

As Introduced

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H. B. No. 836

Representatives Somani, White, E.

**Cosponsors: Representatives Brennan, Creech, Tims, Cockley, Miller, J., Bryant
Bailey, Pizzulli, Russo, Brownlee, Upchurch, Brent, Robinson, Brewer,
Piccolantonio, Rader, Synenberg, Troy, Lett, Grim**

To amend sections 3705.07, 3705.08, 3705.16, and 1
4731.22 and to enact sections 4731.2211 and 2
4731.742 of the Revised Code to require 3
physicians to sign death certificates 4
electronically. 5

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

Section 1. That sections 3705.07, 3705.08, 3705.16, and 6
4731.22 be amended and sections 4731.2211 and 4731.742 of the 7
Revised Code be enacted to read as follows: 8

Sec. 3705.07. (A) The local registrar of vital statistics 9
shall number consecutively each fetal death and death 10
certificate printed on paper that the local registrar receives 11
from the electronic ~~death registration system (EDRS)~~ of vital 12
records maintained by the department of health. The number 13
assigned to each certificate shall be the one provided by 14
~~EDRS~~ the electronic system. Such local registrar shall sign the 15
local registrar's name in attest to the date of filing in the 16
local office. The local registrar shall make a complete and 17
accurate copy of each fetal death and death certificate printed 18

on paper that is filed. Each paper copy shall be filed and 19
preserved as the local record until the electronic information 20
regarding the event has been completed and made available in 21
~~EDRS~~ the electronic system and ~~EDRS~~ the electronic system is 22
capable of issuing a complete and accurate electronic copy of 23
the certificate. The local record may be a photographic, 24
electronic, or other reproduction. The local registrar shall 25
transmit to the state office of vital statistics all original 26
fetal death and death certificates received using the state 27
transmittal schedule specified by the department of health. The 28
local registrar shall immediately notify the health commissioner 29
with jurisdiction in the registration district of the receipt of 30
a death certificate attesting that death resulted from a 31
communicable disease. 32

The office of vital statistics shall carefully examine the 33
records and certificates received from local registrars of vital 34
statistics and shall secure any further information that may be 35
necessary to make each record and certificate complete and 36
satisfactory. It shall arrange and preserve the records and 37
certificates, or reproductions of them produced pursuant to 38
section 3705.03 of the Revised Code, in a systematic manner and 39
shall maintain a permanent index of all births, fetal deaths, 40
and deaths registered, which shall show the name of the child or 41
deceased person, place and date of birth or death, and number of 42
the certificate. 43

(B) (1) The office of vital statistics shall make available 44
all social security numbers that accompany a birth certificate 45
submitted for filing under division (H) of section 3705.09 or 46
section 3705.10 of the Revised Code or that accompany a death 47
certificate registered under section 3705.16 of the Revised Code 48
to both of the following: 49

(a) For the purpose of child support enforcement, the 50
division of child support in the department of job and family 51
services; 52

(b) For the purpose of eligibility determinations for 53
medical assistance programs as defined in section 5160.01 of the 54
Revised Code, the department of medicaid. 55

(2) The office of vital statistics also shall make 56
available to the division of child support in the department of 57
job and family services any other information recorded in the 58
birth record that may enable the division to use the social 59
security numbers provided under division (B)(1) of this section 60
to obtain the location of the father of the child whose birth 61
certificate was accompanied by the social security number or to 62
otherwise enforce a child support order pertaining to that child 63
or any other child. 64

Sec. 3705.08. (A) The director of health, by rule, shall 65
prescribe the form of records and certificates required by this 66
chapter. Records and certificates shall include the items and 67
information prescribed by the director, including the items 68
recommended by the national center for health statistics of the 69
United States department of health and human services, subject 70
to approval of and modification by the director. 71

(B) All birth certificates shall include a statement 72
setting forth the names of the child's parents. 73

(C) All death certificates shall include, in the medical 74
certification portion of the certificate, a space to indicate, 75
if the deceased individual is female and the manner of death is 76
determined to be a suspicious or violent death, whether any of 77
the following conditions apply to the individual: 78

(1) Not pregnant within the past year;	79
(2) Pregnant at the time of death;	80
(3) Not pregnant, but had been pregnant within forty-two days prior to the time of death;	81 82
(4) Not pregnant, but had been pregnant within forty-three days to one year prior to the time of death;	83 84
(5) Unknown whether pregnant within the past year.	85
(D) (1) The director shall prescribe electronic methods and forms for obtaining registration of births, deaths, and other vital statistics in each registration district, and for preserving the records of the office of vital statistics, and no forms or blanks shall be used other than those prescribed by the director.	86 87 88 89 90 91
(2) All birth, fetal death, and death records and certificates shall be certified. Except as provided in division (G) of section 3705.09, section 3705.12, 3705.121, 3705.122, or 3705.124, division (D) of section 3705.15, or section 3705.16 of the Revised Code, a birth certificate requiring signature may be electronically certified by the person in charge of the institution or that person's designee. A death certificate may <u>shall</u> be electronically certified by the individual who attests to the facts of death.	92 93 94 95 96 97 98 99 100
(3) All vital records shall contain the date received for filing.	101 102
(4) Information and signatures required in certificates, records, or reports authorized by this chapter may be filed and registered by photographic, electronic, or other means as prescribed by the director, <u>except that death certificates shall</u>	103 104 105 106

be electronically certified pursuant to division (D) (2) of this 107
section. 108

Sec. 3705.16. (A) For purposes of this section 109
notwithstanding section 3705.01 of the Revised Code, "fetal 110
death" does not include death of the product of human conception 111
prior to twenty weeks of gestation. 112

