

**As Passed by the House**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. S. B. No. 127**

**Senators Lehner, Hottinger**

**Cosponsors: Senators Uecker, Hite, Eklund, Jones, Burke, Gardner, Oelslager, Obhof, Faber, Jordan Representatives Antani, Amstutz, Blessing, Boose, Brinkman, Buchy, Burkley, Butler, Conditt, Cupp, DeVitis, Dovilla, Ginter, Goodman, Green, Hagan, Hall, Hambley, Hayes, Henne, Hill, Hood, Keller, Koehler, LaTourette, Maag, McColley, Merrin, Perales, Retherford, Roegner, Romanchuk, Schaffer, Sprague, Terhar, Thompson, Young, Speaker Rosenberger**

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**A BILL**

To amend sections 2305.11 and 4731.22 and to enact  
sections 2307.54, 2919.20, 2919.201, 2919.202,  
2919.203, 2919.204, and 2919.205 of the Revised  
Code to prohibit the performance of an abortion  
on a pregnant woman when the probable post-  
fertilization age of the unborn child is twenty  
weeks or greater.

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

**Section 1.** That sections 2305.11 and 4731.22 be amended  
and sections 2307.54, 2919.20, 2919.201, 2919.202, 2919.203,  
2919.204, and 2919.205 of the Revised Code be enacted to read as  
follows:

**Sec. 2305.11.** (A) An action for libel, slander, malicious  
prosecution, or false imprisonment, an action for malpractice  
other than an action upon a medical, dental, optometric, or  
chiropractic claim, or an action upon a statute for a penalty or

forfeiture shall be commenced within one year after the cause of  
action accrued, provided that an action by an employee for the  
payment of unpaid minimum wages, unpaid overtime compensation,  
or liquidated damages by reason of the nonpayment of minimum  
wages or overtime compensation shall be commenced within two  
years after the cause of action accrued.

(B) A civil action for unlawful abortion pursuant to  
section 2919.12 of the Revised Code, a civil action authorized  
by division (H) of section 2317.56 of the Revised Code, ~~a civil  
action pursuant to division (B) (1) or (2) of section 2307.51 of  
the Revised Code for performing a dilation and extraction  
procedure or attempting to perform a dilation and extraction  
procedure in violation of section 2919.15 of the Revised Code,~~  
~~and~~ a civil action pursuant to division (B) of section 2307.52  
of the Revised Code for terminating or attempting to terminate a  
human pregnancy after viability in violation of division (A) of  
section 2919.17 of the Revised Code, and a civil action for  
terminating or attempting to terminate a human pregnancy of a  
pain-capable unborn child in violation of division (E) of  
section 2919.201 of the Revised Code shall be commenced within  
one year after the performance or inducement of the abortion, or  
within one year after the attempt to perform or induce the  
abortion in violation of division (A) of section 2919.17 of the  
Revised Code or division (E) of section 2919.201 of the Revised  
Code, ~~within one year after the performance of the dilation and  
extraction procedure, or, in the case of a civil action pursuant  
to division (B) (2) of section 2307.51 of the Revised Code,~~  
~~within one year after the attempt to perform the dilation and  
extraction procedure.~~

(C) As used in this section, "medical claim," "dental  
claim," "optometric claim," and "chiropractic claim" have the

same meanings as in section 2305.113 of the Revised Code. 47

Sec. 2307.54. (A) As used in this section, "frivolous 48  
conduct" has the same meaning as in section 2323.51 of the 49  
Revised Code. 50

(B) A woman upon whom an abortion is purposely performed 51  
or induced or purposely attempted to be performed or induced, or 52  
the father of the unborn child who was the subject of such an 53  
abortion, in violation of division (E) of section 2919.201 of 54  
the Revised Code, has and may commence a civil action for 55  
compensatory damages, punitive or exemplary damages if 56  
authorized by section 2315.21 of the Revised Code, and court 57  
costs and reasonable attorney's fees against the person who 58  
purposely performed or induced or purposely attempted to perform 59  
or induce the abortion in violation of division (E) of section 60  
2919.201 of the Revised Code. 61

(C) If a judgment is rendered in favor of the defendant in 62  
a civil action commenced pursuant to division (B) of this 63  
section and the court finds, upon the filing of a motion under 64  
section 2323.51 of the Revised Code, that the commencement of 65  
the civil action constitutes frivolous conduct and that the 66  
defendant was adversely affected by the frivolous conduct, the 67  
court shall award in accordance with section 2323.51 of the 68  
Revised Code reasonable attorney's fees to the defendant. 69

Sec. 2919.20. As used in sections 2919.20 to 2919.204 of 70  
the Revised Code: 71

(A) "Fertilization" means the fusion of a human 72  
spermatozoon with a human ovum. 73

(B) "Medical emergency" means a condition that in the 74  
physician's reasonable medical judgment, based upon the facts 75

known to the physician at that time, so complicates the woman's 76  
pregnancy as to necessitate the immediate performance or 77  
inducement of an abortion in order to prevent the death of the 78  
pregnant woman or to avoid a serious risk of the substantial and 79  
irreversible impairment of a major bodily function of the 80  
pregnant woman that delay in the performance or inducement of 81  
the abortion would create. 82

(C) "Pain-capable unborn child" means an unborn child of a 83  
probable post-fertilization age of twenty weeks or more. 84

(D) "Physician" has the same meaning as in section 85  
2305.113 of the Revised Code. 86

(E) "Post-fertilization age" means the age of the unborn 87  
child as calculated from the fusion of a human spermatozoon with 88  
a human ovum. 89

(F) "Probable post-fertilization age" means, in reasonable 90  
medical judgment and with reasonable probability, the age of the 91  
unborn child, as calculated from fertilization, at the time the 92  
abortion is performed or induced or attempted to be performed or 93  
induced. 94

(G) "Reasonable medical judgment" means a medical judgment 95  
that would be made by a reasonably prudent physician, 96  
knowledgeable about the case and the treatment possibilities 97  
with respect to the medical conditions involved. 98

(H) "Serious risk of the substantial and irreversible 99  
impairment of a major bodily function" means any medically 100  
diagnosed condition that so complicates the pregnancy of the 101  
woman as to directly or indirectly cause the substantial and 102  
irreversible impairment of a major bodily function. A medically 103  
diagnosed condition that constitutes a "serious risk of the 104

substantial and irreversible impairment of a major bodily 105  
function" includes pre-eclampsia, inevitable abortion, and 106  
premature rupture of the membranes, but does not include a 107  
condition related to the woman's mental health. 108

(I) "Unborn child" means an individual organism of the 109  
species homo sapiens from fertilization until live birth. 110

