

As Introduced

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H. B. No. 314

Representative Jones

**Cosponsors: Representatives Adams, Barrett, Batchelder, Brinkman, Bulp,
Coley, Collier, Distel, Dodd, Dolan, Evans, Fessler, Garrison, Goodwin,
Hottinger, Huffman, Latta, Mandel, McGregor, J., Patton, Schindel, Schneider,
Seitz, Setzer, Uecker, Wachtmann, Wagoner, Widener, Wolpert, Zehringer**

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A B I L L

To amend section 4731.22 and enact section 2317.561 1
of the Revised Code to require that a woman who is 2
to have an abortion be given the opportunity to 3
view any available obstetric ultrasound image. 4

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

Section 1. That section 4731.22 be amended and section 5
2317.561 of the Revised Code be enacted to read as follows: 6

Sec. 2317.561. In addition to the requirements in section 7
2317.56 of the Revised Code, if an obstetric ultrasound 8
examination is performed at any time prior to the performance or 9
inducement of an abortion or the physician performing or inducing 10
the abortion determines that an ultrasound examination will be 11
performed as part of the abortion procedure, the physician shall 12
do both of the following prior to the performance or inducement of 13
the abortion: 14

(A) Provide the pregnant woman receiving the abortion the 15
opportunity to view the active ultrasound image of the embryo or 16

fetus; 17

(B) Offer to provide the pregnant woman with a physical 18
picture of the ultrasound image of the embryo or fetus. 19

The requirements of division (A) of this section shall be 20
performed at no additional charge to the pregnant woman. 21

Sec. 4731.22. (A) The state medical board, by an affirmative 22
vote of not fewer than six of its members, may revoke or may 23
refuse to grant a certificate to a person found by the board to 24
have committed fraud during the administration of the examination 25
for a certificate to practice or to have committed fraud, 26
misrepresentation, or deception in applying for or securing any 27
certificate to practice or certificate of registration issued by 28
the board. 29

(B) The board, by an affirmative vote of not fewer than six 30
members, shall, to the extent permitted by law, limit, revoke, or 31
suspend an individual's certificate to practice, refuse to 32
register an individual, refuse to reinstate a certificate, or 33
reprimand or place on probation the holder of a certificate for 34
one or more of the following reasons: 35

(1) Permitting one's name or one's certificate to practice or 36
certificate of registration to be used by a person, group, or 37
corporation when the individual concerned is not actually 38
directing the treatment given; 39

(2) Failure to maintain minimal standards applicable to the 40
selection or administration of drugs, or failure to employ 41
acceptable scientific methods in the selection of drugs or other 42
modalities for treatment of disease; 43

(3) Selling, giving away, personally furnishing, prescribing, 44
or administering drugs for other than legal and legitimate 45
therapeutic purposes or a plea of guilty to, a judicial finding of 46

guilt of, or a judicial finding of eligibility for intervention in 47
lieu of conviction of, a violation of any federal or state law 48
regulating the possession, distribution, or use of any drug; 49

(4) Willfully betraying a professional confidence. 50

For purposes of this division, "willfully betraying a 51
professional confidence" does not include providing any 52
information, documents, or reports to a child fatality review 53
board under sections 307.621 to 307.629 of the Revised Code and 54
does not include the making of a report of an employee's use of a 55
drug of abuse, or a report of a condition of an employee other 56
than one involving the use of a drug of abuse, to the employer of 57
the employee as described in division (B) of section 2305.33 of 58
the Revised Code. Nothing in this division affects the immunity 59
from civil liability conferred by that section upon a physician 60
who makes either type of report in accordance with division (B) of 61
that section. As used in this division, "employee," "employer," 62
and "physician" have the same meanings as in section 2305.33 of 63
the Revised Code. 64

(5) Making a false, fraudulent, deceptive, or misleading 65
statement in the solicitation of or advertising for patients; in 66
relation to the practice of medicine and surgery, osteopathic 67
medicine and surgery, podiatric medicine and surgery, or a limited 68
branch of medicine; or in securing or attempting to secure any 69
certificate to practice or certificate of registration issued by 70
the board. 71

