

As Introduced

**130th General Assembly
Regular Session
2013-2014**

S. B. No. 297

Senator Jordan

Cosponsor: Senator Schaffer

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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~~ 2919.1910 of the Revised Code: 79

~~(A)~~(1) "Conception" means fertilization. 80

<u>(2) "Contraceptive" means a drug, device, or chemical that prevents conception.</u>	81
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<u>(3) "DNA" means deoxyribonucleic acid.</u>	83
<u>(4) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.</u>	84
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(B) <u>(5) "Fetus" means the human offspring developing during pregnancy from the moment of conception and includes the embryonic stage of development.</u>	87
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(C) <u>(6) "Gestational age" means the age of an unborn human individual as calculated from the first day of the last menstrual period of a pregnant woman.</u>	90
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(D) <u>(7) "Gestational sac" 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.</u>	93
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(E) <u>(8) "Intrauterine pregnancy" means a pregnancy in which the fetus is attached to the placenta within the uterus of the pregnant woman.</u>	97
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<u>(9) "Medical emergency" has the same meaning as in section 2919.16 of the Revised Code.</u>	100
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(F) <u>(10) "Physician" has the same meaning as in section 2305.113 of the Revised Code.</u>	102
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(G) <u>(11) "Pregnancy" 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.</u>	104
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(H) <u>(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.</u>	108
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~~(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. 111
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(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. 115
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~~(J)~~(15) "Unborn human individual" means an individual organism of the species homo sapiens from fertilization until live birth. 123
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(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. 126
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(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 of the following: 131
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(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

<u>following:</u>	173
<u>(1) As many as thirty per cent of natural pregnancies end in spontaneous miscarriage.</u>	174 175
<u>(2) Less than five per cent of all natural pregnancies end in spontaneous miscarriage after detection of fetal cardiac activity.</u>	176 177
<u>(3) Over ninety per cent of in vitro pregnancies survive the first trimester if cardiac activity is detected in the gestational sac.</u>	178 179 180
<u>(4) Nearly ninety per cent of in vitro pregnancies do not survive the first trimester where cardiac activity is not detected in the gestational sac.</u>	181 182 183
<u>(5) Fetal heartbeat, therefore, has become a key medical predictor that an unborn human individual will reach live birth.</u>	184 185
<u>(6) Cardiac activity begins at a biologically identifiable moment in time, normally when the fetal heart is formed in the gestational sac.</u>	186 187 188
<u>(7) The state of Ohio has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of an unborn human individual who may be born.</u>	189 190 191
<u>(8) In order to make an informed choice about whether to continue her pregnancy, the pregnant woman has a legitimate interest in knowing the likelihood of the fetus surviving to full-term birth based upon the presence of cardiac activity.</u>	192 193 194 195
<u>(B) Sections 2919.192 to 2919.195 of the Revised Code apply only to intrauterine pregnancies.</u>	196 197
Sec. 2919.191 2919.192. (A) A person who intends to perform or induce an abortion on a pregnant woman shall determine whether there is a detectable fetal heartbeat of the unborn human individual the pregnant woman is carrying. The method of	198 199 200 201

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 (B)~~ 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~~ 262
~~detectable fetal heartbeat.~~ 263

~~(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.~~

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.

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:

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

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

(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.

(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 294
medical records of both of the following: 295

(1) The physician's belief that a medical emergency 296
necessitating the abortion existed; 297

(2) The medical condition of the pregnant woman that 298
assertedly prevented compliance with division (A) of this section. 299

For at least seven years from the date the notations are 300
made, the physician shall maintain in the physician's own records 301
a copy of the notations. 302

(D) A person is not in violation of division (A) of this 303
section if the person acts in accordance with division (A) of 304
section 2919.192 of the Revised Code and the method used to 305
determine the presence of a fetal heartbeat does not reveal a 306
fetal heartbeat. 307

Sec. ~~2919.192~~ 2919.194. (A) If a person who intends to 308
perform or induce an abortion on a pregnant woman has determined, 309
under section ~~2919.191~~ 2919.192 of the Revised Code, that the 310
unborn human individual the pregnant woman is carrying has a 311
detectable heartbeat, the person shall not, except as provided in 312
division (B) of this section, perform or induce the abortion until 313
all of the following requirements have been met and at least 314
twenty-four hours have elapsed after the last of the requirements 315
is met: 316

(1) The person intending to perform or induce the abortion 317
shall inform the pregnant woman in writing that the unborn human 318
individual the pregnant woman is carrying has a fetal heartbeat. 319

(2) The person intending to perform or induce the abortion 320
shall inform the pregnant woman, to the best of the person's 321
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 354
section, no person shall knowingly and purposefully perform or 355
induce an abortion on a pregnant woman with the specific intent of 356
causing or abetting the termination of the life of the unborn 357
human individual the pregnant woman is carrying and whose fetal 358
heartbeat has been detected in accordance with division (A) of 359
section 2919.192 of the Revised Code. 360

Whoever violates this division is guilty of performing or 361
inducing an abortion after the detection of a fetal heartbeat, a 362
felony of the fifth degree. 363

(B) Division (A) of this section does not apply to a 364
physician who performs a medical procedure that, in the 365
physician's reasonable medical judgment, is designed or intended 366
to prevent the death of the pregnant woman or to prevent a serious 367
risk of the substantial and irreversible impairment of a major 368
bodily function of the pregnant woman. 369

