drugs by 422  
the drug enforcement administration of the United States 423  
department of justice; 424

(25) Termination or suspension from participation in the 425  
medicare or medicaid programs by the department of health and 426  
human services or other responsible agency for any act or acts 427  
that also would constitute a violation of division (B)(2), (3), 428  
(6), (8), or (19) of this section; 429

(26) Impairment of ability to practice according to 430  
acceptable and prevailing standards of care because of habitual or 431  
excessive use or abuse of drugs, alcohol, or other substances that 432  
impair ability to practice. 433

For the purposes of this division, any individual authorized 434  
to practice by this chapter accepts the privilege of practicing in 435  
this state subject to supervision by the board. By filing an 436  
application for or holding a certificate to practice under this 437  
chapter, an individual shall be deemed to have given consent to 438  
submit to a mental or physical examination when ordered to do so 439  
by the board in writing, and to have waived all objections to the 440  
admissibility of testimony or examination reports that constitute 441  
privileged communications. 442

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

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

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

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

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



(c) Two written reports indicating that the individual's 474  
ability to practice has been assessed and that the individual has 475  
been found capable of practicing according to acceptable and 476  
prevailing standards of care. The reports shall be made by 477  
individuals or providers approved by the board for making the 478  
assessments and shall describe the basis for their determination. 479

The board may reinstate a certificate suspended under this 480  
division after that demonstration and after the individual has 481  
entered into a written consent agreement. 482

When the impaired practitioner resumes practice, the board 483  
shall require continued monitoring of the individual. The 484  
monitoring shall include, but not be limited to, compliance with 485  
the written consent agreement entered into before reinstatement or 486  
with conditions imposed by board order after a hearing, and, upon 487  
termination of the consent agreement, submission to the board for 488  
at least two years of annual written progress reports made under 489  
penalty of perjury stating whether the individual has maintained 490  
sobriety. 491

(27) A second or subsequent violation of section 4731.66 or 492  
4731.69 of the Revised Code; 493

(28) Except as provided in division (N) of this section: 494

(a) Waiving the payment of all or any part of a deductible or 495  
copayment that a patient, pursuant to a health insurance or health 496  
care policy, contract, or plan that covers the individual's 497  
services, otherwise would be required to pay if the waiver is used 498  
as an enticement to a patient or group of patients to receive 499  
health care services from that individual; 500

(b) Advertising that the individual will waive the payment of 501  
all or any part of a deductible or copayment that a patient, 502  
pursuant to a health insurance or health care policy, contract, or 503  
plan that covers the individual's services, otherwise would be 504

required to pay. 505

(29) Failure to use universal blood and body fluid 506  
precautions established by rules adopted under section 4731.051 of 507  
the Revised Code; 508

(30) Failure to provide notice to, and receive acknowledgment 509  
of the notice from, a patient when required by section 4731.143 of 510  
the Revised Code prior to providing nonemergency professional 511  
services, or failure to maintain that notice in the patient's 512  
file; 513

(31) Failure of a physician supervising a physician assistant 514  
to maintain supervision in accordance with the requirements of 515  
Chapter 4730. of the Revised Code and the rules adopted under that 516  
chapter; 517

(32) Failure of a physician or podiatrist to enter into a 518  
standard care arrangement with a clinical nurse specialist, 519  
certified nurse-midwife, or certified nurse practitioner with whom 520  
the physician or podiatrist is in collaboration pursuant to 521  
section 4731.27 of the Revised Code or failure to fulfill the 522  
responsibilities of collaboration after entering into a standard 523  
care arrangement; 524

(33) Failure to comply with the terms of a consult agreement 525  
entered into with a pharmacist pursuant to section 4729.39 of the 526  
Revised Code; 527

(34) Failure to cooperate in an investigation conducted by 528  
the board under division (F) of this section, including failure to 529  
comply with a subpoena or order issued by the board or failure to 530  
answer truthfully a question presented by the board at a 531  
deposition or in written interrogatories, except that failure to 532  
cooperate with an investigation shall not constitute grounds for 533  
discipline under this section if a court of competent jurisdiction 534  
has issued an order that either quashes a subpoena or permits the 535

individual to withhold the testimony or evidence in issue;	536
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	537 538 539
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	540 541 542
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	543 544
<u>(38) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code.</u>	545 546 547
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.	548 549 550 551 552 553 554 555 556 557 558 559
If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the	560 561 562 563 564 565 566

individual's certificate to practice. Any consent agreement 567  
entered into under this division with an individual that pertains 568  
to a second or subsequent plea of guilty to, or judicial finding 569  
of guilt of, a violation of that section shall provide for a 570  
suspension of the individual's certificate to practice for a 571  
period of at least one year or, if determined appropriate by the 572  
board, a more serious sanction involving the individual's 573  
certificate to practice. 574

