

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 69

Representatives Hagan, Hood

Cosponsors: Speaker Rosenberger, Representatives Buchy, Amstutz, Antani, Becker, Blessing, Boose, Brenner, Brinkman, Burkley, Butler, Conditt, Derickson, DeVitis, Dovilla, Ginter, Hall, Hambley, Hayes, Henne, Hill, Huffman, Johnson, T., Koehler, Kraus, Landis, LaTourette, Maag, McClain, McColley, Patmon, Pelanda, Perales, Retherford, Rezabek, Roegner, Romanchuk, Ruhl, Schaffer, Schuring, Slaby, Smith, R., Sprague, Terhar, Thompson, Vitale, Young, Zeltwanger

A BILL

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

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

Section 1. That sections 2317.56, 2919.171, 2919.19, 14
2919.191, 2919.192, 2919.193, and 4731.22 be amended; sections 15

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

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

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

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

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

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

(1) At least twenty-four hours prior to the performance or 38
inducement of the abortion, a physician meets with the pregnant 39
woman in person in an individual, private setting and gives her 40
an adequate opportunity to ask questions about the abortion that 41
will be performed or induced. At this meeting, the physician 42
shall inform the pregnant woman, verbally or, if she is hearing 43
impaired, by other means of communication, of all of the 44

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| following: | 45 |
| (a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure; | 46 47 48 |
| (b) The probable gestational age of the embryo or fetus; | 49 |
| (c) The medical risks associated with the pregnant woman carrying the pregnancy to term. | 50 51 |
| The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion. | 52 53 54 55 56 |
| (2) At least twenty-four hours prior to the performance or inducement of the abortion, the physician who is to perform or induce the abortion or the physician's agent does each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing: | 57 58 59 60 61 62 |
| (a) Inform the pregnant woman of the name of the physician who is scheduled to perform or induce the abortion; | 63 64 |
| (b) Give the pregnant woman copies of the published materials described in division (C) of this section; | 65 66 |
| (c) Inform the pregnant woman that the materials given pursuant to division (B) (2) (b) of this section are published by the state and that they describe the embryo or fetus and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be | 67 68 69 70 71 72 |

disassociated from the materials and may choose to comment or 73
not comment on the materials. 74

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

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

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

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

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

(5) Prior to the performance or inducement of the 96
abortion, the physician who is scheduled to perform or induce 97
the abortion or the physician's agent receives a copy of the 98
pregnant woman's signed form on which she consents to the 99
abortion and that includes the certification required by 100
division (B) (4) of this section. 101

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

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

(2) Materials that inform the pregnant woman of the 123
probable anatomical and physiological characteristics of the 124
zygote, blastocyte, embryo, or fetus at two-week gestational 125
increments for the first sixteen weeks of pregnancy and at four- 126
week gestational increments from the seventeenth week of 127
pregnancy to full term, including any relevant information 128
regarding the time at which the fetus possibly would be viable. 129
The department shall cause these materials to be published only 130
after it consults with the Ohio state medical association and 131
the Ohio section of the American college of obstetricians and 132

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

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

(E) If a medical emergency or medical necessity compels 156
the performance or inducement of an abortion, the physician who 157
will perform or induce the abortion, prior to its performance or 158
inducement if possible, shall inform the pregnant woman of the 159
medical indications supporting the physician's judgment that an 160
immediate abortion is necessary. Any physician who performs or 161
induces an abortion without the prior satisfaction of the 162
conditions specified in division (B) of this section because of 163

a medical emergency or medical necessity shall enter the reasons 164
for the conclusion that a medical emergency or medical necessity 165
exists in the medical record of the pregnant woman. 166

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

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

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

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

(H) (1) Subject to divisions (H) (2) and (3) of this 182
section, any physician who performs or induces an abortion with 183
actual knowledge that the conditions specified in division (B) 184
of this section have not been satisfied or with a heedless 185
indifference as to whether those conditions have been satisfied 186
is liable in compensatory and exemplary damages in a civil 187
action to any person, or the representative of the estate of any 188
person, who sustains injury, death, or loss to person or 189
property as a result of the failure to satisfy those conditions. 190
In the civil action, the court additionally may enter any 191
injunctive or other equitable relief that it considers 192

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| appropriate. | 193 |
| (2) The following shall be affirmative defenses in a civil action authorized by division (H) (1) of this section: | 194 195 |
| (a) The physician performed or induced the abortion under the circumstances described in division (E) of this section. | 196 197 |
| (b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section. | 198 199 |
| (3) An employer or other principal is not liable in damages in a civil action authorized by division (H) (1) of this section on the basis of the doctrine of respondeat superior unless either of the following applies: | 200 201 202 203 |
| (a) The employer or other principal had actual knowledge or, by the exercise of reasonable diligence, should have known that an employee or agent performed or induced an abortion with actual knowledge that the conditions specified in division (B) of this section had not been satisfied or with a heedless indifference as to whether those conditions had been satisfied. | 204 205 206 207 208 209 |
| (b) The employer or other principal negligently failed to secure the compliance of an employee or agent with division (B) of this section. | 210 211 212 |
| (4) Notwithstanding division (E) of section 2919.12 of the Revised Code, the civil action authorized by division (H) (1) of this section shall be the exclusive civil remedy for persons, or the representatives of estates of persons, who allegedly sustain injury, death, or loss to person or property as a result of a failure to satisfy the conditions specified in division (B) of this section. | 213 214 215 216 217 218 219 |
| (I) The department of job and family services shall | 220 |

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

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

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

(B) By September 30 of each year, the department of health 242
shall issue a public report that provides statistics for the 243
previous calendar year compiled from all of the reports covering 244
that calendar year submitted to the department in accordance 245
with this section for each of the items listed in division (A) 246
of this section. The report shall also provide the statistics 247
for each previous calendar year in which a report was filed with 248
the department pursuant to this section, adjusted to reflect any 249
additional information that a physician provides to the 250

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

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

(2) If a physician fails to comply with the requirements 270
of this section, other than filing a late report with the 271
department of health, or fails to submit a complete report to 272
the department of health in accordance with a court order, the 273
physician is subject to division (B) ~~(41)~~ (44) of section 4731.22 274
of the Revised Code. 275