A physician who performs a medical procedure as described in 370
this division shall declare, in a written document, that the 371
medical procedure is necessary, to the best of the physician's 372
reasonable medical judgment, to prevent the death of the pregnant 373
woman or to prevent a serious risk of the substantial and 374
irreversible impairment of a major bodily function of the pregnant 375
woman. In the document, the physician shall specify the pregnant 376
woman's medical condition that the medical procedure is asserted 377
to address and the medical rationale for the physician's 378
conclusion that the medical procedure is necessary to prevent the 379
death of the pregnant woman or to prevent a serious risk of the 380
substantial and irreversible impairment of a major bodily function 381
of the pregnant woman. 382

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 amount determined by the trier of fact after consideration of the evidence at the mother's election at any time prior to final judgment 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; 445
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(2) Court costs and reasonable attorney's fees. 451

(C) A determination that division (A) of section 2919.193 of the Revised Code, division (A)(1), (2), or (3) of section 2919.194 of the Revised Code, or division (A) of section 2919.195 of the Revised Code is unconstitutional shall be a defense to an action filed under division (A) of this section alleging that the defendant violated the division that was determined to be unconstitutional. 452
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(D) If the defendant in an action filed under division (A) of this section prevails and all of the following apply, the court shall award reasonable attorney's fees to the defendant in accordance with section 2323.51 of the Revised Code: 459
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(1) The court finds that the commencement of the action constitutes frivolous conduct, as defined in section 2323.51 of the Revised Code. 463
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(2) The court's finding in division (D)(1) of this section is not based on that court or another court determining that division (A) of section 2919.193 of the Revised Code, division (A)(1), (2), or (3) of section 2919.194 of the Revised Code, or division (A) of section 2919.195 of the Revised Code is unconstitutional. 466
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(3) The court finds that the defendant was adversely affected by the frivolous conduct. 471
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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 have access to 501
the 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. On request from the 505
department, the facility shall make the medical records available 506
to the department but shall not release any personal medical 507
information in the medical records that is prohibited by law. 508
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Sec. 4731.22. (A) The state medical board, by an affirmative 510
vote of not fewer than six of its members, may limit, revoke, or 511
suspend an individual's certificate to practice, refuse to grant a 512
certificate to an individual, refuse to register an individual, 513
refuse to reinstate a certificate, or reprimand or place on 514
probation the holder of a certificate if the individual or 515
certificate holder is found by the board to have committed fraud 516
during the administration of the examination for a certificate to 517
practice or to have committed fraud, misrepresentation, or 518
deception in applying for or securing any certificate to practice 519
or certificate of registration issued by the board. 520

(B) The board, by an affirmative vote of not fewer than six 521
members, shall, to the extent permitted by law, limit, revoke, or 522
suspend an individual's certificate to practice, refuse to 523
register an individual, refuse to reinstate a certificate, or 524
reprimand or place on probation the holder of a certificate for 525
one or more of the following reasons: 526

(1) Permitting one's name or one's certificate to practice or 527
certificate of registration to be used by a person, group, or 528
corporation when the individual concerned is not actually 529
directing the treatment given; 530

(2) Failure to maintain minimal standards applicable to the 531
selection or administration of drugs, or failure to employ 532
acceptable scientific methods in the selection of drugs or other 533
modalities for treatment of disease; 534

(3) Selling, giving away, personally furnishing, prescribing, 535
or administering drugs for other than legal and legitimate 536
therapeutic purposes or a plea of guilty to, a judicial finding of 537
guilt of, or a judicial finding of eligibility for intervention in 538
lieu of conviction of, a violation of any federal or state law 539
regulating the possession, distribution, or use of any drug; 540

(4) Willfully betraying a professional confidence. 541

For purposes of this division, "willfully betraying a 542
professional confidence" does not include providing any 543
information, documents, or reports to a child fatality review 544
board under sections 307.621 to 307.629 of the Revised Code and 545
does not include the making of a report of an employee's use of a 546
drug of abuse, or a report of a condition of an employee other 547
than one involving the use of a drug of abuse, to the employer of 548
the employee as described in division (B) of section 2305.33 of 549
the Revised Code. Nothing in this division affects the immunity 550
from civil liability conferred by that section upon a physician 551
who makes either type of report in accordance with division (B) of 552
that section. As used in this division, "employee," "employer," 553
and "physician" have the same meanings as in section 2305.33 of 554
the Revised Code. 555

(5) Making a false, fraudulent, deceptive, or misleading 556
statement in the solicitation of or advertising for patients; in 557
relation to the practice of medicine and surgery, osteopathic 558
medicine and surgery, podiatric medicine and surgery, or a limited 559
branch of medicine; or in securing or attempting to secure any 560
certificate to practice or certificate of registration issued by 561
the board. 562

As used in this division, "false, fraudulent, deceptive, or 563
misleading statement" means a statement that includes a 564
misrepresentation of fact, is likely to mislead or deceive because 565
of a failure to disclose material facts, is intended or is likely 566

to create false or unjustified expectations of favorable results, 567
or includes representations or implications that in reasonable 568
probability will cause an ordinarily prudent person to 569
misunderstand or be deceived. 570

(6) A departure from, or the failure to conform to, minimal 571
standards of care of similar practitioners under the same or 572
similar circumstances, whether or not actual injury to a patient 573
is established; 574