**Sec. 2919.201.** (A) No person shall purposely perform or 111  
induce or purposely attempt to perform or induce an abortion on 112  
a pregnant woman when the probable post-fertilization age of the 113  
unborn child is twenty weeks or greater. 114

(B) (1) It is an affirmative defense to a charge under 115  
division (A) of this section that the abortion was purposely 116  
performed or induced or purposely attempted to be performed or 117  
induced by a physician and that the physician determined, in the 118  
physician's reasonable medical judgment, based on the facts 119  
known to the physician at that time, that either of the 120  
following applied: 121

(a) The probable post-fertilization age of the unborn 122  
child was less than twenty weeks. 123

(b) The abortion was necessary to prevent the death of the 124  
pregnant woman or a serious risk of the substantial and 125  
irreversible impairment of a major bodily function of the 126  
pregnant woman. 127

(2) No abortion shall be considered necessary under 128  
division (B) (1) (b) of this section on the basis of a claim or 129  
diagnosis that the pregnant woman will engage in conduct that 130  
would result in the pregnant woman's death or a substantial and 131  
irreversible impairment of a major bodily function of the 132  
pregnant woman or based on any reason related to the woman's 133

mental health. 134

(C) Except when a medical emergency exists that prevents 135  
compliance with section 2919.203 of the Revised Code, the 136  
affirmative defense set forth in division (B)(1)(a) of this 137  
section does not apply unless the physician who purposely 138  
performs or induces or purposely attempts to perform or induce 139  
the abortion makes a determination of the probable post- 140  
fertilization age of the unborn child as required by division 141  
(A) of section 2919.203 of the Revised Code or relied upon such 142  
a determination made by another physician and certifies in 143  
writing, based on the results of the tests performed, that in 144  
the physician's reasonable medical judgment the unborn child's 145  
probable post-fertilization age is less than twenty weeks. 146

(D) Except when a medical emergency exists that prevents 147  
compliance with one or more of the following conditions, the 148  
affirmative defense set forth in division (B)(1)(b) of this 149  
section does not apply unless the physician who purposely 150  
performs or induces or purposely attempts to perform or induce 151  
the abortion complies with all of the following conditions: 152

(1) The physician who purposely performs or induces or 153  
purposely attempts to perform or induce the abortion certifies 154  
in writing that, in the physician's reasonable medical judgment, 155  
based on the facts known to the physician at that time, the 156  
abortion is necessary to prevent the death of the pregnant woman 157  
or a serious risk of the substantial and irreversible impairment 158  
of a major bodily function of the pregnant woman. 159

(2) A different physician not professionally related to 160  
the physician described in division (D)(1) of this section 161  
certifies in writing that, in that different physician's 162  
reasonable medical judgment, based on the facts known to that 163

different physician at that time, the abortion is necessary to 164  
prevent the death of the pregnant woman or a serious risk of the 165  
substantial and irreversible impairment of a major bodily 166  
function of the pregnant woman. 167

(3) The physician purposely performs or induces or 168  
purposely attempts to perform or induce the abortion in a 169  
hospital or other health care facility that has appropriate 170  
neonatal services for premature infants. 171

(4) The physician who purposely performs or induces or 172  
purposely attempts to perform or induce the abortion terminates 173  
or attempts to terminate the pregnancy in the manner that 174  
provides the best opportunity for the unborn child to survive, 175  
unless that physician determines, in the physician's reasonable 176  
medical judgment, based on the facts known to the physician at 177  
that time, that the termination of the pregnancy in that manner 178  
poses a greater risk of the death of the pregnant woman or a 179  
greater risk of the substantial and irreversible impairment of a 180  
major bodily function of the pregnant woman than would other 181  
available methods of abortion. 182

(5) The physician certifies in writing the available 183  
method or techniques considered and the reasons for choosing the 184  
method or technique employed. 185

(6) The physician who purposely performs or induces or 186  
purposely attempts to perform or induce the abortion has 187  
arranged for the attendance in the same room in which the 188  
abortion is to be performed or induced or attempted to be 189  
performed or induced at least one other physician who is to take 190  
control of, provide immediate medical care for, and take all 191  
reasonable steps necessary to preserve the life and health of 192  
the unborn child immediately upon the child's complete expulsion 193

or extraction from the pregnant woman. 194

(E) Whoever purposely performs or induces or purposely 195  
attempts to perform or induce an abortion in violation of, or 196  
without complying with, the requirements of this section is 197  
guilty of terminating or attempting to terminate a human 198  
pregnancy of a pain-capable unborn child, a felony of the fourth 199  
degree. 200

(F) The state medical board shall revoke a physician's 201  
license to practice medicine in this state if the physician 202  
violates or fails to comply with this section. 203

(G) Any physician who purposely performs or induces an 204  
abortion or purposely attempts to perform or induce an abortion 205  
with actual knowledge that neither of the affirmative defenses 206  
set forth in division (B)(1) of this section applies, or with a 207  
heedless indifference as to whether either an affirmative 208  
defense applies, is liable in a civil action for compensatory 209  
and exemplary damages and reasonable attorney's fees to any 210  
person, or the representative of the estate of any person, who 211  
sustains injury, death, or loss to person or property as the 212  
result of the performance or inducement or the attempted 213  
performance or inducement of the abortion. In any action under 214  
this division, the court also may award any injunctive or other 215  
equitable relief that the court considers appropriate. 216

(H) A pregnant woman on whom an abortion is purposely 217  
performed or induced or purposely attempted to be performed or 218  
induced in violation of division (A) of this section is not 219  
guilty of violating division (A) of this section or of 220  
attempting to commit, conspiring to commit, or complicity in 221  
committing a violation of division (A) of this section. 222

Sec. 2919.202. (A) A physician who performs or induces or 223  
attempts to perform or induce an abortion on a pregnant woman 224  
shall submit a report to the department of health in accordance 225  
with the forms, rules, and regulations adopted by the department 226  
that includes all of the information the physician is required 227  
to certify in writing or determine under sections 2919.201 and 228  
2919.203 of the Revised Code. 229

(B) By the thirtieth day of September of each year, the 230  
department of health shall issue a public report that provides 231  
statistics for the previous calendar year compiled from all of 232  
the reports covering that calendar year submitted to the 233  
department in accordance with this section for each of the items 234  
listed in division (A) of this section. The report shall also 235  
provide the statistics for each previous calendar year in which 236  
a report was filed with the department pursuant to this section, 237  
adjusted to reflect any additional information that a physician 238  
provides to the department in a late or corrected report. The 239  
department shall ensure that none of the information included in 240  
the report could reasonably lead to the identification of any 241  
pregnant woman upon whom an abortion is performed. 242

