

As Reported by the House Health Committee

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Representatives Hagan, Hood

Cosponsors: Representatives Wiggam, Romanchuk, Ginter, Patton, Patmon, Lanese, Brinkman, Blessing, DeVitis, Roegner, Slaby, Henne, Butler, Antani, Merrin, Schuring, Retherford, Conditt, Keller, Zeltwanger, Stein, Young, Becker, Green, Brenner, Hambley, Kick, Householder, Perales, Dean, LaTourette, Schaffer, Koehler, Huffman, McColley, Riedel, Sprague, Vitale, Pelanda, Goodman, Johnson, Speaker Rosenberger, Representatives Smith, R., Thompson, Landis, Faber, Hill, Lipps

A BILL

To amend sections 2317.56, 2919.171, 2919.19, 1
2919.191, 2919.192, 2919.193, and 4731.22; to 2
amend, for the purpose of adopting new section 3
numbers as indicated in parentheses, sections 4
2919.191 (2919.192), 2919.192 (2919.194), and 5
2919.193 (2919.198); and to enact new sections 6
2919.191 and 2919.193 and sections 2919.195, 7
2919.196, 2919.197, 2919.199, 2919.1910, and 8
2919.1911 of the Revised Code to generally 9
prohibit an abortion of an unborn human 10
individual with a detectable heartbeat and to 11
create the Joint Legislative Committee on 12
Adoption Promotion and Support. 13

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

Section 1. That sections 2317.56, 2919.171, 2919.19, 14

2919.191, 2919.192, 2919.193, and 4731.22 be amended; sections 15
2919.191 (2919.192), 2919.192 (2919.194), and 2919.193 16
(2919.198) be amended for the purpose of adopting new section 17
numbers as shown in parentheses; and new sections 2919.191 and 18
2919.193 and sections 2919.195, 2919.196, 2919.197, 2919.199, 19
2919.1910, and 2919.1911 of the Revised Code be enacted to read 20
as follows: 21

Sec. 2317.56. (A) As used in this section: 22

(1) "Medical emergency" has the same meaning as in section 23
2919.16 of the Revised Code. 24

(2) "Medical necessity" means a medical condition of a 25
pregnant woman that, in the reasonable judgment of the physician 26
who is attending the woman, so complicates the pregnancy that it 27
necessitates the immediate performance or inducement of an 28
abortion. 29

(3) "Probable gestational age of the embryo or fetus" 30
means the gestational age that, in the judgment of a physician, 31
is, with reasonable probability, the gestational age of the 32
embryo or fetus at the time that the physician informs a 33
pregnant woman pursuant to division (B) (1) (b) of this section. 34

(B) Except when there is a medical emergency or medical 35
necessity, an abortion shall be performed or induced only if all 36
of the following conditions are satisfied: 37

(1) At least twenty-four hours prior to the performance or 38
inducement of the abortion, a physician meets with the pregnant 39
woman in person in an individual, private setting and gives her 40
an adequate opportunity to ask questions about the abortion that 41
will be performed or induced. At this meeting, the physician 42
shall inform the pregnant woman, verbally or, if she is hearing 43

impaired, by other means of communication, of all of the 44
following: 45

(a) The nature and purpose of the particular abortion 46
procedure to be used and the medical risks associated with that 47
procedure; 48

(b) The probable gestational age of the embryo or fetus; 49

(c) The medical risks associated with the pregnant woman 50
carrying the pregnancy to term. 51

The meeting need not occur at the facility where the 52
abortion is to be performed or induced, and the physician 53
involved in the meeting need not be affiliated with that 54
facility or with the physician who is scheduled to perform or 55
induce the abortion. 56

(2) At least twenty-four hours prior to the performance or 57
inducement of the abortion, the physician who is to perform or 58
induce the abortion or the physician's agent does each of the 59
following in person, by telephone, by certified mail, return 60
receipt requested, or by regular mail evidenced by a certificate 61
of mailing: 62

(a) Inform the pregnant woman of the name of the physician 63
who is scheduled to perform or induce the abortion; 64

(b) Give the pregnant woman copies of the published 65
materials described in division (C) of this section; 66

(c) Inform the pregnant woman that the materials given 67
pursuant to division (B) (2) (b) of this section are published by 68
the state and that they describe the embryo or fetus and list 69
agencies that offer alternatives to abortion. The pregnant woman 70
may choose to examine or not to examine the materials. A 71

physician or an agent of a physician may choose to be 72
disassociated from the materials and may choose to comment or 73
not comment on the materials. 74

(3) If it has been determined that the unborn human 75
individual the pregnant woman is carrying has a detectable fetal 76
heartbeat, the physician who is to perform or induce the 77
abortion shall comply with the informed consent requirements in 78
section ~~2919.192~~ 2919.194 of the Revised Code in addition to 79
complying with the informed consent requirements in divisions 80
(B) (1), (2), (4), and (5) of this section. 81

(4) Prior to the performance or inducement of the 82
abortion, the pregnant woman signs a form consenting to the 83
abortion and certifies both of the following on that form: 84

(a) She has received the information and materials 85
described in divisions (B) (1) and (2) of this section, and her 86
questions about the abortion that will be performed or induced 87
have been answered in a satisfactory manner. 88

(b) She consents to the particular abortion voluntarily, 89
knowingly, intelligently, and without coercion by any person, 90
and she is not under the influence of any drug of abuse or 91
alcohol. 92

The form shall contain the name and contact information of 93
the physician who provided to the pregnant woman the information 94
described in division (B) (1) of this section. 95

(5) Prior to the performance or inducement of the 96
abortion, the physician who is scheduled to perform or induce 97
the abortion or the physician's agent receives a copy of the 98
pregnant woman's signed form on which she consents to the 99
abortion and that includes the certification required by 100

division (B) (4) of this section. 101

(C) The department of health shall publish in English and 102
in Spanish, in a typeface large enough to be clearly legible, 103
and in an easily comprehensible format, the following materials 104
on the department's web site: 105

(1) Materials that inform the pregnant woman about family 106
planning information, of publicly funded agencies that are 107
available to assist in family planning, and of public and 108
private agencies and services that are available to assist her 109
through the pregnancy, upon childbirth, and while the child is 110
dependent, including, but not limited to, adoption agencies. The 111
materials shall be geographically indexed; include a 112
comprehensive list of the available agencies, a description of 113
the services offered by the agencies, and the telephone numbers 114
and addresses of the agencies; and inform the pregnant woman 115
about available medical assistance benefits for prenatal care, 116
childbirth, and neonatal care and about the support obligations 117
of the father of a child who is born alive. The department shall 118
ensure that the materials described in division (C) (1) of this 119
section are comprehensive and do not directly or indirectly 120
promote, exclude, or discourage the use of any agency or service 121
described in this division. 122

(2) Materials that inform the pregnant woman of the 123
probable anatomical and physiological characteristics of the 124
zygote, blastocyte, embryo, or fetus at two-week gestational 125
increments for the first sixteen weeks of pregnancy and at four- 126
week gestational increments from the seventeenth week of 127
pregnancy to full term, including any relevant information 128
regarding the time at which the fetus possibly would be viable. 129
The department shall cause these materials to be published only 130

after it consults with the Ohio state medical association and 131
the Ohio section of the American college of obstetricians and 132
gynecologists relative to the probable anatomical and 133
physiological characteristics of a zygote, blastocyte, embryo, 134
or fetus at the various gestational increments. The materials 135
shall use language that is understandable by the average person 136
who is not medically trained, shall be objective and 137
nonjudgmental, and shall include only accurate scientific 138
information about the zygote, blastocyte, embryo, or fetus at 139
the various gestational increments. If the materials use a 140
pictorial, photographic, or other depiction to provide 141
information regarding the zygote, blastocyte, embryo, or fetus, 142
the materials shall include, in a conspicuous manner, a scale or 143
other explanation that is understandable by the average person 144
and that can be used to determine the actual size of the zygote, 145
blastocyte, embryo, or fetus at a particular gestational 146
increment as contrasted with the depicted size of the zygote, 147
blastocyte, embryo, or fetus at that gestational increment. 148

(D) Upon the submission of a request to the department of 149
health by any person, hospital, physician, or medical facility 150
for one copy of the materials published in accordance with 151
division (C) of this section, the department shall make the 152
requested copy of the materials available to the person, 153
hospital, physician, or medical facility that requested the 154
copy. 155