(B) Each death or fetal death that occurs in this state 113
shall be registered with the local registrar of vital statistics 114
of the district in which the death or fetal death occurred, by 115
the funeral director or other person in charge of the final 116
disposition of the remains. The personal and statistical 117
information in the death or fetal death certificate shall be 118
obtained from the best qualified persons or sources available, 119
by the funeral director or other person in charge of the final 120
disposition of the remains. The statement of facts relating to 121
the disposition of the body and information relative to the 122
armed services referred to in section 3705.19 of the Revised 123
Code shall be signed by the funeral director or other person in 124
charge of the final disposition of the remains. 125

(C) (1) For certification of the cause of death, the 126
funeral director or other person in charge of the final 127
disposition of the remains shall present the death or fetal 128
death certificate to one of the following individuals: 129

(a) If a death or fetal death occurs under any 130
circumstance described in section 313.12 of the Revised Code, 131
the coroner in the county in which the death occurs or the 132
medical examiner; 133

(b) If a death or fetal death occurs under a circumstance 134
other than as described in section 313.12 of the Revised Code, 135

the attending physician of the decedent, except that, in the 136
case of decedent who did not have an attending physician, the 137
physician who, either in person or through a means of 138
telehealth, last examined or treated the decedent for any 139
illness or condition. 140

(2) After the death or fetal death certificate is 141
presented, the cause of death shall be certified and the medical 142
certificate of death shall be completed and signed as follows: 143

(a) If the death or fetal death certificate is presented 144
to the coroner or medical examiner, the coroner, or a deputy 145
coroner, medical examiner, or deputy medical examiner serving in 146
an equivalent capacity, shall certify the cause of death. 147

(b) If the death or fetal death certificate is presented 148
to the physician described in division (C)(1)(b) of this 149
section, that physician shall certify the cause of death. 150

~~(3)~~ (3) (a) The medical certificate of death shall be 151
completed and signed by the coroner or medical examiner, 152
physician who attended the decedent, or physician who last 153
examined or treated the decedent, as appropriate, within ~~forty-~~ 154
~~eight-seventy-two~~ hours after notification of the death or fetal 155
death. 156

(b) A coroner or medical examiner may satisfy the 157
requirement of signing a medical certificate showing the cause 158
of death or fetal death as pending by signing it within ~~forty-~~ 159
~~eight-seventy-two~~ hours after notification of the death or fetal 160
death, provided that the coroner or medical examiner shall sign 161
any other medical certificate of death or supplementary medical 162
certification within ~~forty-eight-seventy-two~~ hours after the 163
cause of death has been determined. 164

(c) A physician described in division (C) (1) (b) of this section ~~may~~ shall satisfy the requirement of signing a medical certificate by signing with an electronic signature.

(D) A coroner, medical examiner, or physician who acts in good faith in accordance with this section, without fraud or malice, and upon reasonable belief of the cause of death or fetal death based on the information, if any, presented is not subject to civil liability or professional disciplinary action for any act or omission in certifying the cause of death or in completing and signing the medical certificate of death.

(E) Any death certificate registered pursuant to this section shall contain the social security number of the decedent, if available. A social security number obtained under this section is a public record under section 149.43 of the Revised Code.

(F) The state medical board may impose a fine against any physician who violates division (C) (3) (c) of this section under section 4731.2211 of the Revised Code.

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

certificate to practice or certificate to recommend issued by	195
the board.	196
(B) Except as provided in division (P) of this section,	197
the board, by an affirmative vote of not fewer than six members,	198
shall, to the extent permitted by law, limit, revoke, or suspend	199
a license or certificate to practice or certificate to	200
recommend, refuse to issue a license or certificate, refuse to	201
renew a license or certificate, refuse to reinstate a license or	202
certificate, or reprimand or place on probation the holder of a	203
license or certificate for one or more of the following reasons:	204
(1) Permitting one's name or one's license or certificate	205
to practice to be used by a person, group, or corporation when	206
the individual concerned is not actually directing the treatment	207
given;	208
(2) Failure to maintain minimal standards applicable to	209
the selection or administration of drugs, or failure to employ	210
acceptable scientific methods in the selection of drugs or other	211
modalities for treatment of disease;	212
(3) Except as provided in section 4731.97 of the Revised	213
Code, selling, giving away, personally furnishing, prescribing,	214
or administering drugs for other than legal and legitimate	215
therapeutic purposes or a plea of guilty to, a judicial finding	216
of guilt of, or a judicial finding of eligibility for	217
intervention in lieu of conviction of, a violation of any	218
federal or state law regulating the possession, distribution, or	219
use of any drug;	220
(4) Willfully betraying a professional confidence.	221
For purposes of this division, "willfully betraying a	222
professional confidence" does not include providing any	223

information, documents, or reports under sections 307.621 to 224
307.629 of the Revised Code to a child fatality review board; 225
does not include providing any information, documents, or 226
reports under sections 307.631 to 307.6410 of the Revised Code 227
to a drug overdose fatality review committee, a suicide fatality 228
review committee, or hybrid drug overdose fatality and suicide 229
fatality review committee; does not include providing any 230
information, documents, or reports under sections 307.651 to 231
307.659 of the Revised Code to a domestic violence fatality 232
review board; does not include providing any information, 233
documents, or reports to the director of health pursuant to 234
guidelines established under section 3701.70 of the Revised 235
Code; does not include written notice to a mental health 236
professional under section 4731.62 of the Revised Code; does not 237
include making a report as described in division (F) of section 238
2921.22 and section 4731.224 of the Revised Code; and does not 239
include the making of a report of an employee's use of a drug of 240
abuse, or a report of a condition of an employee other than one 241
involving the use of a drug of abuse, to the employer of the 242
employee as described in division (B) of section 2305.33 of the 243
Revised Code. Nothing in this division affects the immunity from 244
civil liability conferred by section 2305.33 or 4731.62 of the 245
Revised Code upon a physician who makes a report in accordance 246
with section 2305.33 or notifies a mental health professional in 247
accordance with section 4731.62 of the Revised Code. As used in 248
this division, "employee," "employer," and "physician" have the 249
same meanings as in section 2305.33 of the Revised Code. 250

