

As Introduced

**134th General Assembly
Regular Session
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H. B. No. 421

Representative Gross

**Cosponsors: Representatives Hall, Cross, Click, Johnson, Dean, Riedel, Wiggam,
Ferguson, Creech, Brinkman, Powell, Fowler Arthur, Stoltzfus, Seitz, Jordan**

A BILL

To amend sections 2305.15, 2317.56, 2919.11, 1
3726.14, and 4731.22; to enact sections 117.55, 2
2305.118, 3701.792, and 3701.793; and to repeal 3
section 2317.561 of the Revised Code to revise 4
the informed consent law regarding abortions. 5

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

Section 1. That sections 2305.15, 2317.56, 2919.11, 6
3726.14, and 4731.22 be amended and sections 117.55, 2305.118, 7
3701.792, and 3701.793 of the Revised Code be enacted to read as 8
follows: 9

Sec. 117.55. Not later than one hundred eighty days after 10
the effective date of this section, the auditor of state shall 11
adopt rules under Chapter 119. of the Revised Code to establish 12
all of the following: 13

(A) Procedures for auditing the department of health's 14
audit records under section 3701.792 of the Revised Code; 15

(B) Penalties to be assessed against entities or providers 16
for noncompliance with section 2317.56 of the Revised Code, as 17

determined by the audits performed under division (A) of this 18
section; 19

(C) Procedures for enforcing penalties established under 20
division (B) of this section. 21

Sec. 2305.118. (A) If a person commencing a civil action 22
under division (H) of section 2317.56 or division (E) of section 23
2919.12 of the Revised Code, in the exercise of reasonable care 24
and diligence, could not have discovered that the person has 25
suffered injury, death, or loss to person or property resulting 26
from the violation constituting the alleged basis of the action 27
within the one-year period pursuant to division (B) of section 28
2305.11 of the Revised Code, the person may commence the action 29
not later than one year after the person, with reasonable care 30
and diligence, should have discovered the injury, death, or loss 31
to person or property. 32

(B) A person against whom a civil action is commenced 33
under the circumstances described in division (A) of this 34
section may use any affirmative defense available under the 35
Revised Code or common law, including the affirmative defense of 36
the action being brought past the statute of limitations. The 37
person has the burden of proving any defense that the person 38
invokes by a preponderance of evidence. 39

Sec. 2305.15. (A) When a cause of action accrues against a 40
person, if the person is out of the state, has absconded, or 41
conceals self, the period of limitation for the commencement of 42
the action as provided in sections 2305.04 to 2305.14, 1302.98, 43
and 1304.35 of the Revised Code does not begin to run until the 44
person comes into the state or while the person is so absconded 45
or concealed. After the cause of action accrues if the person 46
departs from the state, absconds, or conceals self, the time of 47

the person's absence or concealment shall not be computed as any 48
part of a period within which the action must be brought. 49

(B) When a person is imprisoned for the commission of any 50
offense, the time of the person's imprisonment shall not be 51
computed as any part of any period of limitation, as provided in 52
section 2305.09, 2305.10, 2305.11, 2305.113, 2305.118, or 53
2305.14 of the Revised Code, within which any person must bring 54
any action against the imprisoned person. 55

Sec. 2317.56. (A) As used in this section: 56

(1) "Ascultate" means to examine by listening for sounds 57
made by internal organs of the fetus, specifically for a fetal 58
heartbeat, utilizing an ultrasound transducer or a fetal heart 59
rate monitor; 60

(2) "Medical emergency" has the same meaning as in section 61
2919.16 of the Revised Code. 62

~~(2)~~(3) "Medical necessity" means a medical condition of a 63
pregnant woman that, in the reasonable judgment of the physician 64
who is attending the woman, so complicates the pregnancy that it 65
necessitates the immediate performance or inducement of an 66
abortion. 67

~~(3)~~(4) "Probable gestational age of the zygote, 68
blastocyte, embryo, or fetus" means the gestational age that, in 69
the judgment of a physician, is, with reasonable probability, 70
the gestational age of the zygote, blastocyte, embryo, or fetus 71
at the time that the physician informs a pregnant woman pursuant 72
to division (B) (1) (b) of this section. 73

(5) "Qualified technician" means a medical imaging 74
technologist who is certified in obstetrics and gynecology by 75
the American registry for diagnostic medical sonography or a 76

certified nurse-midwife or certified nurse practitioner in 77
obstetrics with certification in obstetrical ultrasonography; 78

(6) "Ultrasound" means the use of ultrasonic waves for 79
diagnostic or therapeutic purposes, specifically to monitor a 80
developing fetus. 81

(B) Except when there is a medical emergency or medical 82
necessity, an abortion shall be performed or induced only if all 83
of the following conditions are satisfied: 84

(1) Prior to a pregnant woman giving informed consent 85
under division (B)(5) of this section, the physician who is to 86
perform or induce the abortion or a qualified technician to whom 87
the responsibility has been delegated by the physician shall do 88
all of the following: 89

(a) Set up ultrasound equipment in a manner so that 90
ultrasound images are within reasonable viewing distance and 91
heartbeat sounds are within reasonable hearing range from the 92
woman; 93

(b) Explain to the pregnant woman that the ultrasound 94
images and fetal heartbeat sounds, if the heartbeat is audible, 95
will be provided to the pregnant woman during the examination, 96
and that the pregnant woman has the option to avert her eyes 97
from ultrasound images or request the volume of the heartbeat to 98
be reduced or turned off, if the heartbeat is audible; 99

(c) Provide a simultaneous explanation of what the 100
ultrasound is depicting, which shall include the presence and 101
location of the embryo or fetus within the uterus, the number of 102
embryos or fetuses depicted, and, if the ultrasound image 103
indicates that fetal death has occurred, inform the woman of 104
that fact; 105

<u>(d) Display the ultrasound images so that the pregnant</u>	106
<u>woman may view the images;</u>	107
<u>(e) Ascultate the fetal heartbeat of the embryo or fetus</u>	108
<u>so that the pregnant woman may hear the heartbeat, if it is</u>	109
<u>audible;</u>	110
<u>(f) Provide a medical description of ultrasound images,</u>	111
<u>which shall include the dimensions of the embryo or fetus and</u>	112
<u>the presence of external members and internal organs, if present</u>	113
<u>and viewable;</u>	114
<u>(g) Offer to provide the pregnant woman a physical picture</u>	115
<u>of the ultrasound image of the embryo or fetus;</u>	116
<u>(h) Obtain the woman's signature on a certification that</u>	117
<u>she has been presented with the information required to be</u>	118
<u>provided under divisions (B) (1) (c) to (f) of this division and</u>	119
<u>has viewed the ultrasound images and listened to the heartbeat,</u>	120
<u>if the heartbeat is audible, or declined to do so;</u>	121
<u>(i) Retain in the pregnant woman's medical record the</u>	122
<u>signed certification under division (B) (1) (h) of this section.</u>	123
<u>The requirement to provide an ultrasound so that the</u>	124
<u>pregnant woman may view the active ultrasound images of the</u>	125
<u>embryo or fetus shall be performed at no additional charge to</u>	126
<u>her.</u>	127
<u>(2) At least twenty-four hours prior to the performance or</u>	128
<u>inducement of the abortion, a physician meets with the pregnant</u>	129
<u>woman in person in an individual, private setting and gives her</u>	130
<u>an adequate opportunity to ask questions about the abortion that</u>	131
<u>will be performed or induced. At this meeting, the physician</u>	132
<u>shall inform the pregnant woman, verbally or, if she is hearing</u>	133
<u>impaired, by other means of communication, of all of the</u>	134

