

As Introduced

135th General Assembly
Regular Session
2023-2024

H. B. No. 15

Representatives Gross, Lear

A BILL

To amend sections 2305.15, 2317.56, 2919.11, 1
3726.14, and 4731.22; to enact sections 117.56, 2
2305.119, 3701.793, and 3701.794; 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 117.56, 2305.119, 7
3701.793, and 3701.794 of the Revised Code be enacted to read as 8
follows: 9

Sec. 117.56. 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 3701.793 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. 2305.119. (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 offense, the time of the person's imprisonment shall not be computed as any part of any period of limitation, as provided in section 2305.09, 2305.10, 2305.11, 2305.113, 2305.119, or 2305.14 of the Revised Code, within which any person must bring any action against the imprisoned person.

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

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

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

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

~~(3)~~(4) "Probable gestational age of the zygote, blastocyte, embryo, or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the zygote, blastocyte, embryo, or fetus at the time that the physician informs a pregnant woman pursuant to division ~~(B) (1) (b)~~(B) (2) (b) of this section.

(5) "Qualified technician" means a medical imaging technologist who is certified in obstetrics and gynecology by the American registry for diagnostic medical sonography or a certified nurse-midwife or certified nurse practitioner in obstetrics with certification in obstetrical ultrasonography;

(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

(d) Display the ultrasound images so that the pregnant 106
woman may view the images; 107

(e) Auscultate the fetal heartbeat of the embryo or fetus 108
so that the pregnant woman may hear the heartbeat, if it is 109
audible; 110

(f) Provide a medical description of ultrasound images, 111
which shall include the dimensions of the embryo or fetus and 112
the presence of external members and internal organs, if present 113
and viewable; 114

(g) Offer to provide the pregnant woman a physical picture 115
of the ultrasound image of the embryo or fetus; 116

(h) Obtain the woman's signature on a certification that 117
she has been presented with the information required to be 118
provided under divisions (B)(1)(c) to (f) of this division and 119
has viewed the ultrasound images and listened to the heartbeat, 120
if the heartbeat is audible, or declined to do so; 121

(i) Retain in the pregnant woman's medical record the 122
signed certification under division (B)(1)(h) of this section. 123

The requirement to provide an ultrasound so that the 124
pregnant woman may view the active ultrasound images of the 125
embryo or fetus shall be performed at no additional charge to 126
her. 127

(2) At least twenty-four hours prior to the performance or 128
inducement of the abortion, a physician meets with the pregnant 129
woman in person in an individual, private setting and gives her 130
an adequate opportunity to ask questions about the abortion that 131
will be performed or induced. At this meeting, the physician 132
shall inform the pregnant woman, verbally or, if she is hearing 133
impaired, by other means of communication, of all of the 134
following: 135

(a) The nature and purpose of the particular abortion 136

procedure to be used and the medical risks associated with that	137
procedure;	138
(b) The probable gestational age of the zygote,	139
blastocyte, embryo, or fetus;	140
(c) The medical risks associated with the pregnant woman	141
carrying the pregnancy to term;	142
<u>(d) The possible increased risk of breast cancer that is</u>	143
<u>associated with women who have undergone an abortion;</u>	144
<u>(e) The short-term and long-term risk of psychological or</u>	145
<u>emotional harm, including depression, suicidal ideation, post-</u>	146
<u>traumatic stress disorder, and guilt, that the woman may endure</u>	147
<u>from undergoing an abortion.</u>	148
The meeting need not occur at the facility where the	149
abortion is to be performed or induced, and the physician	150
involved in the meeting need not be affiliated with that	151
facility or with the physician who is scheduled to perform or	152
induce the abortion. <u>Any physician who provides information</u>	153
<u>under divisions (B)(2)(d) and (e) of this section shall possess</u>	154
<u>adequate training and education in the categories of risk</u>	155
<u>described in those two divisions, as well as any other risks</u>	156
<u>associated with abortion. Evidence of adequate training includes</u>	157
<u>successful completion of continuing education and professional</u>	158
<u>development courses or programs in the relevant subject areas.</u>	159
(2) <u>(3)</u> At least twenty-four hours prior to the	160
performance or inducement of the abortion, the physician who is	161
to perform or induce the abortion or the physician's agent does	162
each of the following in person, by telephone, by certified	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 (C) (1) Subject to the requirements in division (C) 220
(2) 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) (C) (1) (a) 238
of this section are comprehensive and do not directly or 239
indirectly promote, exclude, or discourage the use of any agency 240
or service 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
format. 282

(d) The materials shall either be prominently featured on 283

the main page of the department's web site or directly 284
accessible through easily identified hyperlinks on the main page 285
of the department's web site. 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 369
pregnancy by use of an abortion-inducing drug, as defined in 370

section 2919.124 of the Revised Code, unless the context clearly 371
requires otherwise. 372