(C) (1) The physician shall submit the report described in 243  
division (A) of this section to the department of health within 244  
fifteen days after the woman is discharged. If the physician 245  
fails to submit the report more than thirty days after that 246  
fifteen-day deadline, the physician shall be subject to a late 247  
fee of five hundred dollars for each additional thirty-day 248  
period or portion of a thirty-day period the report is overdue. 249  
A physician who is required to submit to the department of 250  
health a report under division (A) of this section and who has 251  
not submitted a report or has submitted an incomplete report 252  
more than one year following the last day of the fifteen-day 253

deadline may, in an action brought by the department of health, 254  
be directed by a court of competent jurisdiction to submit a 255  
complete report to the department of health within a period of 256  
time stated in a court order or be subject to contempt of court. 257

(2) If a physician fails to comply with the requirements 258  
of this section, other than filing a late report with the 259  
department of health, or fails to submit a complete report to 260  
the department of health in accordance with a court order, the 261  
physician is subject to division (B) (44) of section 4731.22 of 262  
the Revised Code. 263

(3) No person shall purposely falsify any report required 264  
under this section. Whoever purposely violates this division is 265  
guilty of pain-capable unborn child abortion report 266  
falsification, a misdemeanor of the first degree. 267

(D) Within ninety days of the effective date of this 268  
section, the department of health shall adopt rules pursuant to 269  
section 111.15 of the Revised Code to assist in compliance with 270  
this section. 271

**Sec. 2919.203.** (A) Except in a medical emergency that 272  
prevents compliance with this division, no physician shall 273  
purposely perform or induce or purposely attempt to perform or 274  
induce an abortion on a pregnant woman after the unborn child 275  
reaches the probable post-fertilization age of twenty weeks 276  
unless, prior to the performance or inducement of the abortion 277  
or the attempt to perform or induce the abortion, the physician 278  
determines, in the physician's reasonable medical judgment, the 279  
unborn child's probable post-fertilization age. The physician 280  
shall make that determination after making inquiries of the 281  
pregnant woman and performing any medical examinations or tests 282  
of the pregnant woman the physician considers necessary as a 283

reasonably prudent physician, knowledgeable about the case and 284  
medical conditions involved, would consider necessary to 285  
determine the unborn child's probable post-fertilization age. 286

(B) Except in a medical emergency that prevents compliance 287  
with this division, no physician shall purposely perform or 288  
induce or purposely attempt to perform or induce an abortion on 289  
a pregnant woman after the unborn child reaches the probable 290  
post-fertilization age of twenty weeks without first entering 291  
the determination made in division (A) of this section and the 292  
associated findings of the medical examination and tests in the 293  
medical record of the pregnant woman. 294

(C) Whoever violates division (A) of this section is 295  
guilty of failure to perform probable post-fertilization age 296  
testing, a misdemeanor of the fourth degree. 297

(D) The state medical board shall suspend a physician's 298  
license to practice medicine in this state for a period of not 299  
less than six months if the physician violates this section. 300

**Sec. 2919.204.** There is hereby created in the state 301  
treasury the Ohio pain-capable unborn child protection act 302  
litigation fund to be used by the attorney general to pay for 303  
any costs and expenses incurred by the attorney general in 304  
relation to actions surrounding defense of the provisions 305  
of ....B. of the 131st general assembly. The fund shall consist 306  
of appropriations made to it and any donations, gifts, or grants 307  
made to the fund. Any interest earned on the fund shall be 308  
credited to the fund. 309

**Sec. 2919.205.** Sections 2307.54 and 2919.20 to 2919.205 310  
and the provisions of section 2305.11 of the Revised Code as 311  
amended or enacted by this bill shall not be construed to 312

repeal, by implication or otherwise, any law regulating or 313  
restricting abortion. An abortion that complies with the 314  
provisions of those sections as amended or enacted by this bill 315  
but violates the provisions of any otherwise applicable 316  
provision of state law shall be deemed unlawful as provided in 317  
such provision. An abortion that complies with the provisions of 318  
state law regulating or restricting abortion but violates the 319  
provisions of those sections as amended or enacted by this bill 320  
shall be deemed unlawful as provided in those sections. If some 321  
or all of the provisions of sections 2307.54 and 2919.20 to 322  
2919.205 and the provisions of section 2305.11 of the Revised 323  
Code as amended or enacted by this bill are ever temporarily or 324  
permanently restrained or enjoined by judicial order, all other 325  
provisions of state law regulating or restricting abortion shall 326  
be enforced as though such restrained or enjoined provisions had 327  
not been adopted; provided, however, that whenever such 328  
temporary or permanent restraining order of injunction is stayed 329  
or dissolved, or otherwise ceases to have effect, such 330  
provisions shall have full force and effect. 331

**Sec. 4731.22.** (A) The state medical board, by an 332  
affirmative vote of not fewer than six of its members, may 333  
limit, revoke, or suspend an individual's certificate to 334  
practice or certificate to recommend, refuse to grant a 335  
certificate to an individual, refuse to renew a certificate, 336  
refuse to reinstate a certificate, or reprimand or place on 337  
probation the holder of a certificate if the individual or 338  
certificate holder is found by the board to have committed fraud 339  
during the administration of the examination for a certificate 340  
to practice or to have committed fraud, misrepresentation, or 341  
deception in applying for, renewing, or securing any certificate 342  
to practice or certificate to recommend issued by the board. 343

(B) The board, by an affirmative vote of not fewer than 344  
six members, shall, to the extent permitted by law, limit, 345  
revoke, or suspend an individual's certificate to practice or 346  
certificate to recommend, refuse to issue a certificate to an 347  
individual, refuse to renew a certificate, refuse to reinstate a 348  
certificate, or reprimand or place on probation the holder of a 349  
certificate for one or more of the following reasons: 350

(1) Permitting one's name or one's certificate to practice 351  
to be used by a person, group, or corporation when the 352  
individual concerned is not actually directing the treatment 353  
given; 354

(2) Failure to maintain minimal standards applicable to 355  
the selection or administration of drugs, or failure to employ 356  
acceptable scientific methods in the selection of drugs or other 357  
modalities for treatment of disease; 358

(3) Selling, giving away, personally furnishing, 359  
prescribing, or administering drugs for other than legal and 360  
legitimate therapeutic purposes or a plea of guilty to, a 361  
judicial finding of guilt of, or a judicial finding of 362  
eligibility for intervention in lieu of conviction of, a 363  
violation of any federal or state law regulating the possession, 364  
distribution, or use of any drug; 365