(5) Making a false, fraudulent, deceptive, or misleading 251
statement in the solicitation of or advertising for patients; in 252
relation to the practice of medicine and surgery, osteopathic 253
medicine and surgery, podiatric medicine and surgery, or a 254

limited branch of medicine; or in securing or attempting to 255
secure any license or certificate to practice issued by the 256
board. 257

As used in this division, "false, fraudulent, deceptive, 258
or misleading statement" means a statement that includes a 259
misrepresentation of fact, is likely to mislead or deceive 260
because of a failure to disclose material facts, is intended or 261
is likely to create false or unjustified expectations of 262
favorable results, or includes representations or implications 263
that in reasonable probability will cause an ordinarily prudent 264
person to misunderstand or be deceived. 265

(6) A departure from, or the failure to conform to, 266
minimal standards of care of similar practitioners under the 267
same or similar circumstances, whether or not actual injury to a 268
patient is established; 269

(7) Representing, with the purpose of obtaining 270
compensation or other advantage as personal gain or for any 271
other person, that an incurable disease or injury, or other 272
incurable condition, can be permanently cured; 273

(8) The obtaining of, or attempting to obtain, money or 274
anything of value by fraudulent misrepresentations in the course 275
of practice; 276

(9) A plea of guilty to, a judicial finding of guilt of, 277
or a judicial finding of eligibility for intervention in lieu of 278
conviction for, a felony; 279

(10) Commission of an act that constitutes a felony in 280
this state, regardless of the jurisdiction in which the act was 281
committed; 282

(11) A plea of guilty to, a judicial finding of guilt of, 283

or a judicial finding of eligibility for intervention in lieu of 284
conviction for, a misdemeanor committed in the course of 285
practice; 286

(12) Commission of an act in the course of practice that 287
constitutes a misdemeanor in this state, regardless of the 288
jurisdiction in which the act was committed; 289

(13) A plea of guilty to, a judicial finding of guilt of, 290
or a judicial finding of eligibility for intervention in lieu of 291
conviction for, a misdemeanor involving moral turpitude; 292

(14) Commission of an act involving moral turpitude that 293
constitutes a misdemeanor in this state, regardless of the 294
jurisdiction in which the act was committed; 295

(15) Violation of the conditions of limitation placed by 296
the board upon a license or certificate to practice; 297

(16) Failure to pay license renewal fees specified in this 298
chapter; 299

(17) Except as authorized in section 4731.31 of the 300
Revised Code, engaging in the division of fees for referral of 301
patients, or the receiving of a thing of value in return for a 302
specific referral of a patient to utilize a particular service 303
or business; 304

(18) Subject to section 4731.226 of the Revised Code, 305
violation of any provision of a code of ethics of the American 306
medical association, the American osteopathic association, the 307
American podiatric medical association, or any other national 308
professional organizations that the board specifies by rule. The 309
state medical board shall obtain and keep on file current copies 310
of the codes of ethics of the various national professional 311
organizations. The individual whose license or certificate is 312

being suspended or revoked shall not be found to have violated 313
any provision of a code of ethics of an organization not 314
appropriate to the individual's profession. 315

For purposes of this division, a "provision of a code of 316
ethics of a national professional organization" does not include 317
any provision that would preclude the making of a report by a 318
physician of an employee's use of a drug of abuse, or of a 319
condition of an employee other than one involving the use of a 320
drug of abuse, to the employer of the employee as described in 321
division (B) of section 2305.33 of the Revised Code. Nothing in 322
this division affects the immunity from civil liability 323
conferred by that section upon a physician who makes either type 324
of report in accordance with division (B) of that section. As 325
used in this division, "employee," "employer," and "physician" 326
have the same meanings as in section 2305.33 of the Revised 327
Code. 328

(19) Inability to practice according to acceptable and 329
prevailing standards of care by reason of mental illness or 330
physical illness, including, but not limited to, physical 331
deterioration that adversely affects cognitive, motor, or 332
perceptive skills. 333

In enforcing this division, the board, upon a showing of a 334
possible violation, shall refer any individual who is authorized 335
to practice by this chapter or who has submitted an application 336
pursuant to this chapter to the monitoring organization that 337
conducts the confidential monitoring program established under 338
section 4731.25 of the Revised Code. The board also may compel 339
the individual to submit to a mental examination, physical 340
examination, including an HIV test, or both a mental and a 341
physical examination. The expense of the examination is the 342

responsibility of the individual compelled to be examined. 343
Failure to submit to a mental or physical examination or consent 344
to an HIV test ordered by the board constitutes an admission of 345
the allegations against the individual unless the failure is due 346
to circumstances beyond the individual's control, and a default 347
and final order may be entered without the taking of testimony 348
or presentation of evidence. If the board finds an individual 349
unable to practice because of the reasons set forth in this 350
division, the board shall require the individual to submit to 351
care, counseling, or treatment by physicians approved or 352
designated by the board, as a condition for initial, continued, 353
reinstated, or renewed authority to practice. An individual 354
affected under this division shall be afforded an opportunity to 355
demonstrate to the board the ability to resume practice in 356
compliance with acceptable and prevailing standards under the 357
provisions of the individual's license or certificate. For the 358
purpose of this division, any individual who applies for or 359
receives a license or certificate to practice under this chapter 360
accepts the privilege of practicing in this state and, by so 361
doing, shall be deemed to have given consent to submit to a 362
mental or physical examination when directed to do so in writing 363
by the board, and to have waived all objections to the 364
admissibility of testimony or examination reports that 365
constitute a privileged communication. 366