Sec. 3701.793. The department of health shall annually 373
audit all provider records to determine compliance with all of 374
the informed consent and education and training requirements 375
under section 2317.56 of the Revised Code. 376

Sec. 3701.794. The department of health shall prescribe a 377
certification form to be used under division (B)(1)(h) of 378
section 2317.56 of the Revised Code. 379

Sec. 3726.14. Not later than ninety days after ~~the~~ 380
~~effective date of this section~~ April 6, 2021, the director of 381
health, in accordance with Chapter 119. of the Revised Code, 382
shall adopt rules necessary to carry out sections 3726.01 to 383
3726.13 of the Revised Code, including rules that prescribe the 384
following: 385

(A) The notification form informing pregnant women who 386
seek surgical abortions of the following: 387

(1) The right to determine final disposition of fetal 388
remains under division (A) of section 3726.03 of the Revised 389
Code; 390

(2) The available options for locations and methods for 391
the disposition of fetal remains. 392

(B) The consent form for purposes of section 3726.04 or 393
3726.041 of the Revised Code; 394

(C) (1) A detachable supplemental form to the form 395
described in division ~~(B)(4)~~ (B)(5) of section 2317.56 of the 396
Revised Code that meets the following requirements: 397

(a) Indicates whether the pregnant woman has indicated a 398

preference as to the method of disposition of the fetal remains 399
and the preferred method selected; 400

(b) Indicates whether the pregnant woman has indicated a 401
preference as to the location of disposition of the fetal 402
remains; 403

(c) Provides for the signature of the physician who is to 404
perform or induce the abortion; 405

(d) Provides for a medical identification number for the 406
pregnant woman but does not provide for the pregnant woman's 407
printed name or signature. 408

(2) If a medical emergency or medical necessity prevents 409
the pregnant woman from completing the detachable supplemental 410
form, procedures to complete that form a reasonable time after 411
the medical emergency or medical necessity has ended. 412

Sec. 4731.22. (A) The state medical board, by an 413
affirmative vote of not fewer than six of its members, may 414
limit, revoke, or suspend a license or certificate to practice 415
or certificate to recommend, refuse to grant a license or 416
certificate, refuse to renew a license or certificate, refuse to 417
reinstate a license or certificate, or reprimand or place on 418
probation the holder of a license or certificate if the 419
individual applying for or holding the license or certificate is 420
found by the board to have committed fraud during the 421
administration of the examination for a license or certificate 422
to practice or to have committed fraud, misrepresentation, or 423
deception in applying for, renewing, or securing any license or 424
certificate to practice or certificate to recommend issued by 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 under sections 307.631 to 307.6410 of the Revised Code 457
to a drug overdose fatality review committee, a suicide fatality 458
review committee, or hybrid drug overdose fatality and suicide 459
fatality review committee; does not include providing any 460
information, documents, or reports to the director of health 461
pursuant to guidelines established under section 3701.70 of the 462
Revised Code; does not include written notice to a mental health 463
professional under section 4731.62 of the Revised Code; and does 464
not include the making of a report of an employee's use of a 465
drug of abuse, or a report of a condition of an employee other 466
than one involving the use of a drug of abuse, to the employer 467
of the employee as described in division (B) of section 2305.33 468
of the Revised Code. Nothing in this division affects the 469
immunity from civil liability conferred by section 2305.33 or 470
4731.62 of the Revised Code upon a physician who makes a report 471
in accordance with section 2305.33 or notifies a mental health 472
professional in accordance with section 4731.62 of the Revised 473
Code. As used in this division, "employee," "employer," and 474
"physician" have the same meanings as in section 2305.33 of the 475
Revised Code. 476

(5) Making a false, fraudulent, deceptive, or misleading 477
statement in the solicitation of or advertising for patients; in 478
relation to the practice of medicine and surgery, osteopathic 479
medicine and surgery, podiatric medicine and surgery, or a 480
limited branch of medicine; or in securing or attempting to 481
secure any license or certificate to practice issued by the 482
board. 483

As used in this division, "false, fraudulent, deceptive, 484
or misleading statement" means a statement that includes a 485
misrepresentation of fact, is likely to mislead or deceive 486
because of a failure to disclose material facts, is intended or 487

is likely to create false or unjustified expectations of 488
favorable results, or includes representations or implications 489
that in reasonable probability will cause an ordinarily prudent 490
person to misunderstand or be deceived. 491

(6) A departure from, or the failure to conform to, 492
minimal standards of care of similar practitioners under the 493
same or similar circumstances, whether or not actual injury to a 494
patient is established; 495

(7) Representing, with the purpose of obtaining 496
compensation or other advantage as personal gain or for any 497
other person, that an incurable disease or injury, or other 498
incurable condition, can be permanently cured; 499

(8) The obtaining of, or attempting to obtain, money or 500
anything of value by fraudulent misrepresentations in the course 501
of practice; 502