(4) Willfully betraying a professional confidence. 366

For purposes of this division, "willfully betraying a 367  
professional confidence" does not include providing any 368  
information, documents, or reports under sections 307.621 to 369  
307.629 of the Revised Code to a child fatality review board; 370  
does not include providing any information, documents, or 371  
reports to the director of health pursuant to guidelines 372

established under section 3701.70 of the Revised Code; does not 373  
include written notice to a mental health professional under 374  
section 4731.62 of the Revised Code; and does not include the 375  
making of a report of an employee's use of a drug of abuse, or a 376  
report of a condition of an employee other than one involving 377  
the use of a drug of abuse, to the employer of the employee as 378  
described in division (B) of section 2305.33 of the Revised 379  
Code. Nothing in this division affects the immunity from civil 380  
liability conferred by section 2305.33 or 4731.62 of the Revised 381  
Code upon a physician who makes a report in accordance with 382  
section 2305.33 or notifies a mental health professional in 383  
accordance with section 4731.62 of the Revised Code. As used in 384  
this division, "employee," "employer," and "physician" have the 385  
same meanings as in section 2305.33 of the Revised Code. 386

(5) Making a false, fraudulent, deceptive, or misleading 387  
statement in the solicitation of or advertising for patients; in 388  
relation to the practice of medicine and surgery, osteopathic 389  
medicine and surgery, podiatric medicine and surgery, or a 390  
limited branch of medicine; or in securing or attempting to 391  
secure any certificate to practice issued by the board. 392

As used in this division, "false, fraudulent, deceptive, 393  
or misleading statement" means a statement that includes a 394  
misrepresentation of fact, is likely to mislead or deceive 395  
because of a failure to disclose material facts, is intended or 396  
is likely to create false or unjustified expectations of 397  
favorable results, or includes representations or implications 398  
that in reasonable probability will cause an ordinarily prudent 399  
person to misunderstand or be deceived. 400

(6) A departure from, or the failure to conform to, 401  
minimal standards of care of similar practitioners under the 402

same or similar circumstances, whether or not actual injury to a patient is established;

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

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

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

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

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

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

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

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

(15) Violation of the conditions of limitation placed by 431  
the board upon a certificate to practice; 432

(16) Failure to pay license renewal fees specified in this 433  
chapter; 434

(17) Except as authorized in section 4731.31 of the 435  
Revised Code, engaging in the division of fees for referral of 436  
patients, or the receiving of a thing of value in return for a 437  
specific referral of a patient to utilize a particular service 438  
or business; 439

(18) Subject to section 4731.226 of the Revised Code, 440  
violation of any provision of a code of ethics of the American 441  
medical association, the American osteopathic association, the 442  
American podiatric medical association, or any other national 443  
professional organizations that the board specifies by rule. The 444  
state medical board shall obtain and keep on file current copies 445  
of the codes of ethics of the various national professional 446  
organizations. The individual whose certificate is being 447  
suspended or revoked shall not be found to have violated any 448  
provision of a code of ethics of an organization not appropriate 449  
to the individual's profession. 450

For purposes of this division, a "provision of a code of 451  
ethics of a national professional organization" does not include 452  
any provision that would preclude the making of a report by a 453  
physician of an employee's use of a drug of abuse, or of a 454  
condition of an employee other than one involving the use of a 455  
drug of abuse, to the employer of the employee as described in 456  
division (B) of section 2305.33 of the Revised Code. Nothing in 457  
this division affects the immunity from civil liability 458  
conferred by that section upon a physician who makes either type 459  
of report in accordance with division (B) of that section. As 460

used in this division, "employee," "employer," and "physician" 461  
have the same meanings as in section 2305.33 of the Revised 462  
Code. 463

(19) Inability to practice according to acceptable and 464  
prevailing standards of care by reason of mental illness or 465  
physical illness, including, but not limited to, physical 466  
deterioration that adversely affects cognitive, motor, or 467  
perceptive skills. 468

In enforcing this division, the board, upon a showing of a 469  
possible violation, may compel any individual authorized to 470  
practice by this chapter or who has submitted an application 471  
pursuant to this chapter to submit to a mental examination, 472  
physical examination, including an HIV test, or both a mental 473  
and a physical examination. The expense of the examination is 474  
the responsibility of the individual compelled to be examined. 475  
Failure to submit to a mental or physical examination or consent 476  
to an HIV test ordered by the board constitutes an admission of 477  
the allegations against the individual unless the failure is due 478  
to circumstances beyond the individual's control, and a default 479  
and final order may be entered without the taking of testimony 480  
or presentation of evidence. If the board finds an individual 481  
unable to practice because of the reasons set forth in this 482  
division, the board shall require the individual to submit to 483  
care, counseling, or treatment by physicians approved or 484  
designated by the board, as a condition for initial, continued, 485  
reinstated, or renewed authority to practice. An individual 486  
affected under this division shall be afforded an opportunity to 487  
demonstrate to the board the ability to resume practice in 488  
compliance with acceptable and prevailing standards under the 489  
provisions of the individual's certificate. For the purpose of 490  
this division, any individual who applies for or receives a 491

certificate to practice under this chapter accepts the privilege 492  
of practicing in this state and, by so doing, shall be deemed to 493  
have given consent to submit to a mental or physical examination 494  
when directed to do so in writing by the board, and to have 495  
waived all objections to the admissibility of testimony or 496  
examination reports that constitute a privileged communication. 497

(20) Except when civil penalties are imposed under section 498  
4731.225 or 4731.282 of the Revised Code, and subject to section 499  
4731.226 of the Revised Code, violating or attempting to 500  
violate, directly or indirectly, or assisting in or abetting the 501  
violation of, or conspiring to violate, any provisions of this 502  
chapter or any rule promulgated by the board. 503

This division does not apply to a violation or attempted 504  
violation of, assisting in or abetting the violation of, or a 505  
conspiracy to violate, any provision of this chapter or any rule 506  
adopted by the board that would preclude the making of a report 507  
by a physician of an employee's use of a drug of abuse, or of a 508  
condition of an employee other than one involving the use of a 509  
drug of abuse, to the employer of the employee as described in 510  
division (B) of section 2305.33 of the Revised Code. Nothing in 511  
this division affects the immunity from civil liability 512  
conferred by that section upon a physician who makes either type 513  
of report in accordance with division (B) of that section. As 514  
used in this division, "employee," "employer," and "physician" 515  
have the same meanings as in section 2305.33 of the Revised 516  
Code. 517

(21) The violation of section 3701.79 of the Revised Code 518  
or of any abortion rule adopted by the director of health 519  
pursuant to section 3701.341 of the Revised Code; 520

