

As Introduced

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Representative Hood

**Cosponsors: Representatives Beck, Young, Huffman, Becker, Terhar, Hill,
Blessing, Roegner, Maag, Hottinger, Brenner, Burkley, Schuring, Buchy,
Boose, Hayes, Adams, J., Butler, Lynch, Retherford, Stautberg, Thompson,
Wachtmann, Blair, Hall, Henne, McClain, Rosenberger, Slaby, Sprague,
Johnson, Smith, Scherer, Romanchuk**

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A B I L L

To amend sections 2305.11, 2317.56, 2919.171, and 1
4731.22 and to repeal section 2317.561 of the 2
Revised Code to modify the notification 3
requirements given by a physician 48 hours prior 4
to the performance or inducement of an abortion, 5
to require the physician to perform an obstetric 6
ultrasound examination 48 hours prior to the 7
performance or inducement of an abortion, to 8
modify the definition of medical emergency that 9
applies to the law regulating abortion, and to 10
eliminate medical necessity as a reason to perform 11
an abortion without complying with the 48-hour 12
notification requirements. 13

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

Section 1. That sections 2305.11, 2317.56, 2919.171, and 14
4731.22 of the Revised Code be amended to read as follows: 15

Sec. 2305.11. (A) An action for libel, slander, malicious 16
prosecution, or false imprisonment, an action for malpractice 17
other than an action upon a medical, dental, optometric, or 18
chiropractic claim, or an action upon a statute for a penalty or 19
forfeiture shall be commenced within one year after the cause of 20
action accrued, provided that an action by an employee for the 21
payment of unpaid minimum wages, unpaid overtime compensation, or 22
liquidated damages by reason of the nonpayment of minimum wages or 23
overtime compensation shall be commenced within two years after 24
the cause of action accrued. 25

(B) A civil action for unlawful abortion pursuant to section 26
2919.12 of the Revised Code, a civil action authorized by division 27
~~(H)~~(J) of section 2317.56 of the Revised Code, a civil action 28
pursuant to division (B)(1) or (2) of section 2307.51 of the 29
Revised Code for performing a dilation and extraction procedure or 30
attempting to perform a dilation and extraction procedure in 31
violation of section 2919.15 of the Revised Code, and a civil 32
action pursuant to division (B) of section 2307.52 of the Revised 33
Code for terminating or attempting to terminate a human pregnancy 34
after viability in violation of division (A) of section 2919.17 of 35
the Revised Code shall be commenced within one year after the 36
performance or inducement of the abortion, within one year after 37
the attempt to perform or induce the abortion in violation of 38
division (A) of section 2919.17 of the Revised Code, within one 39
year after the performance of the dilation and extraction 40
procedure, or, in the case of a civil action pursuant to division 41
(B)(2) of section 2307.51 of the Revised Code, within one year 42
after the attempt to perform the dilation and extraction 43
procedure. 44

(C) As used in this section, "medical claim," "dental claim," 45
"optometric claim," and "chiropractic claim" have the same 46
meanings as in section 2305.113 of the Revised Code. 47

Sec. 2317.56. (A) As used in this section: 48

(1) "Medical emergency" means a condition of a pregnant woman 49
that, in the reasonable judgment of the physician who is attending 50
the woman, ~~creates an immediate threat of serious risk to the life~~ 51
~~or physical health~~ so complicates the medical condition of the 52
woman ~~from the continuation of~~ that the death of the woman would 53
result from the failure to immediately terminate the pregnancy 54
~~necessitating the immediate performance or inducement of an~~ 55
~~abortion.~~ 56

(2) ~~"Medical necessity" means a medical condition of a~~ 57
~~pregnant woman that, in the reasonable judgment of the physician~~ 58
~~who is attending the woman, so complicates the pregnancy that it~~ 59
~~necessitates the immediate performance or inducement of an~~ 60
~~abortion.~~ 61

~~(3)~~ "Probable gestational age of the embryo or fetus" means 62
the gestational age that, in the judgment of a physician, is, with 63
reasonable probability, the gestational age of the embryo or fetus 64
at the time that the physician informs a pregnant woman pursuant 65
to division (B)(1)(b) of this section. 66

(3) "Conflict of interest disclaimer" means a written 67
statement divulging the gross income from the previous year of a 68
physician who performs or induces an abortion or of a facility 69
where an abortion is performed or induced, the percentage of that 70
income that was obtained as fees for the performance of an 71
abortion, and a statement concerning the monetary loss to the 72
physician or facility that would result from the woman's decision 73
to carry the woman's pregnancy to term. 74

(4) "Viable pregnancy" means a pregnancy in which a fetal sac 75
is located inside the pregnant woman's uterus and fetal cardiac 76
activity is present within the fetal sac. 77

(B) Except when there is a medical emergency ~~or medical~~ 78
~~necessity~~, an abortion shall be performed or induced only if all 79
of the following conditions are satisfied: 80

(1) At least ~~twenty-four~~ forty-eight hours prior to the 81
performance or inducement of the abortion, a physician meets with 82
the pregnant woman in person in an individual, private setting and 83
gives her an adequate opportunity to ask questions about the 84
abortion that will be performed or induced. At this meeting, the 85
physician shall inform the pregnant woman, verbally or, if she is 86
hearing impaired, by other means of communication, and in writing 87
of all of the following: 88

(a) The nature and purpose of the particular abortion 89
procedure to be used and the medical risks associated with that 90
procedure, including the risk of infection, hemorrhage, cervical 91
or uterine perforation, and infertility, the risk to subsequent 92
pregnancies, and the increased risk of breast cancer; 93

(b) The probable gestational age of the embryo or fetus and 94
the probable anatomical and physiological characteristics of the 95
embryo or fetus at that age; 96

(c) The medical risks associated with the pregnant woman 97
carrying the pregnancy to term. 98

The meeting need not occur at the facility where the abortion 99
is to be performed or induced, and the physician involved in the 100
meeting need not be affiliated with that facility or with the 101
physician who is scheduled to perform or induce the abortion. 102

(2) At least ~~twenty-four~~ forty-eight hours prior to the 103
performance or inducement of the abortion, one or more physicians 104
or one or more agents of one or more physicians do each of the 105
following in person, or by telephone, and by certified mail, 106
return receipt requested, or by regular mail evidenced by a 107
certificate of mailing: 108

