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Sub. S. B. No. 157

Senators Johnson, Huffman, S.

Cosponsors: Senators Cirino, Brenner, Lang, Hottinger, Antani, Romanchuk, Hoagland, Wilson, O'Brien, Schaffer, Roegner, Blessing, Gavarone, Hackett, McColley, Peterson, Reineke Representatives Abrams, Click, John, Schmidt, Baldrige, Bird, Carfagna, Carruthers, Creech, Cross, Cutrona, Edwards, Ferguson, Fraizer, Ghanbari, Ginter, Grendell, Gross, Hall, Hillyer, Hoops, Johnson, Jones, Jordan, Kick, Koehler, Lipps, Loychik, Manchester, McClain, Merrin, Miller, K., Plummer, Powell, Richardson, Riedel, Roemer, Stein, Stephens, Stewart, Stoltzfus, Swearingen, White, Wiggam, Wilkin, Young, T., Speaker Cupp

A BILL

To amend sections 2919.13, 3701.79, 3701.99, 1
3702.3010, and 4731.22; to amend, for the 2
purpose of adopting a new section number as 3
indicated in parentheses, section 3702.305 4
(3702.3011); and to enact new section 3702.305 5
and sections 3701.792 and 4731.911 of the 6
Revised Code to require reports to be made after 7
a child is born alive following an abortion or 8
attempted abortion, to establish certain civil 9
or criminal penalties for failing to preserve 10
the health or life of such a child, and to make 11
changes regarding variances from written 12
transfer agreements. 13

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

Section 1. That sections 2919.13, 3701.79, 3701.99, 14

3702.3010, and 4731.22 be amended; section 3702.305 (3702.3011) 15
be amended for the purpose of adopting a new section number as 16
indicated in parentheses; and new section 3702.305 and sections 17
3701.792 and 4731.911 of the Revised Code be enacted to read as 18
follows: 19

Sec. 2919.13. (A) No person shall purposely take the life 20
of a child born by attempted abortion who is alive when removed 21
from the uterus of the pregnant woman. 22

(B) No person who performs an abortion shall purposely 23
fail to take the measures required by the exercise of medical 24
judgment in light of the attending circumstances to preserve the 25
health or life of a child who is alive when removed from the 26
uterus of the pregnant woman. 27

(C) (1) Whoever violates division (A) of this section is 28
guilty of abortion manslaughter, a felony of the first degree. 29

(2) Whoever violates division (B) of this section and the 30
child dies as a result of the person's failure to take the 31
measures described in that division is guilty of abortion 32
manslaughter, a felony of the first degree. 33

(3) Whoever violates division (B) of this section and the 34
child survives notwithstanding the person's failure to take the 35
measures described in that division is guilty of failure to 36
render medical care to an infant born alive, a felony of the 37
first degree. 38

(D) (1) A woman on whom an abortion is performed or 39
attempted may file a civil action for the wrongful death of the 40
woman's child against a person who violates division (A) of this 41
section. 42

(2) A woman on whom an abortion is performed or attempted 43

may file a civil action for injury, death, or loss to person or 44
property against a person who violates division (B) of this 45
section. 46

(3) A woman who prevails in an action filed under division 47
(D) (1) or (2) of this section shall receive both of the 48
following from the person who committed the act: 49

(a) Compensatory and exemplary damages in an amount 50
determined by the trier of fact; 51

(b) Court costs and reasonable attorney's fees. 52

Sec. 3701.79. (A) As used in this section and in sections 53
3701.791 and 3701.792 of the Revised Code: 54

(1) "Abortion" has the same meaning as in section 2919.11 55
of the Revised Code. 56

(2) "Abortion report" means a form completed pursuant to 57
division (C) of this section. 58

(3) "Ambulatory surgical facility" has the same meaning as 59
in section 3702.30 of the Revised Code. 60

(4) "Department" means the department of health. 61

(5) "Hospital" means any building, structure, institution, 62
or place devoted primarily to the maintenance and operation of 63
facilities for the diagnosis, treatment, and medical or surgical 64
care for three or more unrelated individuals suffering from 65
illness, disease, injury, or deformity, and regularly making 66
available at least clinical laboratory services, diagnostic x- 67
ray services, treatment facilities for surgery or obstetrical 68
care, or other definitive medical treatment. "Hospital" does not 69
include a "home" as defined in section 3721.01 of the Revised 70
Code. 71

(6) "Physician's office" means an office or portion of an office that is used to provide medical or surgical services to the physician's patients. "Physician's office" does not mean an ambulatory surgical facility, a hospital, or a hospital emergency department.

(7) "Postabortion care" means care given after the uterus has been evacuated by abortion.

(B) The department shall be responsible for collecting and collating abortion data reported to the department as required by this section.

(C) The attending physician shall complete an individual abortion report for the abortion of each zygote, blastocyte, embryo, or fetus the physician performs. The report shall be confidential and shall not contain the woman's name. The report shall include, but is not limited to, all of the following, insofar as the patient makes the data available that is not within the physician's knowledge:

(1) Patient number;

(2) The name and address of the facility in which the abortion was performed, and whether the facility is a hospital, ambulatory surgical facility, physician's office, or other facility;

(3) The date of the abortion;

(4) If a surgical abortion, the method of final disposition of the fetal remains under Chapter 3726. of the Revised Code;

(5) All of the following regarding the woman on whom the abortion was performed:

(a) Zip code of residence;	100
(b) Age;	101
(c) Race;	102
(d) Marital status;	103
(e) Number of previous pregnancies;	104
(f) Years of education;	105
(g) Number of living children;	106
(h) Number of zygotes, blastocytes, embryos, or fetuses previously aborted;	107 108
(i) Date of last induced abortion;	109
(j) Date of last live birth;	110
(k) Method of contraception at the time of conception;	111
(l) Date of the first day of the last menstrual period;	112
(m) Medical condition at the time of the abortion;	113
(n) Rh-type;	114
(o) The number of weeks of gestation at the time of the abortion.	115 116
(6) The type of abortion procedure performed;	117
(7) Complications by type;	118
(8) Written acknowledgment by the attending physician that the pregnant woman is not seeking the abortion, in whole or in part, because of any of the following:	119 120 121
(a) A test result indicating Down syndrome in an unborn child;	122 123