(22) Any of the following actions taken by an agency 521

responsible for authorizing, certifying, or regulating an 522  
individual to practice a health care occupation or provide 523  
health care services in this state or another jurisdiction, for 524  
any reason other than the nonpayment of fees: the limitation, 525  
revocation, or suspension of an individual's license to 526  
practice; acceptance of an individual's license surrender; 527  
denial of a license; refusal to renew or reinstate a license; 528  
imposition of probation; or issuance of an order of censure or 529  
other reprimand; 530

(23) The violation of section 2919.12 of the Revised Code 531  
or the performance or inducement of an abortion upon a pregnant 532  
woman with actual knowledge that the conditions specified in 533  
division (B) of section 2317.56 of the Revised Code have not 534  
been satisfied or with a heedless indifference as to whether 535  
those conditions have been satisfied, unless an affirmative 536  
defense as specified in division (H) (2) of that section would 537  
apply in a civil action authorized by division (H) (1) of that 538  
section; 539

(24) The revocation, suspension, restriction, reduction, 540  
or termination of clinical privileges by the United States 541  
department of defense or department of veterans affairs or the 542  
termination or suspension of a certificate of registration to 543  
prescribe drugs by the drug enforcement administration of the 544  
United States department of justice; 545

(25) Termination or suspension from participation in the 546  
medicare or medicaid programs by the department of health and 547  
human services or other responsible agency for any act or acts 548  
that also would constitute a violation of division (B) (2), (3), 549  
(6), (8), or (19) of this section; 550

(26) Impairment of ability to practice according to 551

acceptable and prevailing standards of care because of habitual 552  
or excessive use or abuse of drugs, alcohol, or other substances 553  
that impair ability to practice. 554

For the purposes of this division, any individual 555  
authorized to practice by this chapter accepts the privilege of 556  
practicing in this state subject to supervision by the board. By 557  
filing an application for or holding a certificate to practice 558  
under this chapter, an individual shall be deemed to have given 559  
consent to submit to a mental or physical examination when 560  
ordered to do so by the board in writing, and to have waived all 561  
objections to the admissibility of testimony or examination 562  
reports that constitute privileged communications. 563

If it has reason to believe that any individual authorized 564  
to practice by this chapter or any applicant for certification 565  
to practice suffers such impairment, the board may compel the 566  
individual to submit to a mental or physical examination, or 567  
both. The expense of the examination is the responsibility of 568  
the individual compelled to be examined. Any mental or physical 569  
examination required under this division shall be undertaken by 570  
a treatment provider or physician who is qualified to conduct 571  
the examination and who is chosen by the board. 572

Failure to submit to a mental or physical examination 573  
ordered by the board constitutes an admission of the allegations 574  
against the individual unless the failure is due to 575  
circumstances beyond the individual's control, and a default and 576  
final order may be entered without the taking of testimony or 577  
presentation of evidence. If the board determines that the 578  
individual's ability to practice is impaired, the board shall 579  
suspend the individual's certificate or deny the individual's 580  
application and shall require the individual, as a condition for 581

initial, continued, reinstated, or renewed certification to 582  
practice, to submit to treatment. 583

Before being eligible to apply for reinstatement of a 584  
certificate suspended under this division, the impaired 585  
practitioner shall demonstrate to the board the ability to 586  
resume practice in compliance with acceptable and prevailing 587  
standards of care under the provisions of the practitioner's 588  
certificate. The demonstration shall include, but shall not be 589  
limited to, the following: 590

(a) Certification from a treatment provider approved under 591  
section 4731.25 of the Revised Code that the individual has 592  
successfully completed any required inpatient treatment; 593

(b) Evidence of continuing full compliance with an 594  
aftercare contract or consent agreement; 595

(c) Two written reports indicating that the individual's 596  
ability to practice has been assessed and that the individual 597  
has been found capable of practicing according to acceptable and 598  
prevailing standards of care. The reports shall be made by 599  
individuals or providers approved by the board for making the 600  
assessments and shall describe the basis for their 601  
determination. 602

The board may reinstate a certificate suspended under this 603  
division after that demonstration and after the individual has 604  
entered into a written consent agreement. 605

When the impaired practitioner resumes practice, the board 606  
shall require continued monitoring of the individual. The 607  
monitoring shall include, but not be limited to, compliance with 608  
the written consent agreement entered into before reinstatement 609  
or with conditions imposed by board order after a hearing, and, 610

upon termination of the consent agreement, submission to the 611  
board for at least two years of annual written progress reports 612  
made under penalty of perjury stating whether the individual has 613  
maintained sobriety. 614

(27) A second or subsequent violation of section 4731.66 615  
or 4731.69 of the Revised Code; 616

(28) Except as provided in division (N) of this section: 617

(a) Waiving the payment of all or any part of a deductible 618  
or copayment that a patient, pursuant to a health insurance or 619  
health care policy, contract, or plan that covers the 620  
individual's services, otherwise would be required to pay if the 621  
waiver is used as an enticement to a patient or group of 622  
patients to receive health care services from that individual; 623

(b) Advertising that the individual will waive the payment 624  
of all or any part of a deductible or copayment that a patient, 625  
pursuant to a health insurance or health care policy, contract, 626  
or plan that covers the individual's services, otherwise would 627  
be required to pay. 628

(29) Failure to use universal blood and body fluid 629  
precautions established by rules adopted under section 4731.051 630  
of the Revised Code; 631

(30) Failure to provide notice to, and receive 632  
acknowledgment of the notice from, a patient when required by 633  
section 4731.143 of the Revised Code prior to providing 634  
nonemergency professional services, or failure to maintain that 635  
notice in the patient's file; 636

(31) Failure of a physician supervising a physician 637  
assistant to maintain supervision in accordance with the 638  
requirements of Chapter 4730. of the Revised Code and the rules 639

adopted under that chapter; 640

(32) Failure of a physician or podiatrist to enter into a 641  
standard care arrangement with a clinical nurse specialist, 642  
certified nurse-midwife, or certified nurse practitioner with 643  
whom the physician or podiatrist is in collaboration pursuant to 644  
section 4731.27 of the Revised Code or failure to fulfill the 645  
responsibilities of collaboration after entering into a standard 646  
care arrangement; 647

(33) Failure to comply with the terms of a consult 648  
agreement entered into with a pharmacist pursuant to section 649  
4729.39 of the Revised Code; 650

(34) Failure to cooperate in an investigation conducted by 651  
the board under division (F) of this section, including failure 652  
to comply with a subpoena or order issued by the board or 653  
failure to answer truthfully a question presented by the board 654  
in an investigative interview, an investigative office 655  
conference, at a deposition, or in written interrogatories, 656  
except that failure to cooperate with an investigation shall not 657  
constitute grounds for discipline under this section if a court 658  
of competent jurisdiction has issued an order that either 659  
quashes a subpoena or permits the individual to withhold the 660  
testimony or evidence in issue; 661