following:	135
(a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure;	136 137 138
(b) The probable gestational age of the zygote, blastocyte, embryo, or fetus;	139 140
(c) The medical risks associated with the pregnant woman carrying the pregnancy to term;	141 142
<u>(d) The possible increased risk of breast cancer that is associated with women who have undergone an abortion;</u>	143 144
<u>(e) The short-term and long-term risk of psychological or emotional harm, including depression, suicidal ideation, post-traumatic stress disorder, and guilt, that the woman may endure from undergoing an abortion.</u>	145 146 147 148
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. <u>Any physician who provides information under divisions (B) (2) (d) and (e) of this section shall possess adequate training and education in the categories of risk described in those two divisions, as well as any other risks associated with abortion. Evidence of adequate training includes successful completion of continuing education and professional development courses or programs in the relevant subject areas.</u>	149 150 151 152 153 154 155 156 157 158 159
(2) <u>(3)</u> 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	160 161 162 163

mail, return receipt requested, or by regular mail evidenced by 164
a certificate of mailing: 165

(a) Inform the pregnant woman of the name of the physician 166
who is scheduled to perform or induce the abortion; 167

(b) Give the pregnant woman copies of the published 168
materials described in division (C) of this section; 169

(c) Inform the pregnant woman that the materials given 170
pursuant to division ~~(B) (2) (b)~~ (B) (3) (b) of this section are 171
published by the state and that they describe the zygote, 172
blastocyte, embryo, or fetus and list agencies that offer 173
alternatives to abortion. The pregnant woman may choose to 174
examine or not to examine the materials. A physician or an agent 175
of a physician may choose to be disassociated from the materials 176
and may choose to comment or not comment on the materials. 177

~~(3)~~ (4) If it has been determined that the unborn human 178
individual the pregnant woman is carrying has a detectable fetal 179
heartbeat, the physician who is to perform or induce the 180
abortion shall comply with the informed consent requirements in 181
section 2919.194 of the Revised Code in addition to complying 182
with the informed consent requirements in divisions ~~(B) (1), (2),~~ 183
~~(4),~~ and (B) (2), (3), (5), and (6) of this section. 184

~~(4)~~ (5) Prior to the performance or inducement of the 185
abortion, the pregnant woman signs a form consenting to the 186
abortion and certifies all of the following on that form: 187

(a) She has received the information and materials 188
described in divisions ~~(B) (1)~~ (B) (2) and ~~(2)~~ (3) of this 189
section, and her questions about the abortion that will be 190
performed or induced have been answered in a satisfactory 191
manner. 192

(b) She consents to the particular abortion voluntarily, 193
knowingly, intelligently, and without coercion by any person, 194
and she is not under the influence of any drug of abuse or 195
alcohol. 196

(c) If the abortion will be performed or induced 197
surgically, she has been provided with the notification form 198
described in division (A) of section 3726.14 of the Revised 199
Code. 200

(d) If the abortion will be performed or induced 201
surgically and she desires to exercise the rights under division 202
(A) of section 3726.03 of the Revised Code, she has completed 203
the disposition determination under section 3726.04 or 3726.041 204
of the Revised Code. 205

A form shall be completed for each zygote, blastocyte, 206
embryo, or fetus to be aborted. If a pregnant woman is carrying 207
more than one zygote, blastocyte, embryo, or fetus, she shall 208
sign a form for each zygote, blastocyte, embryo, or fetus to be 209
aborted. 210

The form shall contain the name and contact information of 211
the physician who provided to the pregnant woman the information 212
described in division ~~(B) (1)~~ (B) (2) of this section. 213

~~(5)~~ (6) Prior to the performance or inducement of the 214
abortion, the physician who is scheduled to perform or induce 215
the abortion or the physician's agent receives a copy of the 216
pregnant woman's signed form on which she consents to the 217
abortion and that includes the certification required by 218
division ~~(B) (4)~~ (B) (5) of this section. 219

(C) ~~The~~ (1) Subject to the requirements in division (C) (2) 220
of this section, the department of health shall publish ~~in~~ 221

~~English and in Spanish, in a typeface large enough to be clearly~~ 222
~~legible, and in an easily comprehensible format,~~ the following 223
materials on the department's web site: 224

~~(1)~~ (a) Materials that inform the pregnant woman about 225
family planning information, of publicly funded agencies that 226
are available to assist in family planning, and of public and 227
private agencies and services that are available to assist her 228
through the pregnancy, upon childbirth, and while the child is 229
dependent, including, but not limited to, adoption agencies. The 230
materials shall be geographically indexed; include a 231
comprehensive list of the available agencies, a description of 232
the services offered by the agencies, and the telephone numbers 233
and addresses of the agencies; and inform the pregnant woman 234
about available medical assistance benefits for prenatal care, 235
childbirth, and neonatal care and about the support obligations 236
of the father of a child who is born alive. The department shall 237
ensure that the materials described in division (C) (1) of this 238
section are comprehensive and do not directly or indirectly 239
promote, exclude, or discourage the use of any agency or service 240
described in this division. 241

~~(2)~~ (b) Materials that inform the pregnant woman of the 242
probable anatomical and physiological characteristics of the 243
zygote, blastocyte, embryo, or fetus at two-week gestational 244
increments for the first sixteen weeks of pregnancy and at four- 245
week gestational increments from the seventeenth week of 246
pregnancy to full term, including any relevant information 247
regarding the time at which the fetus possibly would be viable. 248
The department shall cause these materials to be published after 249
it consults with independent health care experts relative to the 250
probable anatomical and physiological characteristics of a 251
zygote, blastocyte, embryo, or fetus at the various gestational 252

increments. The materials shall use language that is 253
understandable by the average person who is not medically 254
trained, shall be objective and nonjudgmental, and shall include 255
only accurate scientific information about the zygote, 256
blastocyte, embryo, or fetus at the various gestational 257
increments. If the materials use a pictorial, photographic, or 258
other depiction to provide information regarding the zygote, 259
blastocyte, embryo, or fetus, the materials shall include, in a 260
conspicuous manner, a scale or other explanation that is 261
understandable by the average person and that can be used to 262
determine the actual size of the zygote, blastocyte, embryo, or 263
fetus at a particular gestational increment as contrasted with 264
the depicted size of the zygote, blastocyte, embryo, or fetus at 265
that gestational increment. 266