(7) Representing, with the purpose of obtaining compensation 575
or other advantage as personal gain or for any other person, that 576
an incurable disease or injury, or other incurable condition, can 577
be permanently cured; 578

(8) The obtaining of, or attempting to obtain, money or 579
anything of value by fraudulent misrepresentations in the course 580
of practice; 581

(9) A plea of guilty to, a judicial finding of guilt of, or a 582
judicial finding of eligibility for intervention in lieu of 583
conviction for, a felony; 584

(10) Commission of an act that constitutes a felony in this 585
state, regardless of the jurisdiction in which the act was 586
committed; 587

(11) A plea of guilty to, a judicial finding of guilt of, or 588
a judicial finding of eligibility for intervention in lieu of 589
conviction for, a misdemeanor committed in the course of practice; 590

(12) Commission of an act in the course of practice that 591
constitutes a misdemeanor in this state, regardless of the 592
jurisdiction in which the act was committed; 593

(13) A plea of guilty to, a judicial finding of guilt of, or 594
a judicial finding of eligibility for intervention in lieu of 595
conviction for, a misdemeanor involving moral turpitude; 596

(14) Commission of an act involving moral turpitude that 597
constitutes a misdemeanor in this state, regardless of the 598
jurisdiction in which the act was committed; 599

(15) Violation of the conditions of limitation placed by the 600
board upon a certificate to practice; 601

(16) Failure to pay license renewal fees specified in this 602
chapter; 603

(17) Except as authorized in section 4731.31 of the Revised 604
Code, engaging in the division of fees for referral of patients, 605
or the receiving of a thing of value in return for a specific 606
referral of a patient to utilize a particular service or business; 607

(18) Subject to section 4731.226 of the Revised Code, 608
violation of any provision of a code of ethics of the American 609
medical association, the American osteopathic association, the 610
American podiatric medical association, or any other national 611
professional organizations that the board specifies by rule. The 612
state medical board shall obtain and keep on file current copies 613
of the codes of ethics of the various national professional 614
organizations. The individual whose certificate is being suspended 615
or revoked shall not be found to have violated any provision of a 616
code of ethics of an organization not appropriate to the 617
individual's profession. 618

For purposes of this division, a "provision of a code of 619
ethics of a national professional organization" does not include 620
any provision that would preclude the making of a report by a 621
physician of an employee's use of a drug of abuse, or of a 622
condition of an employee other than one involving the use of a 623
drug of abuse, to the employer of the employee as described in 624
division (B) of section 2305.33 of the Revised Code. Nothing in 625
this division affects the immunity from civil liability conferred 626
by that section upon a physician who makes either type of report 627

in accordance with division (B) of that section. As used in this 628
division, "employee," "employer," and "physician" have the same 629
meanings as in section 2305.33 of the Revised Code. 630

(19) Inability to practice according to acceptable and 631
prevailing standards of care by reason of mental illness or 632
physical illness, including, but not limited to, physical 633
deterioration that adversely affects cognitive, motor, or 634
perceptive skills. 635

In enforcing this division, the board, upon a showing of a 636
possible violation, may compel any individual authorized to 637
practice by this chapter or who has submitted an application 638
pursuant to this chapter to submit to a mental examination, 639
physical examination, including an HIV test, or both a mental and 640
a physical examination. The expense of the examination is the 641
responsibility of the individual compelled to be examined. Failure 642
to submit to a mental or physical examination or consent to an HIV 643
test ordered by the board constitutes an admission of the 644
allegations against the individual unless the failure is due to 645
circumstances beyond the individual's control, and a default and 646
final order may be entered without the taking of testimony or 647
presentation of evidence. If the board finds an individual unable 648
to practice because of the reasons set forth in this division, the 649
board shall require the individual to submit to care, counseling, 650
or treatment by physicians approved or designated by the board, as 651
a condition for initial, continued, reinstated, or renewed 652
authority to practice. An individual affected under this division 653
shall be afforded an opportunity to demonstrate to the board the 654
ability to resume practice in compliance with acceptable and 655
prevailing standards under the provisions of the individual's 656
certificate. For the purpose of this division, any individual who 657
applies for or receives a certificate to practice under this 658
chapter accepts the privilege of practicing in this state and, by 659

so doing, shall be deemed to have given consent to submit to a 660
mental or physical examination when directed to do so in writing 661
by the board, and to have waived all objections to the 662
admissibility of testimony or examination reports that constitute 663
a privileged communication. 664

(20) Except when civil penalties are imposed under section 665
4731.225 or 4731.281 of the Revised Code, and subject to section 666
4731.226 of the Revised Code, violating or attempting to violate, 667
directly or indirectly, or assisting in or abetting the violation 668
of, or conspiring to violate, any provisions of this chapter or 669
any rule promulgated by the board. 670

This division does not apply to a violation or attempted 671
violation of, assisting in or abetting the violation of, or a 672
conspiracy to violate, any provision of this chapter or any rule 673
adopted by the board that would preclude the making of a report by 674
a physician of an employee's use of a drug of abuse, or of a 675
condition of an employee other than one involving the use of a 676
drug of abuse, to the employer of the employee as described in 677
division (B) of section 2305.33 of the Revised Code. Nothing in 678
this division affects the immunity from civil liability conferred 679
by that section upon a physician who makes either type of report 680
in accordance with division (B) of that section. As used in this 681
division, "employee," "employer," and "physician" have the same 682
meanings as in section 2305.33 of the Revised Code. 683