(E) If a medical emergency or medical necessity compels 156
the performance or inducement of an abortion, the physician who 157
will perform or induce the abortion, prior to its performance or 158
inducement if possible, shall inform the pregnant woman of the 159
medical indications supporting the physician's judgment that an 160
immediate abortion is necessary. Any physician who performs or 161

induces an abortion without the prior satisfaction of the 162
conditions specified in division (B) of this section because of 163
a medical emergency or medical necessity shall enter the reasons 164
for the conclusion that a medical emergency or medical necessity 165
exists in the medical record of the pregnant woman. 166

(F) If the conditions specified in division (B) of this 167
section are satisfied, consent to an abortion shall be presumed 168
to be valid and effective. 169

(G) The performance or inducement of an abortion without 170
the prior satisfaction of the conditions specified in division 171
(B) of this section does not constitute, and shall not be 172
construed as constituting, a violation of division (A) of 173
section 2919.12 of the Revised Code. The failure of a physician 174
to satisfy the conditions of division (B) of this section prior 175
to performing or inducing an abortion upon a pregnant woman may 176
be the basis of both of the following: 177

(1) A civil action for compensatory and exemplary damages 178
as described in division (H) of this section; 179

(2) Disciplinary action under section 4731.22 of the 180
Revised Code. 181

(H) (1) Subject to divisions (H) (2) and (3) of this 182
section, any physician who performs or induces an abortion with 183
actual knowledge that the conditions specified in division (B) 184
of this section have not been satisfied or with a heedless 185
indifference as to whether those conditions have been satisfied 186
is liable in compensatory and exemplary damages in a civil 187
action to any person, or the representative of the estate of any 188
person, who sustains injury, death, or loss to person or 189
property as a result of the failure to satisfy those conditions. 190

In the civil action, the court additionally may enter any 191
injunctive or other equitable relief that it considers 192
appropriate. 193

(2) The following shall be affirmative defenses in a civil 194
action authorized by division (H)(1) of this section: 195

(a) The physician performed or induced the abortion under 196
the circumstances described in division (E) of this section. 197

(b) The physician made a good faith effort to satisfy the 198
conditions specified in division (B) of this section. 199

(3) An employer or other principal is not liable in 200
damages in a civil action authorized by division (H)(1) of this 201
section on the basis of the doctrine of respondeat superior 202
unless either of the following applies: 203

(a) The employer or other principal had actual knowledge 204
or, by the exercise of reasonable diligence, should have known 205
that an employee or agent performed or induced an abortion with 206
actual knowledge that the conditions specified in division (B) 207
of this section had not been satisfied or with a heedless 208
indifference as to whether those conditions had been satisfied. 209

(b) The employer or other principal negligently failed to 210
secure the compliance of an employee or agent with division (B) 211
of this section. 212

(4) Notwithstanding division (E) of section 2919.12 of the 213
Revised Code, the civil action authorized by division (H)(1) of 214
this section shall be the exclusive civil remedy for persons, or 215
the representatives of estates of persons, who allegedly sustain 216
injury, death, or loss to person or property as a result of a 217
failure to satisfy the conditions specified in division (B) of 218
this section. 219

(I) The department of job and family services shall 220
prepare and conduct a public information program to inform women 221
of all available governmental programs and agencies that provide 222
services or assistance for family planning, prenatal care, child 223
care, or alternatives to abortion. 224

Sec. 2919.171. (A) (1) A physician who performs or induces 225
or attempts to perform or induce an abortion on a pregnant woman 226
shall submit a report to the department of health in accordance 227
with the forms, rules, and regulations adopted by the department 228
that includes all of the information the physician is required 229
to certify in writing or determine under ~~sections~~ section 230
2919.17 and, section 2919.18, divisions (A) and (C) of section 231
2919.192, division (C) of section 2919.193, division (B) of 232
section 2919.195, or division (A) of section 2919.196 of the 233
Revised Code~~+~~. 234

(2) If a person other than the physician described in 235
division (A) (1) of this section makes or maintains a record 236
required by sections 2919.192 to 2919.196 of the Revised Code on 237
the physician's behalf or at the physician's direction, that 238
person shall comply with the reporting requirement described in 239
division (A) (1) of this section as if the person were the 240
physician described in that division. 241

(B) By September 30 of each year, the department of health 242
shall issue a public report that provides statistics for the 243
previous calendar year compiled from all of the reports covering 244
that calendar year submitted to the department in accordance 245
with this section for each of the items listed in division (A) 246
of this section. The report shall also provide the statistics 247
for each previous calendar year in which a report was filed with 248
the department pursuant to this section, adjusted to reflect any 249

additional information that a physician provides to the 250
department in a late or corrected report. The department shall 251
ensure that none of the information included in the report could 252
reasonably lead to the identification of any pregnant woman upon 253
whom an abortion is performed. 254

(C) (1) The physician shall submit the report described in 255
division (A) of this section to the department of health within 256
fifteen days after the woman is discharged. If the physician 257
fails to submit the report more than thirty days after that 258
fifteen-day deadline, the physician shall be subject to a late 259
fee of five hundred dollars for each additional thirty-day 260
period or portion of a thirty-day period the report is overdue. 261
A physician who is required to submit to the department of 262
health a report under division (A) of this section and who has 263
not submitted a report or has submitted an incomplete report 264
more than one year following the fifteen-day deadline may, in an 265
action brought by the department of health, be directed by a 266
court of competent jurisdiction to submit a complete report to 267
the department of health within a period of time stated in a 268
court order or be subject to contempt of court. 269

(2) If a physician fails to comply with the requirements 270
of this section, other than filing a late report with the 271
department of health, or fails to submit a complete report to 272
the department of health in accordance with a court order, the 273
physician is subject to division (B) (44) of section 4731.22 of 274
the Revised Code. 275

(3) No person shall falsify any report required under this 276
section. Whoever violates this division is guilty of abortion 277
report falsification, a misdemeanor of the first degree. 278

(D) ~~Within ninety days of October 20, 2011, the~~ The 279

department of health shall adopt rules pursuant to section 280
111.15 of the Revised Code to assist in compliance with this 281
section. 282

Sec. 2919.19. (A) As used in this section and sections 283
2919.191 to ~~2919.193~~ 2919.1910 of the Revised Code: 284

~~(A)~~ (1) "Conception" means fertilization. 285

(2) "Contraceptive" means a drug, device, or chemical that 286
prevents conception. 287

(3) "DNA" means deoxyribonucleic acid. 288

(4) "Fetal heartbeat" means cardiac activity or the steady 289
and repetitive rhythmic contraction of the fetal heart within 290
the gestational sac. 291

~~(B)~~ (5) "Fetus" means the human offspring developing 292
during pregnancy from the moment of conception and includes the 293
embryonic stage of development. 294

~~(C)~~ (6) "Gestational age" means the age of an unborn human 295
individual as calculated from the first day of the last 296
menstrual period of a pregnant woman. 297

~~(D)~~ (7) "Gestational sac" means the structure that 298
comprises the extraembryonic membranes that envelop the fetus 299
and that is typically visible by ultrasound after the fourth 300
week of pregnancy. 301

~~(E)~~ (8) "Intrauterine pregnancy" means a pregnancy in 302
which the fetus is attached to the placenta within the uterus of 303
the pregnant woman. 304

(9) "Medical emergency" has the same meaning as in section 305
2919.16 of the Revised Code. 306

~~(F)~~ (10) "Physician" has the same meaning as in section 307
2305.113 of the Revised Code. 308

~~(G)~~ (11) "Pregnancy" means the human female reproductive 309
condition that begins with fertilization, when the woman is 310
carrying the developing human offspring, and that is calculated 311
from the first day of the last menstrual period of the woman. 312

~~(H)~~ (12) "Serious risk of the substantial and irreversible 313
impairment of a major bodily function" has the same meaning as 314
in section 2919.16 of the Revised Code. 315

~~(I)~~ (13) "Spontaneous miscarriage" means the natural or 316
accidental termination of a pregnancy and the expulsion of the 317
fetus, typically caused by genetic defects in the fetus or 318
physical abnormalities in the pregnant woman. 319

(14) "Standard medical practice" means the degree of 320
skill, care, and diligence that a physician of the same medical 321
specialty would employ in like circumstances. As applied to the 322
method used to determine the presence of a fetal heartbeat for 323
purposes of section ~~2919.191~~ 2919.192 of the Revised Code, 324
"standard medical practice" includes employing the appropriate 325
means of detection depending on the estimated gestational age of 326
the fetus and the condition of the woman and her pregnancy. 327

~~(J)~~ (15) "Unborn human individual" means an individual 328
organism of the species homo sapiens from fertilization until 329
live birth. 330

(B) (1) It is the intent of the general assembly that a 331
court judgment or order suspending enforcement of any provision 332
of this section or sections 2919.171 or 2919.191 to 2919.1910 of 333
the Revised Code is not to be regarded as tantamount to repeal 334
of that provision. 335

