

**As Reported by the Senate Health, Human Services and Aging
Committee**

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

Am. 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,
Mecklenborg, Aslanides, Blessing, Brady, Combs, DeBose, DeGeeter,
Domenick, Driehaus, Dyer, Flowers, Gibbs, Hagan, J., Hite, Lundy, Oelslager,
Raussen, Reinhard, Schlichter, Wagner, White, Widowfield
Senators Mumper, Padgett, Schuring, Seitz, Coughlin, Buehrer, Wagoner**

—

A B I L L

To amend sections 2151.421 and 4731.22 and to enact 1
section 2317.561 of the Revised Code to require 2
that a woman who is to have an abortion be given 3
the opportunity to view any available obstetric 4
ultrasound image and to make corrections in the 5
laws pertaining to child abuse and neglect 6
reports. 7

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

Section 1. That sections 2151.421 and 4731.22 be amended and 8
section 2317.561 of the Revised Code be enacted to read as 9
follows: 10

Sec. 2151.421. (A)(1)(a) No person described in division 11

(A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual

treatment through prayer in accordance with the tenets of a 45
well-recognized religion; superintendent, board member, or 46
employee of a county board of mental retardation; investigative 47
agent contracted with by a county board of mental retardation; 48
employee of the department of mental retardation and developmental 49
disabilities; employee of a facility or home that provides respite 50
care in accordance with section 5123.171 of the Revised Code; 51
employee of a home health agency; employee of an entity that 52
provides homemaker services; a person performing the duties of an 53
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 54
or third party employed by a public children services agency to 55
assist in providing child or family related services. 56

(2) Except as provided in division (A)(3) of this section, an 57
attorney or a physician is not required to make a report pursuant 58
to division (A)(1) of this section concerning any communication 59
the attorney or physician receives from a client or patient in an 60
attorney-client or physician-patient relationship, if, in 61
accordance with division (A) or (B) of section 2317.02 of the 62
Revised Code, the attorney or physician could not testify with 63
respect to that communication in a civil or criminal proceeding. 64

(3) The client or patient in an attorney-client or 65
physician-patient relationship described in division (A)(2) of 66
this section is deemed to have waived any testimonial privilege 67
under division (A) or (B) of section 2317.02 of the Revised Code 68
with respect to any communication the attorney or physician 69
receives from the client or patient in that attorney-client or 70
physician-patient relationship, and the attorney or physician 71
shall make a report pursuant to division (A)(1) of this section 72
with respect to that communication, if all of the following apply: 73

(a) The client or patient, at the time of the communication, 74
is either a child under eighteen years of age or a mentally 75
retarded, developmentally disabled, or physically impaired person 76

under twenty-one years of age. 77

(b) The attorney or physician knows, or has reasonable cause 78
to suspect based on facts that would cause a reasonable person in 79
similar position to suspect, as a result of the communication or 80
any observations made during that communication, that the client 81
or patient has suffered or faces a threat of suffering any 82
physical or mental wound, injury, disability, or condition of a 83
nature that reasonably indicates abuse or neglect of the client or 84
patient. 85

(c) The abuse or neglect does not arise out of the client's 86
or patient's attempt to have an abortion without the notification 87
of her parents, guardian, or custodian in accordance with section 88
2151.85 of the Revised Code. 89

(4)(a) No cleric and no person, other than a volunteer, 90
designated by any church, religious society, or faith acting as a 91
leader, official, or delegate on behalf of the church, religious 92
society, or faith who is acting in an official or professional 93
capacity, who knows, or has reasonable cause to believe based on 94
facts that would cause a reasonable person in a similar position 95
to believe, that a child under eighteen years of age or a mentally 96
retarded, developmentally disabled, or physically impaired child 97
under twenty-one years of age has suffered or faces a threat of 98
suffering any physical or mental wound, injury, disability, or 99
condition of a nature that reasonably indicates abuse or neglect 100
of the child, and who knows, or has reasonable cause to believe 101
based on facts that would cause a reasonable person in a similar 102
position to believe, that another cleric or another person, other 103
than a volunteer, designated by a church, religious society, or 104
faith acting as a leader, official, or delegate on behalf of the 105
church, religious society, or faith caused, or poses the threat of 106
causing, the wound, injury, disability, or condition that 107
reasonably indicates abuse or neglect shall fail to immediately 108

report that knowledge or reasonable cause to believe to the entity 109
or persons specified in this division. Except as provided in 110
section 5120.173 of the Revised Code, the person making the report 111
shall make it to the public children services agency or a 112
municipal or county peace officer in the county in which the child 113
resides or in which the abuse or neglect is occurring or has 114
occurred. In the circumstances described in section 5120.173 of 115
the Revised Code, the person making the report shall make it to 116
the entity specified in that section. 117

(b) Except as provided in division (A)(4)(c) of this section, 118
a cleric is not required to make a report pursuant to division 119
(A)(4)(a) of this section concerning any communication the cleric 120
receives from a penitent in a cleric-penitent relationship, if, in 121
accordance with division (C) of section 2317.02 of the Revised 122
Code, the cleric could not testify with respect to that 123
communication in a civil or criminal proceeding. 124

(c) The penitent in a cleric-penitent relationship described 125
in division (A)(4)(b) of this section is deemed to have waived any 126
testimonial privilege under division (C) of section 2317.02 of the 127
Revised Code with respect to any communication the cleric receives 128
from the penitent in that cleric-penitent relationship, and the 129
cleric shall make a report pursuant to division (A)(4)(a) of this 130
section with respect to that communication, if all of the 131
following apply: 132

(i) The penitent, at the time of the communication, is either 133
a child under eighteen years of age or a mentally retarded, 134
developmentally disabled, or physically impaired person under 135
twenty-one years of age. 136

(ii) The cleric knows, or has reasonable cause to believe 137
based on facts that would cause a reasonable person in a similar 138
position to believe, as a result of the communication or any 139
observations made during that communication, the penitent has 140

suffered or faces a threat of suffering any physical or mental 141
wound, injury, disability, or condition of a nature that 142
reasonably indicates abuse or neglect of the penitent. 143