(D) For purposes of divisions (B)(10), (12), and (14) of this 575  
section, the commission of the act may be established by a finding 576  
by the board, pursuant to an adjudication under Chapter 119. of 577  
the Revised Code, that the individual committed the act. The board 578  
does not have jurisdiction under those divisions if the trial 579  
court renders a final judgment in the individual's favor and that 580  
judgment is based upon an adjudication on the merits. The board 581  
has jurisdiction under those divisions if the trial court issues 582  
an order of dismissal upon technical or procedural grounds. 583

(E) The sealing of conviction records by any court shall have 584  
no effect upon a prior board order entered under this section or 585  
upon the board's jurisdiction to take action under this section 586  
if, based upon a plea of guilty, a judicial finding of guilt, or a 587  
judicial finding of eligibility for intervention in lieu of 588  
conviction, the board issued a notice of opportunity for a hearing 589  
prior to the court's order to seal the records. The board shall 590  
not be required to seal, destroy, redact, or otherwise modify its 591  
records to reflect the court's sealing of conviction records. 592

(F)(1) The board shall investigate evidence that appears to 593  
show that a person has violated any provision of this chapter or 594  
any rule adopted under it. Any person may report to the board in a 595  
signed writing any information that the person may have that 596  
appears to show a violation of any provision of this chapter or 597  
any rule adopted under it. In the absence of bad faith, any person 598

who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

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

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

On failure to comply with any subpoena issued by the board

and after reasonable notice to the person being subpoenaed, the 631  
board may move for an order compelling the production of persons 632  
or records pursuant to the Rules of Civil Procedure. 633

A subpoena issued by the board may be served by a sheriff, 634  
the sheriff's deputy, or a board employee designated by the board. 635  
Service of a subpoena issued by the board may be made by 636  
delivering a copy of the subpoena to the person named therein, 637  
reading it to the person, or leaving it at the person's usual 638  
place of residence. When the person being served is a person whose 639  
practice is authorized by this chapter, service of the subpoena 640  
may be made by certified mail, restricted delivery, return receipt 641  
requested, and the subpoena shall be deemed served on the date 642  
delivery is made or the date the person refuses to accept 643  
delivery. 644

A sheriff's deputy who serves a subpoena shall receive the 645  
same fees as a sheriff. Each witness who appears before the board 646  
in obedience to a subpoena shall receive the fees and mileage 647  
provided for witnesses in civil cases in the courts of common 648  
pleas. 649

(4) All hearings and investigations of the board shall be 650  
considered civil actions for the purposes of section 2305.252 of 651  
the Revised Code. 652

(5) Information received by the board pursuant to an 653  
investigation is confidential and not subject to discovery in any 654  
civil action. 655

The board shall conduct all investigations and proceedings in 656  
a manner that protects the confidentiality of patients and persons 657  
who file complaints with the board. The board shall not make 658  
public the names or any other identifying information about 659  
patients or complainants unless proper consent is given or, in the 660  
case of a patient, a waiver of the patient privilege exists under 661

division (B) of section 2317.02 of the Revised Code, except that 662  
consent or a waiver of that nature is not required if the board 663  
possesses reliable and substantial evidence that no bona fide 664  
physician-patient relationship exists. 665

The board may share any information it receives pursuant to 666  
an investigation, including patient records and patient record 667  
information, with law enforcement agencies, other licensing 668  
boards, and other governmental agencies that are prosecuting, 669  
adjudicating, or investigating alleged violations of statutes or 670  
administrative rules. An agency or board that receives the 671  
information shall comply with the same requirements regarding 672  
confidentiality as those with which the state medical board must 673  
comply, notwithstanding any conflicting provision of the Revised 674  
Code or procedure of the agency or board that applies when it is 675  
dealing with other information in its possession. In a judicial 676  
proceeding, the information may be admitted into evidence only in 677  
accordance with the Rules of Evidence, but the court shall require 678  
that appropriate measures are taken to ensure that confidentiality 679  
is maintained with respect to any part of the information that 680  
contains names or other identifying information about patients or 681  
complainants whose confidentiality was protected by the state 682  
medical board when the information was in the board's possession. 683  
Measures to ensure confidentiality that may be taken by the court 684  
include sealing its records or deleting specific information from 685  
its records. 686