(a) Inform the pregnant woman of the name of the physician	109
who is scheduled to perform or induce the abortion;	110
(b) Give the pregnant woman copies of the published materials	111
described in division (C) (D) of this section;	112
(c) Inform the pregnant woman that the materials given	113
pursuant to division (B)(2)(b) of this section are published by	114
the state and that they describe the embryo or fetus and list	115
agencies that offer alternatives to abortion. The pregnant woman	116
may choose to examine or not to examine the materials. A physician	117
or an agent of a physician may choose to be disassociated from the	118
materials and may choose to comment or not comment on the	119
materials;	120
<u>(d) Provide the pregnant woman with a conflict of interest</u>	121
<u>disclaimer;</u>	122
<u>(e) Perform an obstetric ultrasound examination that portrays</u>	123
<u>the entire body of the embryo or fetus and provide the pregnant</u>	124
<u>woman with all of the following:</u>	125
<u>(i) A verbal description of all relevant features of the</u>	126
<u>ultrasound, including an audible heartbeat, if present;</u>	127
<u>(ii) Upon request and at no additional charge to the pregnant</u>	128
<u>woman, a physical picture of the ultrasound image of the embryo or</u>	129
<u>fetus of a quality consistent with current standard medical</u>	130
<u>practice;</u>	131
<u>(iii) A written document and verbal description stating</u>	132
<u>whether or not the pregnant woman has a viable pregnancy, the</u>	133
<u>location of the fetal sac, and the presence or absence of cardiac</u>	134
<u>activity within the fetal sac. If the pregnancy is not a viable</u>	135
<u>pregnancy, the physician shall advise the pregnant woman that the</u>	136
<u>pregnant woman will suffer a miscarriage with no further</u>	137
<u>intervention unless the physician has evidence to the contrary.</u>	138

(iv) A list of all known obstetric ultrasound providers 139
within a ten-mile radius of the physician who intends to perform 140
or induce the abortion or, if there is no obstetric ultrasound 141
provider within that ten-mile radius, a list of all known 142
obstetric ultrasound providers within a fifty-mile radius of the 143
physician who intends to perform or induce the abortion. 144

(f) Describe the development of nerve endings of the embryo 145
or fetus and the ability of the embryo or fetus to feel pain at 146
each stage of development; 147

(g) Provide the pregnant woman with a statement that the 148
pregnant woman is free to withhold or withdraw the pregnant 149
woman's consent to the abortion at any time without affecting the 150
pregnant woman's right to care or treatment in the future and 151
without the loss of any state or federal benefits to which she may 152
otherwise be entitled; 153

(h) Provide the pregnant woman with any other medical or 154
other information that a reasonable person would consider material 155
to the decision of whether or not to have an abortion. 156

(3) Nothing in this section prohibits a pregnant woman from 157
refusing to listen to the sounds detected by a fetal heart monitor 158
or from refusing to view the images displayed by the obstetric 159
ultrasound examination. 160

(4) Prior to the performance or inducement of the abortion, 161
the pregnant woman signs a form consenting to the abortion and 162
certifies both of the following on that form: 163

(a) She has received the information and materials described 164
in divisions (B)(1) and (2) of this section, and her questions 165
about the abortion that will be performed or induced have been 166
answered in a satisfactory manner. 167

(b) She consents to the particular abortion voluntarily, 168
knowingly, intelligently, and without coercion by any person, and 169

she is not under the influence of any drug of abuse or alcohol. 170

~~(4)~~(5) Prior to the performance or inducement of the 171
abortion, the physician who is scheduled to perform or induce the 172
abortion or the physician's agent receives a copy of the pregnant 173
woman's signed form on which she consents to the abortion and that 174
includes the certification required by division (B)(3) of this 175
section; 176

(6) Prior to the performance or inducement of the abortion, 177
the physician who is scheduled to perform or induce the abortion 178
shall provide, under oath and under penalty of perjury, a signed 179
statement that the physician has complied with the requirements of 180
divisions (B)(2), (3), (4), and (5) of this section. 181

(C) The information provided in divisions (B)(2), (3), (4), 182
and (5) of this section shall be provided in a private room, and 183
the pregnant woman shall be provided with sufficient time to ask 184
questions and receive answers that the pregnant woman can 185
understand. If the pregnant woman is unable to read any written 186
materials provided to her, the materials shall be read to her and, 187
if necessary, shall be explained in a way that is understandable 188
to the pregnant woman. 189

(D) The department of health shall publish in English and in 190
Spanish, in a typeface large enough to be clearly legible, and in 191
an easily comprehensible format, the following materials on the 192
department's web site: 193

(1) Materials that inform the pregnant woman about family 194
planning information, of publicly funded agencies that are 195
available to assist in family planning, and of public and private 196
agencies and services that are available to assist her through the 197
pregnancy, upon childbirth, and while the child is dependent, 198
including, but not limited to, adoption agencies. The materials 199
shall be geographically indexed; include a comprehensive list of 200

the available agencies, a description of the services offered by 201
the agencies, and the telephone numbers and addresses of the 202
agencies; and inform the pregnant woman about available medical 203
assistance benefits for prenatal care, childbirth, and neonatal 204
care and about the support obligations of the father of a child 205
who is born alive. The department shall ensure that the materials 206
described in division ~~(C)~~(D)(1) of this section are comprehensive 207
and do not directly or indirectly promote, exclude, or discourage 208
the use of any agency or service described in this division. 209

(2) Materials, including color photographs, that inform the 210
pregnant woman of the probable anatomical and physiological 211
characteristics of the zygote, blastocyte, embryo, or fetus at 212
two-week gestational increments for the first sixteen weeks of 213
pregnancy and at four-week gestational increments from the 214
seventeenth week of pregnancy to full term, including any relevant 215
information regarding the time at which the fetus possibly would 216
be viable. The department shall cause these materials to be 217
published only after it consults with the Ohio state medical 218
association and the Ohio section of the American college of 219
obstetricians and gynecologists relative to the probable 220
anatomical and physiological characteristics of a zygote, 221
blastocyte, embryo, or fetus at the various gestational 222
increments. The materials shall use language that is 223
understandable by the average person who is not medically trained, 224
shall be objective and nonjudgmental, and shall include only 225
accurate scientific information about the zygote, blastocyte, 226
embryo, or fetus at the various gestational increments. If the 227
materials use a pictorial, photographic, or other depiction to 228
provide information regarding the zygote, blastocyte, embryo, or 229
fetus, the materials shall include, in a conspicuous manner, a 230
scale or other explanation that is understandable by the average 231
person and that can be used to determine the actual size of the 232
zygote, blastocyte, embryo, or fetus at a particular gestational 233

increment as contrasted with the depicted size of the zygote, 234
blastocyte, embryo, or fetus at that gestational increment. 235