As used in this division, "false, fraudulent, deceptive, or 72
misleading statement" means a statement that includes a 73
misrepresentation of fact, is likely to mislead or deceive because 74
of a failure to disclose material facts, is intended or is likely 75
to create false or unjustified expectations of favorable results, 76
or includes representations or implications that in reasonable 77
probability will cause an ordinarily prudent person to 78

misunderstand or be deceived.	79
(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;	80 81 82 83
(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;	84 85 86 87
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	88 89 90
(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;	91 92 93
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	94 95 96
(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;	97 98 99
(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;	100 101 102
(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;	103 104 105
(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;	106 107 108

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;	109 110
(16) Failure to pay license renewal fees specified in this chapter;	111 112
(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;	113 114 115 116
(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.	117 118 119 120 121 122 123 124 125 126 127
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.	128 129 130 131 132 133 134 135 136 137 138 139

(19) Inability to practice according to acceptable and 140
prevailing standards of care by reason of mental illness or 141
physical illness, including, but not limited to, physical 142
deterioration that adversely affects cognitive, motor, or 143
perceptive skills. 144

In enforcing this division, the board, upon a showing of a 145
possible violation, may compel any individual authorized to 146
practice by this chapter or who has submitted an application 147
pursuant to this chapter to submit to a mental examination, 148
physical examination, including an HIV test, or both a mental and 149
a physical examination. The expense of the examination is the 150
responsibility of the individual compelled to be examined. Failure 151
to submit to a mental or physical examination or consent to an HIV 152
test ordered by the board constitutes an admission of the 153
allegations against the individual unless the failure is due to 154
circumstances beyond the individual's control, and a default and 155
final order may be entered without the taking of testimony or 156
presentation of evidence. If the board finds an individual unable 157
to practice because of the reasons set forth in this division, the 158
board shall require the individual to submit to care, counseling, 159
or treatment by physicians approved or designated by the board, as 160
a condition for initial, continued, reinstated, or renewed 161
authority to practice. An individual affected under this division 162
shall be afforded an opportunity to demonstrate to the board the 163
ability to resume practice in compliance with acceptable and 164
prevailing standards under the provisions of the individual's 165
certificate. For the purpose of this division, any individual who 166
applies for or receives a certificate to practice under this 167
chapter accepts the privilege of practicing in this state and, by 168
so doing, shall be deemed to have given consent to submit to a 169
mental or physical examination when directed to do so in writing 170
by the board, and to have waived all objections to the 171
admissibility of testimony or examination reports that constitute 172

a privileged communication. 173

(20) Except when civil penalties are imposed under section 174
4731.225 or 4731.281 of the Revised Code, and subject to section 175
4731.226 of the Revised Code, violating or attempting to violate, 176
directly or indirectly, or assisting in or abetting the violation 177
of, or conspiring to violate, any provisions of this chapter or 178
any rule promulgated by the board. 179

This division does not apply to a violation or attempted 180
violation of, assisting in or abetting the violation of, or a 181
conspiracy to violate, any provision of this chapter or any rule 182
adopted by the board that would preclude the making of a report by 183
a physician of an employee's use of a drug of abuse, or of a 184
condition of an employee other than one involving the use of a 185
drug of abuse, to the employer of the employee as described in 186
division (B) of section 2305.33 of the Revised Code. Nothing in 187
this division affects the immunity from civil liability conferred 188
by that section upon a physician who makes either type of report 189
in accordance with division (B) of that section. As used in this 190
division, "employee," "employer," and "physician" have the same 191
meanings as in section 2305.33 of the Revised Code. 192

(21) The violation of section 3701.79 of the Revised Code or 193
of any abortion rule adopted by the public health council pursuant 194
to section 3701.341 of the Revised Code; 195

