

As Introduced

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Representatives Hagan, C., Wachtmann

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

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A B I L L

To amend sections 2919.171, 2919.19, 2919.191, 1
2919.192, 2919.193, and 4731.22; to amend, for the 2
purpose of adopting new section numbers as 3
indicted in parentheses, sections 2919.191 4
(2919.192), 2919.192 (2919.194), and 2919.193 5
(2919.198); and to enact new sections 2919.191 and 6
2919.193 and sections 2919.195, 2919.196, 7
2919.197, 2919.199, 2919.1910, and 2919.1911 of 8
the Revised Code to generally prohibit an abortion 9
of an unborn human individual with a detectable 10
heartbeat and to create the Joint Legislative 11
Committee on Adoption Promotion and Support. 12

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

Section 1. That sections 2919.171, 2919.19, 2919.191, 13
2919.192, 2919.193, and 4731.22 be amended; sections 2919.191 14
(2919.192), 2919.192 (2919.194), and 2919.193 (2919.198) be 15
amended for the purposes of adopting new section numbers as 16

indicated in parentheses; and new sections 2919.191 and 2919.193 17
and sections 2919.195, 2919.196, 2919.197, 2919.199, 2919.1910, 18
and 2919.1911 of the Revised Code be enacted to read as follows: 19

Sec. 2919.171. (A)(1) A physician who performs or induces or 20
attempts to perform or induce an abortion on a pregnant woman 21
shall submit a report to the department of health in accordance 22
with the forms, rules, and regulations adopted by the department 23
that includes all of the information the physician is required to 24
certify in writing or determine under ~~sections~~ section 2919.17 25
~~and, section 2919.18, divisions (A) and (C) of section 2919.192,~~ 26
division (C) of section 2919.193, division (B) of section 27
2919.195, or division (A) of section 2919.196 of the Revised 28
Code+. 29

(2) If a person other than the physician described in 30
division (A)(1) of this section makes or maintains a record 31
required by sections 2919.192 to 2919.196 of the Revised Code on 32
the physician's behalf or at the physician's direction, that 33
person shall comply with the reporting requirement described in 34
division (A)(1) of this section as if the person were the 35
physician described in that division. 36

(B) By September 30 of each year, the department of health 37
shall issue a public report that provides statistics for the 38
previous calendar year compiled from all of the reports covering 39
that calendar year submitted to the department in accordance with 40
this section for each of the items listed in division (A) of this 41
section. The report shall also provide the statistics for each 42
previous calendar year in which a report was filed with the 43
department pursuant to this section, adjusted to reflect any 44
additional information that a physician provides to the department 45
in a late or corrected report. The department shall ensure that 46
none of the information included in the report could reasonably 47

lead to the identification of any pregnant woman upon whom an 48
abortion is performed. 49

(C)(1) The physician shall submit the report described in 50
division (A) of this section to the department of health within 51
fifteen days after the woman is discharged. If the physician fails 52
to submit the report more than thirty days after that fifteen-day 53
deadline, the physician shall be subject to a late fee of five 54
hundred dollars for each additional thirty-day period or portion 55
of a thirty-day period the report is overdue. A physician who is 56
required to submit to the department of health a report under 57
division (A) of this section and who has not submitted a report or 58
has submitted an incomplete report more than one year following 59
the fifteen-day deadline may, in an action brought by the 60
department of health, be directed by a court of competent 61
jurisdiction to submit a complete report to the department of 62
health within a period of time stated in a court order or be 63
subject to contempt of court. 64

(2) If a physician fails to comply with the requirements of 65
this section, other than filing a late report with the department 66
of health, or fails to submit a complete report to the department 67
of health in accordance with a court order, the physician is 68
subject to division (B)~~(41)~~(44) of section 4731.22 of the Revised 69
Code. 70

(3) No person shall falsify any report required under this 71
section. Whoever violates this division is guilty of abortion 72
report falsification, a misdemeanor of the first degree. 73

(D) ~~Within ninety days of the effective date of this section,~~ 74
~~the~~ The department of health shall adopt rules pursuant to section 75
111.15 of the Revised Code to assist in compliance with this 76
section. 77

Sec. 2919.19. (A) As used in this section and sections 78

2919.191 to 2919.193 <u>2919.1910</u> of the Revised Code:	79
(A) (1) " <u>Conception</u> " means fertilization.	80
(2) " <u>Contraceptive</u> " means a drug, device, or chemical that prevents conception.	81 82
(3) " <u>DNA</u> " means deoxyribonucleic acid.	83
(4) " <u>Fetal heartbeat</u> " means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.	84 85 86
(B) (5) " <u>Fetus</u> " means the human offspring developing during pregnancy from the moment of conception and includes the embryonic stage of development.	87 88 89
(C) (6) " <u>Gestational age</u> " means the age of an unborn human individual as calculated from the first day of the last menstrual period of a pregnant woman.	90 91 92
(D) (7) " <u>Gestational sac</u> " means the structure that comprises the extraembryonic membranes that envelop the fetus and that is typically visible by ultrasound after the fourth week of pregnancy.	93 94 95 96
(E) (8) " <u>Intrauterine pregnancy</u> " means a pregnancy in which the fetus is attached to the placenta within the uterus of the pregnant woman.	97 98 99
(9) " <u>Medical emergency</u> " has the same meaning as in section 2919.16 of the Revised Code.	100 101
(F) (10) " <u>Physician</u> " has the same meaning as in section 2305.113 of the Revised Code.	102 103
(G) (11) " <u>Pregnancy</u> " means the human female reproductive condition that begins with fertilization, when the woman is carrying the developing human offspring, and that is calculated from the first day of the last menstrual period of the woman.	104 105 106 107

~~(H)~~(12) "Serious risk of the substantial and irreversible impairment of a major bodily function" has the same meaning as in section 2919.16 of the Revised Code.

~~(I)~~(13) "Spontaneous miscarriage" means the natural or accidental termination of a pregnancy and the expulsion of the fetus, typically caused by genetic defects in the fetus or physical abnormalities in the pregnant woman.

(14) "Standard medical practice" means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of section ~~2919.191~~ 2919.192 of the Revised Code, "standard medical practice" includes employing the appropriate means of detection depending on the estimated gestational age of the fetus and the condition of the woman and her pregnancy.

~~(J)~~(15) "Unborn human individual" means an individual organism of the species homo sapiens from fertilization until live birth.

(B)(1) It is the intent of the general assembly that a court judgment or order suspending enforcement of any provision of this section or sections 2919.171 or 2919.191 to 2919.1910 of the Revised Code is not to be regarded as tantamount to repeal of that provision.