(iii) The abuse or neglect does not arise out of the 144
penitent's attempt to have an abortion performed upon a child 145
under eighteen years of age or upon a mentally retarded, 146
developmentally disabled, or physically impaired person under 147
twenty-one years of age without the notification of her parents, 148
guardian, or custodian in accordance with section 2151.85 of the 149
Revised Code. 150

(d) Divisions (A)(4)(a) and (c) of this section do not apply 151
in a cleric-penitent relationship when the disclosure of any 152
communication the cleric receives from the penitent is in 153
violation of the sacred trust. 154

(e) As used in divisions (A)(1) and (4) of this section, 155
"cleric" and "sacred trust" have the same meanings as in section 156
2317.02 of the Revised Code. 157

(B) Anyone who knows, or has reasonable cause to suspect 158
based on facts that would cause a reasonable person in similar 159
circumstances to suspect, that a child under eighteen years of age 160
or a mentally retarded, developmentally disabled, or physically 161
impaired person under twenty-one years of age has suffered or 162
faces a threat of suffering any physical or mental wound, injury, 163
disability, or other condition of a nature that reasonably 164
indicates abuse or neglect of the child may report or cause 165
reports to be made of that knowledge or reasonable cause to 166
suspect to the entity or persons specified in this division. 167
Except as provided in section 5120.173 of the Revised Code, a 168
person making a report or causing a report to be made under this 169
division shall make it or cause it to be made to the public 170
children services agency or to a municipal or county peace 171
officer. In the circumstances described in section 5120.173 of the 172

Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D) As used in this division, "children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

(1) When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised

Code. 236

(F)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (H)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall

maintain in accordance with section 5101.13 of the Revised Code. 268
The public children services agency shall submit a report of its 269
investigation, in writing, to the law enforcement agency. 270

(2) The public children services agency shall make any 271
recommendations to the county prosecuting attorney or city 272
director of law that it considers necessary to protect any 273
children that are brought to its attention. 274

(G)(1)(a) Except as provided in division (H)(3) of this 275
section, anyone or any hospital, institution, school, health 276
department, or agency participating in the making of reports under 277
division (A) of this section, anyone or any hospital, institution, 278
school, health department, or agency participating in good faith 279
in the making of reports under division (B) of this section, and 280
anyone participating in good faith in a judicial proceeding 281
resulting from the reports, shall be immune from any civil or 282
criminal liability for injury, death, or loss to person or 283
property that otherwise might be incurred or imposed as a result 284
of the making of the reports or the participation in the judicial 285
proceeding. 286

(b) Notwithstanding section 4731.22 of the Revised Code, the 287
physician-patient privilege shall not be a ground for excluding 288
evidence regarding a child's injuries, abuse, or neglect, or the 289
cause of the injuries, abuse, or neglect in any judicial 290
proceeding resulting from a report submitted pursuant to this 291
section. 292

(2) In any civil or criminal action or proceeding in which it 293
is alleged and proved that participation in the making of a report 294
under this section was not in good faith or participation in a 295
judicial proceeding resulting from a report made under this 296
section was not in good faith, the court shall award the 297
prevailing party reasonable attorney's fees and costs and, if a 298
civil action or proceeding is voluntarily dismissed, may award 299

reasonable attorney's fees and costs to the party against whom the 300
civil action or proceeding is brought. 301

(H)(1) Except as provided in divisions (H)(4) and (M) of this 302
section, a report made under this section is confidential. The 303
information provided in a report made pursuant to this section and 304
the name of the person who made the report shall not be released 305
for use, and shall not be used, as evidence in any civil action or 306
proceeding brought against the person who made the report. In a 307
criminal proceeding, the report is admissible in evidence in 308
accordance with the Rules of Evidence and is subject to discovery 309
in accordance with the Rules of Criminal Procedure. 310

(2) No person shall permit or encourage the unauthorized 311
dissemination of the contents of any report made under this 312
section. 313

(3) A person who knowingly makes or causes another person to 314
make a false report under division (B) of this section that 315
alleges that any person has committed an act or omission that 316
resulted in a child being an abused child or a neglected child is 317
guilty of a violation of section 2921.14 of the Revised Code. 318

(4) If a report is made pursuant to division (A) or (B) of 319
this section and the child who is the subject of the report dies 320
for any reason at any time after the report is made, but before 321
the child attains eighteen years of age, the public children 322
services agency or municipal or county peace officer to which the 323
report was made or referred, on the request of the child fatality 324
review board, shall submit a summary sheet of information 325
providing a summary of the report to the review board of the 326
county in which the deceased child resided at the time of death. 327
On the request of the review board, the agency or peace officer 328
may, at its discretion, make the report available to the review 329
board. If the county served by the public children services agency 330
is also served by a children's advocacy center and the report of 331

alleged sexual abuse of a child or another type of abuse of a 332
child is specified in the memorandum of understanding that creates 333
the center as being within the center's jurisdiction, the agency 334
or center shall perform the duties and functions specified in this 335
division in accordance with the interagency agreement entered into 336
under section 2151.428 of the Revised Code relative to that 337
advocacy center. 338

(5) A public children services agency shall advise a person 339
alleged to have inflicted abuse or neglect on a child who is the 340
subject of a report made pursuant to this section, including a 341
report alleging sexual abuse of a child or another type of abuse 342
of a child referred to a children's advocacy center pursuant to an 343
interagency agreement entered into under section 2151.428 of the 344
Revised Code, in writing of the disposition of the investigation. 345
The agency shall not provide to the person any information that 346
identifies the person who made the report, statements of 347
witnesses, or police or other investigative reports. 348