(b) A prenatal diagnosis of Down syndrome in an unborn child;	124 125
(c) Any other reason to believe that an unborn child has Down syndrome.	126 127
(9) Type of procedure performed after the abortion;	128
(10) Type of family planning recommended;	129
(11) Type of additional counseling given;	130
(12) Signature of attending physician.	131
(D) The physician who completed the abortion report under division (C) of this section shall submit the abortion report to the department within fifteen days after the woman is discharged.	132 133 134 135
(E) The appropriate vital records report or certificate shall be made out after the twentieth week of gestation.	136 137
(F) A copy of the abortion report shall be made part of the medical record of the patient of the facility in which the abortion was performed.	138 139 140
(G) Each hospital shall file monthly and annual reports listing the total number of women who have undergone a post-twelve-week-gestation abortion and received postabortion care. The annual report shall be filed following the conclusion of the state's fiscal year. Each report shall be filed within thirty days after the end of the applicable reporting period.	141 142 143 144 145 146
(H) Each case in which a physician treats a post abortion complication shall be reported on a postabortion complication form. The report shall be made upon a form prescribed by the department, shall be signed by the attending physician, and	147 148 149 150

shall be confidential.	151
(I) (1) Not later than the first day of October of each	152
year, the department shall issue an annual report of the	153
abortion data reported to the department for the previous	154
calendar year as required by this section. The annual report	155
shall include at least the following information:	156
(a) The total number of zygotes, blastocytes, embryos, or	157
fetuses that were aborted;	158
(b) The number of abortions performed on Ohio and out-of-	159
state residents;	160
(c) The number of abortions performed, sorted by each of	161
the following:	162
(i) The age of the woman on whom the abortion was	163
performed, using the following categories: under fifteen years	164
of age, fifteen to nineteen years of age, twenty to twenty-four	165
years of age, twenty-five to twenty-nine years of age, thirty to	166
thirty-four years of age, thirty-five to thirty-nine years of	167
age, forty to forty-four years of age, forty-five years of age	168
or older;	169
(ii) The race and Hispanic ethnicity of the woman on whom	170
the abortion was performed;	171
(iii) The education level of the woman on whom the	172
abortion was performed, using the following categories or their	173
equivalents: less than ninth grade, ninth through twelfth grade,	174
one or more years of college;	175
(iv) The marital status of the woman on whom the abortion	176
was performed;	177
(v) The number of living children of the woman on whom the	178

abortion was performed, using the following categories: none,	179
one, or two or more;	180
(vi) The number of weeks of gestation of the woman at the	181
time the abortion was performed, using the following categories:	182
less than nine weeks, nine to twelve weeks, thirteen to nineteen	183
weeks, or twenty weeks or more;	184
(vii) The county in which the abortion was performed;	185
(viii) The type of abortion procedure performed;	186
(ix) The number of zygotes, blastocytes, embryos, or	187
fetuses previously aborted by the woman on whom the abortion was	188
performed;	189
(x) The type of facility in which the abortion was	190
performed;	191
(xi) For Ohio residents, the county of residence of the	192
woman on whom the abortion was performed.	193
(2) The report also shall indicate the number and type of	194
the abortion complications reported to the department either on	195
the abortion report required under division (C) of this section	196
or the postabortion complication report required under division	197
(H) of this section.	198
(3) In addition to the annual report required under	199
division (I)(1) of this section, the department shall make	200
available, on request, the number of abortions performed by zip	201
code of residence.	202
(J) The director of health shall implement this section	203
and shall apply to the court of common pleas for temporary or	204
permanent injunctions restraining a violation or threatened	205
violation of its requirements. This action is an additional	206

remedy not dependent on the adequacy of the remedy at law. 207

Sec. 3701.792. (A) The director of health shall develop a 208
child survival form to be submitted to the department of health 209
in accordance with division (B) of this section each time a 210
child is born alive after an abortion or attempted abortion. In 211
developing the form, the director may consult with 212
obstetricians, maternal-fetal specialists, or any other 213
professionals the director considers appropriate. The form shall 214
include areas for all of the following to be provided: 215

(1) The patient number for the woman on whom the abortion 216
was performed or attempted; 217

(2) The name, primary business address, and signature of 218
the attending physician described in section 3701.79 of the 219
Revised Code who performed or attempted to perform the abortion; 220

(3) The name and address of the facility in which the 221
abortion was performed or attempted, and whether the facility is 222
a hospital, ambulatory surgical facility, physician's office, or 223
other facility; 224

(4) The date the abortion was performed or attempted; 225

(5) The type of abortion procedure that was performed or 226
attempted; 227

(6) The gestational age of the child who was born; 228

(7) Complications, by type, for both the woman and child; 229

(8) Any other information the director considers 230
appropriate. 231

(B) The attending physician who performed or attempted an 232
abortion in which a child was born alive after that event shall 233

complete a child survival form developed under division (A) of 234
this section. The physician shall submit the completed form to 235
the department of health not later than fifteen days after the 236
woman is discharged from the facility. 237

A completed child survival form is confidential and not a 238
public record under section 149.43 of the Revised Code. 239

(C) A copy of the child survival form completed under this 240
section shall be made part of the medical record maintained for 241
the woman by the facility in which the abortion was performed or 242
attempted. 243

(D) Each facility in which an abortion was performed or 244
attempted and in which a child was born alive after that event 245
shall submit monthly and annual reports to the department of 246
health listing the total number of women on whom an abortion was 247
performed or attempted at the facility and in which a child was 248
born alive after that event, delineated by the type of abortion 249
procedure that was performed or attempted. The annual report 250
shall be submitted following the conclusion of the state's 251
fiscal year. Each monthly or annual report shall be submitted 252
not later than thirty days after the end of the applicable 253
reporting period. 254

(E) Not later than the first day of October of each year, 255
the department shall issue an annual report of the data 256
submitted to the department for the previous calendar year as 257
required by this section. At a minimum, the annual report shall 258
specify the number of women on whom an abortion was performed or 259
attempted and in which a child was born alive after that event, 260
delineated by the type of abortion procedure that was performed 261
or attempted and the facility in which the abortion was 262
performed or attempted. The report shall not contain any 263

information that would permit the identity of a woman on whom an 264
abortion was performed or attempted or any child to be 265
ascertained. 266

(F) No person shall purposely fail to comply with the 267
child survival form submission requirement described in division 268
(B) of this section or the copy maintenance requirement 269
described in division (C) of this section. 270

(G) No person shall purposely fail to comply with the 271
monthly or annual report submission requirements described in 272
division (D) of this section. 273

(H) A woman on whom an abortion is performed or attempted 274
may file a civil action against a person who violates division 275
(F) or (G) or this section. A woman who prevails in an action 276
filed under this division shall receive both of the following 277
from the person who committed the violation: 278