(21) The violation of section 3701.79 of the Revised Code or 684
of any abortion rule adopted by the public health council pursuant 685
to section 3701.341 of the Revised Code; 686

(22) Any of the following actions taken by an agency 687
responsible for authorizing, certifying, or regulating an 688
individual to practice a health care occupation or provide health 689
care services in this state or another jurisdiction, for any 690
reason other than the nonpayment of fees: the limitation, 691

revocation, or suspension of an individual's license to practice; 692
acceptance of an individual's license surrender; denial of a 693
license; refusal to renew or reinstate a license; imposition of 694
probation; or issuance of an order of censure or other reprimand; 695

(23) The violation of section 2919.12 of the Revised Code or 696
the performance or inducement of an abortion upon a pregnant woman 697
with actual knowledge that the conditions specified in division 698
(B) of section 2317.56 of the Revised Code have not been satisfied 699
or with a heedless indifference as to whether those conditions 700
have been satisfied, unless an affirmative defense as specified in 701
division (H)(2) of that section would apply in a civil action 702
authorized by division (H)(1) of that section; 703

(24) The revocation, suspension, restriction, reduction, or 704
termination of clinical privileges by the United States department 705
of defense or department of veterans affairs or the termination or 706
suspension of a certificate of registration to prescribe drugs by 707
the drug enforcement administration of the United States 708
department of justice; 709

(25) Termination or suspension from participation in the 710
medicare or medicaid programs by the department of health and 711
human services or other responsible agency for any act or acts 712
that also would constitute a violation of division (B)(2), (3), 713
(6), (8), or (19) of this section; 714

(26) Impairment of ability to practice according to 715
acceptable and prevailing standards of care because of habitual or 716
excessive use or abuse of drugs, alcohol, or other substances that 717
impair ability to practice. 718

For the purposes of this division, any individual authorized 719
to practice by this chapter accepts the privilege of practicing in 720
this state subject to supervision by the board. By filing an 721
application for or holding a certificate to practice under this 722

chapter, an individual shall be deemed to have given consent to 723
submit to a mental or physical examination when ordered to do so 724
by the board in writing, and to have waived all objections to the 725
admissibility of testimony or examination reports that constitute 726
privileged communications. 727

If it has reason to believe that any individual authorized to 728
practice by this chapter or any applicant for certification to 729
practice suffers such impairment, the board may compel the 730
individual to submit to a mental or physical examination, or both. 731
The expense of the examination is the responsibility of the 732
individual compelled to be examined. Any mental or physical 733
examination required under this division shall be undertaken by a 734
treatment provider or physician who is qualified to conduct the 735
examination and who is chosen by the board. 736

Failure to submit to a mental or physical examination ordered 737
by the board constitutes an admission of the allegations against 738
the individual unless the failure is due to circumstances beyond 739
the individual's control, and a default and final order may be 740
entered without the taking of testimony or presentation of 741
evidence. If the board determines that the individual's ability to 742
practice is impaired, the board shall suspend the individual's 743
certificate or deny the individual's application and shall require 744
the individual, as a condition for initial, continued, reinstated, 745
or renewed certification to practice, to submit to treatment. 746

Before being eligible to apply for reinstatement of a 747
certificate suspended under this division, the impaired 748
practitioner shall demonstrate to the board the ability to resume 749
practice in compliance with acceptable and prevailing standards of 750
care under the provisions of the practitioner's certificate. The 751
demonstration shall include, but shall not be limited to, the 752
following: 753

(a) Certification from a treatment provider approved under 754

section 4731.25 of the Revised Code that the individual has 755
successfully completed any required inpatient treatment; 756

(b) Evidence of continuing full compliance with an aftercare 757
contract or consent agreement; 758

(c) Two written reports indicating that the individual's 759
ability to practice has been assessed and that the individual has 760
been found capable of practicing according to acceptable and 761
prevailing standards of care. The reports shall be made by 762
individuals or providers approved by the board for making the 763
assessments and shall describe the basis for their determination. 764

The board may reinstate a certificate suspended under this 765
division after that demonstration and after the individual has 766
entered into a written consent agreement. 767

When the impaired practitioner resumes practice, the board 768
shall require continued monitoring of the individual. The 769
monitoring shall include, but not be limited to, compliance with 770
the written consent agreement entered into before reinstatement or 771
with conditions imposed by board order after a hearing, and, upon 772
termination of the consent agreement, submission to the board for 773
at least two years of annual written progress reports made under 774
penalty of perjury stating whether the individual has maintained 775
sobriety. 776

(27) A second or subsequent violation of section 4731.66 or 777
4731.69 of the Revised Code; 778

(28) Except as provided in division (N) of this section: 779

(a) Waiving the payment of all or any part of a deductible or 780
copayment that a patient, pursuant to a health insurance or health 781
care policy, contract, or plan that covers the individual's 782
services, otherwise would be required to pay if the waiver is used 783
as an enticement to a patient or group of patients to receive 784
health care services from that individual; 785

(b) Advertising that the individual will waive the payment of 786
all or any part of a deductible or copayment that a patient, 787
pursuant to a health insurance or health care policy, contract, or 788
plan that covers the individual's services, otherwise would be 789
required to pay. 790