~~(D)~~(E) Upon the submission of a request to the department of 236
health by any person, hospital, physician, or medical facility for 237
one copy of the materials published in accordance with division 238
~~(C)~~(D) of this section, the department shall make the requested 239
copy of the materials available to the person, hospital, 240
physician, or medical facility that requested the copy. 241

~~(E)~~(F) If a medical emergency ~~or medical necessity~~ compels 242
the performance or inducement of an abortion, the physician who 243
will perform or induce the abortion, prior to its performance or 244
inducement if possible, shall inform the pregnant woman of the 245
medical indications supporting the physician's judgment that an 246
immediate abortion is necessary. Any physician who performs or 247
induces an abortion without the prior satisfaction of the 248
conditions specified in division (B) of this section because of a 249
medical emergency ~~or medical necessity~~ shall enter the reasons for 250
the conclusion that a medical emergency ~~or medical necessity~~ 251
exists in the medical record of the pregnant woman. 252

~~(F)~~(G) If the conditions specified in division (B) of this 253
section are satisfied, consent to an abortion shall be presumed to 254
be valid and effective. 255

~~(G)~~(H) The performance or inducement of an abortion without 256
the prior satisfaction of the conditions specified in division (B) 257
of this section does not constitute, and shall not be construed as 258
constituting, a violation of division (A) of section 2919.12 of 259
the Revised Code. The failure of a physician to satisfy the 260
conditions of division (B) of this section prior to performing or 261
inducing an abortion upon a pregnant woman may be the basis of 262
both of the following: 263

(1) A civil action for compensatory and exemplary damages as 264

described in division ~~(H)~~(J) of this section; 265

(2) Disciplinary action under section 4731.22 of the Revised 266
Code. 267

~~(H)~~(I) Whoever violates this section or whoever performs or 268
induces an abortion with reason to believe that the abortion was 269
performed or induced in violation of this section is guilty of a 270
felony of the first degree. Notwithstanding division (A)(3) of 271
section 2929.18 of the Revised Code, the offender shall be fined 272
up to one million dollars for a violation of this section or for 273
performing or inducing an abortion with reason to believe that the 274
abortion was performed or induced in violation of this section. 275

(J)(1) Subject to divisions ~~(H)~~(J)(2) and (3) of this 276
section, any physician who performs or induces an abortion with 277
actual knowledge that the conditions specified in division (B) of 278
this section have not been satisfied or with a heedless 279
indifference as to whether those conditions have been satisfied is 280
liable in compensatory and exemplary damages in a civil action to 281
any person, or the representative of the estate of any person, who 282
sustains injury, death, or loss to person or property as a result 283
of the failure to satisfy those conditions. In the civil action, 284
the court additionally may enter any injunctive or other equitable 285
relief that it considers appropriate. 286

(2) The following shall be affirmative defenses in a civil 287
action authorized by division ~~(H)~~(J)(1) of this section: 288

(a) The physician performed or induced the abortion under the 289
circumstances described in division ~~(E)~~(F) of this section. 290

(b) The physician made a good faith effort to satisfy the 291
conditions specified in division (B) of this section. 292

(3) An employer or other principal is not liable in damages 293
in a civil action authorized by division ~~(H)~~(J)(1) of this section 294
on the basis of the doctrine of respondeat superior unless either 295

of the following applies: 296

(a) The employer or other principal had actual knowledge or, 297
by the exercise of reasonable diligence, should have known that an 298
employee or agent performed or induced an abortion with actual 299
knowledge that the conditions specified in division (B) of this 300
section had not been satisfied or with a heedless indifference as 301
to whether those conditions had been satisfied. 302

(b) The employer or other principal negligently failed to 303
secure the compliance of an employee or agent with division (B) of 304
this section. 305

(4) Notwithstanding division (E) of section 2919.12 of the 306
Revised Code, the civil action authorized by division ~~(H)~~(J)(1) of 307
this section shall be the exclusive civil remedy for persons, or 308
the representatives of estates of persons, who allegedly sustain 309
injury, death, or loss to person or property as a result of a 310
failure to satisfy the conditions specified in division (B) of 311
this section. 312

~~(I)~~(K) The department of job and family services shall 313
prepare and conduct a public information program to inform women 314
of all available governmental programs and agencies that provide 315
services or assistance for family planning, prenatal care, child 316
care, or alternatives to abortion. 317

(L) No physician may accept payment nor legally or otherwise 318
require a pregnant woman to make a payment for performing or 319
inducing an abortion prior to the expiration of the forty-eight 320
hour period before the physician's fulfillment of all of the 321
requirements of divisions (B)(2), (3), (4), and (5) of this 322
section. 323

Sec. 2919.171. (A) A physician who performs or induces or 324
attempts to perform or induce an abortion on a pregnant woman 325

shall submit a report to the department of health in accordance 326
with the forms, rules, and regulations adopted by the department 327
that includes all of the information the physician is required to 328
certify in writing or determine under sections 2919.17 and 2919.18 329
of the Revised Code: 330

(B) By September 30 of each year, the department of health 331
shall issue a public report that provides statistics for the 332
previous calendar year compiled from all of the reports covering 333
that calendar year submitted to the department in accordance with 334
this section for each of the items listed in division (A) of this 335
section. The report shall also provide the statistics for each 336
previous calendar year in which a report was filed with the 337
department pursuant to this section, adjusted to reflect any 338
additional information that a physician provides to the department 339
in a late or corrected report. The department shall ensure that 340
none of the information included in the report could reasonably 341
lead to the identification of any pregnant woman upon whom an 342
abortion is performed. 343