(22) Any of the following actions taken by the agency 196
responsible for regulating the practice of medicine and surgery, 197
osteopathic medicine and surgery, podiatric medicine and surgery, 198
or the limited branches of medicine in another jurisdiction, for 199
any reason other than the nonpayment of fees: the limitation, 200
revocation, or suspension of an individual's license to practice; 201
acceptance of an individual's license surrender; denial of a 202
license; refusal to renew or reinstate a license; imposition of 203
probation; or issuance of an order of censure or other reprimand; 204

(23) The violation of section 2919.12 of the Revised Code or 205
the performance or inducement of an abortion upon a pregnant woman 206
with actual knowledge that the conditions specified in division 207
(B) of section 2317.56 of the Revised Code have not been satisfied 208
or with a heedless indifference as to whether those conditions 209
have been satisfied, unless an affirmative defense as specified in 210
division (H)(2) of that section would apply in a civil action 211
authorized by division (H)(1) of that section; 212

(24) The revocation, suspension, restriction, reduction, or 213
termination of clinical privileges by the United States department 214
of defense or department of veterans affairs or the termination or 215
suspension of a certificate of registration to prescribe drugs by 216
the drug enforcement administration of the United States 217
department of justice; 218

(25) Termination or suspension from participation in the 219
medicare or medicaid programs by the department of health and 220
human services or other responsible agency for any act or acts 221
that also would constitute a violation of division (B)(2), (3), 222
(6), (8), or (19) of this section; 223

(26) Impairment of ability to practice according to 224
acceptable and prevailing standards of care because of habitual or 225
excessive use or abuse of drugs, alcohol, or other substances that 226
impair ability to practice. 227

For the purposes of this division, any individual authorized 228
to practice by this chapter accepts the privilege of practicing in 229
this state subject to supervision by the board. By filing an 230
application for or holding a certificate to practice under this 231
chapter, an individual shall be deemed to have given consent to 232
submit to a mental or physical examination when ordered to do so 233
by the board in writing, and to have waived all objections to the 234
admissibility of testimony or examination reports that constitute 235
privileged communications. 236

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 268
ability to practice has been assessed and that the individual has 269
been found capable of practicing according to acceptable and 270
prevailing standards of care. The reports shall be made by 271
individuals or providers approved by the board for making the 272
assessments and shall describe the basis for their determination. 273

The board may reinstate a certificate suspended under this 274
division after that demonstration and after the individual has 275
entered into a written consent agreement. 276

When the impaired practitioner resumes practice, the board 277
shall require continued monitoring of the individual. The 278
monitoring shall include, but not be limited to, compliance with 279
the written consent agreement entered into before reinstatement or 280
with conditions imposed by board order after a hearing, and, upon 281
termination of the consent agreement, submission to the board for 282
at least two years of annual written progress reports made under 283
penalty of perjury stating whether the individual has maintained 284
sobriety. 285

(27) A second or subsequent violation of section 4731.66 or 286
4731.69 of the Revised Code; 287

(28) Except as provided in division (N) of this section: 288

(a) Waiving the payment of all or any part of a deductible or 289
copayment that a patient, pursuant to a health insurance or health 290
care policy, contract, or plan that covers the individual's 291
services, otherwise would be required to pay if the waiver is used 292
as an enticement to a patient or group of patients to receive 293
health care services from that individual; 294

(b) Advertising that the individual will waive the payment of 295
all or any part of a deductible or copayment that a patient, 296
pursuant to a health insurance or health care policy, contract, or 297
plan that covers the individual's services, otherwise would be 298