(2) After the issuance of a decision by the supreme court 336
of the United States overruling Roe v. Wade, 410 U.S. 113 337
(1973), the issuance of any other court order or judgment 338
restoring, expanding, or clarifying the authority of states to 339
prohibit or regulate abortion entirely or in part, or the 340
effective date of an amendment to the Constitution of the United 341
States restoring, expanding, or clarifying the authority of 342
states to prohibit or regulate abortion entirely or in part, the 343
attorney general may apply to the pertinent state or federal 344
court for either or both of the following: 345

(a) A declaration that any one or more sections specified 346
in division (B) (1) of this section are constitutional; 347

(b) A judgment or order lifting an injunction against the 348
enforcement of any one or more sections specified in division 349
(B) (1) of this section. 350

(3) If the attorney general fails to apply for the relief 351
described in division (B) (2) of this section within the thirty- 352
day period after an event described in that division occurs, any 353
county prosecutor may apply to the appropriate state or federal 354
court for such relief. 355

(4) If any provision of this section or sections 2919.171 356
or 2919.191 to 2919.1910 of the Revised Code is held invalid, or 357
if the application of such provision to any person or 358
circumstance is held invalid, the invalidity of that provision 359
does not affect any other provisions or applications of this 360
section and sections 2919.171 and 2919.191 to 2919.1910 of the 361
Revised Code that can be given effect without the invalid 362
provision or application, and to this end the provisions of this 363
section and sections 2919.171 and 2919.191 to 2919.1910 of the 364
Revised Code are severable as provided in section 1.50 of the 365

Revised Code. In particular, it is the intent of the general 366
assembly that any invalidity or potential invalidity of a 367
provision of this section or sections 2919.171 or 2919.191 to 368
2919.1910 of the Revised Code is not to impair the immediate and 369
continuing enforceability of the remaining provisions. It is 370
furthermore the intent of the general assembly that the 371
provisions of this section and sections 2919.171 or 2919.191 to 372
2919.1910 of the Revised Code are not to have the effect of 373
repealing or limiting any other laws of this state, except as 374
specified by this section and sections 2919.171 and 2919.191 to 375
2919.1910 of the Revised Code. 376

Sec. 2919.191. (A) The general assembly hereby declares 377
that it finds, according to contemporary medical research, all 378
of the following: 379

(1) As many as thirty per cent of natural pregnancies end 380
in spontaneous miscarriage. 381

(2) Less than five per cent of all natural pregnancies end 382
in spontaneous miscarriage after detection of fetal cardiac 383
activity. 384

(3) Over ninety per cent of in vitro pregnancies survive 385
the first trimester if cardiac activity is detected in the 386
gestational sac. 387

(4) Nearly ninety per cent of in vitro pregnancies do not 388
survive the first trimester where cardiac activity is not 389
detected in the gestational sac. 390

(5) Fetal heartbeat, therefore, has become a key medical 391
predictor that an unborn human individual will reach live birth. 392

(6) Cardiac activity begins at a biologically identifiable 393
moment in time, normally when the fetal heart is formed in the 394

gestational sac. 395

(7) The state of Ohio has legitimate interests from the 396
outset of the pregnancy in protecting the health of the woman 397
and the life of an unborn human individual who may be born. 398

(8) In order to make an informed choice about whether to 399
continue her pregnancy, the pregnant woman has a legitimate 400
interest in knowing the likelihood of the fetus surviving to 401
full-term birth based upon the presence of cardiac activity. 402

(B) Sections 2919.192 to 2919.195 of the Revised Code 403
apply only to intrauterine pregnancies. 404

Sec. ~~2919.191~~ 2919.192. (A) A person who intends to 405
perform or induce an abortion on a pregnant woman shall 406
determine whether there is a detectable fetal heartbeat of the 407
unborn human individual the pregnant woman is carrying. The 408
method of determining the presence of a fetal heartbeat shall be 409
consistent with the person's good faith understanding of 410
standard medical practice, provided that if rules have been 411
adopted under division ~~(C)~~ (B) of this section, the method 412
chosen shall be one that is consistent with the rules. The 413
person who determines the presence or absence of a fetal 414
heartbeat shall record in the pregnant woman's medical record 415
the estimated gestational age of the unborn human individual, 416
the method used to test for a fetal heartbeat, the date and time 417
of the test, and the results of the test. 418

~~(B) (1) Except when a medical emergency exists that~~ 419
~~prevents compliance with this division, no person shall perform~~ 420
~~or induce an abortion on a pregnant woman prior to determining~~ 421
~~if the unborn human individual the pregnant woman is carrying~~ 422
~~has a detectable fetal heartbeat. Any person who performs or~~ 423

~~induces an abortion on a pregnant woman based on the exception— 424
in this division shall note in the pregnant woman's medical— 425
records that a medical emergency necessitating the abortion— 426
existed and shall also note the medical condition of the— 427
pregnant woman that prevented compliance with this division. The— 428
person shall maintain a copy of the notes described in this— 429
division in the person's own records for at least seven years— 430
after the notes are entered into the medical records. 431~~

~~(2) The person who performs the examination for the 432
presence of a fetal heartbeat shall give the pregnant woman the 433
option to view or hear the fetal heartbeat. 434~~

~~(C) (B) The director of health may promulgate adopt rules 435
pursuant to section 111.15 of the Revised Code specifying the 436
appropriate methods of performing an examination for the purpose 437
of determining the presence of a fetal heartbeat of an unborn 438
individual based on standard medical practice. The rules shall 439
require only that an examination shall be performed externally. 440~~

~~(D) (C) A person is not in violation of division (A) ~~or~~ 441
~~(B)~~ of this section if that person has performed an examination 442
for the purpose of determining the presence of a fetal heartbeat 443
in the fetus of an unborn human individual utilizing standard 444
medical practice, that examination does not reveal a fetal 445
heartbeat or the person has been informed by a physician who has 446
performed the examination for a fetal heartbeat that the 447
examination did not reveal a fetal heartbeat, and the person 448
notes in the pregnant woman's medical records the procedure 449
utilized to detect the presence of a fetal heartbeat. 450~~

~~(E) Except as provided in division (F) of this section, no 451
person shall knowingly and purposefully perform or induce an 452
abortion on a pregnant woman before determining in accordance 453~~

~~with division (A) of this section whether the unborn human individual the pregnant woman is carrying has a detectable heartbeat. The failure of a person to satisfy the requirements of this section prior to performing or inducing an abortion on a pregnant woman may be the basis for either of the following:~~ 454
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~~(1) A civil action for compensatory and exemplary damages;~~ 459

~~(2) Disciplinary action under section 4731.22 of the Revised Code.~~ 460
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~~(F) Division (E) 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.~~ 462
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~~(G) The director of health may determine and specify in rules adopted pursuant to section 111.15 of the Revised Code and based upon available medical evidence the statistical probability of bringing an unborn human individual to term based on the gestational age of an unborn human individual who possesses a detectable fetal heartbeat.~~ 466
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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.~~ 472
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Sec. 2919.193. (A) Except as provided in division (B) of 482

this section, no person shall knowingly and purposefully perform 483
or induce an abortion on a pregnant woman before determining in 484
accordance with division (A) of section 2919.192 of the Revised 485
Code whether the unborn human individual the pregnant woman is 486
carrying has a detectable heartbeat. 487

Whoever violates this division is guilty of performing or 488
inducing an abortion before determining whether there is a 489
detectable fetal heartbeat, a felony of the fifth degree. A 490
violation of this division may also be the basis of either of 491
the following: 492

(1) A civil action for compensatory and exemplary damages; 493

(2) Disciplinary action under section 4731.22 of the 494
Revised Code. 495

(B) Division (A) of this section does not apply to a 496
physician who performs or induces the abortion if the physician 497
believes that a medical emergency exists that prevents 498
compliance with that division. 499

(C) A physician who performs or induces an abortion on a 500
pregnant woman based on the exception in division (B) of this 501
section shall make written notations in the pregnant woman's 502
medical records of both of the following: 503

(1) The physician's belief that a medical emergency 504
necessitating the abortion existed; 505

(2) The medical condition of the pregnant woman that 506
assertedly prevented compliance with division (A) of this 507
section. 508

For at least seven years from the date the notations are 509
made, the physician shall maintain in the physician's own 510

records a copy of the notations. 511

(D) A person is not in violation of division (A) of this 512
section if the person acts in accordance with division (A) of 513
section 2919.192 of the Revised Code and the method used to 514
determine the presence of a fetal heartbeat does not reveal a 515
fetal heartbeat. 516