(I) Any report that is required by this section, other than a 349
report that is made to the state highway patrol as described in 350
section 5120.173 of the Revised Code, shall result in protective 351
services and emergency supportive services being made available by 352
the public children services agency on behalf of the children 353
about whom the report is made, in an effort to prevent further 354
neglect or abuse, to enhance their welfare, and, whenever 355
possible, to preserve the family unit intact. The agency required 356
to provide the services shall be the agency conducting the 357
investigation of the report pursuant to section 2151.422 of the 358
Revised Code. 359

(J)(1) Each public children services agency shall prepare a 360
memorandum of understanding that is signed by all of the 361
following: 362

(a) If there is only one juvenile judge in the county, the 363

juvenile judge of the county or the juvenile judge's	364
representative;	365
(b) If there is more than one juvenile judge in the county, a	366
juvenile judge or the juvenile judges' representative selected by	367
the juvenile judges or, if they are unable to do so for any	368
reason, the juvenile judge who is senior in point of service or	369
the senior juvenile judge's representative;	370
(c) The county peace officer;	371
(d) All chief municipal peace officers within the county;	372
(e) Other law enforcement officers handling child abuse and	373
neglect cases in the county;	374
(f) The prosecuting attorney of the county;	375
(g) If the public children services agency is not the county	376
department of job and family services, the county department of	377
job and family services;	378
(h) The county humane society;	379
(i) If the public children services agency participated in	380
the execution of a memorandum of understanding under section	381
2151.426 of the Revised Code establishing a children's advocacy	382
center, each participating member of the children's advocacy	383
center established by the memorandum.	384
(2) A memorandum of understanding shall set forth the normal	385
operating procedure to be employed by all concerned officials in	386
the execution of their respective responsibilities under this	387
section and division (C) of section 2919.21, division (B)(1) of	388
section 2919.22, division (B) of section 2919.23, and section	389
2919.24 of the Revised Code and shall have as two of its primary	390
goals the elimination of all unnecessary interviews of children	391
who are the subject of reports made pursuant to division (A) or	392
(B) of this section and, when feasible, providing for only one	393

interview of a child who is the subject of any report made 394
pursuant to division (A) or (B) of this section. A failure to 395
follow the procedure set forth in the memorandum by the concerned 396
officials is not grounds for, and shall not result in, the 397
dismissal of any charges or complaint arising from any reported 398
case of abuse or neglect or the suppression of any evidence 399
obtained as a result of any reported child abuse or child neglect 400
and does not give, and shall not be construed as giving, any 401
rights or any grounds for appeal or post-conviction relief to any 402
person. 403

(3) A memorandum of understanding shall include all of the 404
following: 405

(a) The roles and responsibilities for handling emergency and 406
nonemergency cases of abuse and neglect; 407

(b) Standards and procedures to be used in handling and 408
coordinating investigations of reported cases of child abuse and 409
reported cases of child neglect, methods to be used in 410
interviewing the child who is the subject of the report and who 411
allegedly was abused or neglected, and standards and procedures 412
addressing the categories of persons who may interview the child 413
who is the subject of the report and who allegedly was abused or 414
neglected. 415

(4) If a public children services agency participated in the 416
execution of a memorandum of understanding under section 2151.426 417
of the Revised Code establishing a children's advocacy center, the 418
agency shall incorporate the contents of that memorandum in the 419
memorandum prepared pursuant to this section. 420

(K)(1) Except as provided in division (K)(4) of this section, 421
a person who is required to make a report pursuant to division (A) 422
of this section may make a reasonable number of requests of the 423
public children services agency that receives or is referred the 424

report, or of the children's advocacy center that is referred the 425
report if the report is referred to a children's advocacy center 426
pursuant to an interagency agreement entered into under section 427
2151.428 of the Revised Code, to be provided with the following 428
information: 429

(a) Whether the agency or center has initiated an 430
investigation of the report; 431

(b) Whether the agency or center is continuing to investigate 432
the report; 433

(c) Whether the agency or center is otherwise involved with 434
the child who is the subject of the report; 435

(d) The general status of the health and safety of the child 436
who is the subject of the report; 437

(e) Whether the report has resulted in the filing of a 438
complaint in juvenile court or of criminal charges in another 439
court. 440

(2) A person may request the information specified in 441
division (K)(1) of this section only if, at the time the report is 442
made, the person's name, address, and telephone number are 443
provided to the person who receives the report. 444

When a municipal or county peace officer or employee of a 445
public children services agency receives a report pursuant to 446
division (A) or (B) of this section the recipient of the report 447
shall inform the person of the right to request the information 448
described in division (K)(1) of this section. The recipient of the 449
report shall include in the initial child abuse or child neglect 450
report that the person making the report was so informed and, if 451
provided at the time of the making of the report, shall include 452
the person's name, address, and telephone number in the report. 453

Each request is subject to verification of the identity of 454

the person making the report. If that person's identity is 455
verified, the agency shall provide the person with the information 456
described in division (K)(1) of this section a reasonable number 457
of times, except that the agency shall not disclose any 458
confidential information regarding the child who is the subject of 459
the report other than the information described in those 460
divisions. 461

(3) A request made pursuant to division (K)(1) of this 462
section is not a substitute for any report required to be made 463
pursuant to division (A) of this section. 464

(4) If an agency other than the agency that received or was 465
referred the report is conducting the investigation of the report 466
pursuant to section 2151.422 of the Revised Code, the agency 467
conducting the investigation shall comply with the requirements of 468
division (K) of this section. 469

(L) The director of job and family services shall adopt rules 470
in accordance with Chapter 119. of the Revised Code to implement 471
this section. The department of job and family services may enter 472
into a plan of cooperation with any other governmental entity to 473
aid in ensuring that children are protected from abuse and 474
neglect. The department shall make recommendations to the attorney 475
general that the department determines are necessary to protect 476
children from child abuse and child neglect. 477

(M)(1) As used in this division: 478

(a) "Out-of-home care" includes a nonchartered nonpublic 479
school if the alleged child abuse or child neglect, or alleged 480
threat of child abuse or child neglect, described in a report 481
received by a public children services agency allegedly occurred 482
in or involved the nonchartered nonpublic school and the alleged 483
perpetrator named in the report holds a certificate, permit, or 484
license issued by the state board of education under section 485