(2) After the issuance of a decision by the supreme court of the United States overruling *Roe v. Wade*, 410 U.S. 113 (1973), the issuance of any other court order or judgment restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion entirely or in part, or the effective date of an amendment to the Constitution of the United States restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion entirely or in part, the attorney general may

apply to the pertinent state or federal court for either or both 139
of the following: 140

(a) A declaration that any one or more sections specified in 141
division (B)(1) of this section are constitutional; 142

(b) A judgment or order lifting an injunction against the 143
enforcement of any one or more sections specified in division 144
(B)(1) of this section. 145

(3) If the attorney general fails to apply for the relief 146
described in division (B)(2) of this section within the thirty-day 147
period after an event described in that division occurs, any 148
county prosecutor may apply to the appropriate state or federal 149
court for such relief. 150

(4) If any provision of this section or sections 2919.171 or 151
2919.191 to 2919.1910 of the Revised Code is held invalid, or if 152
the application of such provision to any person or circumstance is 153
held invalid, the invalidity of that provision does not affect any 154
other provisions or applications of this section and sections 155
2919.171 and 2919.191 to 2919.1910 of the Revised Code that can be 156
given effect without the invalid provision or application, and to 157
this end the provisions of this section and sections 2919.171 and 158
2919.191 to 2919.1910 of the Revised Code are severable as 159
provided in section 1.50 of the Revised Code. In particular, it is 160
the intent of the general assembly that any invalidity or 161
potential invalidity of a provision of this section or sections 162
2919.171 or 2919.191 to 2919.1910 of the Revised Code is not to 163
impair the immediate and continuing enforceability of the 164
remaining provisions. It is furthermore the intent of the general 165
assembly that the provisions of this section and sections 2919.171 166
and 2919.191 to 2919.1910 of the Revised Code are not to have the 167
effect of repealing or limiting any other laws of this state, 168
except as specified by this section and sections 2919.171 and 169
2919.191 to 2919.1910 of the Revised Code. 170

Sec. 2919.191. (A) The general assembly hereby declares that 171
it finds, according to contemporary medical research, all of the 172
following: 173

(1) As many as thirty per cent of natural pregnancies end in 174
spontaneous miscarriage. 175

(2) Less than five per cent of all natural pregnancies end in 176
spontaneous miscarriage after detection of fetal cardiac activity. 177

(3) Over ninety per cent of in vitro pregnancies survive the 178
first trimester if cardiac activity is detected in the gestational 179
sac. 180

(4) Nearly ninety per cent of in vitro pregnancies do not 181
survive the first trimester where cardiac activity is not detected 182
in the gestational sac. 183

(5) Fetal heartbeat, therefore, has become a key medical 184
predictor that an unborn human individual will reach live birth. 185

(6) Cardiac activity begins at a biologically identifiable 186
moment in time, normally when the fetal heart is formed in the 187
gestational sac. 188

(7) The state of Ohio has legitimate interests from the 189
outset of the pregnancy in protecting the health of the woman and 190
the life of an unborn human individual who may be born. 191

(8) In order to make an informed choice about whether to 192
continue her pregnancy, the pregnant woman has a legitimate 193
interest in knowing the likelihood of the fetus surviving to 194
full-term birth based upon the presence of cardiac activity. 195

(B) Sections 2919.192 to 2919.195 of the Revised Code apply 196
only to intrauterine pregnancies. 197

Sec. 2919.191 2919.192. (A) A person who intends to perform 198
or induce an abortion on a pregnant woman shall determine whether 199

there is a detectable fetal heartbeat of the unborn human 200
individual the pregnant woman is carrying. The method of 201
determining the presence of a fetal heartbeat shall be consistent 202
with the person's good faith understanding of standard medical 203
practice, provided that if rules have been adopted under division 204
~~(C)~~(B) of this section, the method chosen shall be one that is 205
consistent with the rules. The person who determines the presence 206
or absence of a fetal heartbeat shall record in the pregnant 207
woman's medical record the estimated gestational age of the unborn 208
human individual, the method used to test for a fetal heartbeat, 209
the date and time of the test, and the results of the test. 210

~~(B)(1) Except when a medical emergency exists that prevents 211
compliance with this division, no person shall perform or induce 212
an abortion on a pregnant woman prior to determining if the unborn 213
human individual the pregnant woman is carrying has a detectable 214
fetal heartbeat. Any person who performs or induces an abortion on 215
a pregnant woman based on the exception in this division shall 216
note in the pregnant woman's medical records that a medical 217
emergency necessitating the abortion existed and shall also note 218
the medical condition of the pregnant woman that prevented 219
compliance with this division. The person shall maintain a copy of 220
the notes described in this division in the person's own records 221
for at least seven years after the notes are entered into the 222
medical records. 223~~

~~(2) The person who performs the examination for the presence 224
of a fetal heartbeat shall give the pregnant woman the option to 225
view or hear the fetal heartbeat. 226~~

~~(C)~~(B) The director of health may ~~promulgate~~ adopt rules 227
pursuant to section 111.15 of the Revised Code specifying the 228
appropriate methods of performing an examination for the purpose 229
of determining the presence of a fetal heartbeat of an unborn 230

individual based on standard medical practice. The rules shall 231
require only that an examination shall be performed externally. 232

~~(D)~~(C) A person is not in violation of division (A) ~~or (D)~~ of 233
this section if that person has performed an examination for the 234
purpose of determining the presence of a fetal heartbeat in the 235
fetus of an unborn human individual utilizing standard medical 236
practice, that examination does not reveal a fetal heartbeat or 237
the person has been informed by a physician who has performed the 238
examination for a fetal heartbeat that the examination did not 239
reveal a fetal heartbeat, and the person notes in the pregnant 240
woman's medical records the procedure utilized to detect the 241
presence of a fetal heartbeat. 242

~~(E) Except as provided in division (F) of this section, no~~ 243
~~person shall knowingly and purposefully perform or induce an~~ 244
~~abortion on a pregnant woman before determining in accordance with~~ 245
~~division (A) of this section whether the unborn human individual~~ 246
~~the pregnant woman is carrying has a detectable heartbeat. The~~ 247
~~failure of a person to satisfy the requirements of this section~~ 248
~~prior to performing or inducing an abortion on a pregnant woman~~ 249
~~may be the basis for either of the following:~~ 250

~~(1) A civil action for compensatory and exemplary damages;~~ 251

~~(2) Disciplinary action under section 4731.22 of the Revised~~ 252
~~Code.~~ 253

~~(F) Division (E) of this section does not apply to a~~ 254
~~physician who performs or induces the abortion if the physician~~ 255
~~believes that a medical emergency exists that prevents compliance~~ 256
~~with that division.~~ 257

~~(G) The director of health may determine and specify in rules~~ 258
~~adopted pursuant to section 111.15 of the Revised Code and based~~ 259
~~upon available medical evidence the statistical probability of~~ 260
~~bringing an unborn human individual to term based on the~~ 261

~~gestational age of an unborn human individual who possesses a
detectable fetal heartbeat.~~ 262
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~~(H) A woman on whom an abortion is performed in violation of
division (B) of this section or division (B)(3) of section 2317.56
of the Revised Code may file a civil action for the wrongful death
of the woman's unborn child and may receive at the mother's
election at any time prior to final judgment damages in an amount
equal to ten thousand dollars or an amount determined by the trier
of fact after consideration of the evidence subject to the same
defenses and requirements of proof, except any requirement of live
birth, as would apply to a suit for the wrongful death of a child
who had been born alive.~~ 264
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Sec. 2919.193. (A) Except as provided in division (B) of this
section, no person shall knowingly and purposefully perform or
induce an abortion on a pregnant woman before determining in
accordance with division (A) of section 2919.192 of the Revised
Code whether the unborn human individual the pregnant woman is
carrying has a detectable heartbeat. 274
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Whoever violates this division is guilty of performing or
inducing an abortion before determining whether there is a
detectable fetal heartbeat, a felony of the fifth degree. A
violation of this division may also be the basis of either of the
following: 280
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(1) A civil action for compensatory and exemplary damages; 285

(2) Disciplinary action under section 4731.22 of the Revised
Code. 286
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(B) Division (A) of this section does not apply to a
physician who performs or induces the abortion if the physician
believes that a medical emergency exists that prevents compliance
with that division. 288
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(C) A physician who performs or induces an abortion on a pregnant woman based on the exception in division (B) of this section shall make written notations in the pregnant woman's medical records of both of the following:

(1) The physician's belief that a medical emergency necessitating the abortion existed;

(2) The medical condition of the pregnant woman that assertedly prevented compliance with division (A) of this section.