(6) On a quarterly basis, the board shall prepare a report 687  
that documents the disposition of all cases during the preceding 688  
three months. The report shall contain the following information 689  
for each case with which the board has completed its activities: 690

(a) The case number assigned to the complaint or alleged 691  
violation; 692

(b) The type of certificate to practice, if any, held by the 693

individual against whom the complaint is directed; 694

(c) A description of the allegations contained in the 695  
complaint; 696

(d) The disposition of the case. 697

The report shall state how many cases are still pending and 698  
shall be prepared in a manner that protects the identity of each 699  
person involved in each case. The report shall be a public record 700  
under section 149.43 of the Revised Code. 701

(G) If the secretary and supervising member determine that 702  
there is clear and convincing evidence that an individual has 703  
violated division (B) of this section and that the individual's 704  
continued practice presents a danger of immediate and serious harm 705  
to the public, they may recommend that the board suspend the 706  
individual's certificate to practice without a prior hearing. 707  
Written allegations shall be prepared for consideration by the 708  
board. 709

The board, upon review of those allegations and by an 710  
affirmative vote of not fewer than six of its members, excluding 711  
the secretary and supervising member, may suspend a certificate 712  
without a prior hearing. A telephone conference call may be 713  
utilized for reviewing the allegations and taking the vote on the 714  
summary suspension. 715

The board shall issue a written order of suspension by 716  
certified mail or in person in accordance with section 119.07 of 717  
the Revised Code. The order shall not be subject to suspension by 718  
the court during pendency of any appeal filed under section 119.12 719  
of the Revised Code. If the individual subject to the summary 720  
suspension requests an adjudicatory hearing by the board, the date 721  
set for the hearing shall be within fifteen days, but not earlier 722  
than seven days, after the individual requests the hearing, unless 723  
otherwise agreed to by both the board and the individual. 724



Any summary suspension imposed under this division shall 725  
remain in effect, unless reversed on appeal, until a final 726  
adjudicative order issued by the board pursuant to this section 727  
and Chapter 119. of the Revised Code becomes effective. The board 728  
shall issue its final adjudicative order within sixty days after 729  
completion of its hearing. A failure to issue the order within 730  
sixty days shall result in dissolution of the summary suspension 731  
order but shall not invalidate any subsequent, final adjudicative 732  
order. 733

(H) If the board takes action under division (B)(9), (11), or 734  
(13) of this section and the judicial finding of guilt, guilty 735  
plea, or judicial finding of eligibility for intervention in lieu 736  
of conviction is overturned on appeal, upon exhaustion of the 737  
criminal appeal, a petition for reconsideration of the order may 738  
be filed with the board along with appropriate court documents. 739  
Upon receipt of a petition of that nature and supporting court 740  
documents, the board shall reinstate the individual's certificate 741  
to practice. The board may then hold an adjudication under Chapter 742  
119. of the Revised Code to determine whether the individual 743  
committed the act in question. Notice of an opportunity for a 744  
hearing shall be given in accordance with Chapter 119. of the 745  
Revised Code. If the board finds, pursuant to an adjudication held 746  
under this division, that the individual committed the act or if 747  
no hearing is requested, the board may order any of the sanctions 748  
identified under division (B) of this section. 749

(I) The certificate to practice issued to an individual under 750  
this chapter and the individual's practice in this state are 751  
automatically suspended as of the date of the individual's second 752  
or subsequent plea of guilty to, or judicial finding of guilt of, 753  
a violation of section 2919.123 of the Revised Code, or the date 754  
the individual pleads guilty to, is found by a judge or jury to be 755  
guilty of, or is subject to a judicial finding of eligibility for 756

intervention in lieu of conviction in this state or treatment or 757  
intervention in lieu of conviction in another jurisdiction for any 758  
of the following criminal offenses in this state or a 759  
substantially equivalent criminal offense in another jurisdiction: 760  
aggravated murder, murder, voluntary manslaughter, felonious 761  
assault, kidnapping, rape, sexual battery, gross sexual 762  
imposition, aggravated arson, aggravated robbery, or aggravated 763  
burglary. Continued practice after suspension shall be considered 764  
practicing without a certificate. 765

The board shall notify the individual subject to the 766  
suspension by certified mail or in person in accordance with 767  
section 119.07 of the Revised Code. If an individual whose 768  
certificate is automatically suspended under this division fails 769  
to make a timely request for an adjudication under Chapter 119. of 770  
the Revised Code, the board shall do whichever of the following is 771  
applicable: 772