required to pay.	299
(29) Failure to use universal blood and body fluid	300
precautions established by rules adopted under section 4731.051 of	301
the Revised Code;	302
(30) Failure to provide notice to, and receive acknowledgment	303
of the notice from, a patient when required by section 4731.143 of	304
the Revised Code prior to providing nonemergency professional	305
services, or failure to maintain that notice in the patient's	306
file;	307
(31) Failure of a physician supervising a physician assistant	308
to maintain supervision in accordance with the requirements of	309
Chapter 4730. of the Revised Code and the rules adopted under that	310
chapter;	311
(32) Failure of a physician or podiatrist to enter into a	312
standard care arrangement with a clinical nurse specialist,	313
certified nurse-midwife, or certified nurse practitioner with whom	314
the physician or podiatrist is in collaboration pursuant to	315
section 4731.27 of the Revised Code or failure to fulfill the	316
responsibilities of collaboration after entering into a standard	317
care arrangement;	318
(33) Failure to comply with the terms of a consult agreement	319
entered into with a pharmacist pursuant to section 4729.39 of the	320
Revised Code;	321
(34) Failure to cooperate in an investigation conducted by	322
the board under division (F) of this section, including failure to	323
comply with a subpoena or order issued by the board or failure to	324
answer truthfully a question presented by the board at a	325
deposition or in written interrogatories, except that failure to	326
cooperate with an investigation shall not constitute grounds for	327
discipline under this section if a court of competent jurisdiction	328
has issued an order that either quashes a subpoena or permits the	329

individual to withhold the testimony or evidence in issue;	330
(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;	331 332 333
(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;	334 335 336
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	337 338
<u>(38) Failure to comply with the requirements of section 2317.561 of the Revised Code.</u>	339 340
(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.	341 342 343 344 345 346 347 348 349 350 351 352
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 individual's certificate to practice. Any consent agreement	353 354 355 356 357 358 359 360

entered into under this division with an individual that pertains 361
to a second or subsequent plea of guilty to, or judicial finding 362
of guilt of, a violation of that section shall provide for a 363
suspension of the individual's certificate to practice for a 364
period of at least one year or, if determined appropriate by the 365
board, a more serious sanction involving the individual's 366
certificate to practice. 367

(D) For purposes of divisions (B)(10), (12), and (14) of this 368
section, the commission of the act may be established by a finding 369
by the board, pursuant to an adjudication under Chapter 119. of 370
the Revised Code, that the individual committed the act. The board 371
does not have jurisdiction under those divisions if the trial 372
court renders a final judgment in the individual's favor and that 373
judgment is based upon an adjudication on the merits. The board 374
has jurisdiction under those divisions if the trial court issues 375
an order of dismissal upon technical or procedural grounds. 376

(E) The sealing of conviction records by any court shall have 377
no effect upon a prior board order entered under this section or 378
upon the board's jurisdiction to take action under this section 379
if, based upon a plea of guilty, a judicial finding of guilt, or a 380
judicial finding of eligibility for intervention in lieu of 381
conviction, the board issued a notice of opportunity for a hearing 382
prior to the court's order to seal the records. The board shall 383
not be required to seal, destroy, redact, or otherwise modify its 384
records to reflect the court's sealing of conviction records. 385

(F)(1) The board shall investigate evidence that appears to 386
show that a person has violated any provision of this chapter or 387
any rule adopted under it. Any person may report to the board in a 388
signed writing any information that the person may have that 389
appears to show a violation of any provision of this chapter or 390
any rule adopted under it. In the absence of bad faith, any person 391
who reports information of that nature or who testifies before the 392

board in any adjudication conducted under Chapter 119. of the 393
Revised Code shall not be liable in damages in a civil action as a 394
result of the report or testimony. Each complaint or allegation of 395
a violation received by the board shall be assigned a case number 396
and shall be recorded by the board. 397

(2) Investigations of alleged violations of this chapter or 398
any rule adopted under it shall be supervised by the supervising 399
member elected by the board in accordance with section 4731.02 of 400
the Revised Code and by the secretary as provided in section 401
4731.39 of the Revised Code. The president may designate another 402
member of the board to supervise the investigation in place of the 403
supervising member. No member of the board who supervises the 404
investigation of a case shall participate in further adjudication 405
of the case. 406