(35) Failure to supervise an oriental medicine 662  
practitioner or acupuncturist in accordance with Chapter 4762. 663  
of the Revised Code and the board's rules for providing that 664  
supervision; 665

(36) Failure to supervise an anesthesiologist assistant in 666  
accordance with Chapter 4760. of the Revised Code and the 667  
board's rules for supervision of an anesthesiologist assistant; 668

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	669 670
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	671 672
(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;	673 674 675
(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;	676 677 678 679
(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;	680 681 682 683
(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;	684 685 686 687
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	688 689 690 691
(44) Failure to comply with the requirements of section 2919.171, <u>2919.202</u> , or <u>2919.203</u> 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 <u>or</u> <u>2919.202</u> of the Revised Code;	692 693 694 695 696

(45) Practicing at a facility that is subject to licensure 697  
as a category III terminal distributor of dangerous drugs with a 698  
pain management clinic classification unless the person 699  
operating the facility has obtained and maintains the license 700  
with the classification; 701

(46) Owning a facility that is subject to licensure as a 702  
category III terminal distributor of dangerous drugs with a pain 703  
management clinic classification unless the facility is licensed 704  
with the classification; 705

(47) Failure to comply with the requirement regarding 706  
maintaining notes described in division (B) of section 2919.191 707  
of the Revised Code or failure to satisfy the requirements of 708  
section 2919.191 of the Revised Code prior to performing or 709  
inducing an abortion upon a pregnant woman; 710

(48) Failure to comply with the requirements in section 711  
3719.061 of the Revised Code before issuing for a minor a 712  
prescription for an opioid analgesic, as defined in section 713  
3719.01 of the Revised Code; 714

(49) Failure to comply with the requirements of section 715  
4731.30 of the Revised Code or rules adopted under section 716  
4731.301 of the Revised Code when recommending treatment with 717  
medical marijuana. 718

(C) Disciplinary actions taken by the board under 719  
divisions (A) and (B) of this section shall be taken pursuant to 720  
an adjudication under Chapter 119. of the Revised Code, except 721  
that in lieu of an adjudication, the board may enter into a 722  
consent agreement with an individual to resolve an allegation of 723  
a violation of this chapter or any rule adopted under it. A 724  
consent agreement, when ratified by an affirmative vote of not 725

fewer than six members of the board, shall constitute the 726  
findings and order of the board with respect to the matter 727  
addressed in the agreement. If the board refuses to ratify a 728  
consent agreement, the admissions and findings contained in the 729  
consent agreement shall be of no force or effect. 730

A telephone conference call may be utilized for 731  
ratification of a consent agreement that revokes or suspends an 732  
individual's certificate to practice or certificate to 733  
recommend. The telephone conference call shall be considered a 734  
special meeting under division (F) of section 121.22 of the 735  
Revised Code. 736

If the board takes disciplinary action against an 737  
individual under division (B) of this section for a second or 738  
subsequent plea of guilty to, or judicial finding of guilt of, a 739  
violation of section 2919.123 of the Revised Code, the 740  
disciplinary action shall consist of a suspension of the 741  
individual's certificate to practice for a period of at least 742  
one year or, if determined appropriate by the board, a more 743  
serious sanction involving the individual's certificate to 744  
practice. Any consent agreement entered into under this division 745  
with an individual that pertains to a second or subsequent plea 746  
of guilty to, or judicial finding of guilt of, a violation of 747  
that section shall provide for a suspension of the individual's 748  
certificate to practice for a period of at least one year or, if 749  
determined appropriate by the board, a more serious sanction 750  
involving the individual's certificate to practice. 751

(D) For purposes of divisions (B) (10), (12), and (14) of 752  
this section, the commission of the act may be established by a 753  
finding by the board, pursuant to an adjudication under Chapter 754  
119. of the Revised Code, that the individual committed the act. 755

The board does not have jurisdiction under those divisions if 756  
the trial court renders a final judgment in the individual's 757  
favor and that judgment is based upon an adjudication on the 758  
merits. The board has jurisdiction under those divisions if the 759  
trial court issues an order of dismissal upon technical or 760  
procedural grounds. 761

(E) The sealing of conviction records by any court shall 762  
have no effect upon a prior board order entered under this 763  
section or upon the board's jurisdiction to take action under 764  
this section if, based upon a plea of guilty, a judicial finding 765  
of guilt, or a judicial finding of eligibility for intervention 766  
in lieu of conviction, the board issued a notice of opportunity 767  
for a hearing prior to the court's order to seal the records. 768  
The board shall not be required to seal, destroy, redact, or 769  
otherwise modify its records to reflect the court's sealing of 770  
conviction records. 771

(F) (1) The board shall investigate evidence that appears 772  
to show that a person has violated any provision of this chapter 773  
or any rule adopted under it. Any person may report to the board 774  
in a signed writing any information that the person may have 775  
that appears to show a violation of any provision of this 776  
chapter or any rule adopted under it. In the absence of bad 777  
faith, any person who reports information of that nature or who 778  
testifies before the board in any adjudication conducted under 779  
Chapter 119. of the Revised Code shall not be liable in damages 780  
in a civil action as a result of the report or testimony. Each 781  
complaint or allegation of a violation received by the board 782  
shall be assigned a case number and shall be recorded by the 783  
board. 784

(2) Investigations of alleged violations of this chapter 785

or any rule adopted under it shall be supervised by the 786  
supervising member elected by the board in accordance with 787  
section 4731.02 of the Revised Code and by the secretary as 788  
provided in section 4731.39 of the Revised Code. The president 789  
may designate another member of the board to supervise the 790  
investigation in place of the supervising member. No member of 791  
the board who supervises the investigation of a case shall 792  
participate in further adjudication of the case. 793

(3) In investigating a possible violation of this chapter 794  
or any rule adopted under this chapter, or in conducting an 795  
inspection under division (E) of section 4731.054 of the Revised 796  
Code, the board may question witnesses, conduct interviews, 797  
administer oaths, order the taking of depositions, inspect and 798  
copy any books, accounts, papers, records, or documents, issue 799  
subpoenas, and compel the attendance of witnesses and production 800  
of books, accounts, papers, records, documents, and testimony, 801  
except that a subpoena for patient record information shall not 802  
be issued without consultation with the attorney general's 803  
office and approval of the secretary and supervising member of 804  
the board. 805

(a) Before issuance of a subpoena for patient record 806  
information, the secretary and supervising member shall 807  
determine whether there is probable cause to believe that the 808  
complaint filed alleges a violation of this chapter or any rule 809  
adopted under it and that the records sought are relevant to the 810  
alleged violation and material to the investigation. The 811  
subpoena may apply only to records that cover a reasonable 812  
period of time surrounding the alleged violation. 813