3301.071 or Chapter 3319. of the Revised Code. 486

(b) "Administrator, director, or other chief administrative 487
officer" means the superintendent of the school district if the 488
out-of-home care entity subject to a report made pursuant to this 489
section is a school operated by the district. 490

(2) No later than the end of the day following the day on 491
which a public children services agency receives a report of 492
alleged child abuse or child neglect, or a report of an alleged 493
threat of child abuse or child neglect, that allegedly occurred in 494
or involved an out-of-home care entity, the agency shall provide 495
written notice of the allegations contained in and the person 496
named as the alleged perpetrator in the report to the 497
administrator, director, or other chief administrative officer of 498
the out-of-home care entity that is the subject of the report 499
unless the administrator, director, or other chief administrative 500
officer is named as an alleged perpetrator in the report. If the 501
administrator, director, or other chief administrative officer of 502
an out-of-home care entity is named as an alleged perpetrator in a 503
report of alleged child abuse or child neglect, or a report of an 504
alleged threat of child abuse or child neglect, that allegedly 505
occurred in or involved the out-of-home care entity, the agency 506
shall provide the written notice to the owner or governing board 507
of the out-of-home care entity that is the subject of the report. 508
The agency shall not provide witness statements or police or other 509
investigative reports. 510

(3) No later than three days after the day on which a public 511
children services agency that conducted the investigation as 512
determined pursuant to section 2151.422 of the Revised Code makes 513
a disposition of an investigation involving a report of alleged 514
child abuse or child neglect, or a report of an alleged threat of 515
child abuse or child neglect, that allegedly occurred in or 516
involved an out-of-home care entity, the agency shall send written 517

notice of the disposition of the investigation to the 518
administrator, director, or other chief administrative officer and 519
the owner or governing board of the out-of-home care entity. The 520
agency shall not provide witness statements or police or other 521
investigative reports. 522

Sec. 2317.561. In addition to the requirements in section 523
2317.56 of the Revised Code, if an obstetric ultrasound 524
examination is performed at any time prior to the performance or 525
inducement of an abortion or the physician performing or inducing 526
the abortion determines that an ultrasound examination will be 527
performed as part of the abortion procedure, the physician shall 528
do both of the following prior to the performance or inducement of 529
the abortion: 530

(A) Provide the pregnant woman receiving the abortion the 531
opportunity to view the active ultrasound image of the embryo or 532
fetus; 533

(B) Offer to provide the pregnant woman with a physical 534
picture of the ultrasound image of the embryo or fetus. 535

The requirements of division (A) of this section shall be 536
performed at no additional charge to the pregnant woman. 537

Sec. 4731.22. (A) The state medical board, by an affirmative 538
vote of not fewer than six of its members, may revoke or may 539
refuse to grant a certificate to a person found by the board to 540
have committed fraud during the administration of the examination 541
for a certificate to practice or to have committed fraud, 542
misrepresentation, or deception in applying for or securing any 543
certificate to practice or certificate of registration issued by 544
the board. 545

(B) The board, by an affirmative vote of not fewer than six 546
members, shall, to the extent permitted by law, limit, revoke, or 547

suspend an individual's certificate to practice, refuse to 548
register an individual, refuse to reinstate a certificate, or 549
reprimand or place on probation the holder of a certificate for 550
one or more of the following reasons: 551

(1) Permitting one's name or one's certificate to practice or 552
certificate of registration to be used by a person, group, or 553
corporation when the individual concerned is not actually 554
directing the treatment given; 555

(2) Failure to maintain minimal standards applicable to the 556
selection or administration of drugs, or failure to employ 557
acceptable scientific methods in the selection of drugs or other 558
modalities for treatment of disease; 559

(3) Selling, giving away, personally furnishing, prescribing, 560
or administering drugs for other than legal and legitimate 561
therapeutic purposes or a plea of guilty to, a judicial finding of 562
guilt of, or a judicial finding of eligibility for intervention in 563
lieu of conviction of, a violation of any federal or state law 564
regulating the possession, distribution, or use of any drug; 565

(4) Willfully betraying a professional confidence. 566

For purposes of this division, "willfully betraying a 567
professional confidence" does not include providing any 568
information, documents, or reports to a child fatality review 569
board under sections 307.621 to 307.629 of the Revised Code and 570
does not include the making of a report of an employee's use of a 571
drug of abuse, or a report of a condition of an employee other 572
than one involving the use of a drug of abuse, to the employer of 573
the employee as described in division (B) of section 2305.33 of 574
the Revised Code. Nothing in this division affects the immunity 575
from civil liability conferred by that section upon a physician 576
who makes either type of report in accordance with division (B) of 577
that section. As used in this division, "employee," "employer," 578

and "physician" have the same meanings as in section 2305.33 of 579
the Revised Code. 580

(5) Making a false, fraudulent, deceptive, or misleading 581
statement in the solicitation of or advertising for patients; in 582
relation to the practice of medicine and surgery, osteopathic 583
medicine and surgery, podiatric medicine and surgery, or a limited 584
branch of medicine; or in securing or attempting to secure any 585
certificate to practice or certificate of registration issued by 586
the board. 587

As used in this division, "false, fraudulent, deceptive, or 588
misleading statement" means a statement that includes a 589
misrepresentation of fact, is likely to mislead or deceive because 590
of a failure to disclose material facts, is intended or is likely 591
to create false or unjustified expectations of favorable results, 592
or includes representations or implications that in reasonable 593
probability will cause an ordinarily prudent person to 594
misunderstand or be deceived. 595

(6) A departure from, or the failure to conform to, minimal 596
standards of care of similar practitioners under the same or 597
similar circumstances, whether or not actual injury to a patient 598
is established; 599

(7) Representing, with the purpose of obtaining compensation 600
or other advantage as personal gain or for any other person, that 601
an incurable disease or injury, or other incurable condition, can 602
be permanently cured; 603