(c) Materials that inform the pregnant woman about the 267
possible increased risk of breast cancer that is associated with 268
women who have undergone an abortion; 269

(d) Materials that inform the pregnant woman about the 270
short-term and long-term risk of psychological or emotional 271
harm, including depression, suicidal ideation, post-traumatic 272
stress disorder, and guilt, that the woman may endure from 273
undergoing an abortion. 274

(2) The department shall publish the materials described 275
in division (C)(1) of this section in accordance with all of the 276
following: 277

(a) The materials shall be in English and in Spanish. 278

(b) The materials shall be in a typeface large enough to 279
be clearly legible. 280

(c) The materials shall be in an easily comprehensible 281

<u>format.</u>	282
<u>(d) The materials shall either be prominently featured on</u>	283
<u>the main page of the department's web site or directly</u>	284
<u>accessible through easily identified hyperlinks on the main page</u>	285
<u>of the department's web site.</u>	286
(D) Upon the submission of a request to the department of	287
health by any person, hospital, physician, or medical facility	288
for one copy of the materials published in accordance with	289
division (C) of this section, the department shall make the	290
requested copy of the materials available to the person,	291
hospital, physician, or medical facility that requested the	292
copy.	293
(E) If a medical emergency or medical necessity compels	294
the performance or inducement of an abortion, the physician who	295
will perform or induce the abortion, prior to its performance or	296
inducement if possible, shall inform the pregnant woman of the	297
medical indications supporting the physician's judgment that an	298
immediate abortion is necessary. Any physician who performs or	299
induces an abortion without the prior satisfaction of the	300
conditions specified in division (B) of this section because of	301
a medical emergency or medical necessity shall enter the reasons	302
for the conclusion that a medical emergency or medical necessity	303
exists in the medical record of the pregnant woman.	304
(F) If the conditions specified in division (B) of this	305
section are satisfied, consent to an abortion shall be presumed	306
to be valid and effective.	307
(G) The performance or inducement of an abortion without	308
the prior satisfaction of the conditions specified in division	309
(B) of this section does not constitute, and shall not be	310

construed as constituting, a violation of division (A) of 311
section 2919.12 of the Revised Code. The failure of a physician 312
to satisfy the conditions of division (B) of this section prior 313
to performing or inducing an abortion upon a pregnant woman may 314
be the basis of both of the following: 315

(1) A civil action for compensatory and exemplary damages 316
as described in division (H) of this section; 317

(2) Disciplinary action under section 4731.22 of the 318
Revised Code. 319

(H) (1) Subject to divisions (H) (2) and (3) of this 320
section, any physician who performs or induces an abortion with 321
actual knowledge that the conditions specified in division (B) 322
of this section have not been satisfied or with a heedless 323
indifference as to whether those conditions have been satisfied 324
is liable in compensatory and exemplary damages in a civil 325
action to any person, or the representative of the estate of any 326
person, who sustains injury, death, or loss to person or 327
property as a result of the failure to satisfy those conditions. 328
In the civil action, the court additionally may enter any 329
injunctive or other equitable relief that it considers 330
appropriate. 331

(2) The following shall be affirmative defenses in a civil 332
action authorized by division (H) (1) of this section: 333

(a) The physician performed or induced the abortion under 334
the circumstances described in division (E) of this section. 335

(b) The physician made a good faith effort to satisfy the 336
conditions specified in division (B) of this section. 337

(3) An employer or other principal is not liable in 338
damages in a civil action authorized by division (H) (1) of this 339

section on the basis of the doctrine of respondeat superior 340
unless either of the following applies: 341

(a) The employer or other principal had actual knowledge 342
or, by the exercise of reasonable diligence, should have known 343
that an employee or agent performed or induced an abortion with 344
actual knowledge that the conditions specified in division (B) 345
of this section had not been satisfied or with a heedless 346
indifference as to whether those conditions had been satisfied. 347

(b) The employer or other principal negligently failed to 348
secure the compliance of an employee or agent with division (B) 349
of this section. 350

(4) Notwithstanding division (E) of section 2919.12 of the 351
Revised Code, the civil action authorized by division (H) (1) of 352
this section shall be the exclusive civil remedy for persons, or 353
the representatives of estates of persons, who allegedly sustain 354
injury, death, or loss to person or property as a result of a 355
failure to satisfy the conditions specified in division (B) of 356
this section. 357

(I) The department of job and family services shall 358
prepare and conduct a public information program to inform women 359
of all available governmental programs and agencies that provide 360
services or assistance for family planning, prenatal care, child 361
care, or alternatives to abortion. 362

Sec. 2919.11. As used in the Revised Code, "abortion" 363
means the purposeful termination of a human pregnancy by any 364
person, including the pregnant woman ~~herself personally~~, with an 365
intention other than to produce a live birth or to remove a dead 366
fetus or embryo. Abortion is the practice of medicine or surgery 367
for the purposes of section 4731.41 of the Revised Code. 368

"Abortion" includes the purposeful termination of a pregnancy by use of an abortion-inducing drug, as defined in section 2919.124 of the Revised Code, unless the context clearly requires otherwise.

Sec. 3701.792. The department of health shall annually audit all provider records to determine compliance with all of the informed consent and education and training requirements under section 2317.56 of the Revised Code.

Sec. 3701.793. The department of health shall prescribe a certification form to be used under division (B) (1) (h) of section 2317.56 of the Revised Code.

Sec. 3726.14. Not later than ninety days after ~~the~~ effective date of this section April 6, 2021, the director of health, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to carry out sections 3726.01 to 3726.13 of the Revised Code, including rules that prescribe the following:

(A) The notification form informing pregnant women who seek surgical abortions of the following:

(1) The right to determine final disposition of fetal remains under division (A) of section 3726.03 of the Revised Code;

(2) The available options for locations and methods for the disposition of fetal remains.

(B) The consent form for purposes of section 3726.04 or 3726.041 of the Revised Code;

(C) (1) A detachable supplemental form to the form described in division ~~(B) (4)~~ (B) (5) of section 2317.56 of the

Revised Code that meets the following requirements:	397
(a) Indicates whether the pregnant woman has indicated a preference as to the method of disposition of the fetal remains and the preferred method selected;	398 399 400
(b) Indicates whether the pregnant woman has indicated a preference as to the location of disposition of the fetal remains;	401 402 403
(c) Provides for the signature of the physician who is to perform or induce the abortion;	404 405
(d) Provides for a medical identification number for the pregnant woman but does not provide for the pregnant woman's printed name or signature.	406 407 408
(2) If a medical emergency or medical necessity prevents the pregnant woman from completing the detachable supplemental form, procedures to complete that form a reasonable time after the medical emergency or medical necessity has ended.	409 410 411 412
Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by	413 414 415 416 417 418 419 420 421 422 423 424 425

the board. 426

(B) Except as provided in division (P) of this section, 427
the board, by an affirmative vote of not fewer than six members, 428
shall, to the extent permitted by law, limit, revoke, or suspend 429
a license or certificate to practice or certificate to 430
recommend, refuse to issue a license or certificate, refuse to 431
renew a license or certificate, refuse to reinstate a license or 432
certificate, or reprimand or place on probation the holder of a 433
license or certificate for one or more of the following reasons: 434