(1) Damages in the amount of ten thousand dollars; 279

(2) Court costs and reasonable attorney's fees. 280

Sec. 3701.99. (A) Whoever violates division (C) of section 281
3701.23, division (C) of section 3701.232, division (C) of 282
section 3701.24, division (D) (2) of section 3701.262, or 283
sections 3701.46 to 3701.55 of the Revised Code is guilty of a 284
minor misdemeanor on a first offense; on each subsequent 285
offense, the person is guilty of a misdemeanor of the fourth 286
degree. 287

(B) Whoever violates section 3701.82 of the Revised Code 288
is guilty of a misdemeanor of the first degree. 289

(C) Whoever violates section 3701.352 or 3701.81 of the 290
Revised Code is guilty of a misdemeanor of the second degree. 291

(D) Whoever violates division (F) or (G) of section 3701.792 of the Revised Code is guilty of a felony of the third degree. 292
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Sec. 3702.305. (A) In addition to the attachments specified in division (B) (3) (a) of section 3702.304 of the Revised Code, a variance application must contain or include as attachments, for each consulting physician described in division (B) (2) of that section, a signed statement in which the physician attests to both of the following: 295
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(1) The physician does not teach or provide instruction, directly or indirectly, at a medical school or osteopathic medical school affiliated with a state university or college as defined in section 3345.12 of the Revised Code, any state hospital, or other public institution. 301
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(2) The physician is not employed by or compensated pursuant to a contract with, and does not provide instruction or consultation to, a medical school or osteopathic medical school affiliated with a state university or college as defined in section 3345.12 of the Revised Code, any state hospital, or other public institution. 306
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(B) No physician shall engage in any of the activities described in division (A) (1) or (2) of this section while serving as a consulting physician for an ambulatory surgical facility that has been granted a variance from the written transfer agreement requirement of section 3702.303 of the Revised Code. 312
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(C) If, at any time, the director of health determines that a consulting physician for an ambulatory surgical facility that has been granted a variance from the written transfer 318
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agreement requirement of section 3702.303 of the Revised Code 321
has violated the prohibition in division (B) of this section, 322
the director shall rescind the variance. 323

Sec. 3702.3010. A local hospital shall not be further than 324
thirty miles from an ambulatory surgical facility+ 325

~~(A) With~~ with which the local hospital has a written 326
transfer agreement under section 3702.303 of the Revised Code, ~~+~~ 327
~~of.~~ 328

~~(B) Whose consulting physicians under a variance granted~~ 329
~~under section 3702.304 of the Revised Code have admitting~~ 330
~~privileges at the local hospital.~~ 331

Sec. ~~3702.305~~ 3702.3011. The director of health may impose 332
conditions on any variance the director has granted under 333
section 3702.304 of the Revised Code. The director may, at any 334
time, rescind the variance for any reason, including a 335
determination by the director that the facility is failing to 336
meet one or more of the conditions or no longer adequately 337
protects public health and safety. The director's decision to 338
rescind a variance is final. 339

Sec. 4731.22. (A) The state medical board, by an 340
affirmative vote of not fewer than six of its members, may 341
limit, revoke, or suspend a license or certificate to practice 342
or certificate to recommend, refuse to grant a license or 343
certificate, refuse to renew a license or certificate, refuse to 344
reinstate a license or certificate, or reprimand or place on 345
probation the holder of a license or certificate if the 346
individual applying for or holding the license or certificate is 347
found by the board to have committed fraud during the 348
administration of the examination for a license or certificate 349

to practice or to have committed fraud, misrepresentation, or 350
deception in applying for, renewing, or securing any license or 351
certificate to practice or certificate to recommend issued by 352
the board. 353

(B) Except as provided in division (P) of this section, 354
the board, by an affirmative vote of not fewer than six members, 355
shall, to the extent permitted by law, limit, revoke, or suspend 356
a license or certificate to practice or certificate to 357
recommend, refuse to issue a license or certificate, refuse to 358
renew a license or certificate, refuse to reinstate a license or 359
certificate, or reprimand or place on probation the holder of a 360
license or certificate for one or more of the following reasons: 361

(1) Permitting one's name or one's license or certificate 362
to practice to be used by a person, group, or corporation when 363
the individual concerned is not actually directing the treatment 364
given; 365

(2) Failure to maintain minimal standards applicable to 366
the selection or administration of drugs, or failure to employ 367
acceptable scientific methods in the selection of drugs or other 368
modalities for treatment of disease; 369

(3) Except as provided in section 4731.97 of the Revised 370
Code, selling, giving away, personally furnishing, prescribing, 371
or administering drugs for other than legal and legitimate 372
therapeutic purposes or a plea of guilty to, a judicial finding 373
of guilt of, or a judicial finding of eligibility for 374
intervention in lieu of conviction of, a violation of any 375
federal or state law regulating the possession, distribution, or 376
use of any drug; 377

(4) Willfully betraying a professional confidence. 378

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections 307.621 to 307.629 of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports under sections 307.631 to 307.6410 of the Revised Code to a drug overdose fatality review committee, a suicide fatality review committee, or hybrid drug overdose fatality and suicide fatality review committee; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

board. 410

As used in this division, "false, fraudulent, deceptive, 411
or misleading statement" means a statement that includes a 412
misrepresentation of fact, is likely to mislead or deceive 413
because of a failure to disclose material facts, is intended or 414
is likely to create false or unjustified expectations of 415
favorable results, or includes representations or implications 416
that in reasonable probability will cause an ordinarily prudent 417
person to misunderstand or be deceived. 418

(6) A departure from, or the failure to conform to, 419
minimal standards of care of similar practitioners under the 420
same or similar circumstances, whether or not actual injury to a 421
patient is established; 422

(7) Representing, with the purpose of obtaining 423
compensation or other advantage as personal gain or for any 424
other person, that an incurable disease or injury, or other 425
incurable condition, can be permanently cured; 426

(8) The obtaining of, or attempting to obtain, money or 427
anything of value by fraudulent misrepresentations in the course 428
of practice; 429

(9) A plea of guilty to, a judicial finding of guilt of, 430
or a judicial finding of eligibility for intervention in lieu of 431
conviction for, a felony; 432

(10) Commission of an act that constitutes a felony in 433
this state, regardless of the jurisdiction in which the act was 434
committed; 435