(9) A plea of guilty to, a judicial finding of guilt of, 503
or a judicial finding of eligibility for intervention in lieu of 504
conviction for, a felony; 505

(10) Commission of an act that constitutes a felony in 506
this state, regardless of the jurisdiction in which the act was 507
committed; 508

(11) A plea of guilty to, a judicial finding of guilt of, 509
or a judicial finding of eligibility for intervention in lieu of 510
conviction for, a misdemeanor committed in the course of 511
practice; 512

(12) Commission of an act in the course of practice that 513
constitutes a misdemeanor in this state, regardless of the 514
jurisdiction in which the act was committed; 515

(13) A plea of guilty to, a judicial finding of guilt of, 516
or a judicial finding of eligibility for intervention in lieu of 517
conviction for, a misdemeanor involving moral turpitude; 518

(14) Commission of an act involving moral turpitude that 519
constitutes a misdemeanor in this state, regardless of the 520
jurisdiction in which the act was committed; 521

(15) Violation of the conditions of limitation placed by 522
the board upon a license or certificate to practice; 523

(16) Failure to pay license renewal fees specified in this 524
chapter; 525

(17) Except as authorized in section 4731.31 of the 526
Revised Code, engaging in the division of fees for referral of 527
patients, or the receiving of a thing of value in return for a 528
specific referral of a patient to utilize a particular service 529
or business; 530

(18) Subject to section 4731.226 of the Revised Code, 531
violation of any provision of a code of ethics of the American 532
medical association, the American osteopathic association, the 533
American podiatric medical association, or any other national 534
professional organizations that the board specifies by rule. The 535
state medical board shall obtain and keep on file current copies 536
of the codes of ethics of the various national professional 537
organizations. The individual whose license or certificate is 538
being suspended or revoked shall not be found to have violated 539
any provision of a code of ethics of an organization not 540
appropriate to the individual's profession. 541

For purposes of this division, a "provision of a code of 542
ethics of a national professional organization" does not include 543
any provision that would preclude the making of a report by a 544

physician of an employee's use of a drug of abuse, or of a 545
condition of an employee other than one involving the use of a 546
drug of abuse, to the employer of the employee as described in 547
division (B) of section 2305.33 of the Revised Code. Nothing in 548
this division affects the immunity from civil liability 549
conferred by that section upon a physician who makes either type 550
of report in accordance with division (B) of that section. As 551
used in this division, "employee," "employer," and "physician" 552
have the same meanings as in section 2305.33 of the Revised 553
Code. 554

(19) Inability to practice according to acceptable and 555
prevailing standards of care by reason of mental illness or 556
physical illness, including, but not limited to, physical 557
deterioration that adversely affects cognitive, motor, or 558
perceptive skills. 559

In enforcing this division, the board, upon a showing of a 560
possible violation, may compel any individual authorized to 561
practice by this chapter or who has submitted an application 562
pursuant to this chapter to submit to a mental examination, 563
physical examination, including an HIV test, or both a mental 564
and a physical examination. The expense of the examination is 565
the responsibility of the individual compelled to be examined. 566
Failure to submit to a mental or physical examination or consent 567
to an HIV test ordered by the board constitutes an admission of 568
the allegations against the individual unless the failure is due 569
to circumstances beyond the individual's control, and a default 570
and final order may be entered without the taking of testimony 571
or presentation of evidence. If the board finds an individual 572
unable to practice because of the reasons set forth in this 573
division, the board shall require the individual to submit to 574
care, counseling, or treatment by physicians approved or 575

designated by the board, as a condition for initial, continued, 576
reinstated, or renewed authority to practice. An individual 577
affected under this division shall be afforded an opportunity to 578
demonstrate to the board the ability to resume practice in 579
compliance with acceptable and prevailing standards under the 580
provisions of the individual's license or certificate. For the 581
purpose of this division, any individual who applies for or 582
receives a license or certificate to practice under this chapter 583
accepts the privilege of practicing in this state and, by so 584
doing, shall be deemed to have given consent to submit to a 585
mental or physical examination when directed to do so in writing 586
by the board, and to have waived all objections to the 587
admissibility of testimony or examination reports that 588
constitute a privileged communication. 589

(20) Except as provided in division (F)(1)(b) of section 590
4731.282 of the Revised Code or when civil penalties are imposed 591
under section 4731.225 of the Revised Code, and subject to 592
section 4731.226 of the Revised Code, violating or attempting to 593
violate, directly or indirectly, or assisting in or abetting the 594
violation of, or conspiring to violate, any provisions of this 595
chapter or any rule promulgated by the board. 596

This division does not apply to a violation or attempted 597
violation of, assisting in or abetting the violation of, or a 598
conspiracy to violate, any provision of this chapter or any rule 599
adopted by the board that would preclude the making of a report 600
by a physician of an employee's use of a drug of abuse, or of a 601
condition of an employee other than one involving the use of a 602
drug of abuse, to the employer of the employee as described in 603
division (B) of section 2305.33 of the Revised Code. Nothing in 604
this division affects the immunity from civil liability 605
conferred by that section upon a physician who makes either type 606

of report in accordance with division (B) of that section. As 607
used in this division, "employee," "employer," and "physician" 608
have the same meanings as in section 2305.33 of the Revised 609
Code. 610