(1) Permitting one's name or one's license or certificate 435
to practice to be used by a person, group, or corporation when 436
the individual concerned is not actually directing the treatment 437
given; 438

(2) Failure to maintain minimal standards applicable to 439
the selection or administration of drugs, or failure to employ 440
acceptable scientific methods in the selection of drugs or other 441
modalities for treatment of disease; 442

(3) Except as provided in section 4731.97 of the Revised 443
Code, selling, giving away, personally furnishing, prescribing, 444
or administering drugs for other than legal and legitimate 445
therapeutic purposes or a plea of guilty to, a judicial finding 446
of guilt of, or a judicial finding of eligibility for 447
intervention in lieu of conviction of, a violation of any 448
federal or state law regulating the possession, distribution, or 449
use of any drug; 450

(4) Willfully betraying a professional confidence. 451

For purposes of this division, "willfully betraying a 452
professional confidence" does not include providing any 453
information, documents, or reports under sections 307.621 to 454

307.629 of the Revised Code to a child fatality review board; 455
does not include providing any information, documents, or 456
reports to the director of health pursuant to guidelines 457
established under section 3701.70 of the Revised Code; does not 458
include written notice to a mental health professional under 459
section 4731.62 of the Revised Code; and does not include the 460
making of a report of an employee's use of a drug of abuse, or a 461
report of a condition of an employee other than one involving 462
the use of a drug of abuse, to the employer of the employee as 463
described in division (B) of section 2305.33 of the Revised 464
Code. Nothing in this division affects the immunity from civil 465
liability conferred by section 2305.33 or 4731.62 of the Revised 466
Code upon a physician who makes a report in accordance with 467
section 2305.33 or notifies a mental health professional in 468
accordance with section 4731.62 of the Revised Code. As used in 469
this division, "employee," "employer," and "physician" have the 470
same meanings as in section 2305.33 of the Revised Code. 471

(5) Making a false, fraudulent, deceptive, or misleading 472
statement in the solicitation of or advertising for patients; in 473
relation to the practice of medicine and surgery, osteopathic 474
medicine and surgery, podiatric medicine and surgery, or a 475
limited branch of medicine; or in securing or attempting to 476
secure any license or certificate to practice issued by the 477
board. 478

As used in this division, "false, fraudulent, deceptive, 479
or misleading statement" means a statement that includes a 480
misrepresentation of fact, is likely to mislead or deceive 481
because of a failure to disclose material facts, is intended or 482
is likely to create false or unjustified expectations of 483
favorable results, or includes representations or implications 484
that in reasonable probability will cause an ordinarily prudent 485

person to misunderstand or be deceived.	486
(6) A departure from, or the failure to conform to,	487
minimal standards of care of similar practitioners under the	488
same or similar circumstances, whether or not actual injury to a	489
patient is established;	490
(7) Representing, with the purpose of obtaining	491
compensation or other advantage as personal gain or for any	492
other person, that an incurable disease or injury, or other	493
incurable condition, can be permanently cured;	494
(8) The obtaining of, or attempting to obtain, money or	495
anything of value by fraudulent misrepresentations in the course	496
of practice;	497
(9) A plea of guilty to, a judicial finding of guilt of,	498
or a judicial finding of eligibility for intervention in lieu of	499
conviction for, a felony;	500
(10) Commission of an act that constitutes a felony in	501
this state, regardless of the jurisdiction in which the act was	502
committed;	503
(11) A plea of guilty to, a judicial finding of guilt of,	504
or a judicial finding of eligibility for intervention in lieu of	505
conviction for, a misdemeanor committed in the course of	506
practice;	507
(12) Commission of an act in the course of practice that	508
constitutes a misdemeanor in this state, regardless of the	509
jurisdiction in which the act was committed;	510
(13) A plea of guilty to, a judicial finding of guilt of,	511
or a judicial finding of eligibility for intervention in lieu of	512
conviction for, a misdemeanor involving moral turpitude;	513

(14) Commission of an act involving moral turpitude that 514
constitutes a misdemeanor in this state, regardless of the 515
jurisdiction in which the act was committed; 516

(15) Violation of the conditions of limitation placed by 517
the board upon a license or certificate to practice; 518

(16) Failure to pay license renewal fees specified in this 519
chapter; 520

(17) Except as authorized in section 4731.31 of the 521
Revised Code, engaging in the division of fees for referral of 522
patients, or the receiving of a thing of value in return for a 523
specific referral of a patient to utilize a particular service 524
or business; 525

(18) Subject to section 4731.226 of the Revised Code, 526
violation of any provision of a code of ethics of the American 527
medical association, the American osteopathic association, the 528
American podiatric medical association, or any other national 529
professional organizations that the board specifies by rule. The 530
state medical board shall obtain and keep on file current copies 531
of the codes of ethics of the various national professional 532
organizations. The individual whose license or certificate is 533
being suspended or revoked shall not be found to have violated 534
any provision of a code of ethics of an organization not 535
appropriate to the individual's profession. 536

For purposes of this division, a "provision of a code of 537
ethics of a national professional organization" does not include 538
any provision that would preclude the making of a report by a 539
physician of an employee's use of a drug of abuse, or of a 540
condition of an employee other than one involving the use of a 541
drug of abuse, to the employer of the employee as described in 542

division (B) of section 2305.33 of the Revised Code. Nothing in 543
this division affects the immunity from civil liability 544
conferred by that section upon a physician who makes either type 545
of report in accordance with division (B) of that section. As 546
used in this division, "employee," "employer," and "physician" 547
have the same meanings as in section 2305.33 of the Revised 548
Code. 549

(19) Inability to practice according to acceptable and 550
prevailing standards of care by reason of mental illness or 551
physical illness, including, but not limited to, physical 552
deterioration that adversely affects cognitive, motor, or 553
perceptive skills. 554

In enforcing this division, the board, upon a showing of a 555
possible violation, may compel any individual authorized to 556
practice by this chapter or who has submitted an application 557
pursuant to this chapter to submit to a mental examination, 558
physical examination, including an HIV test, or both a mental 559
and a physical examination. The expense of the examination is 560
the responsibility of the individual compelled to be examined. 561
Failure to submit to a mental or physical examination or consent 562
to an HIV test ordered by the board constitutes an admission of 563
the allegations against the individual unless the failure is due 564
to circumstances beyond the individual's control, and a default 565
and final order may be entered without the taking of testimony 566
or presentation of evidence. If the board finds an individual 567
unable to practice because of the reasons set forth in this 568
division, the board shall require the individual to submit to 569
care, counseling, or treatment by physicians approved or 570
designated by the board, as a condition for initial, continued, 571
reinstated, or renewed authority to practice. An individual 572
affected under this division shall be afforded an opportunity to 573

demonstrate to the board the ability to resume practice in 574
compliance with acceptable and prevailing standards under the 575
provisions of the individual's license or certificate. For the 576
purpose of this division, any individual who applies for or 577
receives a license or certificate to practice under this chapter 578
accepts the privilege of practicing in this state and, by so 579
doing, shall be deemed to have given consent to submit to a 580
mental or physical examination when directed to do so in writing 581
by the board, and to have waived all objections to the 582
admissibility of testimony or examination reports that 583
constitute a privileged communication. 584