(8) The obtaining of, or attempting to obtain, money or 604
anything of value by fraudulent misrepresentations in the course 605
of practice; 606

(9) A plea of guilty to, a judicial finding of guilt of, or a 607
judicial finding of eligibility for intervention in lieu of 608
conviction for, a felony; 609

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(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;

(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;

(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;

(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;

(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 640
or revoked shall not be found to have violated any provision of a 641
code of ethics of an organization not appropriate to the 642
individual's profession. 643

For purposes of this division, a "provision of a code of 644
ethics of a national professional organization" does not include 645
any provision that would preclude the making of a report by a 646
physician of an employee's use of a drug of abuse, or of a 647
condition of an employee other than one involving the use of a 648
drug of abuse, to the employer of the employee as described in 649
division (B) of section 2305.33 of the Revised Code. Nothing in 650
this division affects the immunity from civil liability conferred 651
by that section upon a physician who makes either type of report 652
in accordance with division (B) of that section. As used in this 653
division, "employee," "employer," and "physician" have the same 654
meanings as in section 2305.33 of the Revised Code. 655

(19) Inability to practice according to acceptable and 656
prevailing standards of care by reason of mental illness or 657
physical illness, including, but not limited to, physical 658
deterioration that adversely affects cognitive, motor, or 659
perceptive skills. 660

In enforcing this division, the board, upon a showing of a 661
possible violation, may compel any individual authorized to 662
practice by this chapter or who has submitted an application 663
pursuant to this chapter to submit to a mental examination, 664
physical examination, including an HIV test, or both a mental and 665
a physical examination. The expense of the examination is the 666
responsibility of the individual compelled to be examined. Failure 667
to submit to a mental or physical examination or consent to an HIV 668
test ordered by the board constitutes an admission of the 669
allegations against the individual unless the failure is due to 670
circumstances beyond the individual's control, and a default and 671

final order may be entered without the taking of testimony or 672
presentation of evidence. If the board finds an individual unable 673
to practice because of the reasons set forth in this division, the 674
board shall require the individual to submit to care, counseling, 675
or treatment by physicians approved or designated by the board, as 676
a condition for initial, continued, reinstated, or renewed 677
authority to practice. An individual affected under this division 678
shall be afforded an opportunity to demonstrate to the board the 679
ability to resume practice in compliance with acceptable and 680
prevailing standards under the provisions of the individual's 681
certificate. For the purpose of this division, any individual who 682
applies for or receives a certificate to practice under this 683
chapter accepts the privilege of practicing in this state and, by 684
so doing, shall be deemed to have given consent to submit to a 685
mental or physical examination when directed to do so in writing 686
by the board, and to have waived all objections to the 687
admissibility of testimony or examination reports that constitute 688
a privileged communication. 689

(20) Except when civil penalties are imposed under section 690
4731.225 or 4731.281 of the Revised Code, and subject to section 691
4731.226 of the Revised Code, violating or attempting to violate, 692
directly or indirectly, or assisting in or abetting the violation 693
of, or conspiring to violate, any provisions of this chapter or 694
any rule promulgated by the board. 695

This division does not apply to a violation or attempted 696
violation of, assisting in or abetting the violation of, or a 697
conspiracy to violate, any provision of this chapter or any rule 698
adopted by the board that would preclude the making of a report by 699
a physician of an employee's use of a drug of abuse, or of a 700
condition of an employee other than one involving the use of a 701
drug of abuse, to the employer of the employee as described in 702
division (B) of section 2305.33 of the Revised Code. Nothing in 703

this division affects the immunity from civil liability conferred 704
by that section upon a physician who makes either type of report 705
in accordance with division (B) of that section. As used in this 706
division, "employee," "employer," and "physician" have the same 707
meanings as in section 2305.33 of the Revised Code. 708

(21) The violation of section 3701.79 of the Revised Code or 709
of any abortion rule adopted by the public health council pursuant 710
to section 3701.341 of the Revised Code; 711

(22) Any of the following actions taken by the agency 712
responsible for regulating the practice of medicine and surgery, 713
osteopathic medicine and surgery, podiatric medicine and surgery, 714
or the limited branches of medicine in another jurisdiction, for 715
any reason other than the nonpayment of fees: the limitation, 716
revocation, or suspension of an individual's license to practice; 717
acceptance of an individual's license surrender; denial of a 718
license; refusal to renew or reinstate a license; imposition of 719
probation; or issuance of an order of censure or other reprimand; 720

(23) The violation of section 2919.12 of the Revised Code or 721
the performance or inducement of an abortion upon a pregnant woman 722
with actual knowledge that the conditions specified in division 723
(B) of section 2317.56 of the Revised Code have not been satisfied 724
or with a heedless indifference as to whether those conditions 725
have been satisfied, unless an affirmative defense as specified in 726
division (H)(2) of that section would apply in a civil action 727
authorized by division (H)(1) of that section; 728

(24) The revocation, suspension, restriction, reduction, or 729
termination of clinical privileges by the United States department 730
of defense or department of veterans affairs or the termination or 731
suspension of a certificate of registration to prescribe drugs by 732
the drug enforcement administration of the United States 733
department of justice; 734

(25) Termination or suspension from participation in the 735
medicare or medicaid programs by the department of health and 736
human services or other responsible agency for any act or acts 737
that also would constitute a violation of division (B)(2), (3), 738
(6), (8), or (19) of this section; 739

(26) Impairment of ability to practice according to 740
acceptable and prevailing standards of care because of habitual or 741
excessive use or abuse of drugs, alcohol, or other substances that 742
impair ability to practice. 743

For the purposes of this division, any individual authorized 744
to practice by this chapter accepts the privilege of practicing in 745
this state subject to supervision by the board. By filing an 746
application for or holding a certificate to practice under this 747
chapter, an individual shall be deemed to have given consent to 748
submit to a mental or physical examination when ordered to do so 749
by the board in writing, and to have waived all objections to the 750
admissibility of testimony or examination reports that constitute 751
privileged communications. 752