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

~~(D) Within ninety days of the effective date of this~~ 279
~~section, the~~ The department of health shall adopt rules pursuant 280

to section 111.15 of the Revised Code to assist in compliance 281
with this section. 282

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

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

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

(3) "DNA" means deoxyribonucleic acid. 288

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

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

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

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

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

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

~~(F)~~ (10) "Physician" has the same meaning as in section 307

2305.113 of the Revised Code. 308

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

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

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

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

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

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

(2) After the issuance of a decision by the supreme court 336

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

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

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

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

(4) If any provision of this section or sections 2919.171 356
or 2919.191 to 2919.1910 of the Revised Code is held invalid, or 357
if the application of such provision to any person or 358
circumstance is held invalid, the invalidity of that provision 359
does not affect any other provisions or applications of this 360
section and sections 2919.171 and 2919.191 to 2919.1910 of the 361
Revised Code that can be given effect without the invalid 362
provision or application, and to this end the provisions of this 363
section and sections 2919.171 and 2919.191 to 2919.1910 of the 364
Revised Code are severable as provided in section 1.50 of the 365
Revised Code. In particular, it is the intent of the general 366

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

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

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

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

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

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

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

(6) Cardiac activity begins at a biologically identifiable 393
moment in time, normally when the fetal heart is formed in the 394
gestational sac. 395

(7) The state of Ohio has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of an unborn human individual who may be born. 396
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(8) In order to make an informed choice about whether to continue her pregnancy, the pregnant woman has a legitimate interest in knowing the likelihood of the fetus surviving to full-term birth based upon the presence of cardiac activity. 399
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(B) Sections 2919.192 to 2919.195 of the Revised Code apply only to intrauterine pregnancies. 403
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Sec. ~~2919.191~~ 2919.192. (A) A person who intends to 405
perform or induce an abortion on a pregnant woman shall 406
determine whether there is a detectable fetal heartbeat of the 407
unborn human individual the pregnant woman is carrying. The 408
method of determining the presence of a fetal heartbeat shall be 409
consistent with the person's good faith understanding of 410
standard medical practice, provided that if rules have been 411
adopted under division ~~(C)~~ (B) of this section, the method 412
chosen shall be one that is consistent with the rules. The 413
person who determines the presence or absence of a fetal 414
heartbeat shall record in the pregnant woman's medical record 415
the estimated gestational age of the unborn human individual, 416
the method used to test for a fetal heartbeat, the date and time 417
of the test, and the results of the test. 418

~~(B) (1) Except when a medical emergency exists that prevents compliance with this division, no person shall perform or induce an abortion on a pregnant woman prior to determining if the unborn human individual the pregnant woman is carrying has a detectable fetal heartbeat. Any person who performs or induces an abortion on a pregnant woman based on the exception in this division shall note in the pregnant woman's medical~~ 419
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~~records that a medical emergency necessitating the abortion~~ 426
~~existed and shall also note the medical condition of the~~ 427
~~pregnant woman that prevented compliance with this division. The~~ 428
~~person shall maintain a copy of the notes described in this~~ 429
~~division in the person's own records for at least seven years~~ 430
~~after the notes are entered into the medical records.~~ 431

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

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

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

~~(E)~~ ~~Except as provided in division (F) of this section, no~~ 451
~~person shall knowingly and purposefully perform or induce an~~ 452
~~abortion on a pregnant woman before determining in accordance~~ 453
~~with division (A) of this section whether the unborn human~~ 454
~~individual the pregnant woman is carrying has a detectable~~ 455

~~heartbeat. The failure of a person to satisfy the requirements of this section prior to performing or inducing an abortion on a pregnant woman may be the basis for either of the following:~~ 456
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~~(1) A civil action for compensatory and exemplary damages;~~ 459

~~(2) Disciplinary action under section 4731.22 of the Revised Code.~~ 460
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~~(F) Division (E) of this section does not apply to a physician who performs or induces the abortion if the physician believes that a medical emergency exists that prevents compliance with that division.~~ 462
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~~(G) The director of health may determine and specify in rules adopted pursuant to section 111.15 of the Revised Code and based upon available medical evidence the statistical probability of bringing an unborn human individual to term based on the gestational age of an unborn human individual who possesses a detectable fetal heartbeat.~~ 466
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~~(H) A woman on whom an abortion is performed in violation of division (B) of this section or division (B) (3) of section 2317.56 of the Revised Code may file a civil action for the wrongful death of the woman's unborn child and may receive at the mother's election at any time prior to final judgment damages in an amount equal to ten thousand dollars or an amount determined by the trier of fact after consideration of the evidence subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive.~~ 472
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Sec. 2919.193. (A) Except as provided in division (B) of this section, no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman before determining in 482
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accordance with division (A) of section 2919.192 of the Revised 485
Code whether the unborn human individual the pregnant woman is 486
carrying has a detectable heartbeat. 487

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

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

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

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

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

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

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

For at least seven years from the date the notations are 509
made, the physician shall maintain in the physician's own 510
records a copy of the notations. 511

(D) A person is not in violation of division (A) of this 512

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

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

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

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

(3) The pregnant woman shall sign a form acknowledging 537
that the pregnant woman has received information from the person 538
intending to perform or induce the abortion that the unborn 539
human individual the pregnant woman is carrying has a fetal 540
heartbeat and that the pregnant woman is aware of the 541
statistical probability of bringing the unborn human individual 542

the pregnant woman is carrying to term. 543

(B) Division (A) of this section does not apply if the 544
person who intends to perform or induce the abortion believes 545
that a medical emergency exists that prevents compliance with 546
that division. 547

(C) The director of health may adopt rules that specify 548
information regarding the statistical probability of bringing an 549
unborn human individual possessing a detectable heartbeat to 550
term based on the gestational age of the unborn human 551
individual. The rules shall be based on available medical 552
evidence and shall be adopted in accordance with section 111.15 553
of the Revised Code. 554

(D) This section does not have the effect of repealing or 555
limiting any other provision of the Revised Code relating to 556
informed consent for an abortion, including the provisions in 557
section 2317.56 of the Revised Code. 558