(3) In investigating a possible violation of this chapter or 407
any rule adopted under this chapter, the board may administer 408
oaths, order the taking of depositions, issue subpoenas, and 409
compel the attendance of witnesses and production of books, 410
accounts, papers, records, documents, and testimony, except that a 411
subpoena for patient record information shall not be issued 412
without consultation with the attorney general's office and 413
approval of the secretary and supervising member of the board. 414
Before issuance of a subpoena for patient record information, the 415
secretary and supervising member shall determine whether there is 416
probable cause to believe that the complaint filed alleges a 417
violation of this chapter or any rule adopted under it and that 418
the records sought are relevant to the alleged violation and 419
material to the investigation. The subpoena may apply only to 420
records that cover a reasonable period of time surrounding the 421
alleged violation. 422

On failure to comply with any subpoena issued by the board 423
and after reasonable notice to the person being subpoenaed, the 424

board may move for an order compelling the production of persons 425
or records pursuant to the Rules of Civil Procedure. 426

A subpoena issued by the board may be served by a sheriff, 427
the sheriff's deputy, or a board employee designated by the board. 428
Service of a subpoena issued by the board may be made by 429
delivering a copy of the subpoena to the person named therein, 430
reading it to the person, or leaving it at the person's usual 431
place of residence. When the person being served is a person whose 432
practice is authorized by this chapter, service of the subpoena 433
may be made by certified mail, restricted delivery, return receipt 434
requested, and the subpoena shall be deemed served on the date 435
delivery is made or the date the person refuses to accept 436
delivery. 437

A sheriff's deputy who serves a subpoena shall receive the 438
same fees as a sheriff. Each witness who appears before the board 439
in obedience to a subpoena shall receive the fees and mileage 440
provided for witnesses in civil cases in the courts of common 441
pleas. 442

(4) All hearings and investigations of the board shall be 443
considered civil actions for the purposes of section 2305.252 of 444
the Revised Code. 445

(5) Information received by the board pursuant to an 446
investigation is confidential and not subject to discovery in any 447
civil action. 448

The board shall conduct all investigations and proceedings in 449
a manner that protects the confidentiality of patients and persons 450
who file complaints with the board. The board shall not make 451
public the names or any other identifying information about 452
patients or complainants unless proper consent is given or, in the 453
case of a patient, a waiver of the patient privilege exists under 454
division (B) of section 2317.02 of the Revised Code, except that 455

consent or a waiver of that nature is not required if the board 456
possesses reliable and substantial evidence that no bona fide 457
physician-patient relationship exists. 458

The board may share any information it receives pursuant to 459
an investigation, including patient records and patient record 460
information, with law enforcement agencies, other licensing 461
boards, and other governmental agencies that are prosecuting, 462
adjudicating, or investigating alleged violations of statutes or 463
administrative rules. An agency or board that receives the 464
information shall comply with the same requirements regarding 465
confidentiality as those with which the state medical board must 466
comply, notwithstanding any conflicting provision of the Revised 467
Code or procedure of the agency or board that applies when it is 468
dealing with other information in its possession. In a judicial 469
proceeding, the information may be admitted into evidence only in 470
accordance with the Rules of Evidence, but the court shall require 471
that appropriate measures are taken to ensure that confidentiality 472
is maintained with respect to any part of the information that 473
contains names or other identifying information about patients or 474
complainants whose confidentiality was protected by the state 475
medical board when the information was in the board's possession. 476
Measures to ensure confidentiality that may be taken by the court 477
include sealing its records or deleting specific information from 478
its records. 479

(6) On a quarterly basis, the board shall prepare a report 480
that documents the disposition of all cases during the preceding 481
three months. The report shall contain the following information 482
for each case with which the board has completed its activities: 483

(a) The case number assigned to the complaint or alleged 484
violation; 485

(b) The type of certificate to practice, if any, held by the 486
individual against whom the complaint is directed; 487

(c) A description of the allegations contained in the 488
complaint; 489

(d) The disposition of the case. 490

The report shall state how many cases are still pending and 491
shall be prepared in a manner that protects the identity of each 492
person involved in each case. The report shall be a public record 493
under section 149.43 of the Revised Code. 494