(29) Failure to use universal blood and body fluid 791
precautions established by rules adopted under section 4731.051 of 792
the Revised Code; 793

(30) Failure to provide notice to, and receive acknowledgment 794
of the notice from, a patient when required by section 4731.143 of 795
the Revised Code prior to providing nonemergency professional 796
services, or failure to maintain that notice in the patient's 797
file; 798

(31) Failure of a physician supervising a physician assistant 799
to maintain supervision in accordance with the requirements of 800
Chapter 4730. of the Revised Code and the rules adopted under that 801
chapter; 802

(32) Failure of a physician or podiatrist to enter into a 803
standard care arrangement with a clinical nurse specialist, 804
certified nurse-midwife, or certified nurse practitioner with whom 805
the physician or podiatrist is in collaboration pursuant to 806
section 4731.27 of the Revised Code or failure to fulfill the 807
responsibilities of collaboration after entering into a standard 808
care arrangement; 809

(33) Failure to comply with the terms of a consult agreement 810
entered into with a pharmacist pursuant to section 4729.39 of the 811
Revised Code; 812

(34) Failure to cooperate in an investigation conducted by 813
the board under division (F) of this section, including failure to 814
comply with a subpoena or order issued by the board or failure to 815
answer truthfully a question presented by the board in an 816

investigative interview, an investigative office conference, at a 817
deposition, or in written interrogatories, except that failure to 818
cooperate with an investigation shall not constitute grounds for 819
discipline under this section if a court of competent jurisdiction 820
has issued an order that either quashes a subpoena or permits the 821
individual to withhold the testimony or evidence in issue; 822

(35) Failure to supervise an oriental medicine practitioner 823
or acupuncturist in accordance with Chapter 4762. of the Revised 824
Code and the board's rules for providing that supervision; 825

(36) Failure to supervise an anesthesiologist assistant in 826
accordance with Chapter 4760. of the Revised Code and the board's 827
rules for supervision of an anesthesiologist assistant; 828

(37) Assisting suicide as defined in section 3795.01 of the 829
Revised Code; 830

(38) Failure to comply with the requirements of section 831
2317.561 of the Revised Code; 832

(39) Failure to supervise a radiologist assistant in 833
accordance with Chapter 4774. of the Revised Code and the board's 834
rules for supervision of radiologist assistants; 835

(40) Performing or inducing an abortion at an office or 836
facility with knowledge that the office or facility fails to post 837
the notice required under section 3701.791 of the Revised Code; 838

(41) Failure to comply with the standards and procedures 839
established in rules under section 4731.054 of the Revised Code 840
for the operation of or the provision of care at a pain management 841
clinic; 842

(42) Failure to comply with the standards and procedures 843
established in rules under section 4731.054 of the Revised Code 844
for providing supervision, direction, and control of individuals 845
at a pain management clinic; 846

(43) Failure to comply with the requirements of section 847
4729.79 of the Revised Code, unless the state board of pharmacy no 848
longer maintains a drug database pursuant to section 4729.75 of 849
the Revised Code; 850

(44) Failure to comply with the requirements of section 851
2919.171 of the Revised Code or failure to submit to the 852
department of health in accordance with a court order a complete 853
report as described in section 2919.171 of the Revised Code; 854

(45) Practicing at a facility that is subject to licensure as 855
a category III terminal distributor of dangerous drugs with a pain 856
management clinic classification unless the person operating the 857
facility has obtained and maintains the license with the 858
classification; 859

(46) Owning a facility that is subject to licensure as a 860
category III terminal distributor of dangerous drugs with a pain 861
management clinic classification unless the facility is licensed 862
with the classification; 863

(47) Failure to comply with any of the requirement 864
requirements regarding making or maintaining notes medical records 865
or documents described in division (B) of ~~section 2919.191~~ (A) of 866
section 2919.192, division (C) of section 2919.193, division (B) 867
of section 2919.195, or division (A) of section 2919.196 of the 868
Revised Code ~~or failure to satisfy the requirements of section~~ 869
~~2919.191 of the Revised Code prior to performing or inducing an~~ 870
~~abortion upon a pregnant woman.~~ 871

(C) Disciplinary actions taken by the board under divisions 872
(A) and (B) of this section shall be taken pursuant to an 873
adjudication under Chapter 119. of the Revised Code, except that 874
in lieu of an adjudication, the board may enter into a consent 875
agreement with an individual to resolve an allegation of a 876
violation of this chapter or any rule adopted under it. A consent 877

agreement, when ratified by an affirmative vote of not fewer than 878
six members of the board, shall constitute the findings and order 879
of the board with respect to the matter addressed in the 880
agreement. If the board refuses to ratify a consent agreement, the 881
admissions and findings contained in the consent agreement shall 882
be of no force or effect. 883

A telephone conference call may be utilized for ratification 884
of a consent agreement that revokes or suspends an individual's 885
certificate to practice. The telephone conference call shall be 886
considered a special meeting under division (F) of section 121.22 887
of the Revised Code. 888

If the board takes disciplinary action against an individual 889
under division (B) of this section for a second or subsequent plea 890
of guilty to, or judicial finding of guilt of, a violation of 891
section 2919.123 of the Revised Code, the disciplinary action 892
shall consist of a suspension of the individual's certificate to 893
practice for a period of at least one year or, if determined 894
appropriate by the board, a more serious sanction involving the 895
individual's certificate to practice. Any consent agreement 896
entered into under this division with an individual that pertains 897
to a second or subsequent plea of guilty to, or judicial finding 898
of guilt of, a violation of that section shall provide for a 899
suspension of the individual's certificate to practice for a 900
period of at least one year or, if determined appropriate by the 901
board, a more serious sanction involving the individual's 902
certificate to practice. 903