(21) The violation of section 3701.79 of the Revised Code 611
or of any abortion rule adopted by the director of health 612
pursuant to section 3701.341 of the Revised Code; 613

(22) Any of the following actions taken by an agency 614
responsible for authorizing, certifying, or regulating an 615
individual to practice a health care occupation or provide 616
health care services in this state or another jurisdiction, for 617
any reason other than the nonpayment of fees: the limitation, 618
revocation, or suspension of an individual's license to 619
practice; acceptance of an individual's license surrender; 620
denial of a license; refusal to renew or reinstate a license; 621
imposition of probation; or issuance of an order of censure or 622
other reprimand; 623

(23) The violation of section 2919.12 of the Revised Code 624
or the performance or inducement of an abortion upon a pregnant 625
woman with actual knowledge that the conditions specified in 626
division (B) of section 2317.56 of the Revised Code have not 627
been satisfied or with a heedless indifference as to whether 628
those conditions have been satisfied, unless an affirmative 629
defense as specified in division (H)(2) of that section would 630
apply in a civil action authorized by division (H)(1) of that 631
section; 632

(24) The revocation, suspension, restriction, reduction, 633
or termination of clinical privileges by the United States 634
department of defense or department of veterans affairs or the 635
termination or suspension of a certificate of registration to 636

prescribe drugs by the drug enforcement administration of the 637
United States department of justice; 638

(25) Termination or suspension from participation in the 639
medicare or medicaid programs by the department of health and 640
human services or other responsible agency; 641

(26) Impairment of ability to practice according to 642
acceptable and prevailing standards of care because of habitual 643
or excessive use or abuse of drugs, alcohol, or other substances 644
that impair ability to practice. 645

For the purposes of this division, any individual 646
authorized to practice by this chapter accepts the privilege of 647
practicing in this state subject to supervision by the board. By 648
filing an application for or holding a license or certificate to 649
practice under this chapter, an individual shall be deemed to 650
have given consent to submit to a mental or physical examination 651
when ordered to do so by the board in writing, and to have 652
waived all objections to the admissibility of testimony or 653
examination reports that constitute privileged communications. 654

If it has reason to believe that any individual authorized 655
to practice by this chapter or any applicant for licensure or 656
certification to practice suffers such impairment, the board may 657
compel the individual to submit to a mental or physical 658
examination, or both. The expense of the examination is the 659
responsibility of the individual compelled to be examined. Any 660
mental or physical examination required under this division 661
shall be undertaken by a treatment provider or physician who is 662
qualified to conduct the examination and who is chosen by the 663
board. 664

Failure to submit to a mental or physical examination 665

ordered by the board constitutes an admission of the allegations 666
against the individual unless the failure is due to 667
circumstances beyond the individual's control, and a default and 668
final order may be entered without the taking of testimony or 669
presentation of evidence. If the board determines that the 670
individual's ability to practice is impaired, the board shall 671
suspend the individual's license or certificate or deny the 672
individual's application and shall require the individual, as a 673
condition for initial, continued, reinstated, or renewed 674
licensure or certification to practice, to submit to treatment. 675

Before being eligible to apply for reinstatement of a 676
license or certificate suspended under this division, the 677
impaired practitioner shall demonstrate to the board the ability 678
to resume practice in compliance with acceptable and prevailing 679
standards of care under the provisions of the practitioner's 680
license or certificate. The demonstration shall include, but 681
shall not be limited to, the following: 682

(a) Certification from a treatment provider approved under 683
section 4731.25 of the Revised Code that the individual has 684
successfully completed any required inpatient treatment; 685

(b) Evidence of continuing full compliance with an 686
aftercare contract or consent agreement; 687

(c) Two written reports indicating that the individual's 688
ability to practice has been assessed and that the individual 689
has been found capable of practicing according to acceptable and 690
prevailing standards of care. The reports shall be made by 691
individuals or providers approved by the board for making the 692
assessments and shall describe the basis for their 693
determination. 694

The board may reinstate a license or certificate suspended 695
under this division after that demonstration and after the 696
individual has entered into a written consent agreement. 697

When the impaired practitioner resumes practice, the board 698
shall require continued monitoring of the individual. The 699
monitoring shall include, but not be limited to, compliance with 700
the written consent agreement entered into before reinstatement 701
or with conditions imposed by board order after a hearing, and, 702
upon termination of the consent agreement, submission to the 703
board for at least two years of annual written progress reports 704
made under penalty of perjury stating whether the individual has 705
maintained sobriety. 706

(27) A second or subsequent violation of section 4731.66 707
or 4731.69 of the Revised Code; 708