(G) If the secretary and supervising member determine that 495
there is clear and convincing evidence that an individual has 496
violated division (B) of this section and that the individual's 497
continued practice presents a danger of immediate and serious harm 498
to the public, they may recommend that the board suspend the 499
individual's certificate to practice without a prior hearing. 500
Written allegations shall be prepared for consideration by the 501
board. 502

The board, upon review of those allegations and by an 503
affirmative vote of not fewer than six of its members, excluding 504
the secretary and supervising member, may suspend a certificate 505
without a prior hearing. A telephone conference call may be 506
utilized for reviewing the allegations and taking the vote on the 507
summary suspension. 508

The board shall issue a written order of suspension by 509
certified mail or in person in accordance with section 119.07 of 510
the Revised Code. The order shall not be subject to suspension by 511
the court during pendency of any appeal filed under section 119.12 512
of the Revised Code. If the individual subject to the summary 513
suspension requests an adjudicatory hearing by the board, the date 514
set for the hearing shall be within fifteen days, but not earlier 515
than seven days, after the individual requests the hearing, unless 516
otherwise agreed to by both the board and the individual. 517

Any summary suspension imposed under this division shall 518

remain in effect, unless reversed on appeal, until a final 519
adjudicative order issued by the board pursuant to this section 520
and Chapter 119. of the Revised Code becomes effective. The board 521
shall issue its final adjudicative order within seventy-five days 522
after completion of its hearing. A failure to issue the order 523
within seventy-five days shall result in dissolution of the 524
summary suspension order but shall not invalidate any subsequent, 525
final adjudicative order. 526

(H) If the board takes action under division (B)(9), (11), or 527
(13) of this section and the judicial finding of guilt, guilty 528
plea, or judicial finding of eligibility for intervention in lieu 529
of conviction is overturned on appeal, upon exhaustion of the 530
criminal appeal, a petition for reconsideration of the order may 531
be filed with the board along with appropriate court documents. 532
Upon receipt of a petition of that nature and supporting court 533
documents, the board shall reinstate the individual's certificate 534
to practice. The board may then hold an adjudication under Chapter 535
119. of the Revised Code to determine whether the individual 536
committed the act in question. Notice of an opportunity for a 537
hearing shall be given in accordance with Chapter 119. of the 538
Revised Code. If the board finds, pursuant to an adjudication held 539
under this division, that the individual committed the act or if 540
no hearing is requested, the board may order any of the sanctions 541
identified under division (B) of this section. 542

(I) The certificate to practice issued to an individual under 543
this chapter and the individual's practice in this state are 544
automatically suspended as of the date of the individual's second 545
or subsequent plea of guilty to, or judicial finding of guilt of, 546
a violation of section 2919.123 of the Revised Code, or the date 547
the individual pleads guilty to, is found by a judge or jury to be 548
guilty of, or is subject to a judicial finding of eligibility for 549
intervention in lieu of conviction in this state or treatment or 550

intervention in lieu of conviction in another jurisdiction for any 551
of the following criminal offenses in this state or a 552
substantially equivalent criminal offense in another jurisdiction: 553
aggravated murder, murder, voluntary manslaughter, felonious 554
assault, kidnapping, rape, sexual battery, gross sexual 555
imposition, aggravated arson, aggravated robbery, or aggravated 556
burglary. Continued practice after suspension shall be considered 557
practicing without a certificate. 558

The board shall notify the individual subject to the 559
suspension by certified mail or in person in accordance with 560
section 119.07 of the Revised Code. If an individual whose 561
certificate is automatically suspended under this division fails 562
to make a timely request for an adjudication under Chapter 119. of 563
the Revised Code, the board shall do whichever of the following is 564
applicable: 565

(1) If the automatic suspension under this division is for a 566
second or subsequent plea of guilty to, or judicial finding of 567
guilt of, a violation of section 2919.123 of the Revised Code, the 568
board shall enter an order suspending the individual's certificate 569
to practice for a period of at least one year or, if determined 570
appropriate by the board, imposing a more serious sanction 571
involving the individual's certificate to practice. 572