(E) Whoever violates division (A) of this section is 559
guilty of performing or inducing an abortion without informed 560
consent when there is a detectable fetal heartbeat, a 561
misdemeanor of the first degree on a first offense and a felony 562
of the fourth degree on each subsequent offense. 563

Sec. 2919.195. (A) Except as provided in division (B) of 564
this section, no person shall knowingly and purposefully perform 565
or induce an abortion on a pregnant woman with the specific 566
intent of causing or abetting the termination of the life of the 567
unborn human individual the pregnant woman is carrying and whose 568
fetal heartbeat has been detected in accordance with division 569
(A) of section 2919.192 of the Revised Code. 570

Whoever violates this division is guilty of performing or 571

inducing an abortion after the detection of a fetal heartbeat, a 572
felony of the fifth degree. 573

(B) Division (A) of this section does not apply to a 574
physician who performs a medical procedure that, in the 575
physician's reasonable medical judgment, is designed or intended 576
to prevent the death of the pregnant woman or to prevent a 577
serious risk of the substantial and irreversible impairment of a 578
major bodily function of the pregnant woman. 579

A physician who performs a medical procedure as described 580
in this division shall declare, in a written document, that the 581
medical procedure is necessary, to the best of the physician's 582
reasonable medical judgment, to prevent the death of the 583
pregnant woman or to prevent a serious risk of the substantial 584
and irreversible impairment of a major bodily function of the 585
pregnant woman. In the document, the physician shall specify the 586
pregnant woman's medical condition that the medical procedure is 587
asserted to address and the medical rationale for the 588
physician's conclusion that the medical procedure is necessary 589
to prevent the death of the pregnant woman or to prevent a 590
serious risk of the substantial and irreversible impairment of a 591
major bodily function of the pregnant woman. 592

A physician who performs a medical procedure as described 593
in this division shall place the written document required by 594
this division in the pregnant woman's medical records. The 595
physician shall maintain a copy of the document in the 596
physician's own records for at least seven years from the date 597
the document is created. 598

(C) A person is not in violation of division (A) of this 599
section if the person acts in accordance with division (A) of 600
section 2919.192 of the Revised Code and the method used to 601

determine the presence of a fetal heartbeat does not reveal a fetal heartbeat. 602
603

(D) Division (A) of this section does not have the effect of repealing or limiting any other provision of the Revised Code that restricts or regulates the performance or inducement of an abortion by a particular method or during a particular stage of a pregnancy. 604
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Sec. 2919.196. (A) A person who performs or induces an abortion on a pregnant woman shall do whichever of the following is applicable: 609
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(1) If the reason for the abortion purportedly is to preserve the health of the pregnant woman, the person shall specify in a written document the medical condition that the abortion is asserted to address and the medical rationale for the person's conclusion that the abortion is necessary to address that condition. 612
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(2) If the reason for the abortion is other than to preserve the health of the pregnant woman, the person shall specify in a written document that maternal health is not the purpose of the abortion. 618
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(B) The person who specifies the information in the document described in division (A) of this section shall place the document in the pregnant woman's medical records. The person who specifies the information shall maintain a copy of the document in the person's own records for at least seven years from the date the document is created. 622
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Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of the Revised Code prohibits the sale, use, prescription, or administration of a drug, device, or chemical that is designed 628
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for contraceptive purposes. 631

Sec. ~~2919.193~~ 2919.198. A pregnant woman on whom an 632
abortion is performed or induced in violation of section 633
~~2919.191 or 2919.192~~ 2919.193, 2919.194, or 2919.195 of the 634
Revised Code is not guilty of violating any of those sections; 635
is not guilty of attempting to commit, conspiring to commit, or 636
complicity in committing a violation of any of those sections; 637
and is not subject to a civil penalty based on the abortion 638
being performed or induced in violation of any of those 639
sections. 640

Sec. 2919.199. (A) A woman who meets either or both of the 641
following criteria may file a civil action for the wrongful 642
death of her unborn child: 643

(1) A woman on whom an abortion was performed or induced 644
in violation of division (A) of section 2919.193 or division (A) 645
of section 2919.195 of the Revised Code; 646

(2) A woman on whom an abortion was performed or induced 647
who was not given the information described in divisions (A) (1) 648
and (2) of section 2919.194 of the Revised Code or who did not 649
sign a form described in division (A) (3) of section 2919.194 of 650
the Revised Code. 651

(B) A woman who prevails in an action filed under division 652
(A) of this section shall receive both of the following from the 653
person who committed the one or more acts described in division 654
(A) (1) or (2) of this section: 655

(1) Damages in an amount equal to ten thousand dollars or 656
an amount determined by the trier of fact after consideration of 657
the evidence at the mother's election at any time prior to final 658
judgment subject to the same defenses and requirements of proof, 659

except any requirement of live birth, as would apply to a suit 660
for the wrongful death of a child who had been born alive; 661

(2) Court costs and reasonable attorney's fees. 662

(C) A determination that division (A) of section 2919.193 663
of the Revised Code, division (A) (1), (2), or (3) of section 664
2919.194 of the Revised Code, or division (A) of section 665
2919.195 of the Revised Code is unconstitutional shall be a 666
defense to an action filed under division (A) of this section 667
alleging that the defendant violated the division that was 668
determined to be unconstitutional. 669

(D) If the defendant in an action filed under division (A) 670
of this section prevails and all of the following apply the 671
court shall award reasonable attorney's fees to the defendant in 672
accordance with section 2323.51 of the Revised Code: 673

(1) The court finds that the commencement of the action 674
constitutes frivolous conduct, as defined in section 2323.51 of 675
the Revised Code. 676

(2) The court's finding in division (D)(1) of this section 677
is not based on that court or another court determining that 678
division (A) of section 2919.193 of the Revised Code, division 679
(A) (1), (2), or (3) of section 2919.194 of the Revised Code, or 680
division (A) of section 2919.195 of the Revised Code is 681
unconstitutional. 682

(3) The court finds that the defendant was adversely 683
affected by the frivolous conduct. 684

Sec. 2919.1910. (A) It is the intent of the general 685
assembly that women whose pregnancies are protected under 686
division (A) of section 2919.195 of the Revised Code be informed 687
of available options for adoption. 688