(11) A plea of guilty to, a judicial finding of guilt of, 436
or a judicial finding of eligibility for intervention in lieu of 437
conviction for, a misdemeanor committed in the course of 438

practice;	439
(12) Commission of an act in the course of practice that	440
constitutes a misdemeanor in this state, regardless of the	441
jurisdiction in which the act was committed;	442
(13) A plea of guilty to, a judicial finding of guilt of,	443
or a judicial finding of eligibility for intervention in lieu of	444
conviction for, a misdemeanor involving moral turpitude;	445
(14) Commission of an act involving moral turpitude that	446
constitutes a misdemeanor in this state, regardless of the	447
jurisdiction in which the act was committed;	448
(15) Violation of the conditions of limitation placed by	449
the board upon a license or certificate to practice;	450
(16) Failure to pay license renewal fees specified in this	451
chapter;	452
(17) Except as authorized in section 4731.31 of the	453
Revised Code, engaging in the division of fees for referral of	454
patients, or the receiving of a thing of value in return for a	455
specific referral of a patient to utilize a particular service	456
or business;	457
(18) Subject to section 4731.226 of the Revised Code,	458
violation of any provision of a code of ethics of the American	459
medical association, the American osteopathic association, the	460
American podiatric medical association, or any other national	461
professional organizations that the board specifies by rule. The	462
state medical board shall obtain and keep on file current copies	463
of the codes of ethics of the various national professional	464
organizations. The individual whose license or certificate is	465
being suspended or revoked shall not be found to have violated	466
any provision of a code of ethics of an organization not	467

appropriate to the individual's profession. 468

For purposes of this division, a "provision of a code of 469
ethics of a national professional organization" does not include 470
any provision that would preclude the making of a report by a 471
physician of an employee's use of a drug of abuse, or of a 472
condition of an employee other than one involving the use of a 473
drug of abuse, to the employer of the employee as described in 474
division (B) of section 2305.33 of the Revised Code. Nothing in 475
this division affects the immunity from civil liability 476
conferred by that section upon a physician who makes either type 477
of report in accordance with division (B) of that section. As 478
used in this division, "employee," "employer," and "physician" 479
have the same meanings as in section 2305.33 of the Revised 480
Code. 481

(19) Inability to practice according to acceptable and 482
prevailing standards of care by reason of mental illness or 483
physical illness, including, but not limited to, physical 484
deterioration that adversely affects cognitive, motor, or 485
perceptive skills. 486

In enforcing this division, the board, upon a showing of a 487
possible violation, may compel any individual authorized to 488
practice by this chapter or who has submitted an application 489
pursuant to this chapter to submit to a mental examination, 490
physical examination, including an HIV test, or both a mental 491
and a physical examination. The expense of the examination is 492
the responsibility of the individual compelled to be examined. 493
Failure to submit to a mental or physical examination or consent 494
to an HIV test ordered by the board constitutes an admission of 495
the allegations against the individual unless the failure is due 496
to circumstances beyond the individual's control, and a default 497

and final order may be entered without the taking of testimony 498
or presentation of evidence. If the board finds an individual 499
unable to practice because of the reasons set forth in this 500
division, the board shall require the individual to submit to 501
care, counseling, or treatment by physicians approved or 502
designated by the board, as a condition for initial, continued, 503
reinstated, or renewed authority to practice. An individual 504
affected under this division shall be afforded an opportunity to 505
demonstrate to the board the ability to resume practice in 506
compliance with acceptable and prevailing standards under the 507
provisions of the individual's license or certificate. For the 508
purpose of this division, any individual who applies for or 509
receives a license or certificate to practice under this chapter 510
accepts the privilege of practicing in this state and, by so 511
doing, shall be deemed to have given consent to submit to a 512
mental or physical examination when directed to do so in writing 513
by the board, and to have waived all objections to the 514
admissibility of testimony or examination reports that 515
constitute a privileged communication. 516

(20) Except as provided in division (F) (1) (b) of section 517
4731.282 of the Revised Code or when civil penalties are imposed 518
under section 4731.225 of the Revised Code, and subject to 519
section 4731.226 of the Revised Code, violating or attempting to 520
violate, directly or indirectly, or assisting in or abetting the 521
violation of, or conspiring to violate, any provisions of this 522
chapter or any rule promulgated by the board. 523

This division does not apply to a violation or attempted 524
violation of, assisting in or abetting the violation of, or a 525
conspiracy to violate, any provision of this chapter or any rule 526
adopted by the board that would preclude the making of a report 527
by a physician of an employee's use of a drug of abuse, or of a 528

condition of an employee other than one involving the use of a 529
drug of abuse, to the employer of the employee as described in 530
division (B) of section 2305.33 of the Revised Code. Nothing in 531
this division affects the immunity from civil liability 532
conferred by that section upon a physician who makes either type 533
of report in accordance with division (B) of that section. As 534
used in this division, "employee," "employer," and "physician" 535
have the same meanings as in section 2305.33 of the Revised 536
Code. 537

(21) The violation of section 3701.79 of the Revised Code 538
or of any abortion rule adopted by the director of health 539
pursuant to section 3701.341 of the Revised Code; 540

(22) Any of the following actions taken by an agency 541
responsible for authorizing, certifying, or regulating an 542
individual to practice a health care occupation or provide 543
health care services in this state or another jurisdiction, for 544
any reason other than the nonpayment of fees: the limitation, 545
revocation, or suspension of an individual's license to 546
practice; acceptance of an individual's license surrender; 547
denial of a license; refusal to renew or reinstate a license; 548
imposition of probation; or issuance of an order of censure or 549
other reprimand; 550

(23) The violation of section 2919.12 of the Revised Code 551
or the performance or inducement of an abortion upon a pregnant 552
woman with actual knowledge that the conditions specified in 553
division (B) of section 2317.56 of the Revised Code have not 554
been satisfied or with a heedless indifference as to whether 555
those conditions have been satisfied, unless an affirmative 556
defense as specified in division (H) (2) of that section would 557
apply in a civil action authorized by division (H) (1) of that 558

section;	559
(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;	560 561 562 563 564 565
(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency;	566 567 568
(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.	569 570 571 572
For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.	573 574 575 576 577 578 579 580 581
If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any	582 583 584 585 586 587

mental or physical examination required under this division 588
shall be undertaken by a treatment provider or physician who is 589
qualified to conduct the examination and who is chosen by the 590
board. 591

Failure to submit to a mental or physical examination 592
ordered by the board constitutes an admission of the allegations 593
against the individual unless the failure is due to 594
circumstances beyond the individual's control, and a default and 595
final order may be entered without the taking of testimony or 596
presentation of evidence. If the board determines that the 597
individual's ability to practice is impaired, the board shall 598
suspend the individual's license or certificate or deny the 599
individual's application and shall require the individual, as a 600
condition for initial, continued, reinstated, or renewed 601
licensure or certification to practice, to submit to treatment. 602

Before being eligible to apply for reinstatement of a 603
license or certificate suspended under this division, the 604
impaired practitioner shall demonstrate to the board the ability 605
to resume practice in compliance with acceptable and prevailing 606
standards of care under the provisions of the practitioner's 607
license or certificate. The demonstration shall include, but 608
shall not be limited to, the following: 609