(2) In all circumstances in which division (I)(1) of this 573
section does not apply, enter a final order permanently revoking 574
the individual's certificate to practice. 575

(J) If the board is required by Chapter 119. of the Revised 576
Code to give notice of an opportunity for a hearing and if the 577
individual subject to the notice does not timely request a hearing 578
in accordance with section 119.07 of the Revised Code, the board 579
is not required to hold a hearing, but may adopt, by an 580
affirmative vote of not fewer than six of its members, a final 581
order that contains the board's findings. In that final order, the 582

board may order any of the sanctions identified under division (A) 583
or (B) of this section. 584

(K) Any action taken by the board under division (B) of this 585
section resulting in a suspension from practice shall be 586
accompanied by a written statement of the conditions under which 587
the individual's certificate to practice may be reinstated. The 588
board shall adopt rules governing conditions to be imposed for 589
reinstatement. Reinstatement of a certificate suspended pursuant 590
to division (B) of this section requires an affirmative vote of 591
not fewer than six members of the board. 592

(L) When the board refuses to grant a certificate to an 593
applicant, revokes an individual's certificate to practice, 594
refuses to register an applicant, or refuses to reinstate an 595
individual's certificate to practice, the board may specify that 596
its action is permanent. An individual subject to a permanent 597
action taken by the board is forever thereafter ineligible to hold 598
a certificate to practice and the board shall not accept an 599
application for reinstatement of the certificate or for issuance 600
of a new certificate. 601

(M) Notwithstanding any other provision of the Revised Code, 602
all of the following apply: 603

(1) The surrender of a certificate issued under this chapter 604
shall not be effective unless or until accepted by the board. 605
Reinstatement of a certificate surrendered to the board requires 606
an affirmative vote of not fewer than six members of the board. 607

(2) An application for a certificate made under the 608
provisions of this chapter may not be withdrawn without approval 609
of the board. 610

(3) Failure by an individual to renew a certificate of 611
registration in accordance with this chapter shall not remove or 612
limit the board's jurisdiction to take any disciplinary action 613

under this section against the individual. 614

(N) Sanctions shall not be imposed under division (B)(28) of 615
this section against any person who waives deductibles and 616
copayments as follows: 617

(1) In compliance with the health benefit plan that expressly 618
allows such a practice. Waiver of the deductibles or copayments 619
shall be made only with the full knowledge and consent of the plan 620
purchaser, payer, and third-party administrator. Documentation of 621
the consent shall be made available to the board upon request. 622

(2) For professional services rendered to any other person 623
authorized to practice pursuant to this chapter, to the extent 624
allowed by this chapter and rules adopted by the board. 625

(O) Under the board's investigative duties described in this 626
section and subject to division (F) of this section, the board 627
shall develop and implement a quality intervention program 628
designed to improve through remedial education the clinical and 629
communication skills of individuals authorized under this chapter 630
to practice medicine and surgery, osteopathic medicine and 631
surgery, and podiatric medicine and surgery. In developing and 632
implementing the quality intervention program, the board may do 633
all of the following: 634

(1) Offer in appropriate cases as determined by the board an 635
educational and assessment program pursuant to an investigation 636
the board conducts under this section; 637

(2) Select providers of educational and assessment services, 638
including a quality intervention program panel of case reviewers; 639

(3) Make referrals to educational and assessment service 640
providers and approve individual educational programs recommended 641
by those providers. The board shall monitor the progress of each 642
individual undertaking a recommended individual educational 643
program. 644

(4) Determine what constitutes successful completion of an 645
individual educational program and require further monitoring of 646
the individual who completed the program or other action that the 647
board determines to be appropriate; 648

(5) Adopt rules in accordance with Chapter 119. of the 649
Revised Code to further implement the quality intervention 650
program. 651

An individual who participates in an individual educational 652
program pursuant to this division shall pay the financial 653
obligations arising from that educational program. 654

Section 2. That existing section 4731.22 of the Revised Code 655
is hereby repealed. 656