(B) In furtherance of the intent expressed in division (A) 689
of this section, there is hereby created the joint legislative 690
committee on adoption promotion and support. The committee may 691
review or study any matter that it considers relevant to the 692
adoption process in this state, with priority given to the study 693
or review of mechanisms intended to increase awareness of the 694
process, increase its effectiveness, or both. 695

(C) The committee shall consist of three members of the 696
house of representatives appointed by the speaker of the house 697
of representatives and three members of the senate appointed by 698
the president of the senate. Not more than two members appointed 699
by the speaker of the house of representatives and not more than 700
two members appointed by the president of the senate may be of 701
the same political party. 702

Each member of the committee shall hold office during the 703
general assembly in which the member is appointed and until a 704
successor has been appointed, notwithstanding the adjournment 705
sine die of the general assembly in which the member was 706
appointed or the expiration of the member's term as a member of 707
the general assembly. Any vacancies occurring among the members 708
of the committee shall be filled in the manner of the original 709
appointment. 710

(D) The committee has the same powers as other standing or 711
select committees of the general assembly. 712

Sec. 2919.1911. The department of health shall inspect the 713
medical records from any facility that performs abortions to 714
ensure that the physicians or other persons who perform 715
abortions at that facility are in compliance with the reporting 716
requirements under section 2919.171 of the Revised Code. The 717
facility shall make the medical records available for inspection 718

to the department of health but shall not release any personal 719
medical information in the medical records that is prohibited by 720
law. 721

Sec. 4731.22. (A) The state medical board, by an 722
affirmative vote of not fewer than six of its members, may 723
limit, revoke, or suspend an individual's certificate to 724
practice, refuse to grant a certificate to an individual, refuse 725
to register an individual, refuse to reinstate a certificate, or 726
reprimand or place on probation the holder of a certificate if 727
the individual or certificate holder is found by the board to 728
have committed fraud during the administration of the 729
examination for a certificate to practice or to have committed 730
fraud, misrepresentation, or deception in applying for or 731
securing any certificate to practice or certificate of 732
registration issued by the board. 733

(B) The board, by an affirmative vote of not fewer than 734
six members, shall, to the extent permitted by law, limit, 735
revoke, or suspend an individual's certificate to practice, 736
refuse to register an individual, refuse to reinstate a 737
certificate, or reprimand or place on probation the holder of a 738
certificate for one or more of the following reasons: 739

(1) Permitting one's name or one's certificate to practice 740
or certificate of registration to be used by a person, group, or 741
corporation when the individual concerned is not actually 742
directing the treatment given; 743

(2) Failure to maintain minimal standards applicable to 744
the selection or administration of drugs, or failure to employ 745
acceptable scientific methods in the selection of drugs or other 746
modalities for treatment of disease; 747

(3) Selling, giving away, personally furnishing, 748
prescribing, or administering drugs for other than legal and 749
legitimate therapeutic purposes or a plea of guilty to, a 750
judicial finding of guilt of, or a judicial finding of 751
eligibility for intervention in lieu of conviction of, a 752
violation of any federal or state law regulating the possession, 753
distribution, or use of any drug; 754

(4) Willfully betraying a professional confidence. 755

For purposes of this division, "willfully betraying a 756
professional confidence" does not include providing any 757
information, documents, or reports to a child fatality review 758
board under sections 307.621 to 307.629 of the Revised Code and 759
does not include the making of a report of an employee's use of 760
a drug of abuse, or a report of a condition of an employee other 761
than one involving the use of a drug of abuse, to the employer 762
of the employee as described in division (B) of section 2305.33 763
of the Revised Code. Nothing in this division affects the 764
immunity from civil liability conferred by that section upon a 765
physician who makes either type of report in accordance with 766
division (B) of that section. As used in this division, 767
"employee," "employer," and "physician" have the same meanings 768
as in section 2305.33 of the Revised Code. 769

(5) Making a false, fraudulent, deceptive, or misleading 770
statement in the solicitation of or advertising for patients; in 771
relation to the practice of medicine and surgery, osteopathic 772
medicine and surgery, podiatric medicine and surgery, or a 773
limited branch of medicine; or in securing or attempting to 774
secure any certificate to practice or certificate of 775
registration issued by the board. 776

As used in this division, "false, fraudulent, deceptive, 777

or misleading statement" means a statement that includes a 778
misrepresentation of fact, is likely to mislead or deceive 779
because of a failure to disclose material facts, is intended or 780
is likely to create false or unjustified expectations of 781
favorable results, or includes representations or implications 782
that in reasonable probability will cause an ordinarily prudent 783
person to misunderstand or be deceived. 784

(6) A departure from, or the failure to conform to, 785
minimal standards of care of similar practitioners under the 786
same or similar circumstances, whether or not actual injury to a 787
patient is established; 788

(7) Representing, with the purpose of obtaining 789
compensation or other advantage as personal gain or for any 790
other person, that an incurable disease or injury, or other 791
incurable condition, can be permanently cured; 792

(8) The obtaining of, or attempting to obtain, money or 793
anything of value by fraudulent misrepresentations in the course 794
of practice; 795

(9) A plea of guilty to, a judicial finding of guilt of, 796
or a judicial finding of eligibility for intervention in lieu of 797
conviction for, a felony; 798

(10) Commission of an act that constitutes a felony in 799
this state, regardless of the jurisdiction in which the act was 800
committed; 801

(11) A plea of guilty to, a judicial finding of guilt of, 802
or a judicial finding of eligibility for intervention in lieu of 803
conviction for, a misdemeanor committed in the course of 804
practice; 805

(12) Commission of an act in the course of practice that 806

constitutes a misdemeanor in this state, regardless of the 807
jurisdiction in which the act was committed; 808

(13) A plea of guilty to, a judicial finding of guilt of, 809
or a judicial finding of eligibility for intervention in lieu of 810
conviction for, a misdemeanor involving moral turpitude; 811

(14) Commission of an act involving moral turpitude that 812
constitutes a misdemeanor in this state, regardless of the 813
jurisdiction in which the act was committed; 814

(15) Violation of the conditions of limitation placed by 815
the board upon a certificate to practice; 816