(a) Certification from a treatment provider approved under 610
section 4731.25 of the Revised Code that the individual has 611
successfully completed any required inpatient treatment; 612

(b) Evidence of continuing full compliance with an 613
aftercare contract or consent agreement; 614

(c) Two written reports indicating that the individual's 615
ability to practice has been assessed and that the individual 616

has been found capable of practicing according to acceptable and 617
prevailing standards of care. The reports shall be made by 618
individuals or providers approved by the board for making the 619
assessments and shall describe the basis for their 620
determination. 621

The board may reinstate a license or certificate suspended 622
under this division after that demonstration and after the 623
individual has entered into a written consent agreement. 624

When the impaired practitioner resumes practice, the board 625
shall require continued monitoring of the individual. The 626
monitoring shall include, but not be limited to, compliance with 627
the written consent agreement entered into before reinstatement 628
or with conditions imposed by board order after a hearing, and, 629
upon termination of the consent agreement, submission to the 630
board for at least two years of annual written progress reports 631
made under penalty of perjury stating whether the individual has 632
maintained sobriety. 633

(27) A second or subsequent violation of section 4731.66 634
or 4731.69 of the Revised Code; 635

(28) Except as provided in division (N) of this section: 636

(a) Waiving the payment of all or any part of a deductible 637
or copayment that a patient, pursuant to a health insurance or 638
health care policy, contract, or plan that covers the 639
individual's services, otherwise would be required to pay if the 640
waiver is used as an enticement to a patient or group of 641
patients to receive health care services from that individual; 642

(b) Advertising that the individual will waive the payment 643
of all or any part of a deductible or copayment that a patient, 644
pursuant to a health insurance or health care policy, contract, 645

or plan that covers the individual's services, otherwise would 646
be required to pay. 647

(29) Failure to use universal blood and body fluid 648
precautions established by rules adopted under section 4731.051 649
of the Revised Code; 650

(30) Failure to provide notice to, and receive 651
acknowledgment of the notice from, a patient when required by 652
section 4731.143 of the Revised Code prior to providing 653
nonemergency professional services, or failure to maintain that 654
notice in the patient's medical record; 655

(31) Failure of a physician supervising a physician 656
assistant to maintain supervision in accordance with the 657
requirements of Chapter 4730. of the Revised Code and the rules 658
adopted under that chapter; 659

(32) Failure of a physician or podiatrist to enter into a 660
standard care arrangement with a clinical nurse specialist, 661
certified nurse-midwife, or certified nurse practitioner with 662
whom the physician or podiatrist is in collaboration pursuant to 663
section 4731.27 of the Revised Code or failure to fulfill the 664
responsibilities of collaboration after entering into a standard 665
care arrangement; 666

(33) Failure to comply with the terms of a consult 667
agreement entered into with a pharmacist pursuant to section 668
4729.39 of the Revised Code; 669

(34) Failure to cooperate in an investigation conducted by 670
the board under division (F) of this section, including failure 671
to comply with a subpoena or order issued by the board or 672
failure to answer truthfully a question presented by the board 673
in an investigative interview, an investigative office 674

conference, at a deposition, or in written interrogatories, 675
except that failure to cooperate with an investigation shall not 676
constitute grounds for discipline under this section if a court 677
of competent jurisdiction has issued an order that either 678
quashes a subpoena or permits the individual to withhold the 679
testimony or evidence in issue; 680

(35) Failure to supervise an acupuncturist in accordance 681
with Chapter 4762. of the Revised Code and the board's rules for 682
providing that supervision; 683

(36) Failure to supervise an anesthesiologist assistant in 684
accordance with Chapter 4760. of the Revised Code and the 685
board's rules for supervision of an anesthesiologist assistant; 686

(37) Assisting suicide, as defined in section 3795.01 of 687
the Revised Code; 688

(38) Failure to comply with the requirements of section 689
2317.561 of the Revised Code; 690

(39) Failure to supervise a radiologist assistant in 691
accordance with Chapter 4774. of the Revised Code and the 692
board's rules for supervision of radiologist assistants; 693

(40) Performing or inducing an abortion at an office or 694
facility with knowledge that the office or facility fails to 695
post the notice required under section 3701.791 of the Revised 696
Code; 697

(41) Failure to comply with the standards and procedures 698
established in rules under section 4731.054 of the Revised Code 699
for the operation of or the provision of care at a pain 700
management clinic; 701

(42) Failure to comply with the standards and procedures 702

established in rules under section 4731.054 of the Revised Code 703
for providing supervision, direction, and control of individuals 704
at a pain management clinic; 705

(43) Failure to comply with the requirements of section 706
4729.79 or 4731.055 of the Revised Code, unless the state board 707
of pharmacy no longer maintains a drug database pursuant to 708
section 4729.75 of the Revised Code; 709

(44) Failure to comply with the requirements of section 710
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 711
to submit to the department of health in accordance with a court 712
order a complete report as described in section 2919.171 or 713
2919.202 of the Revised Code; 714

(45) Practicing at a facility that is subject to licensure 715
as a category III terminal distributor of dangerous drugs with a 716
pain management clinic classification unless the person 717
operating the facility has obtained and maintains the license 718
with the classification; 719

(46) Owning a facility that is subject to licensure as a 720
category III terminal distributor of dangerous drugs with a pain 721
management clinic classification unless the facility is licensed 722
with the classification; 723

(47) Failure to comply with any of the requirements 724
regarding making or maintaining medical records or documents 725
described in division (A) of section 2919.192, division (C) of 726
section 2919.193, division (B) of section 2919.195, or division 727
(A) of section 2919.196 of the Revised Code; 728

(48) Failure to comply with the requirements in section 729
3719.061 of the Revised Code before issuing for a minor a 730
prescription for an opioid analgesic, as defined in section 731