(28) Except as provided in division (N) of this section: 709

(a) Waiving the payment of all or any part of a deductible 710
or copayment that a patient, pursuant to a health insurance or 711
health care policy, contract, or plan that covers the 712
individual's services, otherwise would be required to pay if the 713
waiver is used as an enticement to a patient or group of 714
patients to receive health care services from that individual; 715

(b) Advertising that the individual will waive the payment 716
of all or any part of a deductible or copayment that a patient, 717
pursuant to a health insurance or health care policy, contract, 718
or plan that covers the individual's services, otherwise would 719
be required to pay. 720

(29) Failure to use universal blood and body fluid 721
precautions established by rules adopted under section 4731.051 722
of the Revised Code; 723

(30) Failure to provide notice to, and receive 724
acknowledgment of the notice from, a patient when required by 725
section 4731.143 of the Revised Code prior to providing 726
nonemergency professional services, or failure to maintain that 727
notice in the patient's medical record; 728

(31) Failure of a physician supervising a physician 729
assistant to maintain supervision in accordance with the 730
requirements of Chapter 4730. of the Revised Code and the rules 731
adopted under that chapter; 732

(32) Failure of a physician or podiatrist to enter into a 733
standard care arrangement with a clinical nurse specialist, 734
certified nurse-midwife, or certified nurse practitioner with 735
whom the physician or podiatrist is in collaboration pursuant to 736
section 4731.27 of the Revised Code or failure to fulfill the 737
responsibilities of collaboration after entering into a standard 738
care arrangement; 739

(33) Failure to comply with the terms of a consult 740
agreement entered into with a pharmacist pursuant to section 741
4729.39 of the Revised Code; 742

(34) Failure to cooperate in an investigation conducted by 743
the board under division (F) of this section, including failure 744
to comply with a subpoena or order issued by the board or 745
failure to answer truthfully a question presented by the board 746
in an investigative interview, an investigative office 747
conference, at a deposition, or in written interrogatories, 748
except that failure to cooperate with an investigation shall not 749
constitute grounds for discipline under this section if a court 750
of competent jurisdiction has issued an order that either 751
quashes a subpoena or permits the individual to withhold the 752
testimony or evidence in issue; 753

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;	754 755 756
(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;	757 758 759
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	760 761
(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;	762 763 764 765 766 767
(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;	768 769 770
(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;	771 772 773 774
(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;	775 776 777 778
(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;	779 780 781 782

(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;	783 784 785 786
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	787 788 789 790 791
(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	792 793 794 795 796
(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;	797 798 799 800
(47) Failure to comply with any of the requirements regarding making or maintaining medical records or documents described in division (A) of section 2919.192, division (C) of section 2919.193, division (B) of section 2919.195, or division (A) of section 2919.196 of the Revised Code;	801 802 803 804 805
(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	806 807 808 809
(49) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section	810 811

4731.301 of the Revised Code when recommending treatment with medical marijuana;	812 813
(50) Practicing at a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless the person operating that place has obtained and maintains the license with the classification;	814 815 816 817 818
(51) Owning a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless that place is licensed with the classification;	819 820 821 822 823
(52) A pattern of continuous or repeated violations of division (E) (2) or (3) of section 3963.02 of the Revised Code;	824 825
(53) Failure to fulfill the responsibilities of a collaboration agreement entered into with an athletic trainer as described in section 4755.621 of the Revised Code;	826 827 828
(54) Failure to take the steps specified in section 4731.911 of the Revised Code following an abortion or attempted abortion in an ambulatory surgical facility or other location that is not a hospital when a child is born alive.	829 830 831 832
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the	833 834 835 836 837 838 839 840

findings and order of the board with respect to the matter 841
addressed in the agreement. If the board refuses to ratify a 842
consent agreement, the admissions and findings contained in the 843
consent agreement shall be of no force or effect. 844

A telephone conference call may be utilized for 845
ratification of a consent agreement that revokes or suspends an 846
individual's license or certificate to practice or certificate 847
to recommend. The telephone conference call shall be considered 848
a special meeting under division (F) of section 121.22 of the 849
Revised Code. 850

If the board takes disciplinary action against an 851
individual under division (B) of this section for a second or 852
subsequent plea of guilty to, or judicial finding of guilt of, a 853
violation of section 2919.123 or 2919.124 of the Revised Code, 854
the disciplinary action shall consist of a suspension of the 855
individual's license or certificate to practice for a period of 856
at least one year or, if determined appropriate by the board, a 857
more serious sanction involving the individual's license or 858
certificate to practice. Any consent agreement entered into 859
under this division with an individual that pertains to a second 860
or subsequent plea of guilty to, or judicial finding of guilt 861
of, a violation of that section shall provide for a suspension 862
of the individual's license or certificate to practice for a 863
period of at least one year or, if determined appropriate by the 864
board, a more serious sanction involving the individual's 865
license or certificate to practice. 866