(16) Failure to pay license renewal fees specified in this 817
chapter; 818

(17) Except as authorized in section 4731.31 of the 819
Revised Code, engaging in the division of fees for referral of 820
patients, or the receiving of a thing of value in return for a 821
specific referral of a patient to utilize a particular service 822
or business; 823

(18) Subject to section 4731.226 of the Revised Code, 824
violation of any provision of a code of ethics of the American 825
medical association, the American osteopathic association, the 826
American podiatric medical association, or any other national 827
professional organizations that the board specifies by rule. The 828
state medical board shall obtain and keep on file current copies 829
of the codes of ethics of the various national professional 830
organizations. The individual whose certificate is being 831
suspended or revoked shall not be found to have violated any 832
provision of a code of ethics of an organization not appropriate 833
to the individual's profession. 834

For purposes of this division, a "provision of a code of 835

ethics of a national professional organization" does not include 836
any provision that would preclude the making of a report by a 837
physician of an employee's use of a drug of abuse, or of a 838
condition of an employee other than one involving the use of a 839
drug of abuse, to the employer of the employee as described in 840
division (B) of section 2305.33 of the Revised Code. Nothing in 841
this division affects the immunity from civil liability 842
conferred by that section upon a physician who makes either type 843
of report in accordance with division (B) of that section. As 844
used in this division, "employee," "employer," and "physician" 845
have the same meanings as in section 2305.33 of the Revised 846
Code. 847

(19) Inability to practice according to acceptable and 848
prevailing standards of care by reason of mental illness or 849
physical illness, including, but not limited to, physical 850
deterioration that adversely affects cognitive, motor, or 851
perceptive skills. 852

In enforcing this division, the board, upon a showing of a 853
possible violation, may compel any individual authorized to 854
practice by this chapter or who has submitted an application 855
pursuant to this chapter to submit to a mental examination, 856
physical examination, including an HIV test, or both a mental 857
and a physical examination. The expense of the examination is 858
the responsibility of the individual compelled to be examined. 859
Failure to submit to a mental or physical examination or consent 860
to an HIV test ordered by the board constitutes an admission of 861
the allegations against the individual unless the failure is due 862
to circumstances beyond the individual's control, and a default 863
and final order may be entered without the taking of testimony 864
or presentation of evidence. If the board finds an individual 865
unable to practice because of the reasons set forth in this 866

division, the board shall require the individual to submit to 867
care, counseling, or treatment by physicians approved or 868
designated by the board, as a condition for initial, continued, 869
reinstated, or renewed authority to practice. An individual 870
affected under this division shall be afforded an opportunity to 871
demonstrate to the board the ability to resume practice in 872
compliance with acceptable and prevailing standards under the 873
provisions of the individual's certificate. For the purpose of 874
this division, any individual who applies for or receives a 875
certificate to practice under this chapter accepts the privilege 876
of practicing in this state and, by so doing, shall be deemed to 877
have given consent to submit to a mental or physical examination 878
when directed to do so in writing by the board, and to have 879
waived all objections to the admissibility of testimony or 880
examination reports that constitute a privileged communication. 881

(20) Except when civil penalties are imposed under section 882
4731.225 or 4731.281 of the Revised Code, and subject to section 883
4731.226 of the Revised Code, violating or attempting to 884
violate, directly or indirectly, or assisting in or abetting the 885
violation of, or conspiring to violate, any provisions of this 886
chapter or any rule promulgated by the board. 887

This division does not apply to a violation or attempted 888
violation of, assisting in or abetting the violation of, or a 889
conspiracy to violate, any provision of this chapter or any rule 890
adopted by the board that would preclude the making of a report 891
by a physician of an employee's use of a drug of abuse, or of a 892
condition of an employee other than one involving the use of a 893
drug of abuse, to the employer of the employee as described in 894
division (B) of section 2305.33 of the Revised Code. Nothing in 895
this division affects the immunity from civil liability 896
conferred by that section upon a physician who makes either type 897

of report in accordance with division (B) of that section. As 898
used in this division, "employee," "employer," and "physician" 899
have the same meanings as in section 2305.33 of the Revised 900
Code. 901

(21) The violation of section 3701.79 of the Revised Code 902
or of any abortion rule adopted by the public health council 903
pursuant to section 3701.341 of the Revised Code; 904

(22) Any of the following actions taken by an agency 905
responsible for authorizing, certifying, or regulating an 906
individual to practice a health care occupation or provide 907
health care services in this state or another jurisdiction, for 908
any reason other than the nonpayment of fees: the limitation, 909
revocation, or suspension of an individual's license to 910
practice; acceptance of an individual's license surrender; 911
denial of a license; refusal to renew or reinstate a license; 912
imposition of probation; or issuance of an order of censure or 913
other reprimand; 914

(23) The violation of section 2919.12 of the Revised Code 915
or the performance or inducement of an abortion upon a pregnant 916
woman with actual knowledge that the conditions specified in 917
division (B) of section 2317.56 of the Revised Code have not 918
been satisfied or with a heedless indifference as to whether 919
those conditions have been satisfied, unless an affirmative 920
defense as specified in division (H)(2) of that section would 921
apply in a civil action authorized by division (H)(1) of that 922
section; 923

(24) The revocation, suspension, restriction, reduction, 924
or termination of clinical privileges by the United States 925
department of defense or department of veterans affairs or the 926
termination or suspension of a certificate of registration to 927

prescribe drugs by the drug enforcement administration of the 928
United States department of justice; 929

(25) Termination or suspension from participation in the 930
medicare or medicaid programs by the department of health and 931
human services or other responsible agency for any act or acts 932
that also would constitute a violation of division (B) (2), (3), 933
(6), (8), or (19) of this section; 934

(26) Impairment of ability to practice according to 935
acceptable and prevailing standards of care because of habitual 936
or excessive use or abuse of drugs, alcohol, or other substances 937
that impair ability to practice. 938

For the purposes of this division, any individual 939
authorized to practice by this chapter accepts the privilege of 940
practicing in this state subject to supervision by the board. By 941
filing an application for or holding a certificate to practice 942
under this chapter, an individual shall be deemed to have given 943
consent to submit to a mental or physical examination when 944
ordered to do so by the board in writing, and to have waived all 945
objections to the admissibility of testimony or examination 946
reports that constitute privileged communications. 947