Sec. ~~2919.192~~ 2919.194. (A) If a person who intends to 517
perform or induce an abortion on a pregnant woman has 518
determined, under section ~~2919.191~~ 2919.192 of the Revised Code, 519
that the unborn human individual the pregnant woman is carrying 520
has a detectable heartbeat, the person shall not, except as 521
provided in division (B) of this section, perform or induce the 522
abortion until all of the following requirements have been met 523
and at least twenty-four hours have elapsed after the last of 524
the requirements is met: 525

(1) The person intending to perform or induce the abortion 526
shall inform the pregnant woman in writing that the unborn human 527
individual the pregnant woman is carrying has a fetal heartbeat. 528

(2) The person intending to perform or induce the abortion 529
shall inform the pregnant woman, to the best of the person's 530
knowledge, of the statistical probability of bringing the unborn 531
human individual possessing a detectable fetal heartbeat to term 532
based on the gestational age of the unborn human individual the 533
pregnant woman is carrying or, if the director of health has 534
specified statistical probability information pursuant to rules 535
adopted under division (C) of this section, shall provide to the 536
pregnant woman that information. 537

(3) The pregnant woman shall sign a form acknowledging 538
that the pregnant woman has received information from the person 539

intending to perform or induce the abortion that the unborn 540
human individual the pregnant woman is carrying has a fetal 541
heartbeat and that the pregnant woman is aware of the 542
statistical probability of bringing the unborn human individual 543
the pregnant woman is carrying to term. 544

(B) Division (A) of this section does not apply if the 545
person who intends to perform or induce the abortion believes 546
that a medical emergency exists that prevents compliance with 547
that division. 548

(C) The director of health may adopt rules that specify 549
information regarding the statistical probability of bringing an 550
unborn human individual possessing a detectable heartbeat to 551
term based on the gestational age of the unborn human 552
individual. The rules shall be based on available medical 553
evidence and shall be adopted in accordance with section 111.15 554
of the Revised Code. 555

(D) This section does not have the effect of repealing or 556
limiting any other provision of the Revised Code relating to 557
informed consent for an abortion, including the provisions in 558
section 2317.56 of the Revised Code. 559

(E) Whoever violates division (A) of this section is 560
guilty of performing or inducing an abortion without informed 561
consent when there is a detectable fetal heartbeat, a 562
misdemeanor of the first degree on a first offense and a felony 563
of the fourth degree on each subsequent offense. 564

Sec. 2919.195. (A) Except as provided in division (B) of 565
this section, no person shall knowingly and purposefully perform 566
or induce an abortion on a pregnant woman with the specific 567
intent of causing or abetting the termination of the life of the 568

unborn human individual the pregnant woman is carrying and whose 569
fetal heartbeat has been detected in accordance with division 570
(A) of section 2919.192 of the Revised Code. 571

Whoever violates this division is guilty of performing or 572
inducing an abortion after the detection of a fetal heartbeat, a 573
felony of the fifth degree. 574

(B) Division (A) of this section does not apply to a 575
physician who performs a medical procedure that, in the 576
physician's reasonable medical judgment, is designed or intended 577
to prevent the death of the pregnant woman or to prevent a 578
serious risk of the substantial and irreversible impairment of a 579
major bodily function of the pregnant woman. 580

A physician who performs a medical procedure as described 581
in this division shall declare, in a written document, that the 582
medical procedure is necessary, to the best of the physician's 583
reasonable medical judgment, to prevent the death of the 584
pregnant woman or to prevent a serious risk of the substantial 585
and irreversible impairment of a major bodily function of the 586
pregnant woman. In the document, the physician shall specify the 587
pregnant woman's medical condition that the medical procedure is 588
asserted to address and the medical rationale for the 589
physician's conclusion that the medical procedure is necessary 590
to prevent the death of the pregnant woman or to prevent a 591
serious risk of the substantial and irreversible impairment of a 592
major bodily function of the pregnant woman. 593

A physician who performs a medical procedure as described 594
in this division shall place the written document required by 595
this division in the pregnant woman's medical records. The 596
physician shall maintain a copy of the document in the 597
physician's own records for at least seven years from the date 598

the document is created. 599

(C) A person is not in violation of division (A) of this 600
section if the person acts in accordance with division (A) of 601
section 2919.192 of the Revised Code and the method used to 602
determine the presence of a fetal heartbeat does not reveal a 603
fetal heartbeat. 604

(D) Division (A) of this section does not have the effect 605
of repealing or limiting any other provision of the Revised Code 606
that restricts or regulates the performance or inducement of an 607
abortion by a particular method or during a particular stage of 608
a pregnancy. 609

Sec. 2919.196. The provisions of this section are wholly 610
independent of the requirements of sections 2919.192 to 2919.195 611
of the Revised Code. 612

(A) A person who performs or induces an abortion on a 613
pregnant woman shall do whichever of the following is 614
applicable: 615

(1) If the reason for the abortion purported is to 616
preserve the health of the pregnant woman, the person shall 617
specify in a written document the medical condition that the 618
abortion is asserted to address and the medical rationale for 619
the person's conclusion that the abortion is necessary to 620
address that condition. 621

(2) If the reason for the abortion is other than to 622
preserve the health of the pregnant woman, the person shall 623
specify in a written document that maternal health is not the 624
purpose of the abortion. 625

(B) The person who specifies the information in the 626
document described in division (A) of this section shall place 627

the document in the pregnant woman's medical records. The person 628
who specifies the information shall maintain a copy of the 629
document in the person's own records for at least seven years 630
from the date the document is created. 631

Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of 632
the Revised Code prohibits the sale, use, prescription, or 633
administration of a drug, device, or chemical that is designed 634
for contraceptive purposes. 635

Sec. 2919.193-2919.198. A pregnant woman on whom an 636
abortion is performed or induced in violation of section 637
2919.191 or 2919.192-2919.193, 2919.194, or 2919.195 of the 638
Revised Code is not guilty of violating any of those sections; 639
is not guilty of attempting to commit, conspiring to commit, or 640
complicity in committing a violation of any of those sections; 641
and is not subject to a civil penalty based on the abortion 642
being performed or induced in violation of any of those 643
sections. 644

Sec. 2919.199. (A) A woman who meets either or both of the 645
following criteria may file a civil action for the wrongful 646
death of her unborn child: 647

(1) A woman on whom an abortion was performed or induced 648
in violation of division (A) of section 2919.193 or division (A) 649
of section 2919.195 of the Revised Code; 650

(2) A woman on whom an abortion was performed or induced 651
who was not given the information described in divisions (A) (1) 652
and (2) of section 2919.194 of the Revised Code or who did not 653
sign a form described in division (A) (3) of section 2919.194 of 654
the Revised code. 655

(B) A woman who prevails in an action filed under division 656

(A) of this section shall receive both of the following from the 657
person who committed the one or more acts described in division 658
(A) (1) or (2) of this section: 659

(1) Damages in an amount equal to ten thousand dollars or 660
an amount determined by the trier of fact after consideration of 661
the evidence at the mother's election at any time prior to final 662
judgment subject to the same defenses and requirements of proof, 663
except any requirement of live birth, as would apply to a suit 664
for the wrongful death of a child who had been born alive; 665

(2) Court costs and reasonable attorney's fees. 666

(C) A determination that division (A) of section 2919.193 667
of the Revised Code, division (A) (1), (2), or (3) of section 668
2919.194 of the Revised Code, or division (A) of section 669
2919.195 of the Revised Code is unconstitutional shall be a 670
defense to an action filed under division (A) of this section 671
alleging that the defendant violated the division that was 672
determined to be unconstitutional. 673

(D) If the defendant in an action filed under division (A) 674
of this section prevails and all of the following apply the 675
court shall award reasonable attorney's fees to the defendant in 676
accordance with section 2323.51 of the Revised Code: 677

(1) The court finds that the commencement of the action 678
constitutes frivolous conduct, as defined in section 2323.51 of 679
the Revised Code. 680

(2) The court's finding in division (D) (1) of this section 681
is not based on that court or another court determining that 682
division (A) of section 2919.193 of the Revised Code, division 683
(A) (1), (2), or (3) of section 2919.194 of the Revised Code, or 684
division (A) of section 2919.195 of the Revised Code is 685

unconstitutional. 686

(3) The court finds that the defendant was adversely 687
affected by the frivolous conduct. 688

Sec. 2919.1910. (A) It is the intent of the general 689
assembly that women whose pregnancies are protected under 690
division (A) of section 2919.195 of the Revised Code be informed 691
of available options for adoption. 692