For at least seven years from the date the notations are made, the physician shall maintain in the physician's own records a copy of the notations.

(D) A person is not in violation of division (A) of this section if the person acts in accordance with division (A) of section 2919.192 of the Revised Code and the method used to determine the presence of a fetal heartbeat does not reveal a fetal heartbeat.

Sec. ~~2919.192~~ 2919.194. (A) If a person who intends to perform or induce an abortion on a pregnant woman has determined, under section ~~2919.191~~ 2919.192 of the Revised Code, that the unborn human individual the pregnant woman is carrying has a detectable heartbeat, the person shall not, except as provided in division (B) of this section, perform or induce the abortion until all of the following requirements have been met and at least twenty-four hours have elapsed after the last of the requirements is met:

(1) The person intending to perform or induce the abortion shall inform the pregnant woman in writing that the unborn human individual the pregnant woman is carrying has a fetal heartbeat.

(2) The person intending to perform or induce the abortion shall inform the pregnant woman, to the best of the person's

knowledge, of the statistical probability of bringing the unborn 322
human individual possessing a detectable fetal heartbeat to term 323
based on the gestational age of the unborn human individual or, if 324
the director of health has specified statistical probability 325
information pursuant to rules adopted under division (C) of this 326
section, shall provide to the pregnant woman that information. 327

(3) The pregnant woman shall sign a form acknowledging that 328
the pregnant woman has received information from the person 329
intending to perform or induce the abortion that the unborn human 330
individual the pregnant woman is carrying has a fetal heartbeat 331
and that the pregnant woman is aware of the statistical 332
probability of bringing the unborn human individual the pregnant 333
woman is carrying to term. 334

(B) Division (A) of this section does not apply if the person 335
who intends to perform or induce the abortion believes that a 336
medical emergency exists that prevents compliance with that 337
division. 338

(C) The director of health may adopt rules that specify 339
information regarding the statistical probability of bringing an 340
unborn human individual possessing a detectable heartbeat to term 341
based on the gestational age of the unborn human individual. The 342
rules shall be based on available medical evidence and shall be 343
adopted in accordance with section 111.15 of the Revised Code. 344

(D) This section does not have the effect of repealing or 345
limiting any other provision of the Revised Code relating to 346
informed consent for an abortion, including the provisions in 347
section 2317.56 of the Revised Code. 348

(E) Whoever violates division (A) of this section is guilty 349
of performing or inducing an abortion without informed consent 350
when there is a detectable fetal heartbeat, a misdemeanor of the 351
first degree on a first offense and a felony of the fourth degree 352

on each subsequent offense. 353

Sec. 2919.195. (A) Except as provided in division (B) of this section, no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn human individual the pregnant woman is carrying and whose fetal heartbeat has been detected in accordance with division (A) of section 2919.192 of the Revised Code. 354
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Whoever violates this division is guilty of performing or inducing an abortion after the detection of a fetal heartbeat, a felony of the fifth degree. 361
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(B) Division (A) of this section does not apply to a physician who performs a medical procedure that, in the physician's reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. 364
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A physician who performs a medical procedure as described in this division shall declare, in a written document, that the medical procedure is necessary, to the best of the physician's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. In the document, the physician shall specify the pregnant woman's medical condition that the medical procedure is asserted to address and the medical rationale for the physician's conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. 370
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A physician who performs a medical procedure as described in 383

this division shall place the written document required by this 384
division in the pregnant woman's medical records. The physician 385
shall maintain a copy of the document in the physician's own 386
records for at least seven years from the date the document is 387
created. 388

(C) A person is not in violation of division (A) of this 389
section if the person acts in accordance with division (A) of 390
section 2919.192 of the Revised Code and the method used to 391
determine the presence of a fetal heartbeat does not reveal a 392
fetal heartbeat. 393

(D) Division (A) of this section does not have the effect of 394
repealing or limiting any other provision of the Revised Code that 395
restricts or regulates the performance or inducement of an 396
abortion by a particular method or during a particular stage of a 397
pregnancy. 398

Sec. 2919.196. (A) A person who performs or induces an 399
abortion on a pregnant woman shall do whichever of the following 400
is applicable: 401

(1) If the reason for the abortion purportedly is to preserve 402
the health of the pregnant woman, the person shall specify in a 403
written document the medical condition that the abortion is 404
asserted to address and the medical rationale for the person's 405
conclusion that the abortion is necessary to address that 406
condition. 407

(2) If the reason for the abortion is other than to preserve 408
the health of the pregnant woman, the person shall specify in a 409
written document that maternal health is not the purpose of the 410
abortion. 411

(B) The person who specifies the information in the document 412
described in division (A) of this section shall place the document 413

in the pregnant woman's medical records. The person who specifies 414
the information shall maintain a copy of the document in the 415
person's own records for at least seven years from the date the 416
document is created. 417

Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of the 418
Revised Code prohibits the sale, use, prescription, or 419
administration of a drug, device, or chemical that is designed for 420
contraceptive purposes. 421

Sec. ~~2919.193~~ 2919.198. A pregnant woman on whom an abortion 422
is performed or induced in violation of section ~~2919.191~~ or 423
~~2919.192~~ 2919.193, 2919.194, or 2919.195 of the Revised Code is 424
not guilty of violating any of those sections; is not guilty of 425
attempting to commit, conspiring to commit, or complicity in 426
committing a violation of any of those sections; and is not 427
subject to a civil penalty based on the abortion being performed 428
or induced in violation of any of those sections. 429

Sec. 2919.199. (A) A woman who meets either or both of the 430
following criteria may file a civil action for the wrongful death 431
of her unborn child: 432

(1) A woman on whom an abortion was performed or induced in 433
violation of division (A) of section 2919.193 or division (A) of 434
section 2919.195 of the Revised Code; 435

(2) A woman on whom an abortion was performed or induced who 436
was not given the information described in divisions (A)(1) and 437
(2) of section 2919.194 of the Revised Code or who did not sign a 438
form described in division (A)(3) of section 2919.194 of the 439
Revised Code. 440

(B) A woman who prevails in an action filed under division 441
(A) of this section shall receive both of the following from the 442

person who committed the one or more acts described in division 443
(A)(1) or (2) of this section: 444

(1) Damages in an amount equal to ten thousand dollars or an 445
amount determined by the trier of fact after consideration of the 446
evidence at the mother's election at any time prior to final 447
judgment subject to the same defenses and requirements of proof, 448
except any requirement of live birth, as would apply to a suit for 449
the wrongful death of a child who had been born alive; 450

(2) Court costs and reasonable attorney's fees. 451

(C) A determination that division (A) of section 2919.193 of 452
the Revised Code, division (A)(1), (2), or (3) of section 2919.194 453
of the Revised Code, or division (A) of section 2919.195 of the 454
Revised Code is unconstitutional shall be a defense to an action 455
filed under division (A) of this section alleging that the 456
defendant violated the division that was determined to be 457
unconstitutional. 458

(D) If the defendant in an action filed under division (A) of 459
this section prevails and all of the following apply, the court 460
shall award reasonable attorney's fees to the defendant in 461
accordance with section 2323.51 of the Revised Code: 462