(20) Except as provided in division (F)(1)(b) of section 585
4731.282 of the Revised Code or when civil penalties are imposed 586
under section 4731.225 of the Revised Code, and subject to 587
section 4731.226 of the Revised Code, violating or attempting to 588
violate, directly or indirectly, or assisting in or abetting the 589
violation of, or conspiring to violate, any provisions of this 590
chapter or any rule promulgated by the board. 591

This division does not apply to a violation or attempted 592
violation of, assisting in or abetting the violation of, or a 593
conspiracy to violate, any provision of this chapter or any rule 594
adopted by the board that would preclude the making of a report 595
by a physician of an employee's use of a drug of abuse, or of a 596
condition of an employee other than one involving the use of a 597
drug of abuse, to the employer of the employee as described in 598
division (B) of section 2305.33 of the Revised Code. Nothing in 599
this division affects the immunity from civil liability 600
conferred by that section upon a physician who makes either type 601
of report in accordance with division (B) of that section. As 602
used in this division, "employee," "employer," and "physician" 603
have the same meanings as in section 2305.33 of the Revised 604

Code. 605

(21) The violation of section 3701.79 of the Revised Code 606
or of any abortion rule adopted by the director of health 607
pursuant to section 3701.341 of the Revised Code; 608

(22) Any of the following actions taken by an agency 609
responsible for authorizing, certifying, or regulating an 610
individual to practice a health care occupation or provide 611
health care services in this state or another jurisdiction, for 612
any reason other than the nonpayment of fees: the limitation, 613
revocation, or suspension of an individual's license to 614
practice; acceptance of an individual's license surrender; 615
denial of a license; refusal to renew or reinstate a license; 616
imposition of probation; or issuance of an order of censure or 617
other reprimand; 618

(23) The violation of section 2919.12 of the Revised Code 619
or the performance or inducement of an abortion upon a pregnant 620
woman with actual knowledge that the conditions specified in 621
division (B) of section 2317.56 of the Revised Code have not 622
been satisfied or with a heedless indifference as to whether 623
those conditions have been satisfied, unless an affirmative 624
defense as specified in division (H) (2) of that section would 625
apply in a civil action authorized by division (H) (1) of that 626
section; 627

(24) The revocation, suspension, restriction, reduction, 628
or termination of clinical privileges by the United States 629
department of defense or department of veterans affairs or the 630
termination or suspension of a certificate of registration to 631
prescribe drugs by the drug enforcement administration of the 632
United States department of justice; 633

(25) Termination or suspension from participation in the 634
medicare or medicaid programs by the department of health and 635
human services or other responsible agency; 636

(26) Impairment of ability to practice according to 637
acceptable and prevailing standards of care because of habitual 638
or excessive use or abuse of drugs, alcohol, or other substances 639
that impair ability to practice. 640

For the purposes of this division, any individual 641
authorized to practice by this chapter accepts the privilege of 642
practicing in this state subject to supervision by the board. By 643
filing an application for or holding a license or certificate to 644
practice under this chapter, an individual shall be deemed to 645
have given consent to submit to a mental or physical examination 646
when ordered to do so by the board in writing, and to have 647
waived all objections to the admissibility of testimony or 648
examination reports that constitute privileged communications. 649

If it has reason to believe that any individual authorized 650
to practice by this chapter or any applicant for licensure or 651
certification to practice suffers such impairment, the board may 652
compel the individual to submit to a mental or physical 653
examination, or both. The expense of the examination is the 654
responsibility of the individual compelled to be examined. Any 655
mental or physical examination required under this division 656
shall be undertaken by a treatment provider or physician who is 657
qualified to conduct the examination and who is chosen by the 658
board. 659

Failure to submit to a mental or physical examination 660
ordered by the board constitutes an admission of the allegations 661
against the individual unless the failure is due to 662
circumstances beyond the individual's control, and a default and 663

final order may be entered without the taking of testimony or 664
presentation of evidence. If the board determines that the 665
individual's ability to practice is impaired, the board shall 666
suspend the individual's license or certificate or deny the 667
individual's application and shall require the individual, as a 668
condition for initial, continued, reinstated, or renewed 669
licensure or certification to practice, to submit to treatment. 670

Before being eligible to apply for reinstatement of a 671
license or certificate suspended under this division, the 672
impaired practitioner shall demonstrate to the board the ability 673
to resume practice in compliance with acceptable and prevailing 674
standards of care under the provisions of the practitioner's 675
license or certificate. The demonstration shall include, but 676
shall not be limited to, the following: 677

(a) Certification from a treatment provider approved under 678
section 4731.25 of the Revised Code that the individual has 679
successfully completed any required inpatient treatment; 680

(b) Evidence of continuing full compliance with an 681
aftercare contract or consent agreement; 682

(c) Two written reports indicating that the individual's 683
ability to practice has been assessed and that the individual 684
has been found capable of practicing according to acceptable and 685
prevailing standards of care. The reports shall be made by 686
individuals or providers approved by the board for making the 687
assessments and shall describe the basis for their 688
determination. 689

The board may reinstate a license or certificate suspended 690
under this division after that demonstration and after the 691
individual has entered into a written consent agreement. 692

When the impaired practitioner resumes practice, the board 693
shall require continued monitoring of the individual. The 694
monitoring shall include, but not be limited to, compliance with 695
the written consent agreement entered into before reinstatement 696
or with conditions imposed by board order after a hearing, and, 697
upon termination of the consent agreement, submission to the 698
board for at least two years of annual written progress reports 699
made under penalty of perjury stating whether the individual has 700
maintained sobriety. 701

(27) A second or subsequent violation of section 4731.66 702
or 4731.69 of the Revised Code; 703

(28) Except as provided in division (N) of this section: 704

(a) Waiving the payment of all or any part of a deductible 705
or copayment that a patient, pursuant to a health insurance or 706
health care policy, contract, or plan that covers the 707
individual's services, otherwise would be required to pay if the 708
waiver is used as an enticement to a patient or group of 709
patients to receive health care services from that individual; 710

(b) Advertising that the individual will waive the payment 711
of all or any part of a deductible or copayment that a patient, 712
pursuant to a health insurance or health care policy, contract, 713
or plan that covers the individual's services, otherwise would 714
be required to pay. 715

(29) Failure to use universal blood and body fluid 716
precautions established by rules adopted under section 4731.051 717
of the Revised Code; 718