(C)(1) The physician shall submit the report described in 344
division (A) of this section to the department of health within 345
fifteen days after the woman is discharged. If the physician fails 346
to submit the report more than thirty days after that fifteen-day 347
deadline, the physician shall be subject to a late fee of five 348
hundred dollars for each additional thirty-day period or portion 349
of a thirty-day period the report is overdue. A physician who is 350
required to submit to the department of health a report under 351
division (A) of this section and who has not submitted a report or 352
has submitted an incomplete report more than one year following 353
the fifteen-day deadline may, in an action brought by the 354
department of health, be directed by a court of competent 355
jurisdiction to submit a complete report to the department of 356
health within a period of time stated in a court order or be 357

subject to contempt of court. 358

(2) If a physician fails to comply with the requirements of 359
this section, other than filing a late report with the department 360
of health, or fails to submit a complete report to the department 361
of health in accordance with a court order, the physician is 362
subject to division (B)~~(41)~~(43) of section 4731.22 of the Revised 363
Code. 364

(3) No person shall falsify any report required under this 365
section. Whoever violates this division is guilty of abortion 366
report falsification, a misdemeanor of the first degree. 367

(D) Within ninety days of ~~the effective date of this section~~ 368
October 20, 2011, the department of health shall adopt rules 369
pursuant to section 111.15 of the Revised Code to assist in 370
compliance with this section. 371

Sec. 4731.22. (A) The state medical board, by an affirmative 372
vote of not fewer than six of its members, may limit, revoke, or 373
suspend an individual's certificate to practice, refuse to grant a 374
certificate to an individual, refuse to register an individual, 375
refuse to reinstate a certificate, or reprimand or place on 376
probation the holder of a certificate if the individual or 377
certificate holder is found by the board to have committed fraud 378
during the administration of the examination for a certificate to 379
practice or to have committed fraud, misrepresentation, or 380
deception in applying for or securing any certificate to practice 381
or certificate of registration issued by the board. 382

(B) The board, by an affirmative vote of not fewer than six 383
members, shall, to the extent permitted by law, limit, revoke, or 384
suspend an individual's certificate to practice, refuse to 385
register an individual, refuse to reinstate a certificate, or 386
reprimand or place on probation the holder of a certificate for 387
one or more of the following reasons: 388

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

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

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

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report 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.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in

relation to the practice of medicine and surgery, osteopathic 420
medicine and surgery, podiatric medicine and surgery, or a limited 421
branch of medicine; or in securing or attempting to secure any 422
certificate to practice or certificate of registration issued by 423
the board. 424

As used in this division, "false, fraudulent, deceptive, or 425
misleading statement" means a statement that includes a 426
misrepresentation of fact, is likely to mislead or deceive because 427
of a failure to disclose material facts, is intended or is likely 428
to create false or unjustified expectations of favorable results, 429
or includes representations or implications that in reasonable 430
probability will cause an ordinarily prudent person to 431
misunderstand or be deceived. 432

(6) A departure from, or the failure to conform to, minimal 433
standards of care of similar practitioners under the same or 434
similar circumstances, whether or not actual injury to a patient 435
is established; 436

(7) Representing, with the purpose of obtaining compensation 437
or other advantage as personal gain or for any other person, that 438
an incurable disease or injury, or other incurable condition, can 439
be permanently cured; 440

(8) The obtaining of, or attempting to obtain, money or 441
anything of value by fraudulent misrepresentations in the course 442
of practice; 443

(9) A plea of guilty to, a judicial finding of guilt of, or a 444
judicial finding of eligibility for intervention in lieu of 445
conviction for, a felony; 446

(10) Commission of an act that constitutes a felony in this 447
state, regardless of the jurisdiction in which the act was 448
committed; 449

(11) A plea of guilty to, a judicial finding of guilt of, or 450

a judicial finding of eligibility for intervention in lieu of 451
conviction for, a misdemeanor committed in the course of practice; 452

(12) Commission of an act in the course of practice that 453
constitutes a misdemeanor in this state, regardless of the 454
jurisdiction in which the act was committed; 455

(13) A plea of guilty to, a judicial finding of guilt of, or 456
a judicial finding of eligibility for intervention in lieu of 457
conviction for, a misdemeanor involving moral turpitude; 458

(14) Commission of an act involving moral turpitude that 459
constitutes a misdemeanor in this state, regardless of the 460
jurisdiction in which the act was committed; 461

(15) Violation of the conditions of limitation placed by the 462
board upon a certificate to practice; 463

(16) Failure to pay license renewal fees specified in this 464
chapter; 465

(17) Except as authorized in section 4731.31 of the Revised 466
Code, engaging in the division of fees for referral of patients, 467
or the receiving of a thing of value in return for a specific 468
referral of a patient to utilize a particular service or business; 469

(18) Subject to section 4731.226 of the Revised Code, 470
violation of any provision of a code of ethics of the American 471
medical association, the American osteopathic association, the 472
American podiatric medical association, or any other national 473
professional organizations that the board specifies by rule. The 474
state medical board shall obtain and keep on file current copies 475
of the codes of ethics of the various national professional 476
organizations. The individual whose certificate is being suspended 477
or revoked shall not be found to have violated any provision of a 478
code of ethics of an organization not appropriate to the 479
individual's profession. 480

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

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

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test 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 finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling,

or treatment by physicians approved or designated by the board, as 513
a condition for initial, continued, reinstated, or renewed 514
authority to practice. An individual affected under this division 515
shall be afforded an opportunity to demonstrate to the board the 516
ability to resume practice in compliance with acceptable and 517
prevailing standards under the provisions of the individual's 518
certificate. For the purpose of this division, any individual who 519
applies for or receives a certificate to practice under this 520
chapter accepts the privilege of practicing in this state and, by 521
so doing, shall be deemed to have given consent to submit to a 522
mental or physical examination when directed to do so in writing 523
by the board, and to have waived all objections to the 524
admissibility of testimony or examination reports that constitute 525
a privileged communication. 526

(20) Except when civil penalties are imposed under section 527
4731.225 or 4731.281 of the Revised Code, and subject to section 528
4731.226 of the Revised Code, violating or attempting to violate, 529
directly or indirectly, or assisting in or abetting the violation 530
of, or conspiring to violate, any provisions of this chapter or 531
any rule promulgated by the board. 532