If it has reason to believe that any individual authorized to 753
practice by this chapter or any applicant for certification to 754
practice suffers such impairment, the board may compel the 755
individual to submit to a mental or physical examination, or both. 756
The expense of the examination is the responsibility of the 757
individual compelled to be examined. Any mental or physical 758
examination required under this division shall be undertaken by a 759
treatment provider or physician who is qualified to conduct the 760
examination and who is chosen by the board. 761

Failure to submit to a mental or physical examination ordered 762
by the board constitutes an admission of the allegations against 763
the individual unless the failure is due to circumstances beyond 764
the individual's control, and a default and final order may be 765
entered without the taking of testimony or presentation of 766

evidence. If the board determines that the individual's ability to 767
practice is impaired, the board shall suspend the individual's 768
certificate or deny the individual's application and shall require 769
the individual, as a condition for initial, continued, reinstated, 770
or renewed certification to practice, to submit to treatment. 771

Before being eligible to apply for reinstatement of a 772
certificate suspended under this division, the impaired 773
practitioner shall demonstrate to the board the ability to resume 774
practice in compliance with acceptable and prevailing standards of 775
care under the provisions of the practitioner's certificate. The 776
demonstration shall include, but shall not be limited to, the 777
following: 778

(a) Certification from a treatment provider approved under 779
section 4731.25 of the Revised Code that the individual has 780
successfully completed any required inpatient treatment; 781

(b) Evidence of continuing full compliance with an aftercare 782
contract or consent agreement; 783

(c) Two written reports indicating that the individual's 784
ability to practice has been assessed and that the individual has 785
been found capable of practicing according to acceptable and 786
prevailing standards of care. The reports shall be made by 787
individuals or providers approved by the board for making the 788
assessments and shall describe the basis for their determination. 789

The board may reinstate a certificate suspended under this 790
division after that demonstration and after the individual has 791
entered into a written consent agreement. 792

When the impaired practitioner resumes practice, the board 793
shall require continued monitoring of the individual. The 794
monitoring shall include, but not be limited to, compliance with 795
the written consent agreement entered into before reinstatement or 796
with conditions imposed by board order after a hearing, and, upon 797

termination of the consent agreement, submission to the board for 798
at least two years of annual written progress reports made under 799
penalty of perjury stating whether the individual has maintained 800
sobriety. 801

(27) A second or subsequent violation of section 4731.66 or 802
4731.69 of the Revised Code; 803

(28) Except as provided in division (N) of this section: 804

(a) Waiving the payment of all or any part of a deductible or 805
copayment that a patient, pursuant to a health insurance or health 806
care policy, contract, or plan that covers the individual's 807
services, otherwise would be required to pay if the waiver is used 808
as an enticement to a patient or group of patients to receive 809
health care services from that individual; 810

(b) Advertising that the individual will waive the payment of 811
all or any part of a deductible or copayment that a patient, 812
pursuant to a health insurance or health care policy, contract, or 813
plan that covers the individual's services, otherwise would be 814
required to pay. 815

(29) Failure to use universal blood and body fluid 816
precautions established by rules adopted under section 4731.051 of 817
the Revised Code; 818

(30) Failure to provide notice to, and receive acknowledgment 819
of the notice from, a patient when required by section 4731.143 of 820
the Revised Code prior to providing nonemergency professional 821
services, or failure to maintain that notice in the patient's 822
file; 823

(31) Failure of a physician supervising a physician assistant 824
to maintain supervision in accordance with the requirements of 825
Chapter 4730. of the Revised Code and the rules adopted under that 826
chapter; 827

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

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

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

(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;

(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;

(37) Assisting suicide as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code.

(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 859
in lieu of an adjudication, the board may enter into a consent 860
agreement with an individual to resolve an allegation of a 861
violation of this chapter or any rule adopted under it. A consent 862
agreement, when ratified by an affirmative vote of not fewer than 863
six members of the board, shall constitute the findings and order 864
of the board with respect to the matter addressed in the 865
agreement. If the board refuses to ratify a consent agreement, the 866
admissions and findings contained in the consent agreement shall 867
be of no force or effect. 868

If the board takes disciplinary action against an individual 869
under division (B) of this section for a second or subsequent plea 870
of guilty to, or judicial finding of guilt of, a violation of 871
section 2919.123 of the Revised Code, the disciplinary action 872
shall consist of a suspension of the individual's certificate to 873
practice for a period of at least one year or, if determined 874
appropriate by the board, a more serious sanction involving the 875
individual's certificate to practice. Any consent agreement 876
entered into under this division with an individual that pertains 877
to a second or subsequent plea of guilty to, or judicial finding 878
of guilt of, a violation of that section shall provide for a 879
suspension of the individual's certificate to practice for a 880
period of at least one year or, if determined appropriate by the 881
board, a more serious sanction involving the individual's 882
certificate to practice. 883

(D) For purposes of divisions (B)(10), (12), and (14) of this 884
section, the commission of the act may be established by a finding 885
by the board, pursuant to an adjudication under Chapter 119. of 886
the Revised Code, that the individual committed the act. The board 887
does not have jurisdiction under those divisions if the trial 888
court renders a final judgment in the individual's favor and that 889
judgment is based upon an adjudication on the merits. The board 890

has jurisdiction under those divisions if the trial court issues 891
an order of dismissal upon technical or procedural grounds. 892

(E) The sealing of conviction records by any court shall have 893
no effect upon a prior board order entered under this section or 894
upon the board's jurisdiction to take action under this section 895
if, based upon a plea of guilty, a judicial finding of guilt, or a 896
judicial finding of eligibility for intervention in lieu of 897
conviction, the board issued a notice of opportunity for a hearing 898
prior to the court's order to seal the records. The board shall 899
not be required to seal, destroy, redact, or otherwise modify its 900
records to reflect the court's sealing of conviction records. 901