(20) Except as provided in division (F)(1)(b) of section 367
4731.282 of the Revised Code or when civil penalties are imposed 368
under section 4731.225 of the Revised Code, and subject to 369
section 4731.226 of the Revised Code, violating or attempting to 370
violate, directly or indirectly, or assisting in or abetting the 371
violation of, or conspiring to violate, any provisions of this 372
chapter or any rule promulgated by the board. 373

This division does not apply to a violation or attempted 374
violation of, assisting in or abetting the violation of, or a 375
conspiracy to violate, any provision of this chapter or any rule 376
adopted by the board that would preclude the making of a report 377
by a physician of an employee's use of a drug of abuse, or of a 378
condition of an employee other than one involving the use of a 379
drug of abuse, to the employer of the employee as described in 380
division (B) of section 2305.33 of the Revised Code. Nothing in 381
this division affects the immunity from civil liability 382
conferred by that section upon a physician who makes either type 383
of report in accordance with division (B) of that section. As 384
used in this division, "employee," "employer," and "physician" 385
have the same meanings as in section 2305.33 of the Revised 386
Code. 387

(21) The violation of section 3701.79 of the Revised Code 388
or of any abortion rule adopted by the director of health 389
pursuant to section 3701.341 of the Revised Code; 390

(22) Any of the following actions taken by an agency 391
responsible for authorizing, certifying, or regulating an 392
individual to practice a health care occupation or provide 393
health care services in this state or another jurisdiction, for 394
any reason other than the nonpayment of fees: the limitation, 395
revocation, or suspension of an individual's license to 396
practice; acceptance of an individual's license surrender; 397
denial of a license; refusal to renew or reinstate a license; 398
imposition of probation; or issuance of an order of censure or 399
other reprimand; 400

(23) The violation of section 2919.12 of the Revised Code 401
or the performance or inducement of an abortion upon a pregnant 402
woman with actual knowledge that the conditions specified in 403

division (B) of section 2317.56 of the Revised Code have not 404
been satisfied or with a heedless indifference as to whether 405
those conditions have been satisfied, unless an affirmative 406
defense as specified in division (H) (2) of that section would 407
apply in a civil action authorized by division (H) (1) of that 408
section; 409

(24) The revocation, suspension, restriction, reduction, 410
or termination of clinical privileges by the United States 411
department of defense or department of veterans affairs or the 412
termination or suspension of a certificate of registration to 413
prescribe drugs by the drug enforcement administration of the 414
United States department of justice; 415

(25) Termination or suspension from participation in the 416
medicare or medicaid programs by the department of health and 417
human services or other responsible agency; 418

(26) Impairment of ability to practice according to 419
acceptable and prevailing standards of care because of substance 420
use disorder or excessive use or abuse of drugs, alcohol, or 421
other substances that may impair ability to practice. 422

For the purposes of this division, any individual 423
authorized to practice by this chapter accepts the privilege of 424
practicing in this state subject to supervision by the board. By 425
filing an application for or holding a license or certificate to 426
practice under this chapter, an individual shall be deemed to 427
have given consent to submit to a mental or physical examination 428
when ordered to do so by the board in writing, and to have 429
waived all objections to the admissibility of testimony or 430
examination reports that constitute privileged communications. 431

If it has reason to believe that any individual authorized 432

to practice by this chapter or any applicant for licensure or 433
certification to practice suffers such impairment, the board 434
shall refer the individual to the monitoring organization that 435
conducts the confidential monitoring program established under 436
section 4731.25 of the Revised Code. The board also may compel 437
the individual to submit to a mental or physical examination, or 438
both. The expense of the examination is the responsibility of 439
the individual compelled to be examined. Any mental or physical 440
examination required under this division shall be undertaken by 441
a treatment provider or physician who is qualified to conduct 442
the examination and who is approved under section 4731.251 of 443
the Revised Code. 444

Failure to submit to a mental or physical examination 445
ordered by the board constitutes an admission of the allegations 446
against the individual unless the failure is due to 447
circumstances beyond the individual's control, and a default and 448
final order may be entered without the taking of testimony or 449
presentation of evidence. If the board determines that the 450
individual's ability to practice is impaired, the board shall 451
suspend the individual's license or certificate or deny the 452
individual's application and shall require the individual, as a 453
condition for initial, continued, reinstated, or renewed 454
licensure or certification to practice, to submit to treatment. 455

Before being eligible to apply for reinstatement of a 456
license or certificate suspended under this division, the 457
impaired practitioner shall demonstrate to the board the ability 458
to resume practice in compliance with acceptable and prevailing 459
standards of care under the provisions of the practitioner's 460
license or certificate. The demonstration shall include, but 461
shall not be limited to, the following: 462

(a) Certification from a treatment provider approved under 463
section 4731.251 of the Revised Code that the individual has 464
successfully completed any required inpatient treatment; 465

(b) Evidence of continuing full compliance with an 466
aftercare contract or consent agreement; 467

(c) Two written reports indicating that the individual's 468
ability to practice has been assessed and that the individual 469
has been found capable of practicing according to acceptable and 470
prevailing standards of care. The reports shall be made by 471
individuals or providers approved by the board for making the 472
assessments and shall describe the basis for their 473
determination. 474

The board may reinstate a license or certificate suspended 475
under this division after that demonstration and after the 476
individual has entered into a written consent agreement. 477

When the impaired practitioner resumes practice, the board 478
shall require continued monitoring of the individual. The 479
monitoring shall include, but not be limited to, compliance with 480
the written consent agreement entered into before reinstatement 481
or with conditions imposed by board order after a hearing, and, 482
upon termination of the consent agreement, submission to the 483
board for at least two years of annual written progress reports 484
made under penalty of perjury stating whether the individual has 485
maintained sobriety. 486

(27) A second or subsequent violation of section 4731.66 487
or 4731.69 of the Revised Code; 488