(B) In furtherance of the intent expressed in division (A) 693
of this section, there is hereby created the joint legislative 694
committee on adoption promotion and support. The committee may 695
review or study any matter that it considers relevant to the 696
adoption process in this state, with priority given to the study 697
or review of mechanisms intended to increase awareness of the 698
process, increase its effectiveness, or both. 699

(C) The committee shall consist of three members of the 700
house of representatives appointed by the speaker of the house 701
of representatives and three members of the senate appointed by 702
the president of the senate. Not more than two members appointed 703
by the speaker of the house of representatives and not more than 704
two members appointed by the president of the senate may be of 705
the same political party. 706

Each member of the committee shall hold office during the 707
general assembly in which the member is appointed and until a 708
successor has been appointed, notwithstanding the adjournment 709
sine die of the general assembly in which the member was 710
appointed or the expiration of the member's term as a member of 711
the general assembly. Any vacancies occurring among the members 712
of the committee shall be filled in the manner of the original 713
appointment. 714

(D) The committee has the same powers as other standing or 715
select committees of the general assembly. 716

Sec. 2919.1911. The department of health shall inspect the 717
medical records from any facility that performs abortions to 718
ensure that the physicians or other persons who perform 719
abortions at that facility are in compliance with the reporting 720
requirements under section 2919.171 of the Revised Code. The 721
facility shall make the medical records available for inspection 722
to the department of health but shall not release any personal 723
medical information in the medical records that is prohibited by 724
law. 725

Sec. 4731.22. (A) The state medical board, by an 726
affirmative vote of not fewer than six of its members, may 727
limit, revoke, or suspend a license or certificate to practice 728
or certificate to recommend, refuse to grant a license or 729
certificate, refuse to renew a license or certificate, refuse to 730
reinstate a license or certificate, or reprimand or place on 731
probation the holder of a license or certificate if the 732
individual applying for or holding the license or certificate is 733
found by the board to have committed fraud during the 734
administration of the examination for a license or certificate 735
to practice or to have committed fraud, misrepresentation, or 736
deception in applying for, renewing, or securing any license or 737
certificate to practice or certificate to recommend issued by 738
the board. 739

(B) The board, by an affirmative vote of not fewer than 740
six members, shall, to the extent permitted by law, limit, 741
revoke, or suspend a license or certificate to practice or 742
certificate to recommend, refuse to issue a license or 743
certificate, refuse to renew a license or certificate, refuse to 744

reinstate a license or certificate, or reprimand or place on 745
probation the holder of a license or certificate for one or more 746
of the following reasons: 747

(1) Permitting one's name or one's license or certificate 748
to practice to be used by a person, group, or corporation when 749
the individual concerned is not actually directing the treatment 750
given; 751

(2) Failure to maintain minimal standards applicable to 752
the selection or administration of drugs, or failure to employ 753
acceptable scientific methods in the selection of drugs or other 754
modalities for treatment of disease; 755

(3) Except as provided in section 4731.97 of the Revised 756
Code, selling, giving away, personally furnishing, prescribing, 757
or administering drugs for other than legal and legitimate 758
therapeutic purposes or a plea of guilty to, a judicial finding 759
of guilt of, or a judicial finding of eligibility for 760
intervention in lieu of conviction of, a violation of any 761
federal or state law regulating the possession, distribution, or 762
use of any drug; 763

(4) Willfully betraying a professional confidence. 764

For purposes of this division, "willfully betraying a 765
professional confidence" does not include providing any 766
information, documents, or reports under sections 307.621 to 767
307.629 of the Revised Code to a child fatality review board; 768
does not include providing any information, documents, or 769
reports to the director of health pursuant to guidelines 770
established under section 3701.70 of the Revised Code; does not 771
include written notice to a mental health professional under 772
section 4731.62 of the Revised Code; and does not include the 773

making of a report of an employee's use of a drug of abuse, or a 774
report of a condition of an employee other than one involving 775
the use of a drug of abuse, to the employer of the employee as 776
described in division (B) of section 2305.33 of the Revised 777
Code. Nothing in this division affects the immunity from civil 778
liability conferred by section 2305.33 or 4731.62 of the Revised 779
Code upon a physician who makes a report in accordance with 780
section 2305.33 or notifies a mental health professional in 781
accordance with section 4731.62 of the Revised Code. As used in 782
this division, "employee," "employer," and "physician" have the 783
same meanings as in section 2305.33 of the Revised Code. 784

(5) Making a false, fraudulent, deceptive, or misleading 785
statement in the solicitation of or advertising for patients; in 786
relation to the practice of medicine and surgery, osteopathic 787
medicine and surgery, podiatric medicine and surgery, or a 788
limited branch of medicine; or in securing or attempting to 789
secure any license or certificate to practice issued by the 790
board. 791

As used in this division, "false, fraudulent, deceptive, 792
or misleading statement" means a statement that includes a 793
misrepresentation of fact, is likely to mislead or deceive 794
because of a failure to disclose material facts, is intended or 795
is likely to create false or unjustified expectations of 796
favorable results, or includes representations or implications 797
that in reasonable probability will cause an ordinarily prudent 798
person to misunderstand or be deceived. 799

(6) A departure from, or the failure to conform to, 800
minimal standards of care of similar practitioners under the 801
same or similar circumstances, whether or not actual injury to a 802
patient is established; 803

- (7) Representing, with the purpose of obtaining 804
compensation or other advantage as personal gain or for any 805
other person, that an incurable disease or injury, or other 806
incurable condition, can be permanently cured; 807
- (8) The obtaining of, or attempting to obtain, money or 808
anything of value by fraudulent misrepresentations in the course 809
of practice; 810
- (9) A plea of guilty to, a judicial finding of guilt of, 811
or a judicial finding of eligibility for intervention in lieu of 812
conviction for, a felony; 813
- (10) Commission of an act that constitutes a felony in 814
this state, regardless of the jurisdiction in which the act was 815
committed; 816
- (11) A plea of guilty to, a judicial finding of guilt of, 817
or a judicial finding of eligibility for intervention in lieu of 818
conviction for, a misdemeanor committed in the course of 819
practice; 820
- (12) Commission of an act in the course of practice that 821
constitutes a misdemeanor in this state, regardless of the 822
jurisdiction in which the act was committed; 823
- (13) A plea of guilty to, a judicial finding of guilt of, 824
or a judicial finding of eligibility for intervention in lieu of 825
conviction for, a misdemeanor involving moral turpitude; 826
- (14) Commission of an act involving moral turpitude that 827
constitutes a misdemeanor in this state, regardless of the 828
jurisdiction in which the act was committed; 829
- (15) Violation of the conditions of limitation placed by 830
the board upon a license or certificate to practice; 831

(16) Failure to pay license renewal fees specified in this chapter; 832
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(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business; 834
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(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose license or certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession. 839
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For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised 850
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Code. 862

(19) Inability to practice according to acceptable and 863
prevailing standards of care by reason of mental illness or 864
physical illness, including, but not limited to, physical 865
deterioration that adversely affects cognitive, motor, or 866
perceptive skills. 867

In enforcing this division, the board, upon a showing of a 868
possible violation, may compel any individual authorized to 869
practice by this chapter or who has submitted an application 870
pursuant to this chapter to submit to a mental examination, 871
physical examination, including an HIV test, or both a mental 872
and a physical examination. The expense of the examination is 873
the responsibility of the individual compelled to be examined. 874
Failure to submit to a mental or physical examination or consent 875
to an HIV test ordered by the board constitutes an admission of 876
the allegations against the individual unless the failure is due 877
to circumstances beyond the individual's control, and a default 878
and final order may be entered without the taking of testimony 879
or presentation of evidence. If the board finds an individual 880
unable to practice because of the reasons set forth in this 881
division, the board shall require the individual to submit to 882
care, counseling, or treatment by physicians approved or 883
designated by the board, as a condition for initial, continued, 884
reinstated, or renewed authority to practice. An individual 885
affected under this division shall be afforded an opportunity to 886
demonstrate to the board the ability to resume practice in 887
compliance with acceptable and prevailing standards under the 888
provisions of the individual's license or certificate. For the 889
purpose of this division, any individual who applies for or 890
receives a license or certificate to practice under this chapter 891
accepts the privilege of practicing in this state and, by so 892

doing, shall be deemed to have given consent to submit to a 893
mental or physical examination when directed to do so in writing 894
by the board, and to have waived all objections to the 895
admissibility of testimony or examination reports that 896
constitute a privileged communication. 897