(F)(1) The board shall investigate evidence that appears to 902
show that a person has violated any provision of this chapter or 903
any rule adopted under it. Any person may report to the board in a 904
signed writing any information that the person may have that 905
appears to show a violation of any provision of this chapter or 906
any rule adopted under it. In the absence of bad faith, any person 907
who reports information of that nature or who testifies before the 908
board in any adjudication conducted under Chapter 119. of the 909
Revised Code shall not be liable in damages in a civil action as a 910
result of the report or testimony. Each complaint or allegation of 911
a violation received by the board shall be assigned a case number 912
and shall be recorded by the board. 913

(2) Investigations of alleged violations of this chapter or 914
any rule adopted under it shall be supervised by the supervising 915
member elected by the board in accordance with section 4731.02 of 916
the Revised Code and by the secretary as provided in section 917
4731.39 of the Revised Code. The president may designate another 918
member of the board to supervise the investigation in place of the 919
supervising member. No member of the board who supervises the 920
investigation of a case shall participate in further adjudication 921
of the case. 922

(3) In investigating a possible violation of this chapter or 923
any rule adopted under this chapter, the board may administer 924
oaths, order the taking of depositions, issue subpoenas, and 925
compel the attendance of witnesses and production of books, 926
accounts, papers, records, documents, and testimony, except that a 927
subpoena for patient record information shall not be issued 928
without consultation with the attorney general's office and 929
approval of the secretary and supervising member of the board. 930
Before issuance of a subpoena for patient record information, the 931
secretary and supervising member shall determine whether there is 932
probable cause to believe that the complaint filed alleges a 933
violation of this chapter or any rule adopted under it and that 934
the records sought are relevant to the alleged violation and 935
material to the investigation. The subpoena may apply only to 936
records that cover a reasonable period of time surrounding the 937
alleged violation. 938

On failure to comply with any subpoena issued by the board 939
and after reasonable notice to the person being subpoenaed, the 940
board may move for an order compelling the production of persons 941
or records pursuant to the Rules of Civil Procedure. 942

A subpoena issued by the board may be served by a sheriff, 943
the sheriff's deputy, or a board employee designated by the board. 944
Service of a subpoena issued by the board may be made by 945
delivering a copy of the subpoena to the person named therein, 946
reading it to the person, or leaving it at the person's usual 947
place of residence. When the person being served is a person whose 948
practice is authorized by this chapter, service of the subpoena 949
may be made by certified mail, restricted delivery, return receipt 950
requested, and the subpoena shall be deemed served on the date 951
delivery is made or the date the person refuses to accept 952
delivery. 953

A sheriff's deputy who serves a subpoena shall receive the 954

same fees as a sheriff. Each witness who appears before the board 955
in obedience to a subpoena shall receive the fees and mileage 956
provided for witnesses in civil cases in the courts of common 957
pleas. 958

(4) All hearings and investigations of the board shall be 959
considered civil actions for the purposes of section 2305.252 of 960
the Revised Code. 961

(5) Information received by the board pursuant to an 962
investigation is confidential and not subject to discovery in any 963
civil action. 964

The board shall conduct all investigations and proceedings in 965
a manner that protects the confidentiality of patients and persons 966
who file complaints with the board. The board shall not make 967
public the names or any other identifying information about 968
patients or complainants unless proper consent is given or, in the 969
case of a patient, a waiver of the patient privilege exists under 970
division (B) of section 2317.02 of the Revised Code, except that 971
consent or a waiver of that nature is not required if the board 972
possesses reliable and substantial evidence that no bona fide 973
physician-patient relationship exists. 974

The board may share any information it receives pursuant to 975
an investigation, including patient records and patient record 976
information, with law enforcement agencies, other licensing 977
boards, and other governmental agencies that are prosecuting, 978
adjudicating, or investigating alleged violations of statutes or 979
administrative rules. An agency or board that receives the 980
information shall comply with the same requirements regarding 981
confidentiality as those with which the state medical board must 982
comply, notwithstanding any conflicting provision of the Revised 983
Code or procedure of the agency or board that applies when it is 984
dealing with other information in its possession. In a judicial 985
proceeding, the information may be admitted into evidence only in 986

accordance with the Rules of Evidence, but the court shall require 987
that appropriate measures are taken to ensure that confidentiality 988
is maintained with respect to any part of the information that 989
contains names or other identifying information about patients or 990
complainants whose confidentiality was protected by the state 991
medical board when the information was in the board's possession. 992
Measures to ensure confidentiality that may be taken by the court 993
include sealing its records or deleting specific information from 994
its records. 995

(6) On a quarterly basis, the board shall prepare a report 996
that documents the disposition of all cases during the preceding 997
three months. The report shall contain the following information 998
for each case with which the board has completed its activities: 999

(a) The case number assigned to the complaint or alleged 1000
violation; 1001

(b) The type of certificate to practice, if any, held by the 1002
individual against whom the complaint is directed; 1003

(c) A description of the allegations contained in the 1004
complaint; 1005

(d) The disposition of the case. 1006

The report shall state how many cases are still pending and 1007
shall be prepared in a manner that protects the identity of each 1008
person involved in each case. The report shall be a public record 1009
under section 149.43 of the Revised Code. 1010

(G) If the secretary and supervising member determine that 1011
there is clear and convincing evidence that an individual has 1012
violated division (B) of this section and that the individual's 1013
continued practice presents a danger of immediate and serious harm 1014
to the public, they may recommend that the board suspend the 1015
individual's certificate to practice without a prior hearing. 1016
Written allegations shall be prepared for consideration by the 1017

board. 1018

The board, upon review of those allegations and by an 1019
affirmative vote of not fewer than six of its members, excluding 1020
the secretary and supervising member, may suspend a certificate 1021
without a prior hearing. A telephone conference call may be 1022
utilized for reviewing the allegations and taking the vote on the 1023
summary suspension. 1024