If it has reason to believe that any individual authorized 948
to practice by this chapter or any applicant for certification 949
to practice suffers such impairment, the board may compel the 950
individual to submit to a mental or physical examination, or 951
both. The expense of the examination is the responsibility of 952
the individual compelled to be examined. Any mental or physical 953
examination required under this division shall be undertaken by 954
a treatment provider or physician who is qualified to conduct 955
the examination and who is chosen by the board. 956

Failure to submit to a mental or physical examination 957
ordered by the board constitutes an admission of the allegations 958
against the individual unless the failure is due to 959
circumstances beyond the individual's control, and a default and 960
final order may be entered without the taking of testimony or 961
presentation of evidence. If the board determines that the 962
individual's ability to practice is impaired, the board shall 963
suspend the individual's certificate or deny the individual's 964
application and shall require the individual, as a condition for 965
initial, continued, reinstated, or renewed certification to 966
practice, to submit to treatment. 967

Before being eligible to apply for reinstatement of a 968
certificate suspended under this division, the impaired 969
practitioner shall demonstrate to the board the ability to 970
resume practice in compliance with acceptable and prevailing 971
standards of care under the provisions of the practitioner's 972
certificate. The demonstration shall include, but shall not be 973
limited to, the following: 974

(a) Certification from a treatment provider approved under 975
section 4731.25 of the Revised Code that the individual has 976
successfully completed any required inpatient treatment; 977

(b) Evidence of continuing full compliance with an 978
aftercare contract or consent agreement; 979

(c) Two written reports indicating that the individual's 980
ability to practice has been assessed and that the individual 981
has been found capable of practicing according to acceptable and 982
prevailing standards of care. The reports shall be made by 983
individuals or providers approved by the board for making the 984
assessments and shall describe the basis for their 985
determination. 986

The board may reinstate a certificate suspended under this 987
division after that demonstration and after the individual has 988
entered into a written consent agreement. 989

When the impaired practitioner resumes practice, the board 990
shall require continued monitoring of the individual. The 991
monitoring shall include, but not be limited to, compliance with 992
the written consent agreement entered into before reinstatement 993
or with conditions imposed by board order after a hearing, and, 994
upon termination of the consent agreement, submission to the 995
board for at least two years of annual written progress reports 996
made under penalty of perjury stating whether the individual has 997
maintained sobriety. 998

(27) A second or subsequent violation of section 4731.66 999
or 4731.69 of the Revised Code; 1000

(28) Except as provided in division (N) of this section: 1001

(a) Waiving the payment of all or any part of a deductible 1002
or copayment that a patient, pursuant to a health insurance or 1003
health care policy, contract, or plan that covers the 1004
individual's services, otherwise would be required to pay if the 1005
waiver is used as an enticement to a patient or group of 1006
patients to receive health care services from that individual; 1007

(b) Advertising that the individual will waive the payment 1008
of all or any part of a deductible or copayment that a patient, 1009
pursuant to a health insurance or health care policy, contract, 1010
or plan that covers the individual's services, otherwise would 1011
be required to pay. 1012

(29) Failure to use universal blood and body fluid 1013
precautions established by rules adopted under section 4731.051 1014
of the Revised Code; 1015

(30) Failure to provide notice to, and receive 1016
acknowledgment of the notice from, a patient when required by 1017
section 4731.143 of the Revised Code prior to providing 1018
nonemergency professional services, or failure to maintain that 1019
notice in the patient's file; 1020

(31) Failure of a physician supervising a physician 1021
assistant to maintain supervision in accordance with the 1022
requirements of Chapter 4730. of the Revised Code and the rules 1023
adopted under that chapter; 1024

(32) Failure of a physician or podiatrist to enter into a 1025
standard care arrangement with a clinical nurse specialist, 1026
certified nurse-midwife, or certified nurse practitioner with 1027
whom the physician or podiatrist is in collaboration pursuant to 1028
section 4731.27 of the Revised Code or failure to fulfill the 1029
responsibilities of collaboration after entering into a standard 1030
care arrangement; 1031

(33) Failure to comply with the terms of a consult 1032
agreement entered into with a pharmacist pursuant to section 1033
4729.39 of the Revised Code; 1034

(34) Failure to cooperate in an investigation conducted by 1035
the board under division (F) of this section, including failure 1036
to comply with a subpoena or order issued by the board or 1037
failure to answer truthfully a question presented by the board 1038
in an investigative interview, an investigative office 1039
conference, at a deposition, or in written interrogatories, 1040
except that failure to cooperate with an investigation shall not 1041
constitute grounds for discipline under this section if a court 1042
of competent jurisdiction has issued an order that either 1043
quashes a subpoena or permits the individual to withhold the 1044
testimony or evidence in issue; 1045

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| (35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision; | 1046 1047 1048 1049 |
| (36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant; | 1050 1051 1052 |
| (37) Assisting suicide as defined in section 3795.01 of the Revised Code; | 1053 1054 |
| (38) Failure to comply with the requirements of section 2317.561 of the Revised Code; | 1055 1056 |
| (39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants; | 1057 1058 1059 |
| (40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code; | 1060 1061 1062 1063 |
| (41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic; | 1064 1065 1066 1067 |
| (42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic; | 1068 1069 1070 1071 |
| (43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board | 1072 1073 |

of pharmacy no longer maintains a drug database pursuant to 1074
section 4729.75 of the Revised Code; 1075

(44) Failure to comply with the requirements of section 1076
2919.171 of the Revised Code or failure to submit to the 1077
department of health in accordance with a court order a complete 1078
report as described in section 2919.171 of the Revised Code; 1079

(45) Practicing at a facility that is subject to licensure 1080
as a category III terminal distributor of dangerous drugs with a 1081
pain management clinic classification unless the person 1082
operating the facility has obtained and maintains the license 1083
with the classification; 1084

(46) Owning a facility that is subject to licensure as a 1085
category III terminal distributor of dangerous drugs with a pain 1086
management clinic classification unless the facility is licensed 1087
with the classification; 1088