(20) Except as provided in division (F)(1)(b) of section 898
4731.282 of the Revised Code or when civil penalties are imposed 899
under section 4731.225 of the Revised Code, and subject to 900
section 4731.226 of the Revised Code, violating or attempting to 901
violate, directly or indirectly, or assisting in or abetting the 902
violation of, or conspiring to violate, any provisions of this 903
chapter or any rule promulgated by the board. 904

This division does not apply to a violation or attempted 905
violation of, assisting in or abetting the violation of, or a 906
conspiracy to violate, any provision of this chapter or any rule 907
adopted by the board that would preclude the making of a report 908
by a physician of an employee's use of a drug of abuse, or of a 909
condition of an employee other than one involving the use of a 910
drug of abuse, to the employer of the employee as described in 911
division (B) of section 2305.33 of the Revised Code. Nothing in 912
this division affects the immunity from civil liability 913
conferred by that section upon a physician who makes either type 914
of report in accordance with division (B) of that section. As 915
used in this division, "employee," "employer," and "physician" 916
have the same meanings as in section 2305.33 of the Revised 917
Code. 918

(21) The violation of section 3701.79 of the Revised Code 919
or of any abortion rule adopted by the director of health 920
pursuant to section 3701.341 of the Revised Code; 921

(22) Any of the following actions taken by an agency 922

responsible for authorizing, certifying, or regulating an 923
individual to practice a health care occupation or provide 924
health care services in this state or another jurisdiction, for 925
any reason other than the nonpayment of fees: the limitation, 926
revocation, or suspension of an individual's license to 927
practice; acceptance of an individual's license surrender; 928
denial of a license; refusal to renew or reinstate a license; 929
imposition of probation; or issuance of an order of censure or 930
other reprimand; 931

(23) The violation of section 2919.12 of the Revised Code 932
or the performance or inducement of an abortion upon a pregnant 933
woman with actual knowledge that the conditions specified in 934
division (B) of section 2317.56 of the Revised Code have not 935
been satisfied or with a heedless indifference as to whether 936
those conditions have been satisfied, unless an affirmative 937
defense as specified in division (H) (2) of that section would 938
apply in a civil action authorized by division (H) (1) of that 939
section; 940

(24) The revocation, suspension, restriction, reduction, 941
or termination of clinical privileges by the United States 942
department of defense or department of veterans affairs or the 943
termination or suspension of a certificate of registration to 944
prescribe drugs by the drug enforcement administration of the 945
United States department of justice; 946

(25) Termination or suspension from participation in the 947
medicare or medicaid programs by the department of health and 948
human services or other responsible agency for any act or acts 949
that also would constitute a violation of division (B) (2), (3), 950
(6), (8), or (19) of this section; 951

(26) Impairment of ability to practice according to 952

acceptable and prevailing standards of care because of habitual 953
or excessive use or abuse of drugs, alcohol, or other substances 954
that impair ability to practice. 955

For the purposes of this division, any individual 956
authorized to practice by this chapter accepts the privilege of 957
practicing in this state subject to supervision by the board. By 958
filing an application for or holding a license or certificate to 959
practice under this chapter, an individual shall be deemed to 960
have given consent to submit to a mental or physical examination 961
when ordered to do so by the board in writing, and to have 962
waived all objections to the admissibility of testimony or 963
examination reports that constitute privileged communications. 964

If it has reason to believe that any individual authorized 965
to practice by this chapter or any applicant for licensure or 966
certification to practice suffers such impairment, the board may 967
compel the individual to submit to a mental or physical 968
examination, or both. The expense of the examination is the 969
responsibility of the individual compelled to be examined. Any 970
mental or physical examination required under this division 971
shall be undertaken by a treatment provider or physician who is 972
qualified to conduct the examination and who is chosen by the 973
board. 974

Failure to submit to a mental or physical examination 975
ordered by the board constitutes an admission of the allegations 976
against the individual unless the failure is due to 977
circumstances beyond the individual's control, and a default and 978
final order may be entered without the taking of testimony or 979
presentation of evidence. If the board determines that the 980
individual's ability to practice is impaired, the board shall 981
suspend the individual's license or certificate or deny the 982

individual's application and shall require the individual, as a 983
condition for initial, continued, reinstated, or renewed 984
licensure or certification to practice, to submit to treatment. 985

Before being eligible to apply for reinstatement of a 986
license or certificate suspended under this division, the 987
impaired practitioner shall demonstrate to the board the ability 988
to resume practice in compliance with acceptable and prevailing 989
standards of care under the provisions of the practitioner's 990
license or certificate. The demonstration shall include, but 991
shall not be limited to, the following: 992

(a) Certification from a treatment provider approved under 993
section 4731.25 of the Revised Code that the individual has 994
successfully completed any required inpatient treatment; 995

(b) Evidence of continuing full compliance with an 996
aftercare contract or consent agreement; 997

(c) Two written reports indicating that the individual's 998
ability to practice has been assessed and that the individual 999
has been found capable of practicing according to acceptable and 1000
prevailing standards of care. The reports shall be made by 1001
individuals or providers approved by the board for making the 1002
assessments and shall describe the basis for their 1003
determination. 1004

The board may reinstate a license or certificate suspended 1005
under this division after that demonstration and after the 1006
individual has entered into a written consent agreement. 1007

When the impaired practitioner resumes practice, the board 1008
shall require continued monitoring of the individual. The 1009
monitoring shall include, but not be limited to, compliance with 1010
the written consent agreement entered into before reinstatement 1011

or with conditions imposed by board order after a hearing, and, 1012
upon termination of the consent agreement, submission to the 1013
board for at least two years of annual written progress reports 1014
made under penalty of perjury stating whether the individual has 1015
maintained sobriety. 1016

(27) A second or subsequent violation of section 4731.66 1017
or 4731.69 of the Revised Code; 1018

(28) Except as provided in division (N) of this section: 1019

(a) Waiving the payment of all or any part of a deductible 1020
or copayment that a patient, pursuant to a health insurance or 1021
health care policy, contract, or plan that covers the 1022
individual's services, otherwise would be required to pay if the 1023
waiver is used as an enticement to a patient or group of 1024
patients to receive health care services from that individual; 1025

(b) Advertising that the individual will waive the payment 1026
of all or any part of a deductible or copayment that a patient, 1027
pursuant to a health insurance or health care policy, contract, 1028
or plan that covers the individual's services, otherwise would 1029
be required to pay. 1030

(29) Failure to use universal blood and body fluid 1031
precautions established by rules adopted under section 4731.051 1032
of the Revised Code; 1033

(30) Failure to provide notice to, and receive 1034
acknowledgment of the notice from, a patient when required by 1035
section 4731.143 of the Revised Code prior to providing 1036
nonemergency professional services, or failure to maintain that 1037
notice in the patient's medical record; 1038

(31) Failure of a physician supervising a physician 1039
assistant to maintain supervision in accordance with the 1040

requirements of Chapter 4730. of the Revised Code and the rules	1041
adopted under that chapter;	1042
(32) Failure of a physician or podiatrist to enter into a	1043
standard care arrangement with a clinical nurse specialist,	1044
certified nurse-midwife, or certified nurse practitioner with	1045
whom the physician or podiatrist is in collaboration pursuant to	1046
section 4731.27 of the Revised Code or failure to fulfill the	1047
responsibilities of collaboration after entering into a standard	1048
care arrangement;	1049
(33) Failure to comply with the terms of a consult	1050
agreement entered into with a pharmacist pursuant to section	1051
4729.39 of the Revised Code;	1052
(34) Failure to cooperate in an investigation conducted by	1053
the board under division (F) of this section, including failure	1054
to comply with a subpoena or order issued by the board or	1055
failure to answer truthfully a question presented by the board	1056
in an investigative interview, an investigative office	1057
conference, at a deposition, or in written interrogatories,	1058
except that failure to cooperate with an investigation shall not	1059
constitute grounds for discipline under this section if a court	1060
of competent jurisdiction has issued an order that either	1061
quashes a subpoena or permits the individual to withhold the	1062
testimony or evidence in issue;	1063
(35) Failure to supervise an oriental medicine	1064
practitioner or acupuncturist in accordance with Chapter 4762.	1065
of the Revised Code and the board's rules for providing that	1066
supervision;	1067
(36) Failure to supervise an anesthesiologist assistant in	1068
accordance with Chapter 4760. of the Revised Code and the	1069

board's rules for supervision of an anesthesiologist assistant;	1070
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	1071 1072
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1073 1074
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	1075 1076 1077
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	1078 1079 1080 1081
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	1082 1083 1084 1085
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	1086 1087 1088 1089
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	1090 1091 1092 1093
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or	1094 1095 1096 1097