(28) Except as provided in division (N) of this section: 489

(a) Waiving the payment of all or any part of a deductible 490
or copayment that a patient, pursuant to a health insurance or 491

health care policy, contract, or plan that covers the 492
individual's services, otherwise would be required to pay if the 493
waiver is used as an enticement to a patient or group of 494
patients to receive health care services from that individual; 495

(b) Advertising that the individual will waive the payment 496
of all or any part of a deductible or copayment that a patient, 497
pursuant to a health insurance or health care policy, contract, 498
or plan that covers the individual's services, otherwise would 499
be required to pay. 500

(29) Failure to use universal blood and body fluid 501
precautions established by rules adopted under section 4731.051 502
of the Revised Code; 503

(30) Failure to provide notice to, and receive 504
acknowledgment of the notice from, a patient when required by 505
section 4731.143 of the Revised Code prior to providing 506
nonemergency professional services, or failure to maintain that 507
notice in the patient's medical record; 508

(31) Failure of a physician supervising a physician 509
assistant to maintain supervision in accordance with the 510
requirements of Chapter 4730. of the Revised Code and the rules 511
adopted under that chapter; 512

(32) Failure of a physician or podiatrist to enter into a 513
standard care arrangement with a clinical nurse specialist, 514
certified nurse-midwife, or certified nurse practitioner with 515
whom the physician or podiatrist is in collaboration pursuant to 516
section 4731.27 of the Revised Code or failure to fulfill the 517
responsibilities of collaboration after entering into a standard 518
care arrangement; 519

(33) Failure to comply with the terms of a consult 520

agreement entered into with a pharmacist pursuant to section	521
4729.39 of the Revised Code;	522
(34) Failure to cooperate in an investigation conducted by	523
the board under division (F) of this section, including failure	524
to comply with a subpoena or order issued by the board or	525
failure to answer truthfully a question presented by the board	526
in an investigative interview, an investigative office	527
conference, at a deposition, or in written interrogatories,	528
except that failure to cooperate with an investigation shall not	529
constitute grounds for discipline under this section if a court	530
of competent jurisdiction has issued an order that either	531
quashes a subpoena or permits the individual to withhold the	532
testimony or evidence in issue;	533
(35) Failure to supervise an anesthesiologist assistant in	534
accordance with Chapter 4760. of the Revised Code and the	535
board's rules for supervision of an anesthesiologist assistant;	536
(36) Assisting suicide, as defined in section 3795.01 of	537
the Revised Code;	538
(37) Failure to comply with the requirements of section	539
2317.561 of the Revised Code;	540
(38) Failure to supervise a radiologist assistant in	541
accordance with Chapter 4774. of the Revised Code and the	542
board's rules for supervision of radiologist assistants;	543
(39) Performing or inducing an abortion at an office or	544
facility with knowledge that the office or facility fails to	545
post the notice required under section 3701.791 of the Revised	546
Code;	547
(40) Failure to comply with the standards and procedures	548
established in rules under section 4731.054 of the Revised Code	549

for the operation of or the provision of care at a pain management clinic;	550 551
(41) 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;	552 553 554 555
(42) 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;	556 557 558 559
(43) 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 2919.202 of the Revised Code;	560 561 562 563 564
(44) 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;	565 566 567 568 569
(45) 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;	570 571 572 573
(46) Failure to comply with any of the requirements regarding making or maintaining medical records or documents described in division (A) of section 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;	574 575 576 577 578

(47) 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;	579 580 581 582
(48) 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;	583 584 585 586
(49) A pattern of continuous or repeated violations of division (E) (2) or (3) of section 3963.02 of the Revised Code;	587 588
(50) Failure to fulfill the responsibilities of a collaboration agreement entered into with an athletic trainer as described in section 4755.621 of the Revised Code;	589 590 591
(51) Failure to take the steps specified in section 4731.911 of the Revised Code following an abortion or attempted abortion in an ambulatory surgical facility or other location that is not a hospital when a child is born alive;	592 593 594 595
(52) Violation of section 4731.77 of the Revised Code;	596
(53) Failure of a physician supervising a certified mental health assistant to maintain supervision in accordance with the requirements of Chapter 4772. of the Revised Code and the rules adopted under that chapter;	597 598 599 600
(54) Failure to comply with the requirements of section 3705.16 of the Revised Code when certifying a decedent's cause of death and completing and signing the medical certificate of death;	601 602 603 604
<u>(55) Failure to comply with the requirements of section 4731.742 of the Revised Code.</u>	605 606

(C) Disciplinary actions taken by the board under 607
divisions (A) and (B) of this section shall be taken pursuant to 608
an adjudication under Chapter 119. of the Revised Code, except 609
that in lieu of an adjudication, the board may enter into a 610
consent agreement with an individual to resolve an allegation of 611
a violation of this chapter or any rule adopted under it. A 612
consent agreement, when ratified by an affirmative vote of not 613
fewer than six members of the board, shall constitute the 614
findings and order of the board with respect to the matter 615
addressed in the agreement. If the board refuses to ratify a 616
consent agreement, the admissions and findings contained in the 617
consent agreement shall be of no force or effect. 618

A telephone conference call may be utilized for 619
ratification of a consent agreement that revokes or suspends an 620
individual's license or certificate to practice or certificate 621
to recommend. The telephone conference call shall be considered 622
a special meeting under division (F) of section 121.22 of the 623
Revised Code. 624

If the board takes disciplinary action against an 625
individual under division (B) of this section for a second or 626
subsequent plea of guilty to, or judicial finding of guilt of, a 627
violation of section 2919.123 or 2919.124 of the Revised Code, 628
the disciplinary action shall consist of a suspension of the 629
individual's license or certificate to practice for a period of 630
at least one year or, if determined appropriate by the board, a 631
more serious sanction involving the individual's license or 632
certificate to practice. Any consent agreement entered into 633
under this division with an individual that pertains to a second 634
or subsequent plea of guilty to, or judicial finding of guilt 635
of, a violation of that section shall provide for a suspension 636
of the individual's license or certificate to practice for a 637

period of at least one year or, if determined appropriate by the 638
board, a more serious sanction involving the individual's 639
license or certificate to practice. 640