(b) On failure to comply with any subpoena issued by the 814  
board and after reasonable notice to the person being 815

subpoenaed, the board may move for an order compelling the 816  
production of persons or records pursuant to the Rules of Civil 817  
Procedure. 818

(c) A subpoena issued by the board may be served by a 819  
sheriff, the sheriff's deputy, or a board employee designated by 820  
the board. Service of a subpoena issued by the board may be made 821  
by delivering a copy of the subpoena to the person named 822  
therein, reading it to the person, or leaving it at the person's 823  
usual place of residence, usual place of business, or address on 824  
file with the board. When serving a subpoena to an applicant for 825  
or the holder of a certificate issued under this chapter, 826  
service of the subpoena may be made by certified mail, return 827  
receipt requested, and the subpoena shall be deemed served on 828  
the date delivery is made or the date the person refuses to 829  
accept delivery. If the person being served refuses to accept 830  
the subpoena or is not located, service may be made to an 831  
attorney who notifies the board that the attorney is 832  
representing the person. 833

(d) A sheriff's deputy who serves a subpoena shall receive 834  
the same fees as a sheriff. Each witness who appears before the 835  
board in obedience to a subpoena shall receive the fees and 836  
mileage provided for under section 119.094 of the Revised Code. 837

(4) All hearings, investigations, and inspections of the 838  
board shall be considered civil actions for the purposes of 839  
section 2305.252 of the Revised Code. 840

(5) A report required to be submitted to the board under 841  
this chapter, a complaint, or information received by the board 842  
pursuant to an investigation or pursuant to an inspection under 843  
division (E) of section 4731.054 of the Revised Code is 844  
confidential and not subject to discovery in any civil action. 845

The board shall conduct all investigations or inspections 846  
and proceedings in a manner that protects the confidentiality of 847  
patients and persons who file complaints with the board. The 848  
board shall not make public the names or any other identifying 849  
information about patients or complainants unless proper consent 850  
is given or, in the case of a patient, a waiver of the patient 851  
privilege exists under division (B) of section 2317.02 of the 852  
Revised Code, except that consent or a waiver of that nature is 853  
not required if the board possesses reliable and substantial 854  
evidence that no bona fide physician-patient relationship 855  
exists. 856

The board may share any information it receives pursuant 857  
to an investigation or inspection, including patient records and 858  
patient record information, with law enforcement agencies, other 859  
licensing boards, and other governmental agencies that are 860  
prosecuting, adjudicating, or investigating alleged violations 861  
of statutes or administrative rules. An agency or board that 862  
receives the information shall comply with the same requirements 863  
regarding confidentiality as those with which the state medical 864  
board must comply, notwithstanding any conflicting provision of 865  
the Revised Code or procedure of the agency or board that 866  
applies when it is dealing with other information in its 867  
possession. In a judicial proceeding, the information may be 868  
admitted into evidence only in accordance with the Rules of 869  
Evidence, but the court shall require that appropriate measures 870  
are taken to ensure that confidentiality is maintained with 871  
respect to any part of the information that contains names or 872  
other identifying information about patients or complainants 873  
whose confidentiality was protected by the state medical board 874  
when the information was in the board's possession. Measures to 875  
ensure confidentiality that may be taken by the court include 876

sealing its records or deleting specific information from its 877  
records. 878

(6) On a quarterly basis, the board shall prepare a report 879  
that documents the disposition of all cases during the preceding 880  
three months. The report shall contain the following information 881  
for each case with which the board has completed its activities: 882

(a) The case number assigned to the complaint or alleged 883  
violation; 884

(b) The type of certificate to practice, if any, held by 885  
the individual against whom the complaint is directed; 886

(c) A description of the allegations contained in the 887  
complaint; 888

(d) The disposition of the case. 889

The report shall state how many cases are still pending 890  
and shall be prepared in a manner that protects the identity of 891  
each person involved in each case. The report shall be a public 892  
record under section 149.43 of the Revised Code. 893

(G) If the secretary and supervising member determine both 894  
of the following, they may recommend that the board suspend an 895  
individual's certificate to practice or certificate to recommend 896  
without a prior hearing: 897

(1) That there is clear and convincing evidence that an 898  
individual has violated division (B) of this section; 899

(2) That the individual's continued practice presents a 900  
danger of immediate and serious harm to the public. 901

Written allegations shall be prepared for consideration by 902  
the board. The board, upon review of those allegations and by an 903

affirmative vote of not fewer than six of its members, excluding 904  
the secretary and supervising member, may suspend a certificate 905  
without a prior hearing. A telephone conference call may be 906  
utilized for reviewing the allegations and taking the vote on 907  
the summary suspension. 908

The board shall issue a written order of suspension by 909  
certified mail or in person in accordance with section 119.07 of 910  
the Revised Code. The order shall not be subject to suspension 911  
by the court during pendency of any appeal filed under section 912  
119.12 of the Revised Code. If the individual subject to the 913  
summary suspension requests an adjudicatory hearing by the 914  
board, the date set for the hearing shall be within fifteen 915  
days, but not earlier than seven days, after the individual 916  
requests the hearing, unless otherwise agreed to by both the 917  
board and the individual. 918

Any summary suspension imposed under this division shall 919  
remain in effect, unless reversed on appeal, until a final 920  
adjudicative order issued by the board pursuant to this section 921  
and Chapter 119. of the Revised Code becomes effective. The 922  
board shall issue its final adjudicative order within seventy- 923  
five days after completion of its hearing. A failure to issue 924  
the order within seventy-five days shall result in dissolution 925  
of the summary suspension order but shall not invalidate any 926  
subsequent, final adjudicative order. 927

(H) If the board takes action under division (B) (9), (11), 928  
or (13) of this section and the judicial finding of guilt, 929  
guilty plea, or judicial finding of eligibility for intervention 930  
in lieu of conviction is overturned on appeal, upon exhaustion 931  
of the criminal appeal, a petition for reconsideration of the 932  
order may be filed with the board along with appropriate court 933

documents. Upon receipt of a petition of that nature and 934  
supporting court documents, the board shall reinstate the 935  
individual's certificate to practice. The board may then hold an 936  
adjudication under Chapter 119. of the Revised Code to determine 937  
whether the individual committed the act in question. Notice of 938  
an opportunity for a hearing shall be given in accordance with 939  
Chapter 119. of the Revised Code. If the board finds, pursuant 940  
to an adjudication held under this division, that the individual 941  
committed the act or if no hearing is requested, the board may 942  
order any of the sanctions identified under division (B) of this 943  
section. 944