(1) The court finds that the commencement of the action 463
constitutes frivolous conduct, as defined in section 2323.51 of 464
the Revised Code. 465

(2) The court's finding in division (D)(1) of this section is 466
not based on that court or another court determining that division 467
(A) of section 2919.193 of the Revised Code, division (A)(1), (2), 468
or (3) of section 2919.194 of the Revised Code, or division (A) of 469
section 2919.195 of the Revised Code is unconstitutional. 470

(3) The court finds that the defendant was adversely affected 471
by the frivolous conduct. 472

Sec. 2919.1910. (A) It is the intent of the general assembly 473
that women whose pregnancies are protected under division (A) of 474
section 2919.195 of the Revised Code be informed of available 475
options for adoption. 476

(B) In furtherance of the intent expressed in division (A) of 477
this section, there is hereby created the joint legislative 478
committee on adoption promotion and support. The committee may 479
review or study any matter that it considers relevant to the 480
adoption process in this state, with priority given to the study 481
or review of mechanisms intended to increase awareness of the 482
process, increase its effectiveness, or both. 483

(C) The committee shall consist of three members of the house 484
of representatives appointed by the speaker of the house of 485
representatives and three members of the senate appointed by the 486
president of the senate. Not more than two members appointed by 487
the speaker of the house of representatives and not more than two 488
members appointed by the president of the senate may be of the 489
same political party. 490

Each member of the committee shall hold office during the 491
general assembly in which the member is appointed and until a 492
successor has been appointed, notwithstanding the adjournment sine 493
die of the general assembly in which the member was appointed or 494
the expiration of the member's term as a member of the general 495
assembly. Any vacancies occurring among the members of the 496
committee shall be filled in the manner of the original 497
appointment. 498

(D) The committee has the same powers as other standing or 499
select committees of the general assembly. 500

Sec. 2919.1911. The department of health shall inspect the 501
medical records from any facility that performs abortions to 502

ensure that the physicians or other persons who perform abortions 503
at that facility are in compliance with the reporting requirements 504
under section 2919.171 of the Revised Code. The facility shall 505
make the medical records available for inspection to the 506
department of health but shall not release any personal medical 507
information in the medical records that is prohibited by law. 508

Sec. 4731.22. (A) The state medical board, by an affirmative 509
vote of not fewer than six of its members, may limit, revoke, or 510
suspend an individual's certificate to practice, refuse to grant a 511
certificate to an individual, refuse to register an individual, 512
refuse to reinstate a certificate, or reprimand or place on 513
probation the holder of a certificate if the individual or 514
certificate holder is found by the board to have committed fraud 515
during the administration of the examination for a certificate to 516
practice or to have committed fraud, misrepresentation, or 517
deception in applying for or securing any certificate to practice 518
or certificate of registration issued by the board. 519

(B) The board, by an affirmative vote of not fewer than six 520
members, shall, to the extent permitted by law, limit, revoke, or 521
suspend an individual's certificate to practice, refuse to 522
register an individual, refuse to reinstate a certificate, or 523
reprimand or place on probation the holder of a certificate for 524
one or more of the following reasons: 525

(1) Permitting one's name or one's certificate to practice or 526
certificate of registration to be used by a person, group, or 527
corporation when the individual concerned is not actually 528
directing the treatment given; 529

(2) Failure to maintain minimal standards applicable to the 530
selection or administration of drugs, or failure to employ 531
acceptable scientific methods in the selection of drugs or other 532
modalities for treatment of disease; 533

(3) Selling, giving away, personally furnishing, prescribing, 534
or administering drugs for other than legal and legitimate 535
therapeutic purposes or a plea of guilty to, a judicial finding of 536
guilt of, or a judicial finding of eligibility for intervention in 537
lieu of conviction of, a violation of any federal or state law 538
regulating the possession, distribution, or use of any drug; 539

(4) Willfully betraying a professional confidence. 540

For purposes of this division, "willfully betraying a 541
professional confidence" does not include providing any 542
information, documents, or reports to a child fatality review 543
board under sections 307.621 to 307.629 of the Revised Code and 544
does not include the making of a report of an employee's use of a 545
drug of abuse, or a report of a condition of an employee other 546
than one involving the use of a drug of abuse, to the employer of 547
the employee as described in division (B) of section 2305.33 of 548
the Revised Code. Nothing in this division affects the immunity 549
from civil liability conferred by that section upon a physician 550
who makes either type of report in accordance with division (B) of 551
that section. As used in this division, "employee," "employer," 552
and "physician" have the same meanings as in section 2305.33 of 553
the Revised Code. 554

(5) Making a false, fraudulent, deceptive, or misleading 555
statement in the solicitation of or advertising for patients; in 556
relation to the practice of medicine and surgery, osteopathic 557
medicine and surgery, podiatric medicine and surgery, or a limited 558
branch of medicine; or in securing or attempting to secure any 559
certificate to practice or certificate of registration issued by 560
the board. 561

As used in this division, "false, fraudulent, deceptive, or 562
misleading statement" means a statement that includes a 563
misrepresentation of fact, is likely to mislead or deceive because 564
of a failure to disclose material facts, is intended or is likely 565

to create false or unjustified expectations of favorable results, 566
or includes representations or implications that in reasonable 567
probability will cause an ordinarily prudent person to 568
misunderstand or be deceived. 569

(6) A departure from, or the failure to conform to, minimal 570
standards of care of similar practitioners under the same or 571
similar circumstances, whether or not actual injury to a patient 572
is established; 573

(7) Representing, with the purpose of obtaining compensation 574
or other advantage as personal gain or for any other person, that 575
an incurable disease or injury, or other incurable condition, can 576
be permanently cured; 577

(8) The obtaining of, or attempting to obtain, money or 578
anything of value by fraudulent misrepresentations in the course 579
of practice; 580

(9) A plea of guilty to, a judicial finding of guilt of, or a 581
judicial finding of eligibility for intervention in lieu of 582
conviction for, a felony; 583

(10) Commission of an act that constitutes a felony in this 584
state, regardless of the jurisdiction in which the act was 585
committed; 586

(11) A plea of guilty to, a judicial finding of guilt of, or 587
a judicial finding of eligibility for intervention in lieu of 588
conviction for, a misdemeanor committed in the course of practice; 589

(12) Commission of an act in the course of practice that 590
constitutes a misdemeanor in this state, regardless of the 591
jurisdiction in which the act was committed; 592

(13) A plea of guilty to, a judicial finding of guilt of, or 593
a judicial finding of eligibility for intervention in lieu of 594
conviction for, a misdemeanor involving moral turpitude; 595

(14) Commission of an act involving moral turpitude that 596
constitutes a misdemeanor in this state, regardless of the 597
jurisdiction in which the act was committed; 598

(15) Violation of the conditions of limitation placed by the 599
board upon a certificate to practice; 600

(16) Failure to pay license renewal fees specified in this 601
chapter; 602

(17) Except as authorized in section 4731.31 of the Revised 603
Code, engaging in the division of fees for referral of patients, 604
or the receiving of a thing of value in return for a specific 605
referral of a patient to utilize a particular service or business; 606

(18) Subject to section 4731.226 of the Revised Code, 607
violation of any provision of a code of ethics of the American 608
medical association, the American osteopathic association, the 609
American podiatric medical association, or any other national 610
professional organizations that the board specifies by rule. The 611
state medical board shall obtain and keep on file current copies 612
of the codes of ethics of the various national professional 613
organizations. The individual whose certificate is being suspended 614
or revoked shall not be found to have violated any provision of a 615
code of ethics of an organization not appropriate to the 616
individual's profession. 617