(D) For purposes of divisions (B) (10), (12), and (14) of 641
this section, the commission of the act may be established by a 642
finding by the board, pursuant to an adjudication under Chapter 643
119. of the Revised Code, that the individual committed the act. 644
The board does not have jurisdiction under those divisions if 645
the trial court renders a final judgment in the individual's 646
favor and that judgment is based upon an adjudication on the 647
merits. The board has jurisdiction under those divisions if the 648
trial court issues an order of dismissal upon technical or 649
procedural grounds. 650

(E) The sealing or expungement of conviction records by 651
any court shall have no effect upon a prior board order entered 652
under this section or upon the board's jurisdiction to take 653
action under this section if, based upon a plea of guilty, a 654
judicial finding of guilt, or a judicial finding of eligibility 655
for intervention in lieu of conviction, the board issued a 656
notice of opportunity for a hearing prior to the court's order 657
to seal or expunge the records. The board shall not be required 658
to seal, expunge, destroy, redact, or otherwise modify its 659
records to reflect the court's sealing of conviction records. 660

(F) (1) The board shall investigate evidence that appears 661
to show that a person has violated any provision of this chapter 662
or any rule adopted under it. Any person may report to the board 663
in a signed writing any information that the person may have 664
that appears to show a violation of any provision of this 665
chapter or any rule adopted under it. In the absence of bad 666
faith, any person who reports information of that nature or who 667

testifies before the board in any adjudication conducted under 668
Chapter 119. of the Revised Code shall not be liable in damages 669
in a civil action as a result of the report or testimony. Each 670
complaint or allegation of a violation received by the board 671
shall be assigned a case number and shall be recorded by the 672
board. 673

(2) Investigations of alleged violations of this chapter 674
or any rule adopted under it shall be supervised by the 675
supervising member elected by the board in accordance with 676
section 4731.02 of the Revised Code and by the secretary as 677
provided in section 4731.39 of the Revised Code. The president 678
may designate another member of the board to supervise the 679
investigation in place of the supervising member. Upon a vote of 680
the majority of the board to authorize the addition of a 681
consumer member in the supervision of any part of any 682
investigation, the president shall designate a consumer member 683
for supervision of investigations as determined by the 684
president. The authorization of consumer member participation in 685
investigation supervision may be rescinded by a majority vote of 686
the board. No member of the board who supervises the 687
investigation of a case shall participate in further 688
adjudication of the case. 689

(3) In investigating a possible violation of this chapter 690
or any rule adopted under this chapter, or in conducting an 691
inspection under division (E) of section 4731.054 of the Revised 692
Code, the board may question witnesses, conduct interviews, 693
administer oaths, order the taking of depositions, inspect and 694
copy any books, accounts, papers, records, or documents, issue 695
subpoenas, and compel the attendance of witnesses and production 696
of books, accounts, papers, records, documents, and testimony, 697
except that a subpoena for patient record information shall not 698

be issued without consultation with the attorney general's office and approval of the secretary of the board.

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

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

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

(d) A sheriff's deputy who serves a subpoena shall receive 729
the same fees as a sheriff. Each witness who appears before the 730
board in obedience to a subpoena shall receive the fees and 731
mileage provided for under section 119.094 of the Revised Code. 732

(4) All hearings, investigations, and inspections of the 733
board shall be considered civil actions for the purposes of 734
section 2305.252 of the Revised Code. 735

(5) A report required to be submitted to the board under 736
this chapter, a complaint, or information received by the board 737
pursuant to an investigation or pursuant to an inspection under 738
division (E) of section 4731.054 of the Revised Code is 739
confidential and not subject to discovery in any civil action. 740

The board shall conduct all investigations or inspections 741
and proceedings in a manner that protects the confidentiality of 742
patients and persons who file complaints with the board. The 743
board shall not make public the names or any other identifying 744
information about patients or complainants unless proper consent 745
is given or, in the case of a patient, a waiver of the patient 746
privilege exists under division (B) of section 2317.02 of the 747
Revised Code, except that consent or a waiver of that nature is 748
not required if the board possesses reliable and substantial 749
evidence that no bona fide physician-patient relationship 750
exists. 751

The board may share any information it receives pursuant 752
to an investigation or inspection, including patient records and 753
patient record information, with law enforcement agencies, other 754
licensing boards, and other governmental agencies that are 755
prosecuting, adjudicating, or investigating alleged violations 756
of statutes or administrative rules. An agency or board that 757
receives the information shall comply with the same requirements 758

regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

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

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

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

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

(d) Whether witnesses were interviewed;	788
(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;	789 790
(f) The disposition of the case.	791
The report shall state how many cases are still pending	792
and shall be prepared in a manner that protects the identity of	793
each person involved in each case. The report shall be a public	794
record under section 149.43 of the Revised Code.	795
(7) The board may provide a status update regarding an	796
investigation to a complainant on request if the board verifies	797
the complainant's identity.	798
(G) (1) If either of the following circumstances occur, the	799
secretary and supervising member may recommend that the board	800
suspend an individual's license or certificate to practice or	801
certificate to recommend without a prior hearing:	802
(a) The secretary and supervising member determine both of	803
the following:	804
(i) That there is clear and convincing evidence that an	805
individual has violated division (B) of this section;	806
(ii) That the individual's continued practice presents a	807
danger of immediate and serious harm to the public.	808
(b) The board receives verifiable information that a	809
licensee has been charged in any state or federal court with a	810
crime classified as a felony under the charging court's law and	811
the conduct constitutes a violation of division (B) of this	812
section.	813
(2) If a recommendation is made to suspend without a prior	814

hearing pursuant to division (G) (1) of this section, written 815
allegations shall be prepared for consideration by the board. 816
The board, upon review of those allegations and by an 817
affirmative vote of not fewer than six of its members, excluding 818
the secretary and supervising member, may suspend a license or 819
certificate without a prior hearing. A telephone conference call 820
may be utilized for reviewing the allegations and taking the 821
vote on the summary suspension. 822