(47) Failure to comply with any of the requirement- 1089
requirements regarding making or maintaining notes medical 1090
records or documents described in division (B) of section 1091
2919.191 (A) of section 2919.192, division (C) of section 1092
2919.193, division (B) of section 2919.195, or division (A) of 1093
section 2919.196 of the Revised Code or failure to satisfy the 1094
requirements of section 2919.191 of the Revised Code prior to 1095
performing or inducing an abortion upon a pregnant woman; 1096

(48) Failure to comply with the requirements in section 1097
3719.061 of the Revised Code before issuing to a minor a 1098
prescription for a controlled substance containing an opioid. 1099

(C) Disciplinary actions taken by the board under 1100
divisions (A) and (B) of this section shall be taken pursuant to 1101
an adjudication under Chapter 119. of the Revised Code, except 1102

that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

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

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

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

this section, the commission of the act may be established by a 1133
finding by the board, pursuant to an adjudication under Chapter 1134
119. of the Revised Code, that the individual committed the act. 1135
The board does not have jurisdiction under those divisions if 1136
the trial court renders a final judgment in the individual's 1137
favor and that judgment is based upon an adjudication on the 1138
merits. The board has jurisdiction under those divisions if the 1139
trial court issues an order of dismissal upon technical or 1140
procedural grounds. 1141

(E) The sealing of conviction records by any court shall 1142
have no effect upon a prior board order entered under this 1143
section or upon the board's jurisdiction to take action under 1144
this section if, based upon a plea of guilty, a judicial finding 1145
of guilt, or a judicial finding of eligibility for intervention 1146
in lieu of conviction, the board issued a notice of opportunity 1147
for a hearing prior to the court's order to seal the records. 1148
The board shall not be required to seal, destroy, redact, or 1149
otherwise modify its records to reflect the court's sealing of 1150
conviction records. 1151

(F) (1) The board shall investigate evidence that appears 1152
to show that a person has violated any provision of this chapter 1153
or any rule adopted under it. Any person may report to the board 1154
in a signed writing any information that the person may have 1155
that appears to show a violation of any provision of this 1156
chapter or any rule adopted under it. In the absence of bad 1157
faith, any person who reports information of that nature or who 1158
testifies before the board in any adjudication conducted under 1159
Chapter 119. of the Revised Code shall not be liable in damages 1160
in a civil action as a result of the report or testimony. Each 1161
complaint or allegation of a violation received by the board 1162
shall be assigned a case number and shall be recorded by the 1163

board. 1164

(2) Investigations of alleged violations of this chapter 1165
or any rule adopted under it shall be supervised by the 1166
supervising member elected by the board in accordance with 1167
section 4731.02 of the Revised Code and by the secretary as 1168
provided in section 4731.39 of the Revised Code. The president 1169
may designate another member of the board to supervise the 1170
investigation in place of the supervising member. No member of 1171
the board who supervises the investigation of a case shall 1172
participate in further adjudication of the case. 1173

(3) In investigating a possible violation of this chapter 1174
or any rule adopted under this chapter, or in conducting an 1175
inspection under division (E) of section 4731.054 of the Revised 1176
Code, the board may question witnesses, conduct interviews, 1177
administer oaths, order the taking of depositions, inspect and 1178
copy any books, accounts, papers, records, or documents, issue 1179
subpoenas, and compel the attendance of witnesses and production 1180
of books, accounts, papers, records, documents, and testimony, 1181
except that a subpoena for patient record information shall not 1182
be issued without consultation with the attorney general's 1183
office and approval of the secretary and supervising member of 1184
the board. 1185

(a) Before issuance of a subpoena for patient record 1186
information, the secretary and supervising member shall 1187
determine whether there is probable cause to believe that the 1188
complaint filed alleges a violation of this chapter or any rule 1189
adopted under it and that the records sought are relevant to the 1190
alleged violation and material to the investigation. The 1191
subpoena may apply only to records that cover a reasonable 1192
period of time surrounding the alleged violation. 1193

(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 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 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 the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

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

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

division (E) of section 4731.054 of the Revised Code is 1224
confidential and not subject to discovery in any civil action. 1225

The board shall conduct all investigations or inspections 1226
and proceedings in a manner that protects the confidentiality of 1227
patients and persons who file complaints with the board. The 1228
board shall not make public the names or any other identifying 1229
information about patients or complainants unless proper consent 1230
is given or, in the case of a patient, a waiver of the patient 1231
privilege exists under division (B) of section 2317.02 of the 1232
Revised Code, except that consent or a waiver of that nature is 1233
not required if the board possesses reliable and substantial 1234
evidence that no bona fide physician-patient relationship 1235
exists. 1236

The board may share any information it receives pursuant 1237
to an investigation or inspection, including patient records and 1238
patient record information, with law enforcement agencies, other 1239
licensing boards, and other governmental agencies that are 1240
prosecuting, adjudicating, or investigating alleged violations 1241
of statutes or administrative rules. An agency or board that 1242
receives the information shall comply with the same requirements 1243
regarding confidentiality as those with which the state medical 1244
board must comply, notwithstanding any conflicting provision of 1245
the Revised Code or procedure of the agency or board that 1246
applies when it is dealing with other information in its 1247
possession. In a judicial proceeding, the information may be 1248
admitted into evidence only in accordance with the Rules of 1249
Evidence, but the court shall require that appropriate measures 1250
are taken to ensure that confidentiality is maintained with 1251
respect to any part of the information that contains names or 1252
other identifying information about patients or complainants 1253
whose confidentiality was protected by the state medical board 1254

when the information was in the board's possession. Measures to 1255
ensure confidentiality that may be taken by the court include 1256
sealing its records or deleting specific information from its 1257
records. 1258

(6) On a quarterly basis, the board shall prepare a report 1259
that documents the disposition of all cases during the preceding 1260
three months. The report shall contain the following information 1261
for each case with which the board has completed its activities: 1262

(a) The case number assigned to the complaint or alleged 1263
violation; 1264

(b) The type of certificate to practice, if any, held by 1265
the individual against whom the complaint is directed; 1266