(D) For purposes of divisions (B)(10), (12), and (14) of this 904
section, the commission of the act may be established by a finding 905
by the board, pursuant to an adjudication under Chapter 119. of 906
the Revised Code, that the individual committed the act. The board 907
does not have jurisdiction under those divisions if the trial 908
court renders a final judgment in the individual's favor and that 909

judgment is based upon an adjudication on the merits. The board 910
has jurisdiction under those divisions if the trial court issues 911
an order of dismissal upon technical or procedural grounds. 912

(E) The sealing of conviction records by any court shall have 913
no effect upon a prior board order entered under this section or 914
upon the board's jurisdiction to take action under this section 915
if, based upon a plea of guilty, a judicial finding of guilt, or a 916
judicial finding of eligibility for intervention in lieu of 917
conviction, the board issued a notice of opportunity for a hearing 918
prior to the court's order to seal the records. The board shall 919
not be required to seal, destroy, redact, or otherwise modify its 920
records to reflect the court's sealing of conviction records. 921

(F)(1) The board shall investigate evidence that appears to 922
show that a person has violated any provision of this chapter or 923
any rule adopted under it. Any person may report to the board in a 924
signed writing any information that the person may have that 925
appears to show a violation of any provision of this chapter or 926
any rule adopted under it. In the absence of bad faith, any person 927
who reports information of that nature or who testifies before the 928
board in any adjudication conducted under Chapter 119. of the 929
Revised Code shall not be liable in damages in a civil action as a 930
result of the report or testimony. Each complaint or allegation of 931
a violation received by the board shall be assigned a case number 932
and shall be recorded by the board. 933

(2) Investigations of alleged violations of this chapter or 934
any rule adopted under it shall be supervised by the supervising 935
member elected by the board in accordance with section 4731.02 of 936
the Revised Code and by the secretary as provided in section 937
4731.39 of the Revised Code. The president may designate another 938
member of the board to supervise the investigation in place of the 939
supervising member. No member of the board who supervises the 940
investigation of a case shall participate in further adjudication 941

of the case. 942

(3) In investigating a possible violation of this chapter or 943
any rule adopted under this chapter, or in conducting an 944
inspection under division (E) of section 4731.054 of the Revised 945
Code, the board may question witnesses, conduct interviews, 946
administer oaths, order the taking of depositions, inspect and 947
copy any books, accounts, papers, records, or documents, issue 948
subpoenas, and compel the attendance of witnesses and production 949
of books, accounts, papers, records, documents, and testimony, 950
except that a subpoena for patient record information shall not be 951
issued without consultation with the attorney general's office and 952
approval of the secretary and supervising member of the board. 953

(a) Before issuance of a subpoena for patient record 954
information, the secretary and supervising member shall determine 955
whether there is probable cause to believe that the complaint 956
filed alleges a violation of this chapter or any rule adopted 957
under it and that the records sought are relevant to the alleged 958
violation and material to the investigation. The subpoena may 959
apply only to records that cover a reasonable period of time 960
surrounding the alleged violation. 961

(b) On failure to comply with any subpoena issued by the 962
board and after reasonable notice to the person being subpoenaed, 963
the board may move for an order compelling the production of 964
persons or records pursuant to the Rules of Civil Procedure. 965

(c) A subpoena issued by the board may be served by a 966
sheriff, the sheriff's deputy, or a board employee designated by 967
the board. Service of a subpoena issued by the board may be made 968
by delivering a copy of the subpoena to the person named therein, 969
reading it to the person, or leaving it at the person's usual 970
place of residence, usual place of business, or address on file 971
with the board. When serving a subpoena to an applicant for or the 972
holder of a certificate issued under this chapter, service of the 973

subpoena may be made by certified mail, return receipt requested, 974
and the subpoena shall be deemed served on the date delivery is 975
made or the date the person refuses to accept delivery. If the 976
person being served refuses to accept the subpoena or is not 977
located, service may be made to an attorney who notifies the board 978
that the attorney is representing the person. 979

(d) A sheriff's deputy who serves a subpoena shall receive 980
the same fees as a sheriff. Each witness who appears before the 981
board in obedience to a subpoena shall receive the fees and 982
mileage provided for under section 119.094 of the Revised Code. 983

(4) All hearings, investigations, and inspections of the 984
board shall be considered civil actions for the purposes of 985
section 2305.252 of the Revised Code. 986

(5) A report required to be submitted to the board under this 987
chapter, a complaint, or information received by the board 988
pursuant to an investigation or pursuant to an inspection under 989
division (E) of section 4731.054 of the Revised Code is 990
confidential and not subject to discovery in any civil action. 991

The board shall conduct all investigations or inspections and 992
proceedings in a manner that protects the confidentiality of 993
patients and persons who file complaints with the board. The board 994
shall not make public the names or any other identifying 995
information about patients or complainants unless proper consent 996
is given or, in the case of a patient, a waiver of the patient 997
privilege exists under division (B) of section 2317.02 of the 998
Revised Code, except that consent or a waiver of that nature is 999
not required if the board possesses reliable and substantial 1000
evidence that no bona fide physician-patient relationship exists. 1001