The board shall serve a written order of suspension in 823
accordance with sections 119.05 and 119.07 of the Revised Code. 824
If the individual subject to the summary suspension requests an 825
adjudicatory hearing by the board, the date set for the hearing 826
shall be within fifteen days, but not earlier than seven days, 827
after the individual requests the hearing, unless otherwise 828
agreed to by both the board and the individual. 829

(3) Any summary suspension imposed under division (G) (2) 830
of this section is not a final appealable order and is not an 831
adjudication that may be appealed under section 119.12 of the 832
Revised Code. The summary suspension shall remain in effect 833
until a final adjudicative order issued by the board pursuant to 834
this section and Chapter 119. of the Revised Code becomes 835
effective. Once a final adjudicative order has been issued by 836
the board, any party adversely affected by it may file an appeal 837
in accordance with the requirements of Chapter 119. of the 838
Revised Code. 839

The board shall issue its final adjudicative order within 840
seventy-five days after completion of its hearing. A failure to 841
issue the order within seventy-five days shall result in 842
dissolution of the summary suspension order but shall not 843
invalidate any subsequent, final adjudicative order. 844

(H) If the board takes action under division (B) (9), (11), 845
or (13) of this section and the judicial finding of guilt, 846
guilty plea, or judicial finding of eligibility for intervention 847
in lieu of conviction is overturned on appeal, upon exhaustion 848
of the criminal appeal, a petition for reconsideration of the 849
order may be filed with the board along with appropriate court 850
documents. Upon receipt of a petition of that nature and 851
supporting court documents, the board shall reinstate the 852
individual's license or certificate to practice. The board may 853
then hold an adjudication under Chapter 119. of the Revised Code 854
to determine whether the individual committed the act in 855
question. Notice of an opportunity for a hearing shall be given 856
in accordance with Chapter 119. of the Revised Code. If the 857
board finds, pursuant to an adjudication held under this 858
division, that the individual committed the act or if no hearing 859
is requested, the board may order any of the sanctions 860
identified under division (B) of this section. 861

(I) The license or certificate to practice issued to an 862
individual under this chapter and the individual's practice in 863
this state are automatically suspended as of the date of the 864
individual's second or subsequent plea of guilty to, or judicial 865
finding of guilt of, a violation of section 2919.123 or 2919.124 866
of the Revised Code. In addition, the license or certificate to 867
practice or certificate to recommend issued to an individual 868
under this chapter and the individual's practice in this state 869
are automatically suspended as of the date the individual pleads 870
guilty to, is found by a judge or jury to be guilty of, or is 871
subject to a judicial finding of eligibility for intervention in 872
lieu of conviction in this state or treatment or intervention in 873
lieu of conviction in another jurisdiction for any of the 874
following criminal offenses in this state or a substantially 875

equivalent criminal offense in another jurisdiction: aggravated 876
murder, murder, voluntary manslaughter, felonious assault, 877
trafficking in persons, kidnapping, rape, sexual battery, gross 878
sexual imposition, aggravated arson, aggravated robbery, or 879
aggravated burglary. Continued practice after suspension shall 880
be considered practicing without a license or certificate. 881

The board shall notify the individual subject to the 882
suspension in accordance with sections 119.05 and 119.07 of the 883
Revised Code. If an individual whose license or certificate is 884
automatically suspended under this division fails to make a 885
timely request for an adjudication under Chapter 119. of the 886
Revised Code, the board shall do whichever of the following is 887
applicable: 888

(1) If the automatic suspension under this division is for 889
a second or subsequent plea of guilty to, or judicial finding of 890
guilt of, a violation of section 2919.123 or 2919.124 of the 891
Revised Code, the board shall enter an order suspending the 892
individual's license or certificate to practice for a period of 893
at least one year or, if determined appropriate by the board, 894
imposing a more serious sanction involving the individual's 895
license or certificate to practice. 896

(2) In all circumstances in which division (I)(1) of this 897
section does not apply, enter a final order permanently revoking 898
the individual's license or certificate to practice. 899

(J) If the board is required by Chapter 119. of the 900
Revised Code to give notice of an opportunity for a hearing and 901
if the individual subject to the notice does not timely request 902
a hearing in accordance with section 119.07 of the Revised Code, 903
the board is not required to hold a hearing, but may adopt, by 904
an affirmative vote of not fewer than six of its members, a 905

final order that contains the board's findings. In that final 906
order, the board may order any of the sanctions identified under 907
division (A) or (B) of this section. 908

(K) Any action taken by the board under division (B) of 909
this section resulting in a suspension from practice shall be 910
accompanied by a written statement of the conditions under which 911
the individual's license or certificate to practice may be 912
reinstated. The board shall adopt rules governing conditions to 913
be imposed for reinstatement. Reinstatement of a license or 914
certificate suspended pursuant to division (B) of this section 915
requires an affirmative vote of not fewer than six members of 916
the board. 917

(L) When the board refuses to grant or issue a license or 918
certificate to practice to an applicant, revokes an individual's 919
license or certificate to practice, refuses to renew an 920
individual's license or certificate to practice, or refuses to 921
reinstatement an individual's license or certificate to practice, 922
the board may specify that its action is permanent. An 923
individual subject to a permanent action taken by the board is 924
forever thereafter ineligible to hold a license or certificate 925
to practice and the board shall not accept an application for 926
reinstatement of the license or certificate or for issuance of a 927
new license or certificate. 928