This division does not apply to a violation or attempted 533
violation of, assisting in or abetting the violation of, or a 534
conspiracy to violate, any provision of this chapter or any rule 535
adopted by the board that would preclude the making of a report by 536
a physician of an employee's use of a drug of abuse, or of a 537
condition of an employee other than one involving the use of a 538
drug of abuse, to the employer of the employee as described in 539
division (B) of section 2305.33 of the Revised Code. Nothing in 540
this division affects the immunity from civil liability conferred 541
by that section upon a physician who makes either type of report 542
in accordance with division (B) of that section. As used in this 543
division, "employee," "employer," and "physician" have the same 544

meanings as in section 2305.33 of the Revised Code. 545

(21) The violation of section 3701.79 of the Revised Code or 546
of any abortion rule adopted by the public health council pursuant 547
to section 3701.341 of the Revised Code; 548

(22) Any of the following actions taken by an agency 549
responsible for authorizing, certifying, or regulating an 550
individual to practice a health care occupation or provide health 551
care services in this state or another jurisdiction, for any 552
reason other than the nonpayment of fees: the limitation, 553
revocation, or suspension of an individual's license to practice; 554
acceptance of an individual's license surrender; denial of a 555
license; refusal to renew or reinstate a license; imposition of 556
probation; or issuance of an order of censure or other reprimand; 557

(23) The violation of section 2919.12 of the Revised Code or 558
the performance or inducement of an abortion upon a pregnant woman 559
with actual knowledge that the conditions specified in division 560
(B) of section 2317.56 of the Revised Code have not been satisfied 561
or with a heedless indifference as to whether those conditions 562
have been satisfied, unless an affirmative defense as specified in 563
division (H)(2) of that section would apply in a civil action 564
authorized by division (H)(1) of that section; 565

(24) The revocation, suspension, restriction, reduction, or 566
termination of clinical privileges by the United States department 567
of defense or department of veterans affairs or the termination or 568
suspension of a certificate of registration to prescribe drugs by 569
the drug enforcement administration of the United States 570
department of justice; 571

(25) Termination or suspension from participation in the 572
medicare or medicaid programs by the department of health and 573
human services or other responsible agency for any act or acts 574
that also would constitute a violation of division (B)(2), (3), 575

(6), (8), or (19) of this section; 576

(26) Impairment of ability to practice according to 577
acceptable and prevailing standards of care because of habitual or 578
excessive use or abuse of drugs, alcohol, or other substances that 579
impair ability to practice. 580

For the purposes of this division, any individual authorized 581
to practice by this chapter accepts the privilege of practicing in 582
this state subject to supervision by the board. By filing an 583
application for or holding a certificate to practice under this 584
chapter, an individual shall be deemed to have given consent to 585
submit to a mental or physical examination when ordered to do so 586
by the board in writing, and to have waived all objections to the 587
admissibility of testimony or examination reports that constitute 588
privileged communications. 589

If it has reason to believe that any individual authorized to 590
practice by this chapter or any applicant for certification to 591
practice suffers such impairment, the board may compel the 592
individual to submit to a mental or physical examination, or both. 593
The expense of the examination is the responsibility of the 594
individual compelled to be examined. Any mental or physical 595
examination required under this division shall be undertaken by a 596
treatment provider or physician who is qualified to conduct the 597
examination and who is chosen by the board. 598

Failure to submit to a mental or physical examination ordered 599
by the board constitutes an admission of the allegations against 600
the individual unless the failure is due to circumstances beyond 601
the individual's control, and a default and final order may be 602
entered without the taking of testimony or presentation of 603
evidence. If the board determines that the individual's ability to 604
practice is impaired, the board shall suspend the individual's 605
certificate or deny the individual's application and shall require 606
the individual, as a condition for initial, continued, reinstated, 607

or renewed certification to practice, to submit to treatment. 608

Before being eligible to apply for reinstatement of a 609
certificate suspended under this division, the impaired 610
practitioner shall demonstrate to the board the ability to resume 611
practice in compliance with acceptable and prevailing standards of 612
care under the provisions of the practitioner's certificate. The 613
demonstration shall include, but shall not be limited to, the 614
following: 615

(a) Certification from a treatment provider approved under 616
section 4731.25 of the Revised Code that the individual has 617
successfully completed any required inpatient treatment; 618

(b) Evidence of continuing full compliance with an aftercare 619
contract or consent agreement; 620

(c) Two written reports indicating that the individual's 621
ability to practice has been assessed and that the individual has 622
been found capable of practicing according to acceptable and 623
prevailing standards of care. The reports shall be made by 624
individuals or providers approved by the board for making the 625
assessments and shall describe the basis for their determination. 626

The board may reinstate a certificate suspended under this 627
division after that demonstration and after the individual has 628
entered into a written consent agreement. 629

When the impaired practitioner resumes practice, the board 630
shall require continued monitoring of the individual. The 631
monitoring shall include, but not be limited to, compliance with 632
the written consent agreement entered into before reinstatement or 633
with conditions imposed by board order after a hearing, and, upon 634
termination of the consent agreement, submission to the board for 635
at least two years of annual written progress reports made under 636
penalty of perjury stating whether the individual has maintained 637
sobriety. 638

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;	639 640
(28) Except as provided in division (N) of this section:	641
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;	642 643 644 645 646 647
(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.	648 649 650 651 652
(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;	653 654 655
(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;	656 657 658 659 660
(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;	661 662 663 664
(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	665 666 667 668 669

responsibilities of collaboration after entering into a standard 670
care arrangement; 671

(33) Failure to comply with the terms of a consult agreement 672
entered into with a pharmacist pursuant to section 4729.39 of the 673
Revised Code; 674

(34) Failure to cooperate in an investigation conducted by 675
the board under division (F) of this section, including failure to 676
comply with a subpoena or order issued by the board or failure to 677
answer truthfully a question presented by the board in an 678
investigative interview, an investigative office conference, at a 679
deposition, or in written interrogatories, except that failure to 680
cooperate with an investigation shall not constitute grounds for 681
discipline under this section if a court of competent jurisdiction 682
has issued an order that either quashes a subpoena or permits the 683
individual to withhold the testimony or evidence in issue; 684

(35) Failure to supervise an oriental medicine practitioner 685
or acupuncturist in accordance with Chapter 4762. of the Revised 686
Code and the board's rules for providing that supervision; 687

(36) Failure to supervise an anesthesiologist assistant in 688
accordance with Chapter 4760. of the Revised Code and the board's 689
rules for supervision of an anesthesiologist assistant; 690