The board may share any information it receives pursuant to 1002
an investigation or inspection, including patient records and 1003
patient record information, with law enforcement agencies, other 1004

licensing boards, and other governmental agencies that are 1005
prosecuting, adjudicating, or investigating alleged violations of 1006
statutes or administrative rules. An agency or board that receives 1007
the information shall comply with the same requirements regarding 1008
confidentiality as those with which the state medical board must 1009
comply, notwithstanding any conflicting provision of the Revised 1010
Code or procedure of the agency or board that applies when it is 1011
dealing with other information in its possession. In a judicial 1012
proceeding, the information may be admitted into evidence only in 1013
accordance with the Rules of Evidence, but the court shall require 1014
that appropriate measures are taken to ensure that confidentiality 1015
is maintained with respect to any part of the information that 1016
contains names or other identifying information about patients or 1017
complainants whose confidentiality was protected by the state 1018
medical board when the information was in the board's possession. 1019
Measures to ensure confidentiality that may be taken by the court 1020
include sealing its records or deleting specific information from 1021
its records. 1022

(6) On a quarterly basis, the board shall prepare a report 1023
that documents the disposition of all cases during the preceding 1024
three months. The report shall contain the following information 1025
for each case with which the board has completed its activities: 1026

(a) The case number assigned to the complaint or alleged 1027
violation; 1028

(b) The type of certificate to practice, if any, held by the 1029
individual against whom the complaint is directed; 1030

(c) A description of the allegations contained in the 1031
complaint; 1032

(d) The disposition of the case. 1033

The report shall state how many cases are still pending and 1034
shall be prepared in a manner that protects the identity of each 1035

person involved in each case. The report shall be a public record 1036
under section 149.43 of the Revised Code. 1037

(G) If the secretary and supervising member determine both of 1038
the following, they may recommend that the board suspend an 1039
individual's certificate to practice without a prior hearing: 1040

(1) That there is clear and convincing evidence that an 1041
individual has violated division (B) of this section; 1042

(2) That the individual's continued practice presents a 1043
danger of immediate and serious harm to the public. 1044

Written allegations shall be prepared for consideration by 1045
the board. The board, upon review of those allegations and by an 1046
affirmative vote of not fewer than six of its members, excluding 1047
the secretary and supervising member, may suspend a certificate 1048
without a prior hearing. A telephone conference call may be 1049
utilized for reviewing the allegations and taking the vote on the 1050
summary suspension. 1051

The board shall issue a written order of suspension by 1052
certified mail or in person in accordance with section 119.07 of 1053
the Revised Code. The order shall not be subject to suspension by 1054
the court during pendency of any appeal filed under section 119.12 1055
of the Revised Code. If the individual subject to the summary 1056
suspension requests an adjudicatory hearing by the board, the date 1057
set for the hearing shall be within fifteen days, but not earlier 1058
than seven days, after the individual requests the hearing, unless 1059
otherwise agreed to by both the board and the individual. 1060

Any summary suspension imposed under this division shall 1061
remain in effect, unless reversed on appeal, until a final 1062
adjudicative order issued by the board pursuant to this section 1063
and Chapter 119. of the Revised Code becomes effective. The board 1064
shall issue its final adjudicative order within seventy-five days 1065
after completion of its hearing. A failure to issue the order 1066

within seventy-five days shall result in dissolution of the 1067
summary suspension order but shall not invalidate any subsequent, 1068
final adjudicative order. 1069

(H) If the board takes action under division (B)(9), (11), or 1070
(13) of this section and the judicial finding of guilt, guilty 1071
plea, or judicial finding of eligibility for intervention in lieu 1072
of conviction is overturned on appeal, upon exhaustion of the 1073
criminal appeal, a petition for reconsideration of the order may 1074
be filed with the board along with appropriate court documents. 1075
Upon receipt of a petition of that nature and supporting court 1076
documents, the board shall reinstate the individual's certificate 1077
to practice. The board may then hold an adjudication under Chapter 1078
119. of the Revised Code to determine whether the individual 1079
committed the act in question. Notice of an opportunity for a 1080
hearing shall be given in accordance with Chapter 119. of the 1081
Revised Code. If the board finds, pursuant to an adjudication held 1082
under this division, that the individual committed the act or if 1083
no hearing is requested, the board may order any of the sanctions 1084
identified under division (B) of this section. 1085

(I) The certificate to practice issued to an individual under 1086
this chapter and the individual's practice in this state are 1087
automatically suspended as of the date of the individual's second 1088
or subsequent plea of guilty to, or judicial finding of guilt of, 1089
a violation of section 2919.123 of the Revised Code, or the date 1090
the individual pleads guilty to, is found by a judge or jury to be 1091
guilty of, or is subject to a judicial finding of eligibility for 1092
intervention in lieu of conviction in this state or treatment or 1093
intervention in lieu of conviction in another jurisdiction for any 1094
of the following criminal offenses in this state or a 1095
substantially equivalent criminal offense in another jurisdiction: 1096
aggravated murder, murder, voluntary manslaughter, felonious 1097
assault, kidnapping, rape, sexual battery, gross sexual 1098

imposition, aggravated arson, aggravated robbery, or aggravated 1099
burglary. Continued practice after suspension shall be considered 1100
practicing without a certificate. 1101