(D) For purposes of divisions (B) (10), (12), and (14) of 867
this section, the commission of the act may be established by a 868
finding by the board, pursuant to an adjudication under Chapter 869
119. of the Revised Code, that the individual committed the act. 870

The board does not have jurisdiction under those divisions if 871
the trial court renders a final judgment in the individual's 872
favor and that judgment is based upon an adjudication on the 873
merits. The board has jurisdiction under those divisions if the 874
trial court issues an order of dismissal upon technical or 875
procedural grounds. 876

(E) The sealing of conviction records by any court shall 877
have no effect upon a prior board order entered under this 878
section or upon the board's jurisdiction to take action under 879
this section if, based upon a plea of guilty, a judicial finding 880
of guilt, or a judicial finding of eligibility for intervention 881
in lieu of conviction, the board issued a notice of opportunity 882
for a hearing prior to the court's order to seal the records. 883
The board shall not be required to seal, destroy, redact, or 884
otherwise modify its records to reflect the court's sealing of 885
conviction records. 886

(F) (1) The board shall investigate evidence that appears 887
to show that a person has violated any provision of this chapter 888
or any rule adopted under it. Any person may report to the board 889
in a signed writing any information that the person may have 890
that appears to show a violation of any provision of this 891
chapter or any rule adopted under it. In the absence of bad 892
faith, any person who reports information of that nature or who 893
testifies before the board in any adjudication conducted under 894
Chapter 119. of the Revised Code shall not be liable in damages 895
in a civil action as a result of the report or testimony. Each 896
complaint or allegation of a violation received by the board 897
shall be assigned a case number and shall be recorded by the 898
board. 899

(2) Investigations of alleged violations of this chapter 900

or any rule adopted under it shall be supervised by the 901
supervising member elected by the board in accordance with 902
section 4731.02 of the Revised Code and by the secretary as 903
provided in section 4731.39 of the Revised Code. The president 904
may designate another member of the board to supervise the 905
investigation in place of the supervising member. No member of 906
the board who supervises the investigation of a case shall 907
participate in further adjudication of the case. 908

(3) In investigating a possible violation of this chapter 909
or any rule adopted under this chapter, or in conducting an 910
inspection under division (E) of section 4731.054 of the Revised 911
Code, the board may question witnesses, conduct interviews, 912
administer oaths, order the taking of depositions, inspect and 913
copy any books, accounts, papers, records, or documents, issue 914
subpoenas, and compel the attendance of witnesses and production 915
of books, accounts, papers, records, documents, and testimony, 916
except that a subpoena for patient record information shall not 917
be issued without consultation with the attorney general's 918
office and approval of the secretary and supervising member of 919
the board. 920

(a) Before issuance of a subpoena for patient record 921
information, the secretary and supervising member shall 922
determine whether there is probable cause to believe that the 923
complaint filed alleges a violation of this chapter or any rule 924
adopted under it and that the records sought are relevant to the 925
alleged violation and material to the investigation. The 926
subpoena may apply only to records that cover a reasonable 927
period of time surrounding the alleged violation. 928

(b) On failure to comply with any subpoena issued by the 929
board and after reasonable notice to the person being 930

subpoenaed, the board may move for an order compelling the 931
production of persons or records pursuant to the Rules of Civil 932
Procedure. 933

(c) A subpoena issued by the board may be served by a 934
sheriff, the sheriff's deputy, or a board employee or agent 935
designated by the board. Service of a subpoena issued by the 936
board may be made by delivering a copy of the subpoena to the 937
person named therein, reading it to the person, or leaving it at 938
the person's usual place of residence, usual place of business, 939
or address on file with the board. When serving a subpoena to an 940
applicant for or the holder of a license or certificate issued 941
under this chapter, service of the subpoena may be made by 942
certified mail, return receipt requested, and the subpoena shall 943
be deemed served on the date delivery is made or the date the 944
person refuses to accept delivery. If the person being served 945
refuses to accept the subpoena or is not located, service may be 946
made to an attorney who notifies the board that the attorney is 947
representing the person. 948

(d) A sheriff's deputy who serves a subpoena shall receive 949
the same fees as a sheriff. Each witness who appears before the 950
board in obedience to a subpoena shall receive the fees and 951
mileage provided for under section 119.094 of the Revised Code. 952

(4) All hearings, investigations, and inspections of the 953
board shall be considered civil actions for the purposes of 954
section 2305.252 of the Revised Code. 955

(5) A report required to be submitted to the board under 956
this chapter, a complaint, or information received by the board 957
pursuant to an investigation or pursuant to an inspection under 958
division (E) of section 4731.054 of the Revised Code is 959
confidential and not subject to discovery in any civil action. 960