(37) Assisting suicide as defined in section 3795.01 of the 691
Revised Code; 692

~~(38) Failure to comply with the requirements of section 693
2317.561 of the Revised Code; 694~~

~~(39) Failure to supervise a radiologist assistant in 695
accordance with Chapter 4774. of the Revised Code and the board's 696
rules for supervision of radiologist assistants; 697~~

~~(40)~~(39) Performing or inducing an abortion at an office or 698
facility with knowledge that the office or facility fails to post 699

the notice required under section 3701.791 of the Revised Code; 700

~~(41)~~(40) Failure to comply with the standards and procedures 701
established in rules under section 4731.054 of the Revised Code 702
for the operation of or the provision of care at a pain management 703
clinic; 704

~~(42)~~(41) Failure to comply with the standards and procedures 705
established in rules under section 4731.054 of the Revised Code 706
for providing supervision, direction, and control of individuals 707
at a pain management clinic; 708

~~(43)~~(42) Failure to comply with the requirements of section 709
4729.79 of the Revised Code, unless the state board of pharmacy no 710
longer maintains a drug database pursuant to section 4729.75 of 711
the Revised Code; 712

~~(44)~~(43) Failure to comply with the requirements of section 713
2919.171 of the Revised Code or failure to submit to the 714
department of health in accordance with a court order a complete 715
report as described in section 2919.171 of the Revised Code; 716

~~(45)~~(44) Failure to supervise a genetic counselor holding a 717
supervised practice license in accordance with Chapter 4778. of 718
the Revised Code and the board's rules for supervision of the 719
genetic counselor; 720

~~(46)~~(45) Failure to fulfill the responsibilities of 721
collaboration after entering into a collaborative agreement with a 722
genetic counselor under division (B) of section 4778.11 of the 723
Revised Code or failure to comply with the board's rules regarding 724
such agreements. 725

~~(47)~~(46) Practicing at a facility that is subject to 726
licensure as a category III terminal distributor of dangerous 727
drugs with a pain management clinic classification unless the 728
person operating the facility has obtained and maintains the 729
license with the classification; 730

~~(48)~~(47) Owning a facility that is subject to licensure as a 731
category III terminal distributor of dangerous drugs with a pain 732
management clinic classification unless the facility is licensed 733
with the classification. 734

(C) Disciplinary actions taken by the board under divisions 735
(A) and (B) of this section shall be taken pursuant to an 736
adjudication under Chapter 119. of the Revised Code, except that 737
in lieu of an adjudication, the board may enter into a consent 738
agreement with an individual to resolve an allegation of a 739
violation of this chapter or any rule adopted under it. A consent 740
agreement, when ratified by an affirmative vote of not fewer than 741
six members of the board, shall constitute the findings and order 742
of the board with respect to the matter addressed in the 743
agreement. If the board refuses to ratify a consent agreement, the 744
admissions and findings contained in the consent agreement shall 745
be of no force or effect. 746

A telephone conference call may be utilized for ratification 747
of a consent agreement that revokes or suspends an individual's 748
certificate to practice. The telephone conference call shall be 749
considered a special meeting under division (F) of section 121.22 750
of the Revised Code. 751

If the board takes disciplinary action against an individual 752
under division (B) of this section for a second or subsequent plea 753
of guilty to, or judicial finding of guilt of, a violation of 754
section 2919.123 of the Revised Code, the disciplinary action 755
shall consist of a suspension of the individual's certificate to 756
practice for a period of at least one year or, if determined 757
appropriate by the board, a more serious sanction involving the 758
individual's certificate to practice. Any consent agreement 759
entered into under this division with an individual that pertains 760
to a second or subsequent plea of guilty to, or judicial finding 761
of guilt of, a violation of that section shall provide for a 762

suspension of the individual's certificate to practice for a 763
period of at least one year or, if determined appropriate by the 764
board, a more serious sanction involving the individual's 765
certificate to practice. 766

(D) For purposes of divisions (B)(10), (12), and (14) of this 767
section, the commission of the act may be established by a finding 768
by the board, pursuant to an adjudication under Chapter 119. of 769
the Revised Code, that the individual committed the act. The board 770
does not have jurisdiction under those divisions if the trial 771
court renders a final judgment in the individual's favor and that 772
judgment is based upon an adjudication on the merits. The board 773
has jurisdiction under those divisions if the trial court issues 774
an order of dismissal upon technical or procedural grounds. 775

(E) The sealing of conviction records by any court shall have 776
no effect upon a prior board order entered under this section or 777
upon the board's jurisdiction to take action under this section 778
if, based upon a plea of guilty, a judicial finding of guilt, or a 779
judicial finding of eligibility for intervention in lieu of 780
conviction, the board issued a notice of opportunity for a hearing 781
prior to the court's order to seal the records. The board shall 782
not be required to seal, destroy, redact, or otherwise modify its 783
records to reflect the court's sealing of conviction records. 784

(F)(1) The board shall investigate evidence that appears to 785
show that a person has violated any provision of this chapter or 786
any rule adopted under it. Any person may report to the board in a 787
signed writing any information that the person may have that 788
appears to show a violation of any provision of this chapter or 789
any rule adopted under it. In the absence of bad faith, any person 790
who reports information of that nature or who testifies before the 791
board in any adjudication conducted under Chapter 119. of the 792
Revised Code shall not be liable in damages in a civil action as a 793
result of the report or testimony. Each complaint or allegation of 794

a violation received by the board shall be assigned a case number 795
and shall be recorded by the board. 796

(2) Investigations of alleged violations of this chapter or 797
any rule adopted under it shall be supervised by the supervising 798
member elected by the board in accordance with section 4731.02 of 799
the Revised Code and by the secretary as provided in section 800
4731.39 of the Revised Code. The president may designate another 801
member of the board to supervise the investigation in place of the 802
supervising member. No member of the board who supervises the 803
investigation of a case shall participate in further adjudication 804
of the case. 805