(30) Failure to provide notice to, and receive 719
acknowledgment of the notice from, a patient when required by 720
section 4731.143 of the Revised Code prior to providing 721

nonemergency professional services, or failure to maintain that	722
notice in the patient's medical record;	723
(31) Failure of a physician supervising a physician	724
assistant to maintain supervision in accordance with the	725
requirements of Chapter 4730. of the Revised Code and the rules	726
adopted under that chapter;	727
(32) Failure of a physician or podiatrist to enter into a	728
standard care arrangement with a clinical nurse specialist,	729
certified nurse-midwife, or certified nurse practitioner with	730
whom the physician or podiatrist is in collaboration pursuant to	731
section 4731.27 of the Revised Code or failure to fulfill the	732
responsibilities of collaboration after entering into a standard	733
care arrangement;	734
(33) Failure to comply with the terms of a consult	735
agreement entered into with a pharmacist pursuant to section	736
4729.39 of the Revised Code;	737
(34) Failure to cooperate in an investigation conducted by	738
the board under division (F) of this section, including failure	739
to comply with a subpoena or order issued by the board or	740
failure to answer truthfully a question presented by the board	741
in an investigative interview, an investigative office	742
conference, at a deposition, or in written interrogatories,	743
except that failure to cooperate with an investigation shall not	744
constitute grounds for discipline under this section if a court	745
of competent jurisdiction has issued an order that either	746
quashes a subpoena or permits the individual to withhold the	747
testimony or evidence in issue;	748
(35) Failure to supervise an acupuncturist in accordance	749
with Chapter 4762. of the Revised Code and the board's rules for	750

providing that supervision;	751
(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;	752 753 754
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	755 756
(38) Failure to comply with the requirements of <u>provide the pregnant woman the opportunity to view ultrasound images, at no cost to the woman, or offer to provide the pregnant woman with a physical picture of the ultrasound image, in accordance with division (B) of section 2317.561-2317.56</u> of the Revised Code;	757 758 759 760 761 762
(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;	763 764 765
(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;	766 767 768 769
(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;	770 771 772 773
(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;	774 775 776 777
(43) Failure to comply with the requirements of section	778

4729.79 or 4731.055 of the Revised Code, unless the state board	779
of pharmacy no longer maintains a drug database pursuant to	780
section 4729.75 of the Revised Code;	781
(44) Failure to comply with the requirements of section	782
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	783
to submit to the department of health in accordance with a court	784
order a complete report as described in section 2919.171 or	785
2919.202 of the Revised Code;	786
(45) Practicing at a facility that is subject to licensure	787
as a category III terminal distributor of dangerous drugs with a	788
pain management clinic classification unless the person	789
operating the facility has obtained and maintains the license	790
with the classification;	791
(46) Owning a facility that is subject to licensure as a	792
category III terminal distributor of dangerous drugs with a pain	793
management clinic classification unless the facility is licensed	794
with the classification;	795
(47) Failure to comply with any of the requirements	796
regarding making or maintaining medical records or documents	797
described in division (A) of section 2919.192, division (C) of	798
section 2919.193, division (B) of section 2919.195, or division	799
(A) of section 2919.196 of the Revised Code;	800
(48) Failure to comply with the requirements in section	801
3719.061 of the Revised Code before issuing for a minor a	802
prescription for an opioid analgesic, as defined in section	803
3719.01 of the Revised Code;	804
(49) Failure to comply with the requirements of section	805
4731.30 of the Revised Code or rules adopted under section	806
4731.301 of the Revised Code when recommending treatment with	807

medical marijuana; 808

(50) Practicing at a facility, clinic, or other location 809
that is subject to licensure as a category III terminal 810
distributor of dangerous drugs with an office-based opioid 811
treatment classification unless the person operating that place 812
has obtained and maintains the license with the classification; 813

(51) Owning a facility, clinic, or other location that is 814
subject to licensure as a category III terminal distributor of 815
dangerous drugs with an office-based opioid treatment 816
classification unless that place is licensed with the 817
classification; 818

(52) A pattern of continuous or repeated violations of 819
division (E) (2) or (3) of section 3963.02 of the Revised Code. 820

(C) Disciplinary actions taken by the board under 821
divisions (A) and (B) of this section shall be taken pursuant to 822
an adjudication under Chapter 119. of the Revised Code, except 823
that in lieu of an adjudication, the board may enter into a 824
consent agreement with an individual to resolve an allegation of 825
a violation of this chapter or any rule adopted under it. A 826
consent agreement, when ratified by an affirmative vote of not 827
fewer than six members of the board, shall constitute the 828
findings and order of the board with respect to the matter 829
addressed in the agreement. If the board refuses to ratify a 830
consent agreement, the admissions and findings contained in the 831
consent agreement shall be of no force or effect. 832

A telephone conference call may be utilized for 833
ratification of a consent agreement that revokes or suspends an 834
individual's license or certificate to practice or certificate 835
to recommend. The telephone conference call shall be considered 836

a special meeting under division (F) of section 121.22 of the Revised Code. 837
838

If the board takes disciplinary action against an 839
individual under division (B) of this section for a second or 840
subsequent plea of guilty to, or judicial finding of guilt of, a 841
violation of section 2919.123 or 2919.124 of the Revised Code, 842
the disciplinary action shall consist of a suspension of the 843
individual's license or certificate to practice for a period of 844
at least one year or, if determined appropriate by the board, a 845
more serious sanction involving the individual's license or 846
certificate to practice. Any consent agreement entered into 847
under this division with an individual that pertains to a second 848
or subsequent plea of guilty to, or judicial finding of guilt 849
of, a violation of that section shall provide for a suspension 850
of the individual's license or certificate to practice for a 851
period of at least one year or, if determined appropriate by the 852
board, a more serious sanction involving the individual's 853
license or certificate to practice. 854

(D) For purposes of divisions (B) (10), (12), and (14) of 855
this section, the commission of the act may be established by a 856
finding by the board, pursuant to an adjudication under Chapter 857
119. of the Revised Code, that the individual committed the act. 858
The board does not have jurisdiction under those divisions if 859
the trial court renders a final judgment in the individual's 860
favor and that judgment is based upon an adjudication on the 861
merits. The board has jurisdiction under those divisions if the 862
trial court issues an order of dismissal upon technical or 863
procedural grounds. 864

(E) The sealing of conviction records by any court shall 865
have no effect upon a prior board order entered under this 866

section or upon the board's jurisdiction to take action under 867
this section if, based upon a plea of guilty, a judicial finding 868
of guilt, or a judicial finding of eligibility for intervention 869
in lieu of conviction, the board issued a notice of opportunity 870
for a hearing prior to the court's order to seal the records. 871
The board shall not be required to seal, destroy, redact, or 872
otherwise modify its records to reflect the court's sealing of 873
conviction records. 874