3719.01 of the Revised Code;	732
(49) Failure to comply with the requirements of section	733
4731.30 of the Revised Code or rules adopted under section	734
4731.301 of the Revised Code when recommending treatment with	735
medical marijuana;	736
(50) Practicing at a facility, clinic, or other location	737
that is subject to licensure as a category III terminal	738
distributor of dangerous drugs with an office-based opioid	739
treatment classification unless the person operating that place	740
has obtained and maintains the license with the classification;	741
(51) Owning a facility, clinic, or other location that is	742
subject to licensure as a category III terminal distributor of	743
dangerous drugs with an office-based opioid treatment	744
classification unless that place is licensed with the	745
classification;	746
(52) A pattern of continuous or repeated violations of	747
division (E) (2) or (3) of section 3963.02 of the Revised Code;	748
(53) Failure to fulfill the responsibilities of a	749
collaboration agreement entered into with an athletic trainer as	750
described in section 4755.621 of the Revised Code;	751
<u>(54) Failure to take the steps specified in section</u>	752
<u>4731.911 of the Revised Code following an abortion or attempted</u>	753
<u>abortion in an ambulatory surgical facility or other location</u>	754
<u>that is not a hospital when a child is born alive.</u>	755
(C) Disciplinary actions taken by the board under	756
divisions (A) and (B) of this section shall be taken pursuant to	757
an adjudication under Chapter 119. of the Revised Code, except	758
that in lieu of an adjudication, the board may enter into a	759
consent agreement with an individual to resolve an allegation of	760

a violation of this chapter or any rule adopted under it. A 761
consent agreement, when ratified by an affirmative vote of not 762
fewer than six members of the board, shall constitute the 763
findings and order of the board with respect to the matter 764
addressed in the agreement. If the board refuses to ratify a 765
consent agreement, the admissions and findings contained in the 766
consent agreement shall be of no force or effect. 767

A telephone conference call may be utilized for 768
ratification of a consent agreement that revokes or suspends an 769
individual's license or certificate to practice or certificate 770
to recommend. The telephone conference call shall be considered 771
a special meeting under division (F) of section 121.22 of the 772
Revised Code. 773

If the board takes disciplinary action against an 774
individual under division (B) of this section for a second or 775
subsequent plea of guilty to, or judicial finding of guilt of, a 776
violation of section 2919.123 or 2919.124 of the Revised Code, 777
the disciplinary action shall consist of a suspension of the 778
individual's license or certificate to practice for a period of 779
at least one year or, if determined appropriate by the board, a 780
more serious sanction involving the individual's license or 781
certificate to practice. Any consent agreement entered into 782
under this division with an individual that pertains to a second 783
or subsequent plea of guilty to, or judicial finding of guilt 784
of, a violation of that section shall provide for a suspension 785
of the individual's license or certificate to practice for a 786
period of at least one year or, if determined appropriate by the 787
board, a more serious sanction involving the individual's 788
license or certificate to practice. 789

(D) For purposes of divisions (B) (10), (12), and (14) of 790

this section, the commission of the act may be established by a 791
finding by the board, pursuant to an adjudication under Chapter 792
119. of the Revised Code, that the individual committed the act. 793
The board does not have jurisdiction under those divisions if 794
the trial court renders a final judgment in the individual's 795
favor and that judgment is based upon an adjudication on the 796
merits. The board has jurisdiction under those divisions if the 797
trial court issues an order of dismissal upon technical or 798
procedural grounds. 799

(E) The sealing of conviction records by any court shall 800
have no effect upon a prior board order entered under this 801
section or upon the board's jurisdiction to take action under 802
this section if, based upon a plea of guilty, a judicial finding 803
of guilt, or a judicial finding of eligibility for intervention 804
in lieu of conviction, the board issued a notice of opportunity 805
for a hearing prior to the court's order to seal the records. 806
The board shall not be required to seal, destroy, redact, or 807
otherwise modify its records to reflect the court's sealing of 808
conviction records. 809

(F) (1) The board shall investigate evidence that appears 810
to show that a person has violated any provision of this chapter 811
or any rule adopted under it. Any person may report to the board 812
in a signed writing any information that the person may have 813
that appears to show a violation of any provision of this 814
chapter or any rule adopted under it. In the absence of bad 815
faith, any person who reports information of that nature or who 816
testifies before the board in any adjudication conducted under 817
Chapter 119. of the Revised Code shall not be liable in damages 818
in a civil action as a result of the report or testimony. Each 819
complaint or allegation of a violation received by the board 820
shall be assigned a case number and shall be recorded by the 821

board. 822

(2) Investigations of alleged violations of this chapter 823
or any rule adopted under it shall be supervised by the 824
supervising member elected by the board in accordance with 825
section 4731.02 of the Revised Code and by the secretary as 826
provided in section 4731.39 of the Revised Code. The president 827
may designate another member of the board to supervise the 828
investigation in place of the supervising member. No member of 829
the board who supervises the investigation of a case shall 830
participate in further adjudication of the case. 831

(3) In investigating a possible violation of this chapter 832
or any rule adopted under this chapter, or in conducting an 833
inspection under division (E) of section 4731.054 of the Revised 834
Code, the board may question witnesses, conduct interviews, 835
administer oaths, order the taking of depositions, inspect and 836
copy any books, accounts, papers, records, or documents, issue 837
subpoenas, and compel the attendance of witnesses and production 838
of books, accounts, papers, records, documents, and testimony, 839
except that a subpoena for patient record information shall not 840
be issued without consultation with the attorney general's 841
office and approval of the secretary and supervising member of 842
the board. 843

(a) Before issuance of a subpoena for patient record 844
information, the secretary and supervising member shall 845
determine whether there is probable cause to believe that the 846
complaint filed alleges a violation of this chapter or any rule 847
adopted under it and that the records sought are relevant to the 848
alleged violation and material to the investigation. The 849
subpoena may apply only to records that cover a reasonable 850
period of time surrounding the alleged violation. 851

(b) On failure to comply with any subpoena issued by the 852
board and after reasonable notice to the person being 853
subpoenaed, the board may move for an order compelling the 854
production of persons or records pursuant to the Rules of Civil 855
Procedure. 856

(c) A subpoena issued by the board may be served by a 857
sheriff, the sheriff's deputy, or a board employee or agent 858
designated by the board. Service of a subpoena issued by the 859
board may be made by delivering a copy of the subpoena to the 860
person named therein, reading it to the person, or leaving it at 861
the person's usual place of residence, usual place of business, 862
or address on file with the board. When serving a subpoena to an 863
applicant for or the holder of a license or certificate issued 864
under this chapter, service of the subpoena may be made by 865
certified mail, return receipt requested, and the subpoena shall 866
be deemed served on the date delivery is made or the date the 867
person refuses to accept delivery. If the person being served 868
refuses to accept the subpoena or is not located, service may be 869
made to an attorney who notifies the board that the attorney is 870
representing the person. 871

(d) A sheriff's deputy who serves a subpoena shall receive 872
the same fees as a sheriff. Each witness who appears before the 873
board in obedience to a subpoena shall receive the fees and 874
mileage provided for under section 119.094 of the Revised Code. 875

(4) All hearings, investigations, and inspections of the 876
board shall be considered civil actions for the purposes of 877
section 2305.252 of the Revised Code. 878