For purposes of this division, a "provision of a code of 618
ethics of a national professional organization" does not include 619
any provision that would preclude the making of a report by a 620
physician of an employee's use of a drug of abuse, or of a 621
condition of an employee other than one involving the use of a 622
drug of abuse, to the employer of the employee as described in 623
division (B) of section 2305.33 of the Revised Code. Nothing in 624
this division affects the immunity from civil liability conferred 625
by that section upon a physician who makes either type of report 626

in accordance with division (B) of that section. As used in this 627
division, "employee," "employer," and "physician" have the same 628
meanings as in section 2305.33 of the Revised Code. 629

(19) Inability to practice according to acceptable and 630
prevailing standards of care by reason of mental illness or 631
physical illness, including, but not limited to, physical 632
deterioration that adversely affects cognitive, motor, or 633
perceptive skills. 634

In enforcing this division, the board, upon a showing of a 635
possible violation, may compel any individual authorized to 636
practice by this chapter or who has submitted an application 637
pursuant to this chapter to submit to a mental examination, 638
physical examination, including an HIV test, or both a mental and 639
a physical examination. The expense of the examination is the 640
responsibility of the individual compelled to be examined. Failure 641
to submit to a mental or physical examination or consent to an HIV 642
test ordered by the board constitutes an admission of the 643
allegations against the individual unless the failure is due to 644
circumstances beyond the individual's control, and a default and 645
final order may be entered without the taking of testimony or 646
presentation of evidence. If the board finds an individual unable 647
to practice because of the reasons set forth in this division, the 648
board shall require the individual to submit to care, counseling, 649
or treatment by physicians approved or designated by the board, as 650
a condition for initial, continued, reinstated, or renewed 651
authority to practice. An individual affected under this division 652
shall be afforded an opportunity to demonstrate to the board the 653
ability to resume practice in compliance with acceptable and 654
prevailing standards under the provisions of the individual's 655
certificate. For the purpose of this division, any individual who 656
applies for or receives a certificate to practice under this 657
chapter accepts the privilege of practicing in this state and, by 658

so doing, shall be deemed to have given consent to submit to a 659
mental or physical examination when directed to do so in writing 660
by the board, and to have waived all objections to the 661
admissibility of testimony or examination reports that constitute 662
a privileged communication. 663

(20) Except when civil penalties are imposed under section 664
4731.225 or 4731.281 of the Revised Code, and subject to section 665
4731.226 of the Revised Code, violating or attempting to violate, 666
directly or indirectly, or assisting in or abetting the violation 667
of, or conspiring to violate, any provisions of this chapter or 668
any rule promulgated by the board. 669

This division does not apply to a violation or attempted 670
violation of, assisting in or abetting the violation of, or a 671
conspiracy to violate, any provision of this chapter or any rule 672
adopted by the board that would preclude the making of a report by 673
a physician of an employee's use of a drug of abuse, or of a 674
condition of an employee other than one involving the use of a 675
drug of abuse, to the employer of the employee as described in 676
division (B) of section 2305.33 of the Revised Code. Nothing in 677
this division affects the immunity from civil liability conferred 678
by that section upon a physician who makes either type of report 679
in accordance with division (B) of that section. As used in this 680
division, "employee," "employer," and "physician" have the same 681
meanings as in section 2305.33 of the Revised Code. 682

(21) The violation of section 3701.79 of the Revised Code or 683
of any abortion rule adopted by the public health council pursuant 684
to section 3701.341 of the Revised Code; 685

(22) Any of the following actions taken by an agency 686
responsible for authorizing, certifying, or regulating an 687
individual to practice a health care occupation or provide health 688
care services in this state or another jurisdiction, for any 689
reason other than the nonpayment of fees: the limitation, 690

revocation, or suspension of an individual's license to practice; 691
acceptance of an individual's license surrender; denial of a 692
license; refusal to renew or reinstate a license; imposition of 693
probation; or issuance of an order of censure or other reprimand; 694

(23) The violation of section 2919.12 of the Revised Code or 695
the performance or inducement of an abortion upon a pregnant woman 696
with actual knowledge that the conditions specified in division 697
(B) of section 2317.56 of the Revised Code have not been satisfied 698
or with a heedless indifference as to whether those conditions 699
have been satisfied, unless an affirmative defense as specified in 700
division (H)(2) of that section would apply in a civil action 701
authorized by division (H)(1) of that section; 702

(24) The revocation, suspension, restriction, reduction, or 703
termination of clinical privileges by the United States department 704
of defense or department of veterans affairs or the termination or 705
suspension of a certificate of registration to prescribe drugs by 706
the drug enforcement administration of the United States 707
department of justice; 708

(25) Termination or suspension from participation in the 709
medicare or medicaid programs by the department of health and 710
human services or other responsible agency for any act or acts 711
that also would constitute a violation of division (B)(2), (3), 712
(6), (8), or (19) of this section; 713

(26) Impairment of ability to practice according to 714
acceptable and prevailing standards of care because of habitual or 715
excessive use or abuse of drugs, alcohol, or other substances that 716
impair ability to practice. 717

For the purposes of this division, any individual authorized 718
to practice by this chapter accepts the privilege of practicing in 719
this state subject to supervision by the board. By filing an 720
application for or holding a certificate to practice under this 721

chapter, an individual shall be deemed to have given consent to 722
submit to a mental or physical examination when ordered to do so 723
by the board in writing, and to have waived all objections to the 724
admissibility of testimony or examination reports that constitute 725
privileged communications. 726

If it has reason to believe that any individual authorized to 727
practice by this chapter or any applicant for certification to 728
practice suffers such impairment, the board may compel the 729
individual to submit to a mental or physical examination, or both. 730
The expense of the examination is the responsibility of the 731
individual compelled to be examined. Any mental or physical 732
examination required under this division shall be undertaken by a 733
treatment provider or physician who is qualified to conduct the 734
examination and who is chosen by the board. 735

Failure to submit to a mental or physical examination ordered 736
by the board constitutes an admission of the allegations against 737
the individual unless the failure is due to circumstances beyond 738
the individual's control, and a default and final order may be 739
entered without the taking of testimony or presentation of 740
evidence. If the board determines that the individual's ability to 741
practice is impaired, the board shall suspend the individual's 742
certificate or deny the individual's application and shall require 743
the individual, as a condition for initial, continued, reinstated, 744
or renewed certification to practice, to submit to treatment. 745

Before being eligible to apply for reinstatement of a 746
certificate suspended under this division, the impaired 747
practitioner shall demonstrate to the board the ability to resume 748
practice in compliance with acceptable and prevailing standards of 749
care under the provisions of the practitioner's certificate. The 750
demonstration shall include, but shall not be limited to, the 751
following: 752

(a) Certification from a treatment provider approved under 753

section 4731.25 of the Revised Code that the individual has 754
successfully completed any required inpatient treatment; 755

(b) Evidence of continuing full compliance with an aftercare 756
contract or consent agreement; 757

(c) Two written reports indicating that the individual's 758
ability to practice has been assessed and that the individual has 759
been found capable of practicing according to acceptable and 760
prevailing standards of care. The reports shall be made by 761
individuals or providers approved by the board for making the 762
assessments and shall describe the basis for their determination. 763

The board may reinstate a certificate suspended under this 764
division after that demonstration and after the individual has 765
entered into a written consent agreement. 766