2919.202 of the Revised Code;	1098
(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	1099 1100 1101 1102 1103
(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;	1104 1105 1106 1107
(47) Failure to comply with <u>any of the requirement- requirements regarding making or maintaining notes medical records or documents described in division (B) (A) of section 2919.191 2919.192, division (C) of section 2919.193, division (B) of section 2919.195, or division (A) of section 2919.196 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman;</u>	1108 1109 1110 1111 1112 1113 1114 1115
(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	1116 1117 1118 1119
(49) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section 4731.301 of the Revised Code when recommending treatment with medical marijuana;	1120 1121 1122 1123
(50) Practicing at a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid	1124 1125 1126

treatment classification unless the person operating that place 1127
has obtained and maintains the license with the classification; 1128

(51) Owning a facility, clinic, or other location that is 1129
subject to licensure as a category III terminal distributor of 1130
dangerous drugs with an office-based opioid treatment 1131
classification unless that place is licensed with the 1132
classification. 1133

(C) Disciplinary actions taken by the board under 1134
divisions (A) and (B) of this section shall be taken pursuant to 1135
an adjudication under Chapter 119. of the Revised Code, except 1136
that in lieu of an adjudication, the board may enter into a 1137
consent agreement with an individual to resolve an allegation of 1138
a violation of this chapter or any rule adopted under it. A 1139
consent agreement, when ratified by an affirmative vote of not 1140
fewer than six members of the board, shall constitute the 1141
findings and order of the board with respect to the matter 1142
addressed in the agreement. If the board refuses to ratify a 1143
consent agreement, the admissions and findings contained in the 1144
consent agreement shall be of no force or effect. 1145

A telephone conference call may be utilized for 1146
ratification of a consent agreement that revokes or suspends an 1147
individual's license or certificate to practice or certificate 1148
to recommend. The telephone conference call shall be considered 1149
a special meeting under division (F) of section 121.22 of the 1150
Revised Code. 1151

If the board takes disciplinary action against an 1152
individual under division (B) of this section for a second or 1153
subsequent plea of guilty to, or judicial finding of guilt of, a 1154
violation of section 2919.123 of the Revised Code, the 1155
disciplinary action shall consist of a suspension of the 1156

individual's license or certificate to practice for a period of 1157
at least one year or, if determined appropriate by the board, a 1158
more serious sanction involving the individual's license or 1159
certificate to practice. Any consent agreement entered into 1160
under this division with an individual that pertains to a second 1161
or subsequent plea of guilty to, or judicial finding of guilt 1162
of, a violation of that section shall provide for a suspension 1163
of the individual's license or certificate to practice for a 1164
period of at least one year or, if determined appropriate by the 1165
board, a more serious sanction involving the individual's 1166
license or certificate to practice. 1167

(D) For purposes of divisions (B) (10), (12), and (14) of 1168
this section, the commission of the act may be established by a 1169
finding by the board, pursuant to an adjudication under Chapter 1170
119. of the Revised Code, that the individual committed the act. 1171
The board does not have jurisdiction under those divisions if 1172
the trial court renders a final judgment in the individual's 1173
favor and that judgment is based upon an adjudication on the 1174
merits. The board has jurisdiction under those divisions if the 1175
trial court issues an order of dismissal upon technical or 1176
procedural grounds. 1177

(E) The sealing of conviction records by any court shall 1178
have no effect upon a prior board order entered under this 1179
section or upon the board's jurisdiction to take action under 1180
this section if, based upon a plea of guilty, a judicial finding 1181
of guilt, or a judicial finding of eligibility for intervention 1182
in lieu of conviction, the board issued a notice of opportunity 1183
for a hearing prior to the court's order to seal the records. 1184
The board shall not be required to seal, destroy, redact, or 1185
otherwise modify its records to reflect the court's sealing of 1186
conviction records. 1187

(F) (1) The board shall investigate evidence that appears 1188
to show that a person has violated any provision of this chapter 1189
or any rule adopted under it. Any person may report to the board 1190
in a signed writing any information that the person may have 1191
that appears to show a violation of any provision of this 1192
chapter or any rule adopted under it. In the absence of bad 1193
faith, any person who reports information of that nature or who 1194
testifies before the board in any adjudication conducted under 1195
Chapter 119. of the Revised Code shall not be liable in damages 1196
in a civil action as a result of the report or testimony. Each 1197
complaint or allegation of a violation received by the board 1198
shall be assigned a case number and shall be recorded by the 1199
board. 1200

(2) Investigations of alleged violations of this chapter 1201
or any rule adopted under it shall be supervised by the 1202
supervising member elected by the board in accordance with 1203
section 4731.02 of the Revised Code and by the secretary as 1204
provided in section 4731.39 of the Revised Code. The president 1205
may designate another member of the board to supervise the 1206
investigation in place of the supervising member. No member of 1207
the board who supervises the investigation of a case shall 1208
participate in further adjudication of the case. 1209

(3) In investigating a possible violation of this chapter 1210
or any rule adopted under this chapter, or in conducting an 1211
inspection under division (E) of section 4731.054 of the Revised 1212
Code, the board may question witnesses, conduct interviews, 1213
administer oaths, order the taking of depositions, inspect and 1214
copy any books, accounts, papers, records, or documents, issue 1215
subpoenas, and compel the attendance of witnesses and production 1216
of books, accounts, papers, records, documents, and testimony, 1217
except that a subpoena for patient record information shall not 1218

be issued without consultation with the attorney general's 1219
office and approval of the secretary and supervising member of 1220
the board. 1221

(a) Before issuance of a subpoena for patient record 1222
information, the secretary and supervising member shall 1223
determine whether there is probable cause to believe that the 1224
complaint filed alleges a violation of this chapter or any rule 1225
adopted under it and that the records sought are relevant to the 1226
alleged violation and material to the investigation. The 1227
subpoena may apply only to records that cover a reasonable 1228
period of time surrounding the alleged violation. 1229

(b) On failure to comply with any subpoena issued by the 1230
board and after reasonable notice to the person being 1231
subpoenaed, the board may move for an order compelling the 1232
production of persons or records pursuant to the Rules of Civil 1233
Procedure. 1234

(c) A subpoena issued by the board may be served by a 1235
sheriff, the sheriff's deputy, or a board employee designated by 1236
the board. Service of a subpoena issued by the board may be made 1237
by delivering a copy of the subpoena to the person named 1238
therein, reading it to the person, or leaving it at the person's 1239
usual place of residence, usual place of business, or address on 1240
file with the board. When serving a subpoena to an applicant for 1241
or the holder of a license or certificate issued under this 1242
chapter, service of the subpoena may be made by certified mail, 1243
return receipt requested, and the subpoena shall be deemed 1244
served on the date delivery is made or the date the person 1245
refuses to accept delivery. If the person being served refuses 1246
to accept the subpoena or is not located, service may be made to 1247
an attorney who notifies the board that the attorney is 1248

representing the person. 1249

(d) A sheriff's deputy who serves a subpoena shall receive 1250
the same fees as a sheriff. Each witness who appears before the 1251
board in obedience to a subpoena shall receive the fees and 1252
mileage provided for under section 119.094 of the Revised Code. 1253

(4) All hearings, investigations, and inspections of the 1254
board shall be considered civil actions for the purposes of 1255
section 2305.252 of the Revised Code. 1256

(5) A report required to be submitted to the board under 1257
this chapter, a complaint, or information received by the board 1258
pursuant to an investigation or pursuant to an inspection under 1259
division (E) of section 4731.054 of the Revised Code is 1260
confidential and not subject to discovery in any civil action. 1261

The board shall conduct all investigations or inspections 1262
and proceedings in a manner that protects the confidentiality of 1263
patients and persons who file complaints with the board. The 1264
board shall not make public the names or any other identifying 1265
information about patients or complainants unless proper consent 1266
is given or, in the case of a patient, a waiver of the patient 1267
privilege exists under division (B) of section 2317.02 of the 1268
Revised Code, except that consent or a waiver of that nature is 1269
not required if the board possesses reliable and substantial 1270
evidence that no bona fide physician-patient relationship 1271
exists. 1272

The board may share any information it receives pursuant 1273
to an investigation or inspection, including patient records and 1274
patient record information, with law enforcement agencies, other 1275
licensing boards, and other governmental agencies that are 1276
prosecuting, adjudicating, or investigating alleged violations 1277

of statutes or administrative rules. An agency or board that 1278
receives the information shall comply with the same requirements 1279
regarding confidentiality as those with which the state medical 1280
board must comply, notwithstanding any conflicting provision of 1281
the Revised Code or procedure of the agency or board that 1282
applies when it is dealing with other information in its 1283
possession. In a judicial proceeding, the information may be 1284
admitted into evidence only in accordance with the Rules of 1285
Evidence, but the court shall require that appropriate measures 1286
are taken to ensure that confidentiality is maintained with 1287
respect to any part of the information that contains names or 1288
other identifying information about patients or complainants 1289
whose confidentiality was protected by the state medical board 1290
when the information was in the board's possession. Measures to 1291
ensure confidentiality that may be taken by the court include 1292
sealing its records or deleting specific information from its 1293
records. 1294