(F) (1) The board shall investigate evidence that appears 875
to show that a person has violated any provision of this chapter 876
or any rule adopted under it. Any person may report to the board 877
in a signed writing any information that the person may have 878
that appears to show a violation of any provision of this 879
chapter or any rule adopted under it. In the absence of bad 880
faith, any person who reports information of that nature or who 881
testifies before the board in any adjudication conducted under 882
Chapter 119. of the Revised Code shall not be liable in damages 883
in a civil action as a result of the report or testimony. Each 884
complaint or allegation of a violation received by the board 885
shall be assigned a case number and shall be recorded by the 886
board. 887

(2) Investigations of alleged violations of this chapter 888
or any rule adopted under it shall be supervised by the 889
supervising member elected by the board in accordance with 890
section 4731.02 of the Revised Code and by the secretary as 891
provided in section 4731.39 of the Revised Code. The president 892
may designate another member of the board to supervise the 893
investigation in place of the supervising member. No member of 894
the board who supervises the investigation of a case shall 895
participate in further adjudication of the case. 896

(3) In investigating a possible violation of this chapter 897
or any rule adopted under this chapter, or in conducting an 898
inspection under division (E) of section 4731.054 of the Revised 899
Code, the board may question witnesses, conduct interviews, 900
administer oaths, order the taking of depositions, inspect and 901
copy any books, accounts, papers, records, or documents, issue 902
subpoenas, and compel the attendance of witnesses and production 903
of books, accounts, papers, records, documents, and testimony, 904
except that a subpoena for patient record information shall not 905
be issued without consultation with the attorney general's 906
office and approval of the secretary and supervising member of 907
the board. 908

(a) Before issuance of a subpoena for patient record 909
information, the secretary and supervising member shall 910
determine whether there is probable cause to believe that the 911
complaint filed alleges a violation of this chapter or any rule 912
adopted under it and that the records sought are relevant to the 913
alleged violation and material to the investigation. The 914
subpoena may apply only to records that cover a reasonable 915
period of time surrounding the alleged violation. 916

(b) On failure to comply with any subpoena issued by the 917
board and after reasonable notice to the person being 918
subpoenaed, the board may move for an order compelling the 919
production of persons or records pursuant to the Rules of Civil 920
Procedure. 921

(c) A subpoena issued by the board may be served by a 922
sheriff, the sheriff's deputy, or a board employee or agent 923
designated by the board. Service of a subpoena issued by the 924
board may be made by delivering a copy of the subpoena to the 925
person named therein, reading it to the person, or leaving it at 926

the person's usual place of residence, usual place of business, 927
or address on file with the board. When serving a subpoena to an 928
applicant for or the holder of a license or certificate issued 929
under this chapter, service of the subpoena may be made by 930
certified mail, return receipt requested, and the subpoena shall 931
be deemed served on the date delivery is made or the date the 932
person refuses to accept delivery. If the person being served 933
refuses to accept the subpoena or is not located, service may be 934
made to an attorney who notifies the board that the attorney is 935
representing the person. 936

(d) A sheriff's deputy who serves a subpoena shall receive 937
the same fees as a sheriff. Each witness who appears before the 938
board in obedience to a subpoena shall receive the fees and 939
mileage provided for under section 119.094 of the Revised Code. 940

(4) All hearings, investigations, and inspections of the 941
board shall be considered civil actions for the purposes of 942
section 2305.252 of the Revised Code. 943

(5) A report required to be submitted to the board under 944
this chapter, a complaint, or information received by the board 945
pursuant to an investigation or pursuant to an inspection under 946
division (E) of section 4731.054 of the Revised Code is 947
confidential and not subject to discovery in any civil action. 948

The board shall conduct all investigations or inspections 949
and proceedings in a manner that protects the confidentiality of 950
patients and persons who file complaints with the board. The 951
board shall not make public the names or any other identifying 952
information about patients or complainants unless proper consent 953
is given or, in the case of a patient, a waiver of the patient 954
privilege exists under division (B) of section 2317.02 of the 955
Revised Code, except that consent or a waiver of that nature is 956

not required if the board possesses reliable and substantial 957
evidence that no bona fide physician-patient relationship 958
exists. 959

The board may share any information it receives pursuant 960
to an investigation or inspection, including patient records and 961
patient record information, with law enforcement agencies, other 962
licensing boards, and other governmental agencies that are 963
prosecuting, adjudicating, or investigating alleged violations 964
of statutes or administrative rules. An agency or board that 965
receives the information shall comply with the same requirements 966
regarding confidentiality as those with which the state medical 967
board must comply, notwithstanding any conflicting provision of 968
the Revised Code or procedure of the agency or board that 969
applies when it is dealing with other information in its 970
possession. In a judicial proceeding, the information may be 971
admitted into evidence only in accordance with the Rules of 972
Evidence, but the court shall require that appropriate measures 973
are taken to ensure that confidentiality is maintained with 974
respect to any part of the information that contains names or 975
other identifying information about patients or complainants 976
whose confidentiality was protected by the state medical board 977
when the information was in the board's possession. Measures to 978
ensure confidentiality that may be taken by the court include 979
sealing its records or deleting specific information from its 980
records. 981

(6) On a quarterly basis, the board shall prepare a report 982
that documents the disposition of all cases during the preceding 983
three months. The report shall contain the following information 984
for each case with which the board has completed its activities: 985

(a) The case number assigned to the complaint or alleged 986

violation;	987
(b) The type of license or certificate to practice, if	988
any, held by the individual against whom the complaint is	989
directed;	990
(c) A description of the allegations contained in the	991
complaint;	992
(d) The disposition of the case.	993
The report shall state how many cases are still pending	994
and shall be prepared in a manner that protects the identity of	995
each person involved in each case. The report shall be a public	996
record under section 149.43 of the Revised Code.	997
(G) If the secretary and supervising member determine both	998
of the following, they may recommend that the board suspend an	999
individual's license or certificate to practice or certificate	1000
to recommend without a prior hearing:	1001
(1) That there is clear and convincing evidence that an	1002
individual has violated division (B) of this section;	1003
(2) That the individual's continued practice presents a	1004
danger of immediate and serious harm to the public.	1005
Written allegations shall be prepared for consideration by	1006
the board. The board, upon review of those allegations and by an	1007
affirmative vote of not fewer than six of its members, excluding	1008
the secretary and supervising member, may suspend a license or	1009
certificate without a prior hearing. A telephone conference call	1010
may be utilized for reviewing the allegations and taking the	1011
vote on the summary suspension.	1012
The board shall issue a written order of suspension by	1013
certified mail or in person in accordance with section 119.07 of	1014

the Revised Code. The order shall not be subject to suspension 1015
by the court during pendency of any appeal filed under section 1016
119.12 of the Revised Code. If the individual subject to the 1017
summary suspension requests an adjudicatory hearing by the 1018
board, the date set for the hearing shall be within fifteen 1019
days, but not earlier than seven days, after the individual 1020
requests the hearing, unless otherwise agreed to by both the 1021
board and the individual. 1022