(3) In investigating a possible violation of this chapter or 806
any rule adopted under this chapter, or in conducting an 807
inspection under division (E) of section 4731.054 of the Revised 808
Code, the board may question witnesses, conduct interviews, 809
administer oaths, order the taking of depositions, inspect and 810
copy any books, accounts, papers, records, or documents, issue 811
subpoenas, and compel the attendance of witnesses and production 812
of books, accounts, papers, records, documents, and testimony, 813
except that a subpoena for patient record information shall not be 814
issued without consultation with the attorney general's office and 815
approval of the secretary and supervising member of the board. 816

(a) Before issuance of a subpoena for patient record 817
information, the secretary and supervising member shall determine 818
whether there is probable cause to believe that the complaint 819
filed alleges a violation of this chapter or any rule adopted 820
under it and that the records sought are relevant to the alleged 821
violation and material to the investigation. The subpoena may 822
apply only to records that cover a reasonable period of time 823
surrounding the alleged violation. 824

(b) On failure to comply with any subpoena issued by the 825
board and after reasonable notice to the person being subpoenaed, 826

the board may move for an order compelling the production of 827
persons or records pursuant to the Rules of Civil Procedure. 828

(c) A subpoena issued by the board may be served by a 829
sheriff, the sheriff's deputy, or a board employee designated by 830
the board. Service of a subpoena issued by the board may be made 831
by delivering a copy of the subpoena to the person named therein, 832
reading it to the person, or leaving it at the person's usual 833
place of residence, usual place of business, or address on file 834
with the board. When serving a subpoena to an applicant for or the 835
holder of a certificate issued under this chapter, service of the 836
subpoena may be made by certified mail, return receipt requested, 837
and the subpoena shall be deemed served on the date delivery is 838
made or the date the person refuses to accept delivery. If the 839
person being served refuses to accept the subpoena or is not 840
located, service may be made to an attorney who notifies the board 841
that the attorney is representing the person. 842

(d) A sheriff's deputy who serves a subpoena shall receive 843
the same fees as a sheriff. Each witness who appears before the 844
board in obedience to a subpoena shall receive the fees and 845
mileage provided for under section 119.094 of the Revised Code. 846

(4) All hearings, investigations, and inspections of the 847
board shall be considered civil actions for the purposes of 848
section 2305.252 of the Revised Code. 849

(5) A report required to be submitted to the board under this 850
chapter, a complaint, or information received by the board 851
pursuant to an investigation or pursuant to an inspection under 852
division (E) of section 4731.054 of the Revised Code is 853
confidential and not subject to discovery in any civil action. 854

The board shall conduct all investigations or inspections and 855
proceedings in a manner that protects the confidentiality of 856
patients and persons who file complaints with the board. The board 857

shall not make public the names or any other identifying 858
information about patients or complainants unless proper consent 859
is given or, in the case of a patient, a waiver of the patient 860
privilege exists under division (B) of section 2317.02 of the 861
Revised Code, except that consent or a waiver of that nature is 862
not required if the board possesses reliable and substantial 863
evidence that no bona fide physician-patient relationship exists. 864

The board may share any information it receives pursuant to 865
an investigation or inspection, including patient records and 866
patient record information, with law enforcement agencies, other 867
licensing boards, and other governmental agencies that are 868
prosecuting, adjudicating, or investigating alleged violations of 869
statutes or administrative rules. An agency or board that receives 870
the information shall comply with the same requirements regarding 871
confidentiality as those with which the state medical board must 872
comply, notwithstanding any conflicting provision of the Revised 873
Code or procedure of the agency or board that applies when it is 874
dealing with other information in its possession. In a judicial 875
proceeding, the information may be admitted into evidence only in 876
accordance with the Rules of Evidence, but the court shall require 877
that appropriate measures are taken to ensure that confidentiality 878
is maintained with respect to any part of the information that 879
contains names or other identifying information about patients or 880
complainants whose confidentiality was protected by the state 881
medical board when the information was in the board's possession. 882
Measures to ensure confidentiality that may be taken by the court 883
include sealing its records or deleting specific information from 884
its records. 885

(6) On a quarterly basis, the board shall prepare a report 886
that documents the disposition of all cases during the preceding 887
three months. The report shall contain the following information 888
for each case with which the board has completed its activities: 889

(a) The case number assigned to the complaint or alleged violation;	890 891
(b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;	892 893
(c) A description of the allegations contained in the complaint;	894 895
(d) The disposition of the case.	896
The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.	897 898 899 900
(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:	901 902 903
(1) That there is clear and convincing evidence that an individual has violated division (B) of this section;	904 905
(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.	906 907
Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.	908 909 910 911 912 913 914
The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary	915 916 917 918 919

suspension requests an adjudicatory hearing by the board, the date 920
set for the hearing shall be within fifteen days, but not earlier 921
than seven days, after the individual requests the hearing, unless 922
otherwise agreed to by both the board and the individual. 923

Any summary suspension imposed under this division shall 924
remain in effect, unless reversed on appeal, until a final 925
adjudicative order issued by the board pursuant to this section 926
and Chapter 119. of the Revised Code becomes effective. The board 927
shall issue its final adjudicative order within seventy-five days 928
after completion of its hearing. A failure to issue the order 929
within seventy-five days shall result in dissolution of the 930
summary suspension order but shall not invalidate any subsequent, 931
final adjudicative order. 932

(H) If the board takes action under division (B)(9), (11), or 933
(13) of this section and the judicial finding of guilt, guilty 934
plea, or judicial finding of eligibility for intervention in lieu 935
of conviction is overturned on appeal, upon exhaustion of the 936
criminal appeal, a petition for reconsideration of the order may 937
be filed with the board along with appropriate court documents. 938
Upon receipt of a petition of that nature and supporting court 939
documents, the board shall reinstate the individual's certificate 940
to practice. The board may then hold an adjudication under Chapter 941
119. of the Revised Code to determine whether the individual 942
committed the act in question. Notice of an opportunity for a 943
hearing shall be given in accordance with Chapter 119. of the 944
Revised Code. If the board finds, pursuant to an adjudication held 945
under this division, that the individual committed the act or if 946
no hearing is requested, the board may order any of the sanctions 947
identified under division (B) of this section. 948