The board shall notify the individual subject to the 1102
suspension by certified mail or in person in accordance with 1103
section 119.07 of the Revised Code. If an individual whose 1104
certificate is automatically suspended under this division fails 1105
to make a timely request for an adjudication under Chapter 119. of 1106
the Revised Code, the board shall do whichever of the following is 1107
applicable: 1108

(1) If the automatic suspension under this division is for a 1109
second or subsequent plea of guilty to, or judicial finding of 1110
guilt of, a violation of section 2919.123 of the Revised Code, the 1111
board shall enter an order suspending the individual's certificate 1112
to practice for a period of at least one year or, if determined 1113
appropriate by the board, imposing a more serious sanction 1114
involving the individual's certificate to practice. 1115

(2) In all circumstances in which division (I)(1) of this 1116
section does not apply, enter a final order permanently revoking 1117
the individual's certificate to practice. 1118

(J) If the board is required by Chapter 119. of the Revised 1119
Code to give notice of an opportunity for a hearing and if the 1120
individual subject to the notice does not timely request a hearing 1121
in accordance with section 119.07 of the Revised Code, the board 1122
is not required to hold a hearing, but may adopt, by an 1123
affirmative vote of not fewer than six of its members, a final 1124
order that contains the board's findings. In that final order, the 1125
board may order any of the sanctions identified under division (A) 1126
or (B) of this section. 1127

(K) Any action taken by the board under division (B) of this 1128
section resulting in a suspension from practice shall be 1129

accompanied by a written statement of the conditions under which 1130
the individual's certificate to practice may be reinstated. The 1131
board shall adopt rules governing conditions to be imposed for 1132
reinstatement. Reinstatement of a certificate suspended pursuant 1133
to division (B) of this section requires an affirmative vote of 1134
not fewer than six members of the board. 1135

(L) When the board refuses to grant a certificate to an 1136
applicant, revokes an individual's certificate to practice, 1137
refuses to register an applicant, or refuses to reinstate an 1138
individual's certificate to practice, the board may specify that 1139
its action is permanent. An individual subject to a permanent 1140
action taken by the board is forever thereafter ineligible to hold 1141
a certificate to practice and the board shall not accept an 1142
application for reinstatement of the certificate or for issuance 1143
of a new certificate. 1144

(M) Notwithstanding any other provision of the Revised Code, 1145
all of the following apply: 1146

(1) The surrender of a certificate issued under this chapter 1147
shall not be effective unless or until accepted by the board. A 1148
telephone conference call may be utilized for acceptance of the 1149
surrender of an individual's certificate to practice. The 1150
telephone conference call shall be considered a special meeting 1151
under division (F) of section 121.22 of the Revised Code. 1152
Reinstatement of a certificate surrendered to the board requires 1153
an affirmative vote of not fewer than six members of the board. 1154

(2) An application for a certificate made under the 1155
provisions of this chapter may not be withdrawn without approval 1156
of the board. 1157

(3) Failure by an individual to renew a certificate of 1158
registration in accordance with this chapter shall not remove or 1159
limit the board's jurisdiction to take any disciplinary action 1160

under this section against the individual. 1161

(4) At the request of the board, a certificate holder shall 1162
immediately surrender to the board a certificate that the board 1163
has suspended, revoked, or permanently revoked. 1164

(N) Sanctions shall not be imposed under division (B)(28) of 1165
this section against any person who waives deductibles and 1166
copayments as follows: 1167

(1) In compliance with the health benefit plan that expressly 1168
allows such a practice. Waiver of the deductibles or copayments 1169
shall be made only with the full knowledge and consent of the plan 1170
purchaser, payer, and third-party administrator. Documentation of 1171
the consent shall be made available to the board upon request. 1172

(2) For professional services rendered to any other person 1173
authorized to practice pursuant to this chapter, to the extent 1174
allowed by this chapter and rules adopted by the board. 1175

(O) Under the board's investigative duties described in this 1176
section and subject to division (F) of this section, the board 1177
shall develop and implement a quality intervention program 1178
designed to improve through remedial education the clinical and 1179
communication skills of individuals authorized under this chapter 1180
to practice medicine and surgery, osteopathic medicine and 1181
surgery, and podiatric medicine and surgery. In developing and 1182
implementing the quality intervention program, the board may do 1183
all of the following: 1184

(1) Offer in appropriate cases as determined by the board an 1185
educational and assessment program pursuant to an investigation 1186
the board conducts under this section; 1187

(2) Select providers of educational and assessment services, 1188
including a quality intervention program panel of case reviewers; 1189

(3) Make referrals to educational and assessment service 1190

providers and approve individual educational programs recommended 1191
by those providers. The board shall monitor the progress of each 1192
individual undertaking a recommended individual educational 1193
program. 1194

(4) Determine what constitutes successful completion of an 1195
individual educational program and require further monitoring of 1196
the individual who completed the program or other action that the 1197
board determines to be appropriate; 1198

(5) Adopt rules in accordance with Chapter 119. of the 1199
Revised Code to further implement the quality intervention 1200
program. 1201

An individual who participates in an individual educational 1202
program pursuant to this division shall pay the financial 1203
obligations arising from that educational program. 1204

Section 2. That existing sections 2919.171, 2919.19, 1205
2919.191, 2919.192, 2919.193, and 4731.22 of the Revised Code are 1206
hereby repealed. 1207