The board shall issue a written order of suspension by 1025
certified mail or in person in accordance with section 119.07 of 1026
the Revised Code. The order shall not be subject to suspension by 1027
the court during pendency of any appeal filed under section 119.12 1028
of the Revised Code. If the individual subject to the summary 1029
suspension requests an adjudicatory hearing by the board, the date 1030
set for the hearing shall be within fifteen days, but not earlier 1031
than seven days, after the individual requests the hearing, unless 1032
otherwise agreed to by both the board and the individual. 1033

Any summary suspension imposed under this division shall 1034
remain in effect, unless reversed on appeal, until a final 1035
adjudicative order issued by the board pursuant to this section 1036
and Chapter 119. of the Revised Code becomes effective. The board 1037
shall issue its final adjudicative order within seventy-five days 1038
after completion of its hearing. A failure to issue the order 1039
within seventy-five days shall result in dissolution of the 1040
summary suspension order but shall not invalidate any subsequent, 1041
final adjudicative order. 1042

(H) If the board takes action under division (B)(9), (11), or 1043
(13) of this section and the judicial finding of guilt, guilty 1044
plea, or judicial finding of eligibility for intervention in lieu 1045
of conviction is overturned on appeal, upon exhaustion of the 1046
criminal appeal, a petition for reconsideration of the order may 1047
be filed with the board along with appropriate court documents. 1048
Upon receipt of a petition of that nature and supporting court 1049

documents, the board shall reinstate the individual's certificate 1050
to practice. The board may then hold an adjudication under Chapter 1051
119. of the Revised Code to determine whether the individual 1052
committed the act in question. Notice of an opportunity for a 1053
hearing shall be given in accordance with Chapter 119. of the 1054
Revised Code. If the board finds, pursuant to an adjudication held 1055
under this division, that the individual committed the act or if 1056
no hearing is requested, the board may order any of the sanctions 1057
identified under division (B) of this section. 1058

(I) The certificate to practice issued to an individual under 1059
this chapter and the individual's practice in this state are 1060
automatically suspended as of the date of the individual's second 1061
or subsequent plea of guilty to, or judicial finding of guilt of, 1062
a violation of section 2919.123 of the Revised Code, or the date 1063
the individual pleads guilty to, is found by a judge or jury to be 1064
guilty of, or is subject to a judicial finding of eligibility for 1065
intervention in lieu of conviction in this state or treatment or 1066
intervention in lieu of conviction in another jurisdiction for any 1067
of the following criminal offenses in this state or a 1068
substantially equivalent criminal offense in another jurisdiction: 1069
aggravated murder, murder, voluntary manslaughter, felonious 1070
assault, kidnapping, rape, sexual battery, gross sexual 1071
imposition, aggravated arson, aggravated robbery, or aggravated 1072
burglary. Continued practice after suspension shall be considered 1073
practicing without a certificate. 1074

The board shall notify the individual subject to the 1075
suspension by certified mail or in person in accordance with 1076
section 119.07 of the Revised Code. If an individual whose 1077
certificate is automatically suspended under this division fails 1078
to make a timely request for an adjudication under Chapter 119. of 1079
the Revised Code, the board shall do whichever of the following is 1080
applicable: 1081

(1) If the automatic suspension under this division is 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 board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice.

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

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

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

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent

action taken by the board is forever thereafter ineligible to hold 1114
a certificate to practice and the board shall not accept an 1115
application for reinstatement of the certificate or for issuance 1116
of a new certificate. 1117

(M) Notwithstanding any other provision of the Revised Code, 1118
all of the following apply: 1119

(1) The surrender of a certificate issued under this chapter 1120
shall not be effective unless or until accepted by the board. 1121
Reinstatement of a certificate surrendered to the board requires 1122
an affirmative vote of not fewer than six members of the board. 1123

(2) An application for a certificate made under the 1124
provisions of this chapter may not be withdrawn without approval 1125
of the board. 1126

(3) Failure by an individual to renew a certificate of 1127
registration in accordance with this chapter shall not remove or 1128
limit the board's jurisdiction to take any disciplinary action 1129
under this section against the individual. 1130

(N) Sanctions shall not be imposed under division (B)(28) of 1131
this section against any person who waives deductibles and 1132
copayments as follows: 1133

(1) In compliance with the health benefit plan that expressly 1134
allows such a practice. Waiver of the deductibles or copayments 1135
shall be made only with the full knowledge and consent of the plan 1136
purchaser, payer, and third-party administrator. Documentation of 1137
the consent shall be made available to the board upon request. 1138

(2) For professional services rendered to any other person 1139
authorized to practice pursuant to this chapter, to the extent 1140
allowed by this chapter and rules adopted by the board. 1141

(O) Under the board's investigative duties described in this 1142
section and subject to division (F) of this section, the board 1143

shall develop and implement a quality intervention program 1144
designed to improve through remedial education the clinical and 1145
communication skills of individuals authorized under this chapter 1146
to practice medicine and surgery, osteopathic medicine and 1147
surgery, and podiatric medicine and surgery. In developing and 1148
implementing the quality intervention program, the board may do 1149
all of the following: 1150

(1) Offer in appropriate cases as determined by the board an 1151
educational and assessment program pursuant to an investigation 1152
the board conducts under this section; 1153

(2) Select providers of educational and assessment services, 1154
including a quality intervention program panel of case reviewers; 1155

(3) Make referrals to educational and assessment service 1156
providers and approve individual educational programs recommended 1157
by those providers. The board shall monitor the progress of each 1158
individual undertaking a recommended individual educational 1159
program. 1160

(4) Determine what constitutes successful completion of an 1161
individual educational program and require further monitoring of 1162
the individual who completed the program or other action that the 1163
board determines to be appropriate; 1164

(5) Adopt rules in accordance with Chapter 119. of the 1165
Revised Code to further implement the quality intervention 1166
program. 1167

An individual who participates in an individual educational 1168
program pursuant to this division shall pay the financial 1169
obligations arising from that educational program. 1170

Section 2. That existing sections 2151.421 and 4731.22 of the 1171
Revised Code are hereby repealed. 1172