(c) A description of the allegations contained in the 1267
complaint; 1268

(d) The disposition of the case. 1269

The report shall state how many cases are still pending 1270
and shall be prepared in a manner that protects the identity of 1271
each person involved in each case. The report shall be a public 1272
record under section 149.43 of the Revised Code. 1273

(G) If the secretary and supervising member determine both 1274
of the following, they may recommend that the board suspend an 1275
individual's certificate to practice without a prior hearing: 1276

(1) That there is clear and convincing evidence that an 1277
individual has violated division (B) of this section; 1278

(2) That the individual's continued practice presents a 1279
danger of immediate and serious harm to the public. 1280

Written allegations shall be prepared for consideration by 1281

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

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

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

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

order may be filed with the board along with appropriate court 1312
documents. Upon receipt of a petition of that nature and 1313
supporting court documents, the board shall reinstate the 1314
individual's certificate to practice. The board may then hold an 1315
adjudication under Chapter 119. of the Revised Code to determine 1316
whether the individual committed the act in question. Notice of 1317
an opportunity for a hearing shall be given in accordance with 1318
Chapter 119. of the Revised Code. If the board finds, pursuant 1319
to an adjudication held under this division, that the individual 1320
committed the act or if no hearing is requested, the board may 1321
order any of the sanctions identified under division (B) of this 1322
section. 1323

(I) The certificate to practice issued to an individual 1324
under this chapter and the individual's practice in this state 1325
are automatically suspended as of the date of the individual's 1326
second or subsequent plea of guilty to, or judicial finding of 1327
guilt of, a violation of section 2919.123 of the Revised Code, 1328
or the date the individual pleads guilty to, is found by a judge 1329
or jury to be guilty of, or is subject to a judicial finding of 1330
eligibility for intervention in lieu of conviction in this state 1331
or treatment or intervention in lieu of conviction in another 1332
jurisdiction for any of the following criminal offenses in this 1333
state or a substantially equivalent criminal offense in another 1334
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1335
felonious assault, kidnapping, rape, sexual battery, gross 1336
sexual imposition, aggravated arson, aggravated robbery, or 1337
aggravated burglary. Continued practice after suspension shall 1338
be considered practicing without a certificate. 1339

The board shall notify the individual subject to the 1340
suspension by certified mail or in person in accordance with 1341
section 119.07 of the Revised Code. If an individual whose 1342

certificate is automatically suspended under this division fails 1343
to make a timely request for an adjudication under Chapter 119. 1344
of the Revised Code, the board shall do whichever of the 1345
following is applicable: 1346

(1) If the automatic suspension under this division is for 1347
a second or subsequent plea of guilty to, or judicial finding of 1348
guilt of, a violation of section 2919.123 of the Revised Code, 1349
the board shall enter an order suspending the individual's 1350
certificate to practice for a period of at least one year or, if 1351
determined appropriate by the board, imposing a more serious 1352
sanction involving the individual's certificate to practice. 1353

(2) In all circumstances in which division (I)(1) of this 1354
section does not apply, enter a final order permanently revoking 1355
the individual's certificate to practice. 1356

(J) If the board is required by Chapter 119. of the 1357
Revised Code to give notice of an opportunity for a hearing and 1358
if the individual subject to the notice does not timely request 1359
a hearing in accordance with section 119.07 of the Revised Code, 1360
the board is not required to hold a hearing, but may adopt, by 1361
an affirmative vote of not fewer than six of its members, a 1362
final order that contains the board's findings. In that final 1363
order, the board may order any of the sanctions identified under 1364
division (A) or (B) of this section. 1365

(K) Any action taken by the board under division (B) of 1366
this section resulting in a suspension from practice shall be 1367
accompanied by a written statement of the conditions under which 1368
the individual's certificate to practice may be reinstated. The 1369
board shall adopt rules governing conditions to be imposed for 1370
reinstatement. Reinstatement of a certificate suspended pursuant 1371
to division (B) of this section requires an affirmative vote of 1372

not fewer than six members of the board. 1373

(L) When the board refuses to grant a certificate to an 1374
applicant, revokes an individual's certificate to practice, 1375
refuses to register an applicant, or refuses to reinstate an 1376
individual's certificate to practice, the board may specify that 1377
its action is permanent. An individual subject to a permanent 1378
action taken by the board is forever thereafter ineligible to 1379
hold a certificate to practice and the board shall not accept an 1380
application for reinstatement of the certificate or for issuance 1381
of a new certificate. 1382

(M) Notwithstanding any other provision of the Revised 1383
Code, all of the following apply: 1384

(1) The surrender of a certificate issued under this 1385
chapter shall not be effective unless or until accepted by the 1386
board. A telephone conference call may be utilized for 1387
acceptance of the surrender of an individual's certificate to 1388
practice. The telephone conference call shall be considered a 1389
special meeting under division (F) of section 121.22 of the 1390
Revised Code. Reinstatement of a certificate surrendered to the 1391
board requires an affirmative vote of not fewer than six members 1392
of the board. 1393

(2) An application for a certificate made under the 1394
provisions of this chapter may not be withdrawn without approval 1395
of the board. 1396

(3) Failure by an individual to renew a certificate of 1397
registration in accordance with this chapter shall not remove or 1398
limit the board's jurisdiction to take any disciplinary action 1399
under this section against the individual. 1400

(4) At the request of the board, a certificate holder 1401

shall immediately surrender to the board a certificate that the board has suspended, revoked, or permanently revoked.

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

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

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

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

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

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

(3) Make referrals to educational and assessment service 1431
providers and approve individual educational programs 1432
recommended by those providers. The board shall monitor the 1433
progress of each individual undertaking a recommended individual 1434
educational program. 1435

(4) Determine what constitutes successful completion of an 1436
individual educational program and require further monitoring of 1437
the individual who completed the program or other action that 1438
the board determines to be appropriate; 1439

(5) Adopt rules in accordance with Chapter 119. of the 1440
Revised Code to further implement the quality intervention 1441
program. 1442

An individual who participates in an individual 1443
educational program pursuant to this division shall pay the 1444
financial obligations arising from that educational program. 1445

Section 2. That existing sections 2317.56, 2919.171, 1446
2919.19, 2919.191, 2919.192, 2919.193, and 4731.22 of the 1447
Revised Code are hereby repealed. 1448