The board shall conduct all investigations or inspections 961
and proceedings in a manner that protects the confidentiality of 962
patients and persons who file complaints with the board. The 963
board shall not make public the names or any other identifying 964
information about patients or complainants unless proper consent 965
is given or, in the case of a patient, a waiver of the patient 966
privilege exists under division (B) of section 2317.02 of the 967
Revised Code, except that consent or a waiver of that nature is 968
not required if the board possesses reliable and substantial 969
evidence that no bona fide physician-patient relationship 970
exists. 971

The board may share any information it receives pursuant 972
to an investigation or inspection, including patient records and 973
patient record information, with law enforcement agencies, other 974
licensing boards, and other governmental agencies that are 975
prosecuting, adjudicating, or investigating alleged violations 976
of statutes or administrative rules. An agency or board that 977
receives the information shall comply with the same requirements 978
regarding confidentiality as those with which the state medical 979
board must comply, notwithstanding any conflicting provision of 980
the Revised Code or procedure of the agency or board that 981
applies when it is dealing with other information in its 982
possession. In a judicial proceeding, the information may be 983
admitted into evidence only in accordance with the Rules of 984
Evidence, but the court shall require that appropriate measures 985
are taken to ensure that confidentiality is maintained with 986
respect to any part of the information that contains names or 987
other identifying information about patients or complainants 988
whose confidentiality was protected by the state medical board 989
when the information was in the board's possession. Measures to 990
ensure confidentiality that may be taken by the court include 991

sealing its records or deleting specific information from its records. 992
993

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities: 994
995
996
997

(a) The case number assigned to the complaint or alleged violation; 998
999

(b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed; 1000
1001
1002

(c) A description of the allegations contained in the complaint; 1003
1004

(d) The disposition of the case. 1005

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code. 1006
1007
1008
1009

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or certificate to practice or certificate to recommend without a prior hearing: 1010
1011
1012
1013

(1) That there is clear and convincing evidence that an individual has violated division (B) of this section; 1014
1015

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public. 1016
1017

Written allegations shall be prepared for consideration by 1018

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

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

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

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

order may be filed with the board along with appropriate court 1049
documents. Upon receipt of a petition of that nature and 1050
supporting court documents, the board shall reinstate the 1051
individual's license or certificate to practice. The board may 1052
then hold an adjudication under Chapter 119. of the Revised Code 1053
to determine whether the individual committed the act in 1054
question. Notice of an opportunity for a hearing shall be given 1055
in accordance with Chapter 119. of the Revised Code. If the 1056
board finds, pursuant to an adjudication held under this 1057
division, that the individual committed the act or if no hearing 1058
is requested, the board may order any of the sanctions 1059
identified under division (B) of this section. 1060

(I) The license or certificate to practice issued to an 1061
individual under this chapter and the individual's practice in 1062
this state are automatically suspended as of the date of the 1063
individual's second or subsequent plea of guilty to, or judicial 1064
finding of guilt of, a violation of section 2919.123 or 2919.124 1065
of the Revised Code. In addition, the license or certificate to 1066
practice or certificate to recommend issued to an individual 1067
under this chapter and the individual's practice in this state 1068
are automatically suspended as of the date the individual pleads 1069
guilty to, is found by a judge or jury to be guilty of, or is 1070
subject to a judicial finding of eligibility for intervention in 1071
lieu of conviction in this state or treatment or intervention in 1072
lieu of conviction in another jurisdiction for any of the 1073
following criminal offenses in this state or a substantially 1074
equivalent criminal offense in another jurisdiction: aggravated 1075
murder, murder, voluntary manslaughter, felonious assault, 1076
kidnapping, rape, sexual battery, gross sexual imposition, 1077
aggravated arson, aggravated robbery, or aggravated burglary. 1078
Continued practice after suspension shall be considered 1079

practicing without a license or certificate. 1080

The board shall notify the individual subject to the 1081
suspension by certified mail or in person in accordance with 1082
section 119.07 of the Revised Code. If an individual whose 1083
license or certificate is automatically suspended under this 1084
division fails to make a timely request for an adjudication 1085
under Chapter 119. of the Revised Code, the board shall do 1086
whichever of the following is applicable: 1087

(1) If the automatic suspension under this division is for 1088
a second or subsequent plea of guilty to, or judicial finding of 1089
guilt of, a violation of section 2919.123 or 2919.124 of the 1090
Revised Code, the board shall enter an order suspending the 1091
individual's license or certificate to practice for a period of 1092
at least one year or, if determined appropriate by the board, 1093
imposing a more serious sanction involving the individual's 1094
license or certificate to practice. 1095

(2) In all circumstances in which division (I)(1) of this 1096
section does not apply, enter a final order permanently revoking 1097
the individual's license or certificate to practice. 1098

(J) If the board is required by Chapter 119. of the 1099
Revised Code to give notice of an opportunity for a hearing and 1100
if the individual subject to the notice does not timely request 1101
a hearing in accordance with section 119.07 of the Revised Code, 1102
the board is not required to hold a hearing, but may adopt, by 1103
an affirmative vote of not fewer than six of its members, a 1104
final order that contains the board's findings. In that final 1105
order, the board may order any of the sanctions identified under 1106
division (A) or (B) of this section. 1107