(5) A report required to be submitted to the board under 879
this chapter, a complaint, or information received by the board 880
pursuant to an investigation or pursuant to an inspection under 881

division (E) of section 4731.054 of the Revised Code is 882
confidential and not subject to discovery in any civil action. 883

The board shall conduct all investigations or inspections 884
and proceedings in a manner that protects the confidentiality of 885
patients and persons who file complaints with the board. The 886
board shall not make public the names or any other identifying 887
information about patients or complainants unless proper consent 888
is given or, in the case of a patient, a waiver of the patient 889
privilege exists under division (B) of section 2317.02 of the 890
Revised Code, except that consent or a waiver of that nature is 891
not required if the board possesses reliable and substantial 892
evidence that no bona fide physician-patient relationship 893
exists. 894

The board may share any information it receives pursuant 895
to an investigation or inspection, including patient records and 896
patient record information, with law enforcement agencies, other 897
licensing boards, and other governmental agencies that are 898
prosecuting, adjudicating, or investigating alleged violations 899
of statutes or administrative rules. An agency or board that 900
receives the information shall comply with the same requirements 901
regarding confidentiality as those with which the state medical 902
board must comply, notwithstanding any conflicting provision of 903
the Revised Code or procedure of the agency or board that 904
applies when it is dealing with other information in its 905
possession. In a judicial proceeding, the information may be 906
admitted into evidence only in accordance with the Rules of 907
Evidence, but the court shall require that appropriate measures 908
are taken to ensure that confidentiality is maintained with 909
respect to any part of the information that contains names or 910
other identifying information about patients or complainants 911
whose confidentiality was protected by the state medical board 912

when the information was in the board's possession. Measures to 913
ensure confidentiality that may be taken by the court include 914
sealing its records or deleting specific information from its 915
records. 916

(6) On a quarterly basis, the board shall prepare a report 917
that documents the disposition of all cases during the preceding 918
three months. The report shall contain the following information 919
for each case with which the board has completed its activities: 920

(a) The case number assigned to the complaint or alleged 921
violation; 922

(b) The type of license or certificate to practice, if 923
any, held by the individual against whom the complaint is 924
directed; 925

(c) A description of the allegations contained in the 926
complaint; 927

(d) The disposition of the case. 928

The report shall state how many cases are still pending 929
and shall be prepared in a manner that protects the identity of 930
each person involved in each case. The report shall be a public 931
record under section 149.43 of the Revised Code. 932

(G) If the secretary and supervising member determine both 933
of the following, they may recommend that the board suspend an 934
individual's license or certificate to practice or certificate 935
to recommend without a prior hearing: 936

(1) That there is clear and convincing evidence that an 937
individual has violated division (B) of this section; 938

(2) That the individual's continued practice presents a 939
danger of immediate and serious harm to the public. 940

Written allegations shall be prepared for consideration by 941
the board. The board, upon review of those allegations and by an 942
affirmative vote of not fewer than six of its members, excluding 943
the secretary and supervising member, may suspend a license or 944
certificate without a prior hearing. A telephone conference call 945
may be utilized for reviewing the allegations and taking the 946
vote on the summary suspension. 947

The board shall issue a written order of suspension by 948
certified mail or in person in accordance with section 119.07 of 949
the Revised Code. The order shall not be subject to suspension 950
by the court during pendency of any appeal filed under section 951
119.12 of the Revised Code. If the individual subject to the 952
summary suspension requests an adjudicatory hearing by the 953
board, the date set for the hearing shall be within fifteen 954
days, but not earlier than seven days, after the individual 955
requests the hearing, unless otherwise agreed to by both the 956
board and the individual. 957

Any summary suspension imposed under this division shall 958
remain in effect, unless reversed on appeal, until a final 959
adjudicative order issued by the board pursuant to this section 960
and Chapter 119. of the Revised Code becomes effective. The 961
board shall issue its final adjudicative order within seventy- 962
five days after completion of its hearing. A failure to issue 963
the order within seventy-five days shall result in dissolution 964
of the summary suspension order but shall not invalidate any 965
subsequent, final adjudicative order. 966

(H) If the board takes action under division (B) (9), (11), 967
or (13) of this section and the judicial finding of guilt, 968
guilty plea, or judicial finding of eligibility for intervention 969
in lieu of conviction is overturned on appeal, upon exhaustion 970

of the criminal appeal, a petition for reconsideration of the 971
order may be filed with the board along with appropriate court 972
documents. Upon receipt of a petition of that nature and 973
supporting court documents, the board shall reinstate the 974
individual's license or certificate to practice. The board may 975
then hold an adjudication under Chapter 119. of the Revised Code 976
to determine whether the individual committed the act in 977
question. Notice of an opportunity for a hearing shall be given 978
in accordance with Chapter 119. of the Revised Code. If the 979
board finds, pursuant to an adjudication held under this 980
division, that the individual committed the act or if no hearing 981
is requested, the board may order any of the sanctions 982
identified under division (B) of this section. 983

(I) The license or certificate to practice issued to an 984
individual under this chapter and the individual's practice in 985
this state are automatically suspended as of the date of the 986
individual's second or subsequent plea of guilty to, or judicial 987
finding of guilt of, a violation of section 2919.123 or 2919.124 988
of the Revised Code. In addition, the license or certificate to 989
practice or certificate to recommend issued to an individual 990
under this chapter and the individual's practice in this state 991
are automatically suspended as of the date the individual pleads 992
guilty to, is found by a judge or jury to be guilty of, or is 993
subject to a judicial finding of eligibility for intervention in 994
lieu of conviction in this state or treatment or intervention in 995
lieu of conviction in another jurisdiction for any of the 996
following criminal offenses in this state or a substantially 997
equivalent criminal offense in another jurisdiction: aggravated 998
murder, murder, voluntary manslaughter, felonious assault, 999
kidnapping, rape, sexual battery, gross sexual imposition, 1000
aggravated arson, aggravated robbery, or aggravated burglary. 1001

Continued practice after suspension shall be considered 1002
practicing without a license or certificate. 1003

The board shall notify the individual subject to the 1004
suspension by certified mail or in person in accordance with 1005
section 119.07 of the Revised Code. If an individual whose 1006
license or certificate is automatically suspended under this 1007
division fails to make a timely request for an adjudication 1008
under Chapter 119. of the Revised Code, the board shall do 1009
whichever of the following is applicable: 1010

(1) If the automatic suspension under this division is for 1011
a second or subsequent plea of guilty to, or judicial finding of 1012
guilt of, a violation of section 2919.123 or 2919.124 of the 1013
Revised Code, the board shall enter an order suspending the 1014
individual's license or certificate to practice for a period of 1015
at least one year or, if determined appropriate by the board, 1016
imposing a more serious sanction involving the individual's 1017
license or certificate to practice. 1018