(I) The certificate to practice issued to an individual under 949
this chapter and the individual's practice in this state are 950
automatically suspended as of the date of the individual's second 951

or subsequent plea of guilty to, or judicial finding of guilt of, 952
a violation of section 2919.123 of the Revised Code, or the date 953
the individual pleads guilty to, is found by a judge or jury to be 954
guilty of, or is subject to a judicial finding of eligibility for 955
intervention in lieu of conviction in this state or treatment or 956
intervention in lieu of conviction in another jurisdiction for any 957
of the following criminal offenses in this state or a 958
substantially equivalent criminal offense in another jurisdiction: 959
aggravated murder, murder, voluntary manslaughter, felonious 960
assault, kidnapping, rape, sexual battery, gross sexual 961
imposition, aggravated arson, aggravated robbery, or aggravated 962
burglary. Continued practice after suspension shall be considered 963
practicing without a certificate. 964

The board shall notify the individual subject to the 965
suspension by certified mail or in person in accordance with 966
section 119.07 of the Revised Code. If an individual whose 967
certificate is automatically suspended under this division fails 968
to make a timely request for an adjudication under Chapter 119. of 969
the Revised Code, the board shall do whichever of the following is 970
applicable: 971

(1) If the automatic suspension under this division is for a 972
second or subsequent plea of guilty to, or judicial finding of 973
guilt of, a violation of section 2919.123 of the Revised Code, the 974
board shall enter an order suspending the individual's certificate 975
to practice for a period of at least one year or, if determined 976
appropriate by the board, imposing a more serious sanction 977
involving the individual's certificate to practice. 978

(2) In all circumstances in which division (I)(1) of this 979
section does not apply, enter a final order permanently revoking 980
the individual's certificate to practice. 981

(J) If the board is required by Chapter 119. of the Revised 982
Code to give notice of an opportunity for a hearing and if the 983

individual subject to the notice does not timely request a hearing 984
in accordance with section 119.07 of the Revised Code, the board 985
is not required to hold a hearing, but may adopt, by an 986
affirmative vote of not fewer than six of its members, a final 987
order that contains the board's findings. In that final order, the 988
board may order any of the sanctions identified under division (A) 989
or (B) of this section. 990

(K) Any action taken by the board under division (B) of this 991
section resulting in a suspension from practice shall be 992
accompanied by a written statement of the conditions under which 993
the individual's certificate to practice may be reinstated. The 994
board shall adopt rules governing conditions to be imposed for 995
reinstatement. Reinstatement of a certificate suspended pursuant 996
to division (B) of this section requires an affirmative vote of 997
not fewer than six members of the board. 998

(L) When the board refuses to grant a certificate to an 999
applicant, revokes an individual's certificate to practice, 1000
refuses to register an applicant, or refuses to reinstate an 1001
individual's certificate to practice, the board may specify that 1002
its action is permanent. An individual subject to a permanent 1003
action taken by the board is forever thereafter ineligible to hold 1004
a certificate to practice and the board shall not accept an 1005
application for reinstatement of the certificate or for issuance 1006
of a new certificate. 1007

(M) Notwithstanding any other provision of the Revised Code, 1008
all of the following apply: 1009

(1) The surrender of a certificate issued under this chapter 1010
shall not be effective unless or until accepted by the board. A 1011
telephone conference call may be utilized for acceptance of the 1012
surrender of an individual's certificate to practice. The 1013
telephone conference call shall be considered a special meeting 1014
under division (F) of section 121.22 of the Revised Code. 1015

Reinstatement of a certificate surrendered to the board requires 1016
an affirmative vote of not fewer than six members of the board. 1017

(2) An application for a certificate made under the 1018
provisions of this chapter may not be withdrawn without approval 1019
of the board. 1020

(3) Failure by an individual to renew a certificate of 1021
registration in accordance with this chapter shall not remove or 1022
limit the board's jurisdiction to take any disciplinary action 1023
under this section against the individual. 1024

(4) At the request of the board, a certificate holder shall 1025
immediately surrender to the board a certificate that the board 1026
has suspended, revoked, or permanently revoked. 1027

(N) Sanctions shall not be imposed under division (B)(28) of 1028
this section against any person who waives deductibles and 1029
copayments as follows: 1030

(1) In compliance with the health benefit plan that expressly 1031
allows such a practice. Waiver of the deductibles or copayments 1032
shall be made only with the full knowledge and consent of the plan 1033
purchaser, payer, and third-party administrator. Documentation of 1034
the consent shall be made available to the board upon request. 1035

(2) For professional services rendered to any other person 1036
authorized to practice pursuant to this chapter, to the extent 1037
allowed by this chapter and rules adopted by the board. 1038

(O) Under the board's investigative duties described in this 1039
section and subject to division (F) of this section, the board 1040
shall develop and implement a quality intervention program 1041
designed to improve through remedial education the clinical and 1042
communication skills of individuals authorized under this chapter 1043
to practice medicine and surgery, osteopathic medicine and 1044
surgery, and podiatric medicine and surgery. In developing and 1045
implementing the quality intervention program, the board may do 1046

all of the following: 1047

(1) Offer in appropriate cases as determined by the board an 1048
educational and assessment program pursuant to an investigation 1049
the board conducts under this section; 1050

(2) Select providers of educational and assessment services, 1051
including a quality intervention program panel of case reviewers; 1052

(3) Make referrals to educational and assessment service 1053
providers and approve individual educational programs recommended 1054
by those providers. The board shall monitor the progress of each 1055
individual undertaking a recommended individual educational 1056
program. 1057

(4) Determine what constitutes successful completion of an 1058
individual educational program and require further monitoring of 1059
the individual who completed the program or other action that the 1060
board determines to be appropriate; 1061

(5) Adopt rules in accordance with Chapter 119. of the 1062
Revised Code to further implement the quality intervention 1063
program. 1064

An individual who participates in an individual educational 1065
program pursuant to this division shall pay the financial 1066
obligations arising from that educational program. 1067

Section 2. That existing sections 2305.11, 2317.56, 2919.171, 1068
and 4731.22 and section 2317.561 of the Revised Code are hereby 1069
repealed. 1070

Section 3. Section 4731.22 of the Revised Code is presented 1071
in this act as a composite of the section as amended by both Sub. 1072
H.B. 251 and Sub. S.B. 301 of the 129th General Assembly. The 1073
General Assembly, applying the principle stated in division (B) of 1074
section 1.52 of the Revised Code that amendments are to be 1075
harmonized if reasonably capable of simultaneous operation, finds 1076

that the composite is the resulting version of the section in	1077
effect prior to the effective date of the section as presented in	1078
this act.	1079