When the impaired practitioner resumes practice, the board 767
shall require continued monitoring of the individual. The 768
monitoring shall include, but not be limited to, compliance with 769
the written consent agreement entered into before reinstatement or 770
with conditions imposed by board order after a hearing, and, upon 771
termination of the consent agreement, submission to the board for 772
at least two years of annual written progress reports made under 773
penalty of perjury stating whether the individual has maintained 774
sobriety. 775

(27) A second or subsequent violation of section 4731.66 or 776
4731.69 of the Revised Code; 777

(28) Except as provided in division (N) of this section: 778

(a) Waiving the payment of all or any part of a deductible or 779
copayment that a patient, pursuant to a health insurance or health 780
care policy, contract, or plan that covers the individual's 781
services, otherwise would be required to pay if the waiver is used 782
as an enticement to a patient or group of patients to receive 783
health care services from that individual; 784

(b) Advertising that the individual will waive the payment of 785
all or any part of a deductible or copayment that a patient, 786
pursuant to a health insurance or health care policy, contract, or 787
plan that covers the individual's services, otherwise would be 788
required to pay. 789

(29) Failure to use universal blood and body fluid 790
precautions established by rules adopted under section 4731.051 of 791
the Revised Code; 792

(30) Failure to provide notice to, and receive acknowledgment 793
of the notice from, a patient when required by section 4731.143 of 794
the Revised Code prior to providing nonemergency professional 795
services, or failure to maintain that notice in the patient's 796
file; 797

(31) Failure of a physician supervising a physician assistant 798
to maintain supervision in accordance with the requirements of 799
Chapter 4730. of the Revised Code and the rules adopted under that 800
chapter; 801

(32) Failure of a physician or podiatrist to enter into a 802
standard care arrangement with a clinical nurse specialist, 803
certified nurse-midwife, or certified nurse practitioner with whom 804
the physician or podiatrist is in collaboration pursuant to 805
section 4731.27 of the Revised Code or failure to fulfill the 806
responsibilities of collaboration after entering into a standard 807
care arrangement; 808

(33) Failure to comply with the terms of a consult agreement 809
entered into with a pharmacist pursuant to section 4729.39 of the 810
Revised Code; 811

(34) Failure to cooperate in an investigation conducted by 812
the board under division (F) of this section, including failure to 813
comply with a subpoena or order issued by the board or failure to 814
answer truthfully a question presented by the board in an 815

investigative interview, an investigative office conference, at a 816
deposition, or in written interrogatories, except that failure to 817
cooperate with an investigation shall not constitute grounds for 818
discipline under this section if a court of competent jurisdiction 819
has issued an order that either quashes a subpoena or permits the 820
individual to withhold the testimony or evidence in issue; 821

(35) Failure to supervise an oriental medicine practitioner 822
or acupuncturist in accordance with Chapter 4762. of the Revised 823
Code and the board's rules for providing that supervision; 824

(36) Failure to supervise an anesthesiologist assistant in 825
accordance with Chapter 4760. of the Revised Code and the board's 826
rules for supervision of an anesthesiologist assistant; 827

(37) Assisting suicide as defined in section 3795.01 of the 828
Revised Code; 829

(38) Failure to comply with the requirements of section 830
2317.561 of the Revised Code; 831

(39) Failure to supervise a radiologist assistant in 832
accordance with Chapter 4774. of the Revised Code and the board's 833
rules for supervision of radiologist assistants; 834

(40) Performing or inducing an abortion at an office or 835
facility with knowledge that the office or facility fails to post 836
the notice required under section 3701.791 of the Revised Code; 837

(41) Failure to comply with the standards and procedures 838
established in rules under section 4731.054 of the Revised Code 839
for the operation of or the provision of care at a pain management 840
clinic; 841

(42) Failure to comply with the standards and procedures 842
established in rules under section 4731.054 of the Revised Code 843
for providing supervision, direction, and control of individuals 844
at a pain management clinic; 845

(43) Failure to comply with the requirements of section 846
4729.79 of the Revised Code, unless the state board of pharmacy no 847
longer maintains a drug database pursuant to section 4729.75 of 848
the Revised Code; 849

(44) Failure to comply with the requirements of section 850
2919.171 of the Revised Code or failure to submit to the 851
department of health in accordance with a court order a complete 852
report as described in section 2919.171 of the Revised Code; 853

(45) Practicing at a facility that is subject to licensure as 854
a category III terminal distributor of dangerous drugs with a pain 855
management clinic classification unless the person operating the 856
facility has obtained and maintains the license with the 857
classification; 858

(46) Owning a facility that is subject to licensure as a 859
category III terminal distributor of dangerous drugs with a pain 860
management clinic classification unless the facility is licensed 861
with the classification; 862

(47) Failure to comply with any of the requirement 863
requirements regarding making or maintaining notes medical records 864
or documents described in division (B) of ~~section 2919.191~~ (A) of 865
section 2919.192, division (C) of section 2919.193, division (B) 866
of section 2919.195, or division (A) of section 2919.196 of the 867
Revised Code ~~or failure to satisfy the requirements of section~~ 868
~~2919.191 of the Revised Code prior to performing or inducing an~~ 869
~~abortion upon a pregnant woman.~~ 870

(C) Disciplinary actions taken by the board under divisions 871
(A) and (B) of this section shall be taken pursuant to an 872
adjudication under Chapter 119. of the Revised Code, except that 873
in lieu of an adjudication, the board may enter into a consent 874
agreement with an individual to resolve an allegation of a 875
violation of this chapter or any rule adopted under it. A consent 876

agreement, when ratified by an affirmative vote of not fewer than 877
six members of the board, shall constitute the findings and order 878
of the board with respect to the matter addressed in the 879
agreement. If the board refuses to ratify a consent agreement, the 880
admissions and findings contained in the consent agreement shall 881
be of no force or effect. 882

A telephone conference call may be utilized for ratification 883
of a consent agreement that revokes or suspends an individual's 884
certificate to practice. The telephone conference call shall be 885
considered a special meeting under division (F) of section 121.22 886
of the Revised Code. 887

If the board takes disciplinary action against an individual 888
under division (B) of this section for a second or subsequent plea 889
of guilty to, or judicial finding of guilt of, a violation of 890
section 2919.123 of the Revised Code, the disciplinary action 891
shall consist of a suspension of the individual's certificate to 892
practice for a period of at least one year or, if determined 893
appropriate by the board, a more serious sanction involving the 894
individual's certificate to practice. Any consent agreement 895
entered into under this division with an individual that pertains 896
to a second or subsequent plea of guilty to, or judicial finding 897
of guilt of, a violation of that section shall provide for a 898
suspension of the individual's certificate to practice for a 899
period of at least one year or, if determined appropriate by the 900
board, a more serious sanction involving the individual's 901
certificate to practice. 902

(D) For purposes of divisions (B)(10), (12), and (14) of this 903
section, the commission of the act may be established by a finding 904
by the board, pursuant to an adjudication under Chapter 119. of 905
the Revised Code, that the individual committed the act. The board 906
does not have jurisdiction under those divisions if the trial 907
court renders a final judgment in the individual's favor and that 908

judgment is based upon an adjudication on the merits. The board 909
has jurisdiction under those divisions if the trial court issues 910
an order of dismissal upon technical or procedural grounds. 911