(6) On a quarterly basis, the board shall prepare a report 1295
that documents the disposition of all cases during the preceding 1296
three months. The report shall contain the following information 1297
for each case with which the board has completed its activities: 1298

(a) The case number assigned to the complaint or alleged 1299
violation; 1300

(b) The type of license or certificate to practice, if 1301
any, held by the individual against whom the complaint is 1302
directed; 1303

(c) A description of the allegations contained in the 1304
complaint; 1305

(d) The disposition of the case. 1306

The report shall state how many cases are still pending 1307
and shall be prepared in a manner that protects the identity of 1308
each person involved in each case. The report shall be a public 1309
record under section 149.43 of the Revised Code. 1310

(G) If the secretary and supervising member determine both 1311
of the following, they may recommend that the board suspend an 1312
individual's license or certificate to practice or certificate 1313
to recommend without a prior hearing: 1314

(1) That there is clear and convincing evidence that an 1315
individual has violated division (B) of this section; 1316

(2) That the individual's continued practice presents a 1317
danger of immediate and serious harm to the public. 1318

Written allegations shall be prepared for consideration by 1319
the board. The board, upon review of those allegations and by an 1320
affirmative vote of not fewer than six of its members, excluding 1321
the secretary and supervising member, may suspend a license or 1322
certificate without a prior hearing. A telephone conference call 1323
may be utilized for reviewing the allegations and taking the 1324
vote on the summary suspension. 1325

The board shall issue a written order of suspension by 1326
certified mail or in person in accordance with section 119.07 of 1327
the Revised Code. The order shall not be subject to suspension 1328
by the court during pendency of any appeal filed under section 1329
119.12 of the Revised Code. If the individual subject to the 1330
summary suspension requests an adjudicatory hearing by the 1331
board, the date set for the hearing shall be within fifteen 1332
days, but not earlier than seven days, after the individual 1333
requests the hearing, unless otherwise agreed to by both the 1334
board and the individual. 1335

Any summary suspension imposed under this division shall 1336
remain in effect, unless reversed on appeal, until a final 1337
adjudicative order issued by the board pursuant to this section 1338
and Chapter 119. of the Revised Code becomes effective. The 1339
board shall issue its final adjudicative order within seventy- 1340
five days after completion of its hearing. A failure to issue 1341
the order within seventy-five days shall result in dissolution 1342
of the summary suspension order but shall not invalidate any 1343
subsequent, final adjudicative order. 1344

(H) If the board takes action under division (B) (9), (11), 1345
or (13) of this section and the judicial finding of guilt, 1346
guilty plea, or judicial finding of eligibility for intervention 1347
in lieu of conviction is overturned on appeal, upon exhaustion 1348
of the criminal appeal, a petition for reconsideration of the 1349
order may be filed with the board along with appropriate court 1350
documents. Upon receipt of a petition of that nature and 1351
supporting court documents, the board shall reinstate the 1352
individual's license or certificate to practice. The board may 1353
then hold an adjudication under Chapter 119. of the Revised Code 1354
to determine whether the individual committed the act in 1355
question. Notice of an opportunity for a hearing shall be given 1356
in accordance with Chapter 119. of the Revised Code. If the 1357
board finds, pursuant to an adjudication held under this 1358
division, that the individual committed the act or if no hearing 1359
is requested, the board may order any of the sanctions 1360
identified under division (B) of this section. 1361

(I) The license or certificate to practice issued to an 1362
individual under this chapter and the individual's practice in 1363
this state are automatically suspended as of the date of the 1364
individual's second or subsequent plea of guilty to, or judicial 1365
finding of guilt of, a violation of section 2919.123 of the 1366

Revised Code. In addition, the license or certificate to 1367
practice or certificate to recommend issued to an individual 1368
under this chapter and the individual's practice in this state 1369
are automatically suspended as of the date the individual pleads 1370
guilty to, is found by a judge or jury to be guilty of, or is 1371
subject to a judicial finding of eligibility for intervention in 1372
lieu of conviction in this state or treatment or intervention in 1373
lieu of conviction in another jurisdiction for any of the 1374
following criminal offenses in this state or a substantially 1375
equivalent criminal offense in another jurisdiction: aggravated 1376
murder, murder, voluntary manslaughter, felonious assault, 1377
kidnapping, rape, sexual battery, gross sexual imposition, 1378
aggravated arson, aggravated robbery, or aggravated burglary. 1379
Continued practice after suspension shall be considered 1380
practicing without a license or certificate. 1381

The board shall notify the individual subject to the 1382
suspension by certified mail or in person in accordance with 1383
section 119.07 of the Revised Code. If an individual whose 1384
license or certificate is automatically suspended under this 1385
division fails to make a timely request for an adjudication 1386
under Chapter 119. of the Revised Code, the board shall do 1387
whichever of the following is applicable: 1388

(1) If the automatic suspension under this division is for 1389
a second or subsequent plea of guilty to, or judicial finding of 1390
guilt of, a violation of section 2919.123 of the Revised Code, 1391
the board shall enter an order suspending the individual's 1392
license or certificate to practice for a period of at least one 1393
year or, if determined appropriate by the board, imposing a more 1394
serious sanction involving the individual's license or 1395
certificate to practice. 1396

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

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

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

(L) When the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for

reinstatement of the license or certificate or for issuance of a new license or certificate. 1427
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(M) Notwithstanding any other provision of the Revised Code, all of the following apply: 1429
1430

(1) The surrender of a license or certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board. 1431
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(2) An application for a license or certificate made under the provisions of this chapter may not be withdrawn without approval of the board. 1440
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(3) Failure by an individual to renew a license or certificate to practice in accordance with this chapter or a certificate to recommend in accordance with rules adopted under section 4731.301 of the Revised Code shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual. 1443
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(4) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or permanently revoked. 1449
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(N) Sanctions shall not be imposed under division (B) (28) of this section against any person who waives deductibles and copayments as follows: 1453
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(1) In compliance with the health benefit plan that 1456
expressly allows such a practice. Waiver of the deductibles or 1457
copayments shall be made only with the full knowledge and 1458
consent of the plan purchaser, payer, and third-party 1459
administrator. Documentation of the consent shall be made 1460
available to the board upon request. 1461

(2) For professional services rendered to any other person 1462
authorized to practice pursuant to this chapter, to the extent 1463
allowed by this chapter and rules adopted by the board. 1464

(0) Under the board's investigative duties described in 1465
this section and subject to division (F) of this section, the 1466
board shall develop and implement a quality intervention program 1467
designed to improve through remedial education the clinical and 1468
communication skills of individuals authorized under this 1469
chapter to practice medicine and surgery, osteopathic medicine 1470
and surgery, and podiatric medicine and surgery. In developing 1471
and implementing the quality intervention program, the board may 1472
do all of the following: 1473

(1) Offer in appropriate cases as determined by the board 1474
an educational and assessment program pursuant to an 1475
investigation the board conducts under this section; 1476

(2) Select providers of educational and assessment 1477
services, including a quality intervention program panel of case 1478
reviewers; 1479

(3) Make referrals to educational and assessment service 1480
providers and approve individual educational programs 1481
recommended by those providers. The board shall monitor the 1482
progress of each individual undertaking a recommended individual 1483
educational program. 1484

(4) Determine what constitutes successful completion of an 1485
individual educational program and require further monitoring of 1486
the individual who completed the program or other action that 1487
the board determines to be appropriate; 1488

(5) Adopt rules in accordance with Chapter 119. of the 1489
Revised Code to further implement the quality intervention 1490
program. 1491

An individual who participates in an individual 1492
educational program pursuant to this division shall pay the 1493
financial obligations arising from that educational program. 1494

Section 2. That existing sections 2317.56, 2919.171, 1495
2919.19, 2919.191, 2919.192, 2919.193, and 4731.22 of the 1496
Revised Code are hereby repealed. 1497

Section 3. If any provisions of a section as amended or 1498
enacted by this act, or the application thereof to any person or 1499
circumstance is held invalid, the invalidity does not affect 1500
other provisions or applications of the section or related 1501
sections which can be given effect without the invalid provision 1502
or application, and to this end the provisions are severable. 1503