Any summary suspension imposed under this division shall 1023
remain in effect, unless reversed on appeal, until a final 1024
adjudicative order issued by the board pursuant to this section 1025
and Chapter 119. of the Revised Code becomes effective. The 1026
board shall issue its final adjudicative order within seventy- 1027
five days after completion of its hearing. A failure to issue 1028
the order within seventy-five days shall result in dissolution 1029
of the summary suspension order but shall not invalidate any 1030
subsequent, final adjudicative order. 1031

(H) If the board takes action under division (B) (9), (11), 1032
or (13) of this section and the judicial finding of guilt, 1033
guilty plea, or judicial finding of eligibility for intervention 1034
in lieu of conviction is overturned on appeal, upon exhaustion 1035
of the criminal appeal, a petition for reconsideration of the 1036
order may be filed with the board along with appropriate court 1037
documents. Upon receipt of a petition of that nature and 1038
supporting court documents, the board shall reinstate the 1039
individual's license or certificate to practice. The board may 1040
then hold an adjudication under Chapter 119. of the Revised Code 1041
to determine whether the individual committed the act in 1042
question. Notice of an opportunity for a hearing shall be given 1043
in accordance with Chapter 119. of the Revised Code. If the 1044
board finds, pursuant to an adjudication held under this 1045

division, that the individual committed the act or if no hearing 1046
is requested, the board may order any of the sanctions 1047
identified under division (B) of this section. 1048

(I) The license or certificate to practice issued to an 1049
individual under this chapter and the individual's practice in 1050
this state are automatically suspended as of the date of the 1051
individual's second or subsequent plea of guilty to, or judicial 1052
finding of guilt of, a violation of section 2919.123 or 2919.124 1053
of the Revised Code. In addition, the license or certificate to 1054
practice or certificate to recommend issued to an individual 1055
under this chapter and the individual's practice in this state 1056
are automatically suspended as of the date the individual pleads 1057
guilty to, is found by a judge or jury to be guilty of, or is 1058
subject to a judicial finding of eligibility for intervention in 1059
lieu of conviction in this state or treatment or intervention in 1060
lieu of conviction in another jurisdiction for any of the 1061
following criminal offenses in this state or a substantially 1062
equivalent criminal offense in another jurisdiction: aggravated 1063
murder, murder, voluntary manslaughter, felonious assault, 1064
kidnapping, rape, sexual battery, gross sexual imposition, 1065
aggravated arson, aggravated robbery, or aggravated burglary. 1066
Continued practice after suspension shall be considered 1067
practicing without a license or certificate. 1068

The board shall notify the individual subject to the 1069
suspension by certified mail or in person in accordance with 1070
section 119.07 of the Revised Code. If an individual whose 1071
license or certificate is automatically suspended under this 1072
division fails to make a timely request for an adjudication 1073
under Chapter 119. of the Revised Code, the board shall do 1074
whichever of the following is applicable: 1075

(1) If the automatic suspension under this division is for 1076
a second or subsequent plea of guilty to, or judicial finding of 1077
guilt of, a violation of section 2919.123 or 2919.124 of the 1078
Revised Code, the board shall enter an order suspending the 1079
individual's license or certificate to practice for a period of 1080
at least one year or, if determined appropriate by the board, 1081
imposing a more serious sanction involving the individual's 1082
license or certificate to practice. 1083

(2) In all circumstances in which division (I)(1) of this 1084
section does not apply, enter a final order permanently revoking 1085
the individual's license or certificate to practice. 1086

(J) If the board is required by Chapter 119. of the 1087
Revised Code to give notice of an opportunity for a hearing and 1088
if the individual subject to the notice does not timely request 1089
a hearing in accordance with section 119.07 of the Revised Code, 1090
the board is not required to hold a hearing, but may adopt, by 1091
an affirmative vote of not fewer than six of its members, a 1092
final order that contains the board's findings. In that final 1093
order, the board may order any of the sanctions identified under 1094
division (A) or (B) of this section. 1095

(K) Any action taken by the board under division (B) of 1096
this section resulting in a suspension from practice shall be 1097
accompanied by a written statement of the conditions under which 1098
the individual's license or certificate to practice may be 1099
reinstated. The board shall adopt rules governing conditions to 1100
be imposed for reinstatement. Reinstatement of a license or 1101
certificate suspended pursuant to division (B) of this section 1102
requires an affirmative vote of not fewer than six members of 1103
the board. 1104

(L) When the board refuses to grant or issue a license or 1105

certificate to practice to an applicant, revokes an individual's 1106
license or certificate to practice, refuses to renew an 1107
individual's license or certificate to practice, or refuses to 1108
reinstate an individual's license or certificate to practice, 1109
the board may specify that its action is permanent. An 1110
individual subject to a permanent action taken by the board is 1111
forever thereafter ineligible to hold a license or certificate 1112
to practice and the board shall not accept an application for 1113
reinstatement of the license or certificate or for issuance of a 1114
new license or certificate. 1115

(M) Notwithstanding any other provision of the Revised 1116
Code, all of the following apply: 1117

(1) The surrender of a license or certificate issued under 1118
this chapter shall not be effective unless or until accepted by 1119
the board. A telephone conference call may be utilized for 1120
acceptance of the surrender of an individual's license or 1121
certificate to practice. The telephone conference call shall be 1122
considered a special meeting under division (F) of section 1123
121.22 of the Revised Code. Reinstatement of a license or 1124
certificate surrendered to the board requires an affirmative 1125
vote of not fewer than six members of the board. 1126

(2) An application for a license or certificate made under 1127
the provisions of this chapter may not be withdrawn without 1128
approval of the board. 1129

(3) Failure by an individual to renew a license or 1130
certificate to practice in accordance with this chapter or a 1131
certificate to recommend in accordance with rules adopted under 1132
section 4731.301 of the Revised Code shall not remove or limit 1133
the board's jurisdiction to take any disciplinary action under 1134
this section against the individual. 1135

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

(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; 1165
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(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program. 1167
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(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate; 1172
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(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program. 1176
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An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program. 1179
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(P) The board shall not refuse to issue a license to an applicant because of a conviction, plea of guilty, judicial finding of guilt, judicial finding of eligibility for intervention in lieu of conviction, or the commission of an act that constitutes a criminal offense, unless the refusal is in accordance with section 9.79 of the Revised Code. 1182
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Section 2. That existing sections 2305.15, 2317.56, 2919.11, 3726.14, and 4731.22 of the Revised Code are hereby repealed. 1188
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Section 3. That section 2317.561 of the Revised Code is hereby repealed. 1191
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Section 4. Section 4731.22 of the Revised Code is	1193
presented in this act as a composite of the section as amended	1194
by H.B. 263, H.B. 442, and S.B. 260, all of the 133rd General	1195
Assembly. The General Assembly, applying the principle stated in	1196
division (B) of section 1.52 of the Revised Code that amendments	1197
are to be harmonized if reasonably capable of simultaneous	1198
operation, finds that the composite is the resulting version of	1199
the section in effect prior to the effective date of the section	1200
as presented in this act.	1201