(E) The sealing of conviction records by any court shall have 912
no effect upon a prior board order entered under this section or 913
upon the board's jurisdiction to take action under this section 914
if, based upon a plea of guilty, a judicial finding of guilt, or a 915
judicial finding of eligibility for intervention in lieu of 916
conviction, the board issued a notice of opportunity for a hearing 917
prior to the court's order to seal the records. The board shall 918
not be required to seal, destroy, redact, or otherwise modify its 919
records to reflect the court's sealing of conviction records. 920

(F)(1) The board shall investigate evidence that appears to 921
show that a person has violated any provision of this chapter or 922
any rule adopted under it. Any person may report to the board in a 923
signed writing any information that the person may have that 924
appears to show a violation of any provision of this chapter or 925
any rule adopted under it. In the absence of bad faith, any person 926
who reports information of that nature or who testifies before the 927
board in any adjudication conducted under Chapter 119. of the 928
Revised Code shall not be liable in damages in a civil action as a 929
result of the report or testimony. Each complaint or allegation of 930
a violation received by the board shall be assigned a case number 931
and shall be recorded by the board. 932

(2) Investigations of alleged violations of this chapter or 933
any rule adopted under it shall be supervised by the supervising 934
member elected by the board in accordance with section 4731.02 of 935
the Revised Code and by the secretary as provided in section 936
4731.39 of the Revised Code. The president may designate another 937
member of the board to supervise the investigation in place of the 938
supervising member. No member of the board who supervises the 939
investigation of a case shall participate in further adjudication 940

of the case. 941

(3) In investigating a possible violation of this chapter or 942
any rule adopted under this chapter, or in conducting an 943
inspection under division (E) of section 4731.054 of the Revised 944
Code, the board may question witnesses, conduct interviews, 945
administer oaths, order the taking of depositions, inspect and 946
copy any books, accounts, papers, records, or documents, issue 947
subpoenas, and compel the attendance of witnesses and production 948
of books, accounts, papers, records, documents, and testimony, 949
except that a subpoena for patient record information shall not be 950
issued without consultation with the attorney general's office and 951
approval of the secretary and supervising member of the board. 952

(a) Before issuance of a subpoena for patient record 953
information, the secretary and supervising member shall determine 954
whether there is probable cause to believe that the complaint 955
filed alleges a violation of this chapter or any rule adopted 956
under it and that the records sought are relevant to the alleged 957
violation and material to the investigation. The subpoena may 958
apply only to records that cover a reasonable period of time 959
surrounding the alleged violation. 960

(b) On failure to comply with any subpoena issued by the 961
board and after reasonable notice to the person being subpoenaed, 962
the board may move for an order compelling the production of 963
persons or records pursuant to the Rules of Civil Procedure. 964

(c) A subpoena issued by the board may be served by a 965
sheriff, the sheriff's deputy, or a board employee designated by 966
the board. Service of a subpoena issued by the board may be made 967
by delivering a copy of the subpoena to the person named therein, 968
reading it to the person, or leaving it at the person's usual 969
place of residence, usual place of business, or address on file 970
with the board. When serving a subpoena to an applicant for or the 971
holder of a certificate issued under this chapter, service of the 972

subpoena may be made by certified mail, return receipt requested, 973
and the subpoena shall be deemed served on the date delivery is 974
made or the date the person refuses to accept delivery. If the 975
person being served refuses to accept the subpoena or is not 976
located, service may be made to an attorney who notifies the board 977
that the attorney is representing the person. 978

(d) A sheriff's deputy who serves a subpoena shall receive 979
the same fees as a sheriff. Each witness who appears before the 980
board in obedience to a subpoena shall receive the fees and 981
mileage provided for under section 119.094 of the Revised Code. 982

(4) All hearings, investigations, and inspections of the 983
board shall be considered civil actions for the purposes of 984
section 2305.252 of the Revised Code. 985

(5) A report required to be submitted to the board under this 986
chapter, a complaint, or information received by the board 987
pursuant to an investigation or pursuant to an inspection under 988
division (E) of section 4731.054 of the Revised Code is 989
confidential and not subject to discovery in any civil action. 990

The board shall conduct all investigations or inspections and 991
proceedings in a manner that protects the confidentiality of 992
patients and persons who file complaints with the board. The board 993
shall not make public the names or any other identifying 994
information about patients or complainants unless proper consent 995
is given or, in the case of a patient, a waiver of the patient 996
privilege exists under division (B) of section 2317.02 of the 997
Revised Code, except that consent or a waiver of that nature is 998
not required if the board possesses reliable and substantial 999
evidence that no bona fide physician-patient relationship exists. 1000

The board may share any information it receives pursuant to 1001
an investigation or inspection, including patient records and 1002
patient record information, with law enforcement agencies, other 1003

licensing boards, and other governmental agencies that are 1004
prosecuting, adjudicating, or investigating alleged violations of 1005
statutes or administrative rules. An agency or board that receives 1006
the information shall comply with the same requirements regarding 1007
confidentiality as those with which the state medical board must 1008
comply, notwithstanding any conflicting provision of the Revised 1009
Code or procedure of the agency or board that applies when it is 1010
dealing with other information in its possession. In a judicial 1011
proceeding, the information may be admitted into evidence only in 1012
accordance with the Rules of Evidence, but the court shall require 1013
that appropriate measures are taken to ensure that confidentiality 1014
is maintained with respect to any part of the information that 1015
contains names or other identifying information about patients or 1016
complainants whose confidentiality was protected by the state 1017
medical board when the information was in the board's possession. 1018
Measures to ensure confidentiality that may be taken by the court 1019
include sealing its records or deleting specific information from 1020
its records. 1021

(6) On a quarterly basis, the board shall prepare a report 1022
that documents the disposition of all cases during the preceding 1023
three months. The report shall contain the following information 1024
for each case with which the board has completed its activities: 1025

(a) The case number assigned to the complaint or alleged 1026
violation; 1027

(b) The type of certificate to practice, if any, held by the 1028
individual against whom the complaint is directed; 1029

(c) A description of the allegations contained in the 1030
complaint; 1031

(d) The disposition of the case. 1032

The report shall state how many cases are still pending and 1033
shall be prepared in a manner that protects the identity of each 1034

person involved in each case. The report shall be a public record 1035
under section 149.43 of the Revised Code. 1036

(G) If the secretary and supervising member determine both of 1037
the following, they may recommend that the board suspend an 1038
individual's certificate to practice without a prior hearing: 1039

(1) That there is clear and convincing evidence that an 1040
individual has violated division (B) of this section; 1041

(2) That the individual's continued practice presents a 1042
danger of immediate and serious harm to the public. 1043

Written allegations shall be prepared for consideration by 1044
the board. The board, upon review of those allegations and by an 1045
affirmative vote of not fewer than six of its members, excluding 1046
the secretary and supervising member, may suspend a certificate 1047
without a prior hearing. A telephone conference call may be 1048
utilized for reviewing the allegations and taking the vote on the 1049
summary suspension. 1050

The board shall issue a written order of suspension by 1051
certified mail or in person in accordance with section 119.07 of 1052
the Revised Code. The order shall not be subject to suspension by 1053
the court during pendency of any appeal filed under section 119.12 1054
of the Revised Code. If the individual subject to the summary 1055
suspension requests an adjudicatory hearing by the board, the date 1056
set for the hearing shall be within fifteen days, but not earlier 1057
than seven days, after the individual requests the hearing, unless 1058
otherwise agreed to by both the board and the individual. 1059