(I) The certificate to practice issued to an individual 945  
under this chapter and the individual's practice in this state 946  
are automatically suspended as of the date of the individual's 947  
second or subsequent plea of guilty to, or judicial finding of 948  
guilt of, a violation of section 2919.123 of the Revised Code. 949  
In addition, the certificate to practice or certificate to 950  
recommend issued to an individual under this chapter and the 951  
individual's practice in this state are automatically suspended 952  
as of the date the individual pleads guilty to, is found by a 953  
judge or jury to be guilty of, or is subject to a judicial 954  
finding of eligibility for intervention in lieu of conviction in 955  
this state or treatment or intervention in lieu of conviction in 956  
another jurisdiction for any of the following criminal offenses 957  
in this state or a substantially equivalent criminal offense in 958  
another jurisdiction: aggravated murder, murder, voluntary 959  
manslaughter, felonious assault, kidnapping, rape, sexual 960  
battery, gross sexual imposition, aggravated arson, aggravated 961  
robbery, or aggravated burglary. Continued practice after 962  
suspension shall be considered practicing without a certificate. 963

The board shall notify the individual subject to the 964

suspension by certified mail or in person in accordance with 965  
section 119.07 of the Revised Code. If an individual whose 966  
certificate is automatically suspended under this division fails 967  
to make a timely request for an adjudication under Chapter 119. 968  
of the Revised Code, the board shall do whichever of the 969  
following is applicable: 970

(1) If the automatic suspension under this division is for 971  
a second or subsequent plea of guilty to, or judicial finding of 972  
guilt of, a violation of section 2919.123 of the Revised Code, 973  
the board shall enter an order suspending the individual's 974  
certificate to practice for a period of at least one year or, if 975  
determined appropriate by the board, imposing a more serious 976  
sanction involving the individual's certificate to practice. 977

(2) In all circumstances in which division (I) (1) of this 978  
section does not apply, enter a final order permanently revoking 979  
the individual's certificate to practice. 980

(J) If the board is required by Chapter 119. of the 981  
Revised Code to give notice of an opportunity for a hearing and 982  
if the individual subject to the notice does not timely request 983  
a hearing in accordance with section 119.07 of the Revised Code, 984  
the board is not required to hold a hearing, but may adopt, by 985  
an affirmative vote of not fewer than six of its members, a 986  
final order that contains the board's findings. In that final 987  
order, the board may order any of the sanctions identified under 988  
division (A) or (B) of this section. 989

(K) Any action taken by the board under division (B) of 990  
this section resulting in a suspension from practice shall be 991  
accompanied by a written statement of the conditions under which 992  
the individual's certificate to practice may be reinstated. The 993  
board shall adopt rules governing conditions to be imposed for 994

reinstatement. Reinstatement of a certificate suspended pursuant 995  
to division (B) of this section requires an affirmative vote of 996  
not fewer than six members of the board. 997

(L) When the board refuses to grant or issue a certificate 998  
to practice to an applicant, revokes an individual's certificate 999  
to practice, refuses to renew an individual's certificate to 1000  
practice, or refuses to reinstate an individual's certificate to 1001  
practice, the board may specify that its action is permanent. An 1002  
individual subject to a permanent action taken by the board is 1003  
forever thereafter ineligible to hold a certificate to practice 1004  
and the board shall not accept an application for reinstatement 1005  
of the certificate or for issuance of a new certificate. 1006

(M) Notwithstanding any other provision of the Revised 1007  
Code, all of the following apply: 1008

(1) The surrender of a certificate issued under this 1009  
chapter shall not be effective unless or until accepted by the 1010  
board. A telephone conference call may be utilized for 1011  
acceptance of the surrender of an individual's certificate to 1012  
practice. The telephone conference call shall be considered a 1013  
special meeting under division (F) of section 121.22 of the 1014  
Revised Code. Reinstatement of a certificate surrendered to the 1015  
board requires an affirmative vote of not fewer than six members 1016  
of the board. 1017

(2) An application for a certificate made under the 1018  
provisions of this chapter may not be withdrawn without approval 1019  
of the board. 1020

(3) Failure by an individual to renew a certificate to 1021  
practice in accordance with this chapter or a certificate to 1022  
recommend in accordance with rules adopted under section 1023

4731.301 of the Revised Code shall not remove or limit the 1024  
board's jurisdiction to take any disciplinary action under this 1025  
section against the individual. 1026

(4) At the request of the board, a certificate holder 1027  
shall immediately surrender to the board a certificate that the 1028  
board has suspended, revoked, or permanently revoked. 1029

(N) Sanctions shall not be imposed under division (B) (28) 1030  
of this section against any person who waives deductibles and 1031  
copayments as follows: 1032

(1) In compliance with the health benefit plan that 1033  
expressly allows such a practice. Waiver of the deductibles or 1034  
copayments shall be made only with the full knowledge and 1035  
consent of the plan purchaser, payer, and third-party 1036  
administrator. Documentation of the consent shall be made 1037  
available to the board upon request. 1038

(2) For professional services rendered to any other person 1039  
authorized to practice pursuant to this chapter, to the extent 1040  
allowed by this chapter and rules adopted by the board. 1041

(O) Under the board's investigative duties described in 1042  
this section and subject to division (F) of this section, the 1043  
board shall develop and implement a quality intervention program 1044  
designed to improve through remedial education the clinical and 1045  
communication skills of individuals authorized under this 1046  
chapter to practice medicine and surgery, osteopathic medicine 1047  
and surgery, and podiatric medicine and surgery. In developing 1048  
and implementing the quality intervention program, the board may 1049  
do all of the following: 1050

(1) Offer in appropriate cases as determined by the board 1051  
an educational and assessment program pursuant to an 1052

investigation the board conducts under this section; 1053

(2) Select providers of educational and assessment 1054  
services, including a quality intervention program panel of case 1055  
reviewers; 1056

(3) Make referrals to educational and assessment service 1057  
providers and approve individual educational programs 1058  
recommended by those providers. The board shall monitor the 1059  
progress of each individual undertaking a recommended individual 1060  
educational program. 1061

(4) Determine what constitutes successful completion of an 1062  
individual educational program and require further monitoring of 1063  
the individual who completed the program or other action that 1064  
the board determines to be appropriate; 1065

(5) Adopt rules in accordance with Chapter 119. of the 1066  
Revised Code to further implement the quality intervention 1067  
program. 1068

An individual who participates in an individual 1069  
educational program pursuant to this division shall pay the 1070  
financial obligations arising from that educational program. 1071

**Section 2.** That existing sections 2305.11 and 4731.22 of 1072  
the Revised Code are hereby repealed. 1073