(2) In all circumstances in which division (I)(1) of this 1019
section does not apply, enter a final order permanently revoking 1020
the individual's license or certificate to practice. 1021

(J) If the board is required by Chapter 119. of the 1022
Revised Code to give notice of an opportunity for a hearing and 1023
if the individual subject to the notice does not timely request 1024
a hearing in accordance with section 119.07 of the Revised Code, 1025
the board is not required to hold a hearing, but may adopt, by 1026
an affirmative vote of not fewer than six of its members, a 1027
final order that contains the board's findings. In that final 1028
order, the board may order any of the sanctions identified under 1029
division (A) or (B) of this section. 1030

(K) Any action taken by the board under division (B) of 1031
this section resulting in a suspension from practice shall be 1032
accompanied by a written statement of the conditions under which 1033
the individual's license or certificate to practice may be 1034
reinstated. The board shall adopt rules governing conditions to 1035
be imposed for reinstatement. Reinstatement of a license or 1036
certificate suspended pursuant to division (B) of this section 1037
requires an affirmative vote of not fewer than six members of 1038
the board. 1039

(L) When the board refuses to grant or issue a license or 1040
certificate to practice to an applicant, revokes an individual's 1041
license or certificate to practice, refuses to renew an 1042
individual's license or certificate to practice, or refuses to 1043
reinstatement an individual's license or certificate to practice, 1044
the board may specify that its action is permanent. An 1045
individual subject to a permanent action taken by the board is 1046
forever thereafter ineligible to hold a license or certificate 1047
to practice and the board shall not accept an application for 1048
reinstatement of the license or certificate or for issuance of a 1049
new license or certificate. 1050

(M) Notwithstanding any other provision of the Revised 1051
Code, all of the following apply: 1052

(1) The surrender of a license or certificate issued under 1053
this chapter shall not be effective unless or until accepted by 1054
the board. A telephone conference call may be utilized for 1055
acceptance of the surrender of an individual's license or 1056
certificate to practice. The telephone conference call shall be 1057
considered a special meeting under division (F) of section 1058
121.22 of the Revised Code. Reinstatement of a license or 1059
certificate surrendered to the board requires an affirmative 1060

vote of not fewer than six members of the board. 1061

(2) An application for a license or certificate made under 1062
the provisions of this chapter may not be withdrawn without 1063
approval of the board. 1064

(3) Failure by an individual to renew a license or 1065
certificate to practice in accordance with this chapter or a 1066
certificate to recommend in accordance with rules adopted under 1067
section 4731.301 of the Revised Code shall not remove or limit 1068
the board's jurisdiction to take any disciplinary action under 1069
this section against the individual. 1070

(4) At the request of the board, a license or certificate 1071
holder shall immediately surrender to the board a license or 1072
certificate that the board has suspended, revoked, or 1073
permanently revoked. 1074

(N) Sanctions shall not be imposed under division (B) (28) 1075
of this section against any person who waives deductibles and 1076
copayments as follows: 1077

(1) In compliance with the health benefit plan that 1078
expressly allows such a practice. Waiver of the deductibles or 1079
copayments shall be made only with the full knowledge and 1080
consent of the plan purchaser, payer, and third-party 1081
administrator. Documentation of the consent shall be made 1082
available to the board upon request. 1083

(2) For professional services rendered to any other person 1084
authorized to practice pursuant to this chapter, to the extent 1085
allowed by this chapter and rules adopted by the board. 1086

(O) Under the board's investigative duties described in 1087
this section and subject to division (F) of this section, the 1088
board shall develop and implement a quality intervention program 1089

designed to improve through remedial education the clinical and 1090
communication skills of individuals authorized under this 1091
chapter to practice medicine and surgery, osteopathic medicine 1092
and surgery, and podiatric medicine and surgery. In developing 1093
and implementing the quality intervention program, the board may 1094
do all of the following: 1095

(1) Offer in appropriate cases as determined by the board 1096
an educational and assessment program pursuant to an 1097
investigation the board conducts under this section; 1098

(2) Select providers of educational and assessment 1099
services, including a quality intervention program panel of case 1100
reviewers; 1101

(3) Make referrals to educational and assessment service 1102
providers and approve individual educational programs 1103
recommended by those providers. The board shall monitor the 1104
progress of each individual undertaking a recommended individual 1105
educational program. 1106

(4) Determine what constitutes successful completion of an 1107
individual educational program and require further monitoring of 1108
the individual who completed the program or other action that 1109
the board determines to be appropriate; 1110

(5) Adopt rules in accordance with Chapter 119. of the 1111
Revised Code to further implement the quality intervention 1112
program. 1113

An individual who participates in an individual 1114
educational program pursuant to this division shall pay the 1115
financial obligations arising from that educational program. 1116

(P) The board shall not refuse to issue a license to an 1117
applicant because of a conviction, plea of guilty, judicial 1118

finding of guilt, judicial finding of eligibility for 1119
intervention in lieu of conviction, or the commission of an act 1120
that constitutes a criminal offense, unless the refusal is in 1121
accordance with section 9.79 of the Revised Code. 1122

Sec. 4731.911. (A) As used in this section: 1123

(1) "Ambulatory surgical facility" has the same meaning as 1124
in section 3702.30 of the Revised Code. 1125

(2) "Hospital" means a hospital registered with the 1126
department of health under section 3701.07 of the Revised Code. 1127

(B) A physician who performs or attempts an abortion in an 1128
ambulatory surgical facility or other location that is not a 1129
hospital and in which a child is born alive shall immediately 1130
take the following steps upon the child's birth: 1131

(1) Provide post-birth care to the newborn in accordance 1132
with prevailing and acceptable standards of care; 1133

(2) Call for assistance from an emergency medical services 1134
provider; 1135

(3) Arrange for the transfer of the newborn to a hospital. 1136

Section 2. That existing sections 2919.13, 3701.79, 1137
3701.99, 3702.305, 3702.3010, and 4731.22 of the Revised Code 1138
are hereby repealed. 1139

Section 3. Each ambulatory surgical facility that has been 1140
granted a variance from the written transfer agreement 1141
requirement of section 3702.303 of the Revised Code shall, 1142
within ninety days of the effective date of section 3702.305 of 1143
the Revised Code as enacted by this act, submit to the Director 1144
of Health, in the form and manner specified by the Director, a 1145
signed statement in which the physician attests to compliance 1146

with the limitations established by section 3702.305 of the	1147
Revised Code, as enacted by this act. If the Director determines	1148
that a facility has failed to demonstrate compliance, the	1149
Director shall rescind the variance.	1150