Any summary suspension imposed under this division shall 1060
remain in effect, unless reversed on appeal, until a final 1061
adjudicative order issued by the board pursuant to this section 1062
and Chapter 119. of the Revised Code becomes effective. The board 1063
shall issue its final adjudicative order within seventy-five days 1064
after completion of its hearing. A failure to issue the order 1065

within seventy-five days shall result in dissolution of the 1066
summary suspension order but shall not invalidate any subsequent, 1067
final adjudicative order. 1068

(H) If the board takes action under division (B)(9), (11), or 1069
(13) of this section and the judicial finding of guilt, guilty 1070
plea, or judicial finding of eligibility for intervention in lieu 1071
of conviction is overturned on appeal, upon exhaustion of the 1072
criminal appeal, a petition for reconsideration of the order may 1073
be filed with the board along with appropriate court documents. 1074
Upon receipt of a petition of that nature and supporting court 1075
documents, the board shall reinstate the individual's certificate 1076
to practice. The board may then hold an adjudication under Chapter 1077
119. of the Revised Code to determine whether the individual 1078
committed the act in question. Notice of an opportunity for a 1079
hearing shall be given in accordance with Chapter 119. of the 1080
Revised Code. If the board finds, pursuant to an adjudication held 1081
under this division, that the individual committed the act or if 1082
no hearing is requested, the board may order any of the sanctions 1083
identified under division (B) of this section. 1084

(I) The certificate to practice issued to an individual under 1085
this chapter and the individual's practice in this state are 1086
automatically suspended as of the date of the individual's second 1087
or subsequent plea of guilty to, or judicial finding of guilt of, 1088
a violation of section 2919.123 of the Revised Code, or the date 1089
the individual pleads guilty to, is found by a judge or jury to be 1090
guilty of, or is subject to a judicial finding of eligibility for 1091
intervention in lieu of conviction in this state or treatment or 1092
intervention in lieu of conviction in another jurisdiction for any 1093
of the following criminal offenses in this state or a 1094
substantially equivalent criminal offense in another jurisdiction: 1095
aggravated murder, murder, voluntary manslaughter, felonious 1096
assault, kidnapping, rape, sexual battery, gross sexual 1097

imposition, aggravated arson, aggravated robbery, or aggravated 1098
burglary. Continued practice after suspension shall be considered 1099
practicing without a certificate. 1100

The board shall notify the individual subject to the 1101
suspension by certified mail or in person in accordance with 1102
section 119.07 of the Revised Code. If an individual whose 1103
certificate is automatically suspended under this division fails 1104
to make a timely request for an adjudication under Chapter 119. of 1105
the Revised Code, the board shall do whichever of the following is 1106
applicable: 1107

(1) If the automatic suspension under this division is for a 1108
second or subsequent plea of guilty to, or judicial finding of 1109
guilt of, a violation of section 2919.123 of the Revised Code, the 1110
board shall enter an order suspending the individual's certificate 1111
to practice for a period of at least one year or, if determined 1112
appropriate by the board, imposing a more serious sanction 1113
involving the individual's certificate to practice. 1114

(2) In all circumstances in which division (I)(1) of this 1115
section does not apply, enter a final order permanently revoking 1116
the individual's certificate to practice. 1117

(J) If the board is required by Chapter 119. of the Revised 1118
Code to give notice of an opportunity for a hearing and if the 1119
individual subject to the notice does not timely request a hearing 1120
in accordance with section 119.07 of the Revised Code, the board 1121
is not required to hold a hearing, but may adopt, by an 1122
affirmative vote of not fewer than six of its members, a final 1123
order that contains the board's findings. In that final order, the 1124
board may order any of the sanctions identified under division (A) 1125
or (B) of this section. 1126

(K) Any action taken by the board under division (B) of this 1127
section resulting in a suspension from practice shall be 1128

accompanied by a written statement of the conditions under which 1129
the individual's certificate to practice may be reinstated. The 1130
board shall adopt rules governing conditions to be imposed for 1131
reinstatement. Reinstatement of a certificate suspended pursuant 1132
to division (B) of this section requires an affirmative vote of 1133
not fewer than six members of the board. 1134

(L) When the board refuses to grant a certificate to an 1135
applicant, revokes an individual's certificate to practice, 1136
refuses to register an applicant, or refuses to reinstate an 1137
individual's certificate to practice, the board may specify that 1138
its action is permanent. An individual subject to a permanent 1139
action taken by the board is forever thereafter ineligible to hold 1140
a certificate to practice and the board shall not accept an 1141
application for reinstatement of the certificate or for issuance 1142
of a new certificate. 1143

(M) Notwithstanding any other provision of the Revised Code, 1144
all of the following apply: 1145

(1) The surrender of a certificate issued under this chapter 1146
shall not be effective unless or until accepted by the board. A 1147
telephone conference call may be utilized for acceptance of the 1148
surrender of an individual's certificate to practice. The 1149
telephone conference call shall be considered a special meeting 1150
under division (F) of section 121.22 of the Revised Code. 1151
Reinstatement of a certificate surrendered to the board requires 1152
an affirmative vote of not fewer than six members of the board. 1153

(2) An application for a certificate made under the 1154
provisions of this chapter may not be withdrawn without approval 1155
of the board. 1156

(3) Failure by an individual to renew a certificate of 1157
registration in accordance with this chapter shall not remove or 1158
limit the board's jurisdiction to take any disciplinary action 1159

under this section against the individual. 1160

(4) At the request of the board, a certificate holder shall 1161
immediately surrender to the board a certificate that the board 1162
has suspended, revoked, or permanently revoked. 1163

(N) Sanctions shall not be imposed under division (B)(28) of 1164
this section against any person who waives deductibles and 1165
copayments as follows: 1166

(1) In compliance with the health benefit plan that expressly 1167
allows such a practice. Waiver of the deductibles or copayments 1168
shall be made only with the full knowledge and consent of the plan 1169
purchaser, payer, and third-party administrator. Documentation of 1170
the consent shall be made available to the board upon request. 1171

(2) For professional services rendered to any other person 1172
authorized to practice pursuant to this chapter, to the extent 1173
allowed by this chapter and rules adopted by the board. 1174

(O) Under the board's investigative duties described in this 1175
section and subject to division (F) of this section, the board 1176
shall develop and implement a quality intervention program 1177
designed to improve through remedial education the clinical and 1178
communication skills of individuals authorized under this chapter 1179
to practice medicine and surgery, osteopathic medicine and 1180
surgery, and podiatric medicine and surgery. In developing and 1181
implementing the quality intervention program, the board may do 1182
all of the following: 1183

(1) Offer in appropriate cases as determined by the board an 1184
educational and assessment program pursuant to an investigation 1185
the board conducts under this section; 1186

(2) Select providers of educational and assessment services, 1187
including a quality intervention program panel of case reviewers; 1188

(3) Make referrals to educational and assessment service 1189

providers and approve individual educational programs recommended 1190
by those providers. The board shall monitor the progress of each 1191
individual undertaking a recommended individual educational 1192
program. 1193

(4) Determine what constitutes successful completion of an 1194
individual educational program and require further monitoring of 1195
the individual who completed the program or other action that the 1196
board determines to be appropriate; 1197

(5) Adopt rules in accordance with Chapter 119. of the 1198
Revised Code to further implement the quality intervention 1199
program. 1200

An individual who participates in an individual educational 1201
program pursuant to this division shall pay the financial 1202
obligations arising from that educational program. 1203

Section 2. That existing sections 2919.171, 2919.19, 1204
2919.191, 2919.192, 2919.193, and 4731.22 of the Revised Code are 1205
hereby repealed. 1206