(1) If the automatic suspension under this division is for a 773  
second or subsequent plea of guilty to, or judicial finding of 774  
guilt of, a violation of section 2919.123 of the Revised Code, the 775  
board shall enter an order suspending the individual's certificate 776  
to practice for a period of at least one year or, if determined 777  
appropriate by the board, imposing a more serious sanction 778  
involving the individual's certificate to practice. 779

(2) In all circumstances in which division (I)(1) of this 780  
section does not apply, enter a final order permanently revoking 781  
the individual's certificate to practice. 782

(J) If the board is required by Chapter 119. of the Revised 783  
Code to give notice of an opportunity for a hearing and if the 784  
individual subject to the notice does not timely request a hearing 785  
in accordance with section 119.07 of the Revised Code, the board 786  
is not required to hold a hearing, but may adopt, by an 787  
affirmative vote of not fewer than six of its members, a final 788

order that contains the board's findings. In that final order, the 789  
board may order any of the sanctions identified under division (A) 790  
or (B) of this section. 791

(K) Any action taken by the board under division (B) of this 792  
section resulting in a suspension from practice shall be 793  
accompanied by a written statement of the conditions under which 794  
the individual's certificate to practice may be reinstated. The 795  
board shall adopt rules governing conditions to be imposed for 796  
reinstatement. Reinstatement of a certificate suspended pursuant 797  
to division (B) of this section requires an affirmative vote of 798  
not fewer than six members of the board. 799

(L) When the board refuses to grant a certificate to an 800  
applicant, revokes an individual's certificate to practice, 801  
refuses to register an applicant, or refuses to reinstate an 802  
individual's certificate to practice, the board may specify that 803  
its action is permanent. An individual subject to a permanent 804  
action taken by the board is forever thereafter ineligible to hold 805  
a certificate to practice and the board shall not accept an 806  
application for reinstatement of the certificate or for issuance 807  
of a new certificate. 808

(M) Notwithstanding any other provision of the Revised Code, 809  
all of the following apply: 810

(1) The surrender of a certificate issued under this chapter 811  
shall not be effective unless or until accepted by the board. 812  
Reinstatement of a certificate surrendered to the board requires 813  
an affirmative vote of not fewer than six members of the board. 814

(2) An application for a certificate made under the 815  
provisions of this chapter may not be withdrawn without approval 816  
of the board. 817

(3) Failure by an individual to renew a certificate of 818  
registration in accordance with this chapter shall not remove or 819

limit the board's jurisdiction to take any disciplinary action 820  
under this section against the individual. 821

(N) Sanctions shall not be imposed under division (B)(28) of 822  
this section against any person who waives deductibles and 823  
copayments as follows: 824

(1) In compliance with the health benefit plan that expressly 825  
allows such a practice. Waiver of the deductibles or copayments 826  
shall be made only with the full knowledge and consent of the plan 827  
purchaser, payer, and third-party administrator. Documentation of 828  
the consent shall be made available to the board upon request. 829

(2) For professional services rendered to any other person 830  
authorized to practice pursuant to this chapter, to the extent 831  
allowed by this chapter and rules adopted by the board. 832

(O) Under the board's investigative duties described in this 833  
section and subject to division (F) of this section, the board 834  
shall develop and implement a quality intervention program 835  
designed to improve through remedial education the clinical and 836  
communication skills of individuals authorized under this chapter 837  
to practice medicine and surgery, osteopathic medicine and 838  
surgery, and podiatric medicine and surgery. In developing and 839  
implementing the quality intervention program, the board may do 840  
all of the following: 841

(1) Offer in appropriate cases as determined by the board an 842  
educational and assessment program pursuant to an investigation 843  
the board conducts under this section; 844

(2) Select providers of educational and assessment services, 845  
including a quality intervention program panel of case reviewers; 846

(3) Make referrals to educational and assessment service 847  
providers and approve individual educational programs recommended 848  
by those providers. The board shall monitor the progress of each 849  
individual undertaking a recommended individual educational 850

program. 851

(4) Determine what constitutes successful completion of an 852  
individual educational program and require further monitoring of 853  
the individual who completed the program or other action that the 854  
board determines to be appropriate; 855

(5) Adopt rules in accordance with Chapter 119. of the 856  
Revised Code to further implement the quality intervention 857  
program. 858

An individual who participates in an individual educational 859  
program pursuant to this division shall pay the financial 860  
obligations arising from that educational program. 861

**Section 2.** That existing sections 2919.25, 3702.30, and 862  
4731.22 of the Revised Code are hereby repealed. 863