(M) Notwithstanding any other provision of the Revised 929
Code, all of the following apply: 930

(1) The surrender of a license or certificate issued under 931
this chapter shall not be effective unless or until accepted by 932
the board. A telephone conference call may be utilized for 933
acceptance of the surrender of an individual's license or 934
certificate to practice. The telephone conference call shall be 935

considered a special meeting under division (F) of section 936
121.22 of the Revised Code. Reinstatement of a license or 937
certificate surrendered to the board requires an affirmative 938
vote of not fewer than six members of the board. 939

(2) An application for a license or certificate made under 940
the provisions of this chapter may not be withdrawn without 941
approval of the board. 942

(3) Failure by an individual to renew a license or 943
certificate to practice in accordance with this chapter or a 944
certificate to recommend in accordance with rules adopted under 945
section 4731.301 of the Revised Code does not remove or limit 946
the board's jurisdiction to take any disciplinary action under 947
this section against the individual. 948

(4) The placement of an individual's license on retired 949
status, as described in section 4731.283 of the Revised Code, 950
does not remove or limit the board's jurisdiction to take any 951
disciplinary action against the individual with regard to the 952
license as it existed before being placed on retired status. 953

(5) At the request of the board, a license or certificate 954
holder shall immediately surrender to the board a license or 955
certificate that the board has suspended, revoked, or 956
permanently revoked. 957

(N) Sanctions shall not be imposed under division (B) (28) 958
of this section against any person who waives deductibles and 959
copayments as follows: 960

(1) In compliance with the health benefit plan that 961
expressly allows such a practice. Waiver of the deductibles or 962
copayments shall be made only with the full knowledge and 963
consent of the plan purchaser, payer, and third-party 964

administrator. Documentation of the consent shall be made 965
available to the board upon request. 966

(2) For professional services rendered to any other person 967
authorized to practice pursuant to this chapter, to the extent 968
allowed by this chapter and rules adopted by the board. 969

(O) Under the board's investigative duties described in 970
this section and subject to division (F) of this section, the 971
board shall develop and implement a quality intervention program 972
designed to improve through remedial education the clinical and 973
communication skills of individuals authorized under this 974
chapter to practice medicine and surgery, osteopathic medicine 975
and surgery, and podiatric medicine and surgery. In developing 976
and implementing the quality intervention program, the board may 977
do all of the following: 978

(1) Offer in appropriate cases as determined by the board 979
an educational and assessment program pursuant to an 980
investigation the board conducts under this section; 981

(2) Select providers of educational and assessment 982
services, including a quality intervention program panel of case 983
reviewers; 984

(3) Make referrals to educational and assessment service 985
providers and approve individual educational programs 986
recommended by those providers. The board shall monitor the 987
progress of each individual undertaking a recommended individual 988
educational program. 989

(4) Determine what constitutes successful completion of an 990
individual educational program and require further monitoring of 991
the individual who completed the program or other action that 992
the board determines to be appropriate; 993

(5) Adopt rules in accordance with Chapter 119. of the 994
Revised Code to further implement the quality intervention 995
program. 996

An individual who participates in an individual 997
educational program pursuant to this division shall pay the 998
financial obligations arising from that educational program. 999

(P) The board shall not refuse to issue a license to an 1000
applicant because of a conviction, plea of guilty, judicial 1001
finding of guilt, judicial finding of eligibility for 1002
intervention in lieu of conviction, or the commission of an act 1003
that constitutes a criminal offense, unless the refusal is in 1004
accordance with section 9.79 of the Revised Code. 1005

(Q) A license or certificate to practice or certificate to 1006
recommend issued to an individual under this chapter and an 1007
individual's practice under this chapter in this state are 1008
automatically suspended if the individual's license or 1009
certificate to practice a health care occupation or provide 1010
health care services is suspended, revoked, or surrendered or 1011
relinquished in lieu of discipline by an agency responsible for 1012
authorizing, certifying, or regulating an individual to practice 1013
a health care occupation or provide health care services in this 1014
state or another jurisdiction. The automatic suspension begins 1015
immediately upon entry of the order by the agency and lasts for 1016
ninety days to permit the board to investigate the basis for the 1017
action under this chapter. Continued practice during the 1018
automatic suspension shall be considered practicing without a 1019
license or certificate. 1020

The board shall notify the individual subject to the 1021
automatic suspension by certified mail or in person in 1022
accordance with section 119.07 of the Revised Code. If an 1023

individual subject to an automatic suspension under this 1024
division fails to make a timely request for an adjudication 1025
under Chapter 119. of the Revised Code, the board is not 1026
required to hold a hearing, but may adopt, by an affirmative 1027
vote of not fewer than six of its members, a final order that 1028
contains the board's findings. In that final order, the board 1029
may order any of the sanctions identified under division (A) or 1030
(B) of this section. 1031

Sec. 4731.2211. The state medical board may impose a fine 1032
against any physician who violates division (C) (3) (c) of section 1033
3705.16 of the Revised Code in the amount of two hundred fifty 1034
dollars for a first violation, five hundred dollars for a second 1035
violation, and one thousand dollars for a third or subsequent 1036
violation. The fine may be in addition to or in lieu of any 1037
other action that may be taken under section 4731.22 of the 1038
Revised Code. The board shall deposit any amounts received under 1039
this section in accordance with section 4731.24 of the Revised 1040
Code. 1041

Sec. 4731.742. Not later than December 31, 2026, each 1042
physician shall register with the electronic system of vital 1043
records maintained by the department of health to enable the 1044
physician to sign a medical certificate of death with an 1045
electronic signature as required by section 3705.16 of the 1046
Revised Code. 1047

Section 2. That existing sections 3705.07, 3705.08, 1048
3705.16, and 4731.22 of the Revised Code are hereby repealed. 1049