(K) Any action taken by the board under division (B) of 1108

this section resulting in a suspension from practice shall be 1109
accompanied by a written statement of the conditions under which 1110
the individual's license or certificate to practice may be 1111
reinstated. The board shall adopt rules governing conditions to 1112
be imposed for reinstatement. Reinstatement of a license or 1113
certificate suspended pursuant to division (B) of this section 1114
requires an affirmative vote of not fewer than six members of 1115
the board. 1116

(L) When the board refuses to grant or issue a license or 1117
certificate to practice to an applicant, revokes an individual's 1118
license or certificate to practice, refuses to renew an 1119
individual's license or certificate to practice, or refuses to 1120
reinstatement an individual's license or certificate to practice, 1121
the board may specify that its action is permanent. An 1122
individual subject to a permanent action taken by the board is 1123
forever thereafter ineligible to hold a license or certificate 1124
to practice and the board shall not accept an application for 1125
reinstatement of the license or certificate or for issuance of a 1126
new license or certificate. 1127

(M) Notwithstanding any other provision of the Revised 1128
Code, all of the following apply: 1129

(1) The surrender of a license or certificate issued under 1130
this chapter shall not be effective unless or until accepted by 1131
the board. A telephone conference call may be utilized for 1132
acceptance of the surrender of an individual's license or 1133
certificate to practice. The telephone conference call shall be 1134
considered a special meeting under division (F) of section 1135
121.22 of the Revised Code. Reinstatement of a license or 1136
certificate surrendered to the board requires an affirmative 1137
vote of not fewer than six members of the board. 1138

(2) An application for a license or certificate made under 1139
the provisions of this chapter may not be withdrawn without 1140
approval of the board. 1141

(3) Failure by an individual to renew a license or 1142
certificate to practice in accordance with this chapter or a 1143
certificate to recommend in accordance with rules adopted under 1144
section 4731.301 of the Revised Code shall not remove or limit 1145
the board's jurisdiction to take any disciplinary action under 1146
this section against the individual. 1147

(4) At the request of the board, a license or certificate 1148
holder shall immediately surrender to the board a license or 1149
certificate that the board has suspended, revoked, or 1150
permanently revoked. 1151

(N) Sanctions shall not be imposed under division (B) (28) 1152
of this section against any person who waives deductibles and 1153
copayments as follows: 1154

(1) In compliance with the health benefit plan that 1155
expressly allows such a practice. Waiver of the deductibles or 1156
copayments shall be made only with the full knowledge and 1157
consent of the plan purchaser, payer, and third-party 1158
administrator. Documentation of the consent shall be made 1159
available to the board upon request. 1160

(2) For professional services rendered to any other person 1161
authorized to practice pursuant to this chapter, to the extent 1162
allowed by this chapter and rules adopted by the board. 1163

(O) Under the board's investigative duties described in 1164
this section and subject to division (F) of this section, the 1165
board shall develop and implement a quality intervention program 1166
designed to improve through remedial education the clinical and 1167

communication skills of individuals authorized under this 1168
chapter to practice medicine and surgery, osteopathic medicine 1169
and surgery, and podiatric medicine and surgery. In developing 1170
and implementing the quality intervention program, the board may 1171
do all of the following: 1172

(1) Offer in appropriate cases as determined by the board 1173
an educational and assessment program pursuant to an 1174
investigation the board conducts under this section; 1175

(2) Select providers of educational and assessment 1176
services, including a quality intervention program panel of case 1177
reviewers; 1178

(3) Make referrals to educational and assessment service 1179
providers and approve individual educational programs 1180
recommended by those providers. The board shall monitor the 1181
progress of each individual undertaking a recommended individual 1182
educational program. 1183

(4) Determine what constitutes successful completion of an 1184
individual educational program and require further monitoring of 1185
the individual who completed the program or other action that 1186
the board determines to be appropriate; 1187

(5) Adopt rules in accordance with Chapter 119. of the 1188
Revised Code to further implement the quality intervention 1189
program. 1190

An individual who participates in an individual 1191
educational program pursuant to this division shall pay the 1192
financial obligations arising from that educational program. 1193

(P) The board shall not refuse to issue a license to an 1194
applicant because of a conviction, plea of guilty, judicial 1195
finding of guilt, judicial finding of eligibility for 1196

intervention in lieu of conviction, or the commission of an act 1197
that constitutes a criminal offense, unless the refusal is in 1198
accordance with section 9.79 of the Revised Code. 1199

Section 2. That existing sections 2305.15, 2317.56, 1200
2919.11, 3726.14, and 4731.22 of the Revised Code are hereby 1201
repealed. 1202

Section 3. That section 2317.561 of the Revised Code is 1